AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

1–31–08 Thursday
Vol. 73 No. 21 Jan. 31, 2008

Pages 5705–6006

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Presidential Documents

Title 3—

The President

Proclamation 8218 of January 28, 2008

National African American History Month, 2008

By the President of the United States of America

A Proclamation

During National African American History Month, we honor the achievements and celebrate the rich heritage of African Americans.

Throughout our Nation's history, African Americans from all walks of life have offered their talents to the betterment of American society. Scholars such as Frederick Douglass and W.E.B. DuBois were early leaders who placed great importance on educating all people about the need for justice and racial equality. Athletes such as Jackie Robinson and Althea Gibson persevered while breaking the color barrier and competing at the highest levels of sports. Musicians like Nat King Cole and Billie Holiday lifted the American spirit with their creativity and musical gifts. Through their extraordinary accomplishments, these leaders helped bring our Nation closer to fulfilling its founding ideals.

This year's theme, ''Carter G. Woodson and the Origins of Multiculturalism,'' honors an educator who taught his fellow citizens about the traditions and contributions of African Americans. His dedication to educating Americans about cultural diversity initiated this celebration of African-American history. Our Nation is now stronger and more hopeful because generations of leaders like him have worked to help America live up to its promise of equality and the great truth that all of God's children are created equal.

Throughout African American History Month, we celebrate the many contributions African Americans have made to our Nation, and we are reminded of their courage in their struggle to change the hearts and minds of our citizens. While much progress has been made, we must continue to work together to achieve the promise and vision of our great Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 2008 as National African American History Month. I call upon public officials, educators, and all the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–459
Filed 1–30–08; 8:45 am]
Billing code 3195–01–P

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Presidential Documents

Title 3—

The President

Proclamation 8219 of January 28, 2008

Sixth Anniversary of USA Freedom Corps, 2008

By the President of the United States of America

A Proclamation

People across this great Nation have heard the universal call to love a neighbor and are using their time and talents to make a difference in the lives of others. On the sixth anniversary of the USA Freedom Corps, we celebrate the spirit of service in America and honor the volunteers whose good work represents the generous character of our country.

After the terrorist attacks of September 11, 2001, I created the USA Freedom Corps to build on the countless acts of service, sacrifice, and generosity undertaken by our citizens. The USA Freedom Corps is dedicated to expanding volunteer service and extending the goodwill of the American people across our country and around the globe. By connecting individuals with volunteer opportunities, the USA Freedom Corps has helped ensure that millions of people have a chance to make a difference in the lives of those in need. The USA Freedom Corps also helps strengthen the nonprofit sector and supports other national service programs and initiatives such as the Peace Corps, Citizen Corps, AmeriCorps, and Senior Corps. These efforts can help us build a more hopeful country and create a chain of compassion for generations to come.

Volunteers demonstrate kindness and touch lives. With hard work and dedication, volunteers help the less fortunate, respond to crises, mentor children, assist the elderly, and strengthen our communities. I urge all Americans to serve others and to learn more about service opportunities by visiting the USA Freedom Corps website at volunteer.gov. By providing help and hope to others, Americans can lead the world toward a more caring and compassionate tomorrow.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 29, 2008, as the Sixth Anniversary of the USA Freedom Corps. I call upon the citizens of this great country to find ways to volunteer and to use their time, energy, and talents to help their fellow Americans, and I commend the efforts of the USA Freedom Corps and all those who answer the call to serve.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–460
Filed 1–30–08; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 30, 31, 32, 34, 35, 40, 50, 51, 52, 55, 61, 62, 73, 75, 100, 140, and 150

RIN 3150–AI07

Minor Amendments: Re-organization

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to reflect the addresses of two additional Headquarters buildings, the reorganization of the Office of Nuclear Materials Safety and Safeguards, the creation of the Office of Federal and State Materials and Environmental Management Programs, the reorganization of the Office of Nuclear Reactor Regulation, the creation of the Office of New Reactors, and other minor changes. This document is necessary to inform the public of these minor changes to NRC regulations.

DATES: *Effective Date:* January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Carina Clark, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone (301) 415–5306; e-mail *cac8@ nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission is amending the regulations in 10 CFR parts 1, 2, 30, 31, 32, 34, 35, 40, 50, 51, 52, 55, 61, 62, 73, 75, 100, 140, and 150 to reflect the addresses of two additional Headquarters buildings, the reorganization of the Office of Nuclear Materials Safety and Safeguards, the creation of the Office of Federal and State Materials and Environmental Management Programs, the reorganization of the Office of Nuclear Reactor Regulation, the creation of the Office of New Reactors, and other minor changes.

Because these amendments constitute minor administrative corrections to the regulations, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(B). The amendments are effective upon publication in the **Federal Register**. Good cause exists under 5 U.S.C 553(d) to dispense with the usual 30-day delay in the effective date of the final rule because the amendments are of a minor and administrative nature dealing with internal agency organization and facilities and do not require action by any person or entity regulated by the NRC, nor does the final rule change the substantive responsibilities of any person or entity regulated by the NRC.

Summary of Changes

1. Addition of Two Headquarters Locations

Two Headquarters locations have been added. The new locations are incorporated into § 1.5(a)(3) and 1.5(a)(4).

2. Office of Federal and State Materials and Environmental Management Programs Replaces Office of State and Tribal Programs

The Office of Federal and State Materials and Environmental Management Programs replaces the Office of State and Tribal Programs in § 1.32(b).

3. Director, Office of Federal and State Materials and Environmental Management Programs Replaces Director, Division of Industrial and Medical Nuclear Safety

The Director, Office of Federal and State Materials and Environmental Management Programs replaces Director, Division of Industrial and Medical Nuclear Safety in § 40.25(c)(1), 40.25(c)(2), and 40.25 (d)(4).

4. Office of Federal and State Materials and Environmental Management Programs Replaces Office of Nuclear Material Safety and Safeguards

The Office of Federal and State Materials and Environmental Management Programs replaces the Office of Nuclear Material Safety and Safeguards in the following sections: §§ 30.6(a)(1), 30.33(a)(5), 30.55(c), 31.5(c)(5), 31.5(c)(8)(ii), 31.5(c)(9)(i), 31.5(c)(11), 31.5(c)(14), 31.11(b)(1), 31.11(e), 32.12(a), 32.16(a), 32.20(b), 32.25(c), 32.29(c), 32.52(a), 32.56, 32.210(b), 34.27(d), 34.43(a)(1), 34.101(a), 35.3067, 40.5(a)(1), 40.26(c)(2), 40.32(e), 40.35(e)(1), 40.35(f), 40.65(a)(1), 61.2, 61.4, 61.80(h)(i)(1), 62.3, 150.4, 150.16(b)(2), and 150.19(c).

5. Addition of the Office of Federal and State Materials and Environmental Management Programs

The Office of Federal and State Materials and Environmental Management Systems was created and is incorporated into the following sections: §§ 2.101(a)(1), 2.101(a)(3), 2.101(a)(3)(i), 2.101(a)(3)(iii), 2.101(a)(4), 2.101(a)(5), 2.101(b), 2.101(d), 2.101(e)(3), 2.101(e)(6), 2.101(e)(7), 2.101(e)(8), 2.101(f)(1)(iii), 2.101(f)(2)(i)(A), 2.101(f)(2)(i)(C), 2.101(f)(3), 2.101(f)(4), 2.101(f)(5), 2.102(b), 2.102(c), 2.103(a), 2.103(b), 2.104(b)(2)(i), 2.105(e)(1), 51.4, 75.6(b), 75.6(c), 140.5, and 140.6.

6. Addition of the Office of New Reactors

The Office of New Reactors was created and is incorporated into the following sections: §§ 1.32(b), 2.101(a)(1), 2.101(a)(3), 2.101(a)(3)(i), 2.101(a)(3)(iii), 2.101(a)(4), 2.101(a)(5), 2.101(d), 2.102(b), 2.102(c), 2.103(a), 2.103(b), 2.105(e)(1), 2.107(c), 2.108(a), 2.108(b), 2.108(c), 2.318(b), 2.337(g)(1), 2.337(g)(2)(iv), 2.337(g)(3)(iv), 50.30(a)(2), 50.55a(a)(3), 50.55(g)(6)(ii)(A)(5), 50.61(a)(5), 50.61(c)(3), 50.70(b)(1), 50.75(h)(1)(iii), 50.75(h)(1)(iv), 50.75(h)(2), Appendix G to Part 50 Sections I, III(A) and (B) and Sections IV (A.1.a) and (A.1.c), Appendix H to Part 50 Sections III (C.1) and (C.3), §§ 51.4, 51.40(c)(1), 51.121(a), 55.5(a)(1), 73.4, 75.6(c), 100.4, 140.5, and 140.6(a).

7. Added Description of Duties of the Office of Federal and State Materials and Environmental Management Systems

Existing Section 1.41 is revised to include a description of the duties of the Office of Federal and State Materials and Environmental Management Systems.

8. Revised Description of Duties Performed by Office of Nuclear Material Safety and Safeguards

Section 1.42 is revised to include updated information about the duties of the Office of Nuclear Material Safety and Safeguards.

9. Added New Section Containing Description of the Duties of the Office of New Reactors

Added new § 1.44 containing description of the duties of the Office of New Reactors.

10. Changed Rules and Directives Branch to Rulemaking, Directives, and Editing Branch

In § 2.802, the name for the Rules and Directives Branch is changed to the Rulemaking, Directives, and Editing Branch.

11. Changed Office Director Designations to Director, Office of New Reactors and Director, Office of Nuclear Reactor Regulation

In §§ 2.101(a)(3)(ii), 2.106(a), 2.110(b), 2.110(c), 2.340(a), 2.340(c), 2.403, Appendix J to Part 50 Section V (B.2), §§ 51.105(a)(5), 51.105a, 51.107(a)(5), 52.35, 52.75(a), 55.5(b)(1) and 55.5(b)(2), changed office director designations to Director, Office of New Reactors and Director, Office of Nuclear Reactor Regulation to maintain consistency.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion under 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

The final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0017, 3150–0016, 3150–0001, 3150–0007, 3150–0010, 3150–0020, 3150–0011, 3150–0021, 3150–0151, 3150–0018, 3150–0135, 3150–0143, 3150–0002, 3150–0055, 3150–0039, and 3150–0032.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information of an information collection requirement unless the requesting document displays a currently valid OMB control number.

List of Subjects

10 CFR Part 1

Organization and functions (Government Agencies).

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification

10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 62

Administrative practice and procedure, Denial of access, Emergency access to low-level waste disposal, Low-level radioactive waste, Low-level radioactive waste treatment and disposal, Low-level waste policy amendments act of 1985, Nuclear materials, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 100

Nuclear power plants and reactors, Reactor siting criteria.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and

reactors, Reporting and recordkeeping requirements.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

■ For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 1, 2, 30, 31, 32, 34, 35, 40, 50, 51, 52, 55, 61, 62, 73, 75, 100, 140, and 150.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Sec. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

■ 2. In § 1.5, paragraphs (a)(3) and (a)(4) are added to read as follows:

§ 1.5 Location of principal offices and Regional Offices.

(a) * * *

(3) Executive Boulevard Building, 6003 Executive Boulevard, Rockville, MD 20852–3823.

(4) Gateway Building, 7201 Wisconsin Ave., Suite 425, Bethesda, MD 20814–4810.

* * * * *

■ 3. In § 1.32, paragraph (b) is revised to read as follows:

§ 1.32 Office of the Executive Director for Operations.

* * * * *

(b) The EDO supervises and coordinates policy development and operational activities in the following offices: The Office of Nuclear Reactor Regulation, the Office of New Reactors, the Office of Nuclear Material Safety and Safeguards, the Office of Federal and State Materials and Environmental Management Systems, the Office of Nuclear Regulatory Research, the Office of Nuclear Security and Incident Response, and the NRC Regional Offices; and the following staff offices: The Office of Enforcement, the Office of Administration, the Office of Information Services, the Office of Investigations, the Office of Small Business and Civil Rights, the Office of Human Resources, and other organizational units as shall be assigned by the Commission. The EDO is also responsible for implementing the Commission's policy directives pertaining to these offices.

* * * * *

■ 4. Section 1.41 is revised to read as follows:

§ 1.41 Office of Federal and State Materials and Environmental Management Programs.

(a) The Office of Federal and State Materials and Environmental Management Programs (FSME) is responsible for protecting the public health and safety, the common defense and security, and the environment by licensing, inspecting, and assessing environmental impacts for all nuclear material facilities and activities which are not the responsibility of the Office of Nuclear Material Safety and Safeguards (NMSS). FSME is also responsible for developing all new regulations and amending existing regulations for all nuclear material facilities and activities regulated by both FSME and NMSS.

(b) The Office of Federal and State Materials and Environmental Management Programs—

(1) Plans and directs NRC's program of cooperation and liaison with States, local governments, interstate and Indian Tribe organizations; and coordinates liaison with other Federal Agencies;

(2) Participates in formulation of policies involving NRC/State cooperation and liaison;

(3) Develops and directs administrative and contractual programs for coordinating and integrating Federal and State regulatory activities;

(4) Maintains liaison between NRC and State, interstate, regional, Indian Tribal, and quasi-governmental organizations on regulatory matters;

(5) Promotes NRC visibility and performs general liaison with other Federal Agencies, and keeps NRC management informed of significant developments at other Federal Agencies which affect the NRC;

(6) Monitors nuclear-related State legislative activities;

(7) Directs regulatory activities of State Liaison and State Agreement Officers located in Regional Offices;

(8) Participates in policy matters on State Public Utility Commissions (PUCs);

(9) Administers the State Agreements program in a partnership arrangement with the States;

(10) Develops staff policy and procedures and implements State Agreements program under the provisions of section 274b of the Atomic Energy Act (the Act), as amended;

(11) Provides oversight of program of periodic routine reviews of Agreement State programs to determine their adequacy and compatibility as required by section 274j of the Act and other periodic reviews that may be performed to maintain a current level of knowledge of the status of the Agreement State programs;

(12) Provides training to the States as provided by section 274i of the Act and also to NRC staff and staff of the U.S. Navy and U.S. Air Force;

(13) Provides technical assistance to Agreement States;

(14) Maintains an exchange of information with the States;

(15) Conducts negotiations with States expressing an interest in seeking a section 274b Agreement;

(16) Supports, consistent with Commission directives, State efforts to improve regulatory control for radiation safety over radioactive materials not covered by the Act;

(17) Serves as the NRC liaison to the Conference of Radiation Control Program Directors, Inc. (CRCPD) and coordinates NRC technical support of CRCPD committees;

(18) Develops, promulgates, and amends regulations generally associated with the materials regulated by both FSME and NMSS and for all security-related regulations which will be applied to licensees and holders of certificates of compliance issued by FSME and NMSS;

(19) Develops and implements NRC policy for the regulation of activities involving safety, quality, approval, and inspection of the use and handling of nuclear and other radioactive materials, such as uranium activities;

(20) Regulates medical, industrial, academic, and commercial uses of radioactive isotopes;

(21) Oversees safe management and disposal of low-level radioactive wastes;

(22) Plans and directs program for financial assurance of FSME licensees;

(23) Manages the decommissioning of facilities and sites when their licensed functions are over;

(24) Supports safeguards activities including—

(i) Developing overall agency policy;

(ii) Monitoring and assessing the threat environment, including liaison with intelligence agencies, as appropriate; and

(iii) Conducting licensing and review activities appropriate to deter and protect against threats of radiological sabotage and threats of theft or diversion of nuclear material at regulated facilities and during transport; and

(25) Identifies and takes action for activities under its responsibility, including consulting and coordinating with international, Federal, State, Indian Tribal and local agencies, as appropriate.

■ 5. Section 1.42 is revised to read as follows:

§ 1.42 Office of Nuclear Material Safety and Safeguards.

(a) The Office of Nuclear Material Safety and Safeguards (NMSS) is responsible for regulating activities which provide for the safe and secure production of nuclear fuel used in commercial nuclear reactors; the safe storage, transportation, and disposal of high-level radioactive waste and spent nuclear fuel; and the transportation of radioactive materials regulated under the Atomic Energy Act. NMSS ensures safety and security by implementing a regulatory program involving activities including licensing, inspection, assessment of licensee performance, events analysis, enforcement, and identification and resolution of generic issues.

(b) The Office of Nuclear Material Safety and Safeguards—

(1) Develops and implements NRC policy for the regulation of: uranium recovery, conversion, and enrichment; fuel fabrication and development; transportation of nuclear materials, including certification of transport containers and reactor spent fuel storage; and safe management and disposal of spent fuel and high-level radioactive waste;

(2) Has lead responsibility within NRC for domestic and international safeguards policy and regulation for fuel cycle facilities, including material control and accountability;

(3) Conducts high-level waste pre-licensing activities, consistent with direction in the Nuclear Waste Policy Act and the Energy Policy Act, to ensure appropriate standards and regulatory guidance are in place, and interacts with the applicant;

(4) Is responsible for regulation and licensing of recycling technologies intended to reduce the amount of waste to be disposed through geologic disposal and to reduce proliferation concerns since the technologies do not produce separated plutonium;

(5) Interacts with DOE and international experts, in order to develop an appropriate regulatory framework, in recycling during development, demonstration, and deployment of new advanced recycling technologies that recycle nuclear fuel in a manner which does not produce separated plutonium;

(6) Creates and maintains the regulatory infrastructure to support the agency's role in licensing a reprocessing facility and a related fuel fabrication facility and vitrification and/or waste storage facility; and

(7) Prepares NRC to perform its regulatory role for new, expanded, and modified commercial fuel cycle facilities which may include recycling, transmutation, and actinide burning. This includes regulatory processes such as licensing, inspection, assessment of license performance assessment, events analysis, and enforcement that will ensure that this technology can be safely and securely implemented commercially in the United States.

■ 6. A new § 1.44 is added to read as follows:

§ 1.44 Office of New Reactors.

The Office of New Reactors—

(a) Develops, promulgates and implements regulations and develops and implements policies, programs, and procedures for all aspects of licensing, inspection, and safeguarding of—

(1) Manufacturing, production, and utilization facilities licensed under part 52 of this chapter prior to initial commencement of operation;

(2) Receipt, possession, and ownership of source, byproduct, and special nuclear material used or produced at facilities licensed under part 52 of this chapter prior to initial commencement of operation;

(3) Operators of such facilities licensed under part 52 of this chapter prior to initial commencement of operation;

(4) Emergency preparedness at such facilities licensed under part 52 of this chapter prior to initial commencement of operation; and

(5) Contractors and suppliers of such facilities licensed under part 52 of this chapter prior to initial commencement of operation;

(b) Identifies and takes action regarding conditions and licensee performance that may adversely affect public health and safety, the environment, or the safeguarding of nuclear reactor facilities licensed under part 52 of this chapter prior to initial commencement of operation;

(c) Assesses and recommends or takes action regarding incidents or accidents related to facilities licensed under part 52 of this chapter prior to initial commencement of operation;

(d) Provides guidance and implementation direction to Regional Offices on reactor licensing, inspection, and safeguards programs assigned to the Region, and appraises Regional program performance in terms of effectiveness and uniformity, for facilities licensed under 10 CFR part 52 prior to initial commencement of operation;

(e) Performs other functions required for implementation of the reactor licensing, inspection, and safeguard programs for facilities licensed under part 52 of this chapter prior to initial commencement of operation; and

(f) Performs review and evaluation related to regulated facilities insurance and indemnity for facilities licensed under part 52 of this chapter prior to initial commencement of operation.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

■ 7. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C.

2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–550, 84 Stat. 1473 (42 U.S.C. 2135).

■ 8. In § 2.101, paragraphs (a)(1), (a)(3), (a)(4), (b), (d), (e)(3), (e)(6), (e)(7), (e)(8), (f)(1)(iii), (f)(2)(i)(A), (f)(2)(i)(C), (f)(3), (f)(4), (f)(5), and the introductory text of paragraph (a)(5) are revised to read as follows:

§ 2.101 Filing of application.

(a)(1) An application for a permit, a license, a license transfer, a license amendment, a license renewal, or a standard design approval, shall be filed with the Director, Office of New Reactors, the Director, Office of Nuclear Reactor Regulation, the Director, Office of Nuclear Material Safety and Safeguards, or the Director, Office of Federal and State Materials and Environmental Management Programs, as prescribed by the applicable provisions of this chapter. A prospective applicant may confer informally with the NRC staff before filing an application.

* * * * *

(3) If the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Program, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, determines that a tendered application for a construction permit or operating license for a production or utilization facility, and/or any environmental report required pursuant to subpart A of part 51 of this chapter, or part thereof as provided in paragraphs (a)(5) or (a–1) of this section are complete and acceptable for docketing, a docket number will be assigned to the application or part thereof, and the applicant will be notified of the determination. With respect to the tendered application and/or environmental report or part thereof that is acceptable for docketing, the applicant will be requested to:

(i) Submit to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, such additional copies as the regulations in part 50 and subpart A of part 51 of this chapter require;

(ii) Serve a copy on the chief executive of the municipality in which the facility or site which is the subject of an early site permit is to be located or, if the facility or site which is the subject of an early site permit is not to be located within a municipality, on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing as applicable, the docket number of the application; a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, telephone number, and e-mail address (if available) of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to these documents which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph, the applicant should not make public distribution of those parts of the application subject to § 2.390(d). The applicant shall submit to the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate, an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served; and

(iii) Make direct distribution of additional copies to Federal, State, and local officials in accordance with the requirements of this chapter and written instructions furnished to the applicant by the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate. Such written instructions will be furnished as soon as practicable after all or any part of the application, or environmental report, is tendered. The copies submitted to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, and distributed by the applicant shall be completely assembled documents, identified by docket number. Subsequently distributed amendments to applications, however, may include revised pages to previous submittals and, in such cases, the recipients will be responsible for inserting the revised pages.

(4) The tendered application for a construction permit, operating license, early site permit, standard design approval, combined license, or manufacturing license will be formally docketed upon receipt by the Director, Office of New Reactors, Director, Office of Nuclear Reactor Regulation, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, of the required additional copies. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addresses. The date of docketing shall be the date when the required copies are received by the Director, Office of New Reactors, Director, Office of Nuclear Reactor Regulation, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate. Within 10 days after docketing, the applicant shall submit to the Director, Office of New Reactors, Director, Office of Nuclear Reactor Regulation, Director, Office of Federal and State Materials and Environmental Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, an affidavit that distribution of the additional copies to Federal, State, and local officials has been completed in accordance with requirements of this chapter and written instructions furnished to the applicant by the Director, Office of New Reactors, Director, Office of Nuclear Reactor Regulation, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate. Amendments to the application and environmental report shall be filed and distributed and an affidavit shall be furnished to the Director, Office of New Reactors, Director, Office of Nuclear Reactor Regulation, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate,

in the same manner as for the initial application and environmental report. If it is determined that all or any part of the tendered application and/or environmental report is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination, and the respects in which the document is deficient.

(5) An applicant for a construction permit under part 50 of this chapter or a combined license under part 52 of this chapter for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (b)(3) or § 50.22 of this chapter or is a testing facility may submit the information required of applicants by part 50 or part 52 of this chapter in two parts. One part shall be accompanied by the information required by § 50.30(f) of this chapter, or § 52.80(b) of this chapter, as applicable. The other part shall include any information required by § 50.34(a) and, if applicable, § 50.34a of this chapter, or §§ 52.79 and 52.80(a), as applicable. One part may precede or follow other parts by no longer than 6 months. If it is determined that either of the parts as described above is incomplete and not acceptable for processing, the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of 30 days. Whichever part is filed first shall also include the fee required by §§ 50.30(e) and 170.21 of this chapter and the information required by §§ 50.33, 50.34(a)(1), or 52.79(a)(1), as applicable, and § 50.37 of this chapter. The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will accept for docketing an application for a construction permit under part 52 of this chapter for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (b)(3) or § 50.22 of this chapter or is a testing facility where one part of the application as described above is complete and conforms to the requirements of part 50 of this chapter. The additional parts will be docketed upon a determination by the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, that it is complete.

* * * * *

(b) After the application has been docketed each applicant for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee except applicants under part 61 of this chapter, who must comply with paragraph (g) of this section, shall serve a copy of the application and environmental report, as appropriate, on the chief executive of the municipality, in which the activity is to be conducted or, if the activity is not to be conducted within a municipality on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing the docket number of the application; a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, telephone number, and e-mail address (if available) of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to such documents which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph the applicant should not make public distribution of those parts of the application subject to § 2.390(d). The applicant shall submit to the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

* * * * *

(d) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will give notice of the docketing of the public health and safety, common defense and security, and environmental parts of an application for a license for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, except that for applications pursuant to part 61 of this chapter, paragraph (g) of this section applies to the Governor or other appropriate official of the State in which the facility is to be located or the activity is to be conducted and will publish in the **Federal Register** a notice of docketing of the application which states the purpose of the application and specifies the location at which the proposed activity would be conducted.

(e) * * *

(3) If the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, determines that the tendered document is complete and acceptable for docketing, a docket number will be assigned and the applicant will be notified of the determination. If it is determined that all or any part of the tendered document is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination and the respects in which the document is deficient.

* * * * *

(6) The tendered document will be formally docketed upon receipt by the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, of the required additional copies. The date of docketing shall be the date when the required copies are received by the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate. Within ten (10) days after docketing, the applicant shall submit to the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, a written statement that distribution of

the additional copies to Federal, State, Indian Tribe, and local officials has been completed in accordance with requirements of this chapter and written instructions furnished to the applicant by the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addressees.

(7) Amendments to the application and supplements to the environmental impact statement shall be filed and distributed and a written statement shall be furnished to the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, in the same manner as for the initial application and environmental impact statement.

(8) The Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, will cause to be published in the **Federal Register** a notice of docketing which identifies the State and location at which the proposed geologic repository operations area would be located and will give notice of docketing to the governor of that State. The notice of docketing will state that the Commission finds that a hearing is required in the public interest, prior to issuance of a construction authorization, and will recite the matters specified in § 2.104(a) of this part.

(f) * * *

(1) * * *

(iii) When the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, determines that the tendered document is complete and acceptable for docketing, a docket number will be assigned and the applicant will be notified of the determination. If it is determined that all or any part of the tendered document is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination and the aspects in which the document is deficient.

(2)(i) * * *

(A) Submit to the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, such additional copies as required by the regulations in part 61 and subpart A of part 51 of this chapter;

* * * * *

(C) Make direct distribution of additional copies to Federal, State, Indian Tribal, and local officials in accordance with the requirements of this chapter and written instructions from the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate; and

* * * * *

(3) The tendered document will be formally docketed upon receipt by the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, of the required additional copies. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addressees. The date of docketing shall be the date when the required copies are received by the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate. Within ten (10) days after docketing, the applicant shall submit to the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, a written statement that distribution of the additional copies to Federal, State, Indian Tribal, and local officials has been completed in accordance with requirements of this section and written instructions furnished to the applicant by the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate.

(4) Amendments to the application and environmental report shall be filed and distributed and a written statement shall be furnished to the Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, in the same manner as for the initial application and environmental report.

(5) The Director, Office of Nuclear Material Safety and Safeguards or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, will cause to be published in the **Federal Register** a notice of docketing which identifies the State and location of the proposed waste disposal facility and will give notice of docketing to the governor of that State and other officials listed in paragraph (g)(3) of this section and, in a reasonable period thereafter, publish in the **Federal Register** a notice pursuant to § 2.105 offering opportunity to request a hearing to the applicant and other affected persons.

■ 9. In § 2.102, paragraphs (b) and (c) are revised to read as follows:

§ 2.102 Administrative review of application.

* * * * *

(b) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will refer the docketed application to the ACRS as required by law and in such additional cases as he or the Commission may determine to be appropriate. The ACRS will render to the Commission one or more reports as required by law or as requested by the Commission.

(c) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will make each report of the ACRS a part of the record of the docketed application, and transmit copies to the appropriate State and local officials.

■ 10. In § 2.103, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 2.103 Action on applications for byproduct, source, special nuclear material, facility and operator licenses.

(a) If the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, facility, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is for a facility, or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, or for a construction authorization for a

HLW repository at a geologic repository operations area under parts 60 or 63 of this chapter, or if it is to receive and possess high-level radioactive waste at a geologic repository operations area under parts 60 or 63 of this chapter, the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Nuclear Material Safety and Safeguards, or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, will inform the State, Tribal and local officials specified in § 2.104(e) of the issuance of the license. For notice of issuance requirements for licenses issued under part 61 of this chapter, see § 2.106(d).

(b) If the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, finds that an application does not comply with the requirements of the Act and this chapter he may issue a notice of proposed denial or a notice of denial of the application and inform the applicant in writing of:

* * * * *

■ 11. In § 2.105, paragraph (e)(1) is revised to read as follows:

§ 2.105 Notice of proposed action.

* * * * *

(e)(1) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice, the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, may take the proposed action, inform the appropriate State and local officials, and publish in the **Federal Register** a notice of issuance of the license or other action.

* * * * *

■ 12. In § 2.106, the introductory text of paragraph (a) is revised to read as follows:

§ 2.106 Notice of issuance.

(a) The Director, Office of New Reactors, Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will inform the State and local officials specified in § 2.104(e) and publish a document in the **Federal Register** announcing the issuance of:

* * * * *

■ 13. In § 2.107 paragraph (c) is revised to read as follows:

§ 2.107 Withdrawal of application.

* * * * *

(c) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will cause to be published in the **Federal Register** a notice of the withdrawal of an application if notice of receipt of the application has been previously published.

■ 14. Section 2.108 is revised to read as follows:

§ 2.108 Denial of application for failure to supply information.

(a) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, may deny an application if an applicant fails to respond to a request for additional information within thirty (30) days from the date of the request, or within such other time as may be specified.

(b) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will cause to be published in the **Federal Register** a notice of denial when notice of receipt of the application has previously been published, but notice of hearing has not yet been published. The notice of denial will provide that, within thirty (30) days after the date of publication in the **Federal Register**.

(1) The applicant may demand a hearing, and

(2) Any person whose interest may be affected by the proceeding may file a petition for leave to intervene.

(c) When both a notice of receipt of the application and a notice of hearing have been published, the presiding officer, upon a motion made by the staff under § 2.323, will rule whether an application should be denied by the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, under paragraph (a) of this section.

■ 15. In § 2.110, paragraphs (b) and (c)(1) are revised to read as follows:

§ 2.110 Filing and administrative action on submittals for standard design approval or early review of site suitability issues.

* * * * *

(b) Upon initiation of review by the NRC staff of a submittal for an early review of site suitability issues under Appendix Q of part 50 of this chapter, or for a standard design approval under subpart E of part 52 of this chapter, the Director, Office of New Reactors, or Director, Office of Nuclear Reactor Regulation, as appropriate shall publish in the **Federal Register** a notice of receipt of the submittal, inviting comments from interested persons within 60 days of publication or other time as may be specified, for consideration by the NRC staff and ACRS in their review.

(c)(1) Upon completion of review by the NRC staff and the ACRS of a submittal for a standard design approval, the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate shall publish in the **Federal Register** a determination as to whether or not the design is acceptable, subject to terms and conditions as may be appropriate, and shall make available at the NRC Web site, *http://www.nrc.gov,* a report that analyzes the design.

* * * * *

■ 16. In § 2.318, paragraph (b) is revised to read as follows:

§ 2.318 Commencement and termination of jurisdiction of presiding officer.

* * * * *

(b) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate, may issue an order and take any otherwise proper administrative action with respect to a licensee who is a party to a pending proceeding. Any order related to the subject matter of the pending proceeding may be modified by the presiding officer as appropriate for the purpose of the proceeding.

■ 17. In § 2.337, paragraphs (g)(1), (g)(2)(iv), and (g)(3)(iv) are revised to read as follows:

§ 2.337 Evidence at a hearing.

* * * * *

(g) * * *

(1) Facility construction permits. In a proceeding involving an application for construction permit for a production or utilization facility, the NRC staff shall offer into evidence any report submitted by the ACRS in the proceeding in compliance with section 182(b) of the Act, any safety evaluation prepared by the NRC staff, and any environmental impact statement prepared in the proceeding under subpart A of part 51 of this chapter by the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director,

Office of Nuclear Material Safety and Safeguards, as appropriate, or his or her designee.

(2) * * *

(iv) Any environmental impact statement or environmental assessment prepared in the proceeding under subpart A of part 51 of this chapter by the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, or his or her designee if there is any, but only if there are contentions/controverted matters with respect to the adequacy of the environmental impact statement or environmental assessment.

(3) * * *

(iv) Any environmental impact statement or environmental assessment prepared in the proceeding under subpart A of part 51 of this chapter by the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, or his or her designee if there is any, but only if there are contentions/controverted matters with respect to the adequacy of the environmental impact statement or environmental assessment.

■ 18. In § 2.340, paragraphs (a) and (c) are revised to read as follows:

§ 2.340 Initial decision in certain contested proceedings; immediate effectiveness of initial decisions; issuance of authorizations, permits, and licenses.

(a) *Initial decision—production or utilization facility operating license.* In any initial decision in a contested proceeding on an application for an operating license (including an amendment to or renewal of an operating license) for a production or utilization facility, the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties to the proceeding, any matter designated by the Commission to be decided by the presiding officer, and any matter not put into controversy by the parties, but only to the extent that the presiding officer determines that a serious safety, environmental, or common defense and security matter exists, and the Commission approves of an examination of and decision on the matter upon its referral by the presiding officer. Depending on the resolution of those matters, the Commission, the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, after making the requisite findings, will issue, deny or appropriately condition the license.

* * * * *

(c) *Initial decision on finding under 10 CFR 52.103 with respect to acceptance criteria in nuclear power reactor combined licenses.* In any initial decision under § 52.103(g) of this chapter with respect to whether acceptance criteria have been or will be met, the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties to the proceeding, and on any matters designated by the Commission to be decided by the presiding officer. Matters not put into controversy by the parties shall be referred to the Commission for its determination. The Commission may, in its discretion, treat the matter as a request for action under § 2.206 and process the matter in accordance with § 52.103(f) of this chapter. Depending on the resolution of those matters, the Commission, the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate, will make the finding under § 52.103 of this chapter, or appropriately condition that finding.

* * * * *

■ 19. Section 2.403 is revised to read as follows:

§ 2.403 Notice of proposed action on applications for operating licenses pursuant to appendix N of 10 CFR part 50.

In the case of applications pursuant to appendix N of part 50 of this chapter for operating licenses for nuclear power reactors, if the Commission has not found that a hearing is in the public interest, the Commission, the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate will, prior to acting thereon, cause to be published in the **Federal Register**, pursuant to § 2.105, a notice of proposed action with respect to each application as soon as practicable after the applications have been docketed.

§ 2.802 [Amended]

■ 20. In § 2.802, the introductory text of paragraph (b), in two places, change ''Rules and Directives Branch'' to read ''Rulemaking, Directives, and Editing Branch''.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

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

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 22. In § 30.6 paragraph (a)(1) is revised to read as follows:

§ 30.6 Communications.

(a) * * *

(1) By mail addressed: ATTN: Document Control Desk, Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

* * * * *

■ 23. In § 30.33, paragraph (a)(5) is revised to read as follows:

§ 30.33 General requirements for issuance of specific licenses.

(a) * * *

(5) In the case of an application for a license to receive and possess byproduct material for the conduct of any activity which the Commission determines will significantly affect the quality of the environment, the Director, Office of Federal and State Materials and Environmental Management Program or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this paragraph the term ''commencement of construction'' means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of

the site or the protection of environmental values.

* * * * *

■ 24. In § 30.55, paragraph (c) is revised to read as follows:

§ 30.55 Tritium reports.

* * * * *

(c) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter by telephone and telegraph, mailgram, or facsimile any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or more than 100 curies of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the appropriate NRC Regional Office which sets forth the details of the incident and its consequences. Copies of such written report shall be sent to the Director, Office of Federal and State Materials and Environmental Management Programs, using an appropriate method listed in § 30.6(a). Subsequent to the submission of the written report required by this paragraph, the licensee shall promptly inform the Office of Federal and State Materials and Environmental Management Programs by means of a written report of any substantive additional information, which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of tritium.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

■ 25. The authority citation for part 31 continues to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

■ 26. In § 31.5, paragraphs (c)(5), (c)(8)(ii), (c)(9)(i), (c)(11), and (c)(14) are revised to read as follows:

§ 31.5 Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.

* * * * *

(c) * * *

(5) Shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 bequerel (0.005 microcurie) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair such devices that was issued under parts 30 and 32 of this chapter or by an Agreement State. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the byproduct material in the device or as otherwise approved by the Commission. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 within 30 days. Under these circumstances, the criteria set out in § 20.1402 of this chapter, ''Radiological criteria for unrestricted use,'' may be applicable, as determined by the Commission on a case-by-case basis;

* * * * *

(8) * * *

(ii) Shall, within 30 days after the transfer of a device to a specific licensee or export, furnish a report to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: Document Control Desk/GLTS, using an appropriate method listed in § 30.6(a) of this chapter. The report must contain—

* * * * *

(9) * * *

(i) The device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of this section, a copy of § 31.2, 30.51, 20.2201, and 20.2202 of this chapter, and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: Document Control Desk/GLTS, using an appropriate method listed in § 30.6(a) of this chapter—

* * * * *

(11) Shall respond to written requests from the Nuclear Regulatory Commission to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, a written justification for the request.

* * * * *

(14) Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.

* * * * *

■ 27. In § 31.11 paragraphs (b)(1) and (e) are revised to read as follows:

§ 31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

* * * * *

(b) * * *

(1) Has filed NRC Form 483, ''Registration Certificate—In Vitro Testing with Byproduct Material Under General License,'' with the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, and has received from the Commission a validated copy of NRC Form 483 with a registration number assigned; or

* * * * *

(e) The registrant possessing or using byproduct materials under the general license of paragraph (a) of this section shall report in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, any changes in the information furnished by him in the ''Registration Certificate—In Vitro Testing With Byproduct Material Under General License.'' Form NRC–483. The

report shall be furnished within 30 days after the effective date of such change.

* * * * *

PARTS 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

■ 28. The authority citation for part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note), Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005).

■ 29. In § 32.12, paragraph (a) is revised to read as follows:

§ 32.12 Same: Records and material transfer reports.

(a) Each person licensed under § 32.11 shall maintain records of transfer of material and file a report with the Director, Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter. A copy of the report must be sent to the appropriate NRC Regional Office listed in appendix D to part 20 of this chapter.

* * * * *

■ 30. In § 32.16, paragraph (a) is revised to read as follows:

§ 32.16 Certain items containing byproduct material: Records and reports of transfer.

(a) Each person licensed under § 32.14 or § 32.17 shall maintain records of all transfers of nuclear material and file a report with the Director, Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, with a copy to the appropriate NRC Regional Office listed in appendix D to part 20 of this chapter.

* * * * *

■ 31. In § 32.20, paragraph (b) is revised to read as follows:

§ 32.20 Same: Records and material transfer reports.

* * * * *

(b) The licensee shall file a summary report stating the total quantity of each isotope transferred under the specific license with the Director, Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, with a copy to the appropriate NRC Regional Office listed in appendix D to part 20 of this chapter.

* * * * *

■ 32. In § 32.25, the introductory text of paragraph (c) is revised to read as follows:

§ 32.25 Conditions of licenses issued under § 32.22: Quality control, labeling, and reports of transfer.

* * * * *

(c) Maintain records and file reports with the Director, Office of Federal and State Materials and Environmental Management programs, by an appropriate method listed in § 30.6(a) of this chapter, with copies to the appropriate NRC Regional Office listed in appendix D to part 20 of this chapter.

* * * * *

■ 33. In § 32.29, the introductory text of paragraph (c) is revised to read as follows:

§ 32.29 Conditions of licenses issued under § 32.26: Quality control, labeling, and reports of transfer.

* * * * *

(c) Maintain records and file a report with the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with copies to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter.

* * * * *

34. In § 32.52, the introductory text of paragraph (a) is revised to read as follows:

§ 32.52 Same: material transfer reports and records.

* * * * *

(a) The person shall report to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS, by an appropriate method listed in § 30.6(a) of this chapter, all transfers of such devices to persons for use under the general license in § 31.5 of this chapter and all receipts of devices from persons licensed under § 31.5 of this chapter. The report must be submitted on a quarterly basis on NRC Form 653—''Transfers of Industrial Devices Report'' or in a clear and legible report containing all of the data required by the form.

* * * * *

■ 35. Section 32.56 is revised to read as follows:

§ 32.56 Same: Material transfer reports.

Each person licensed under § 32.53 shall file an annual report with the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, which must state the total quantity of tritium or promethium-147 transferred to persons generally licensed under § 31.7 of this chapter. The report must identify each general licensee by name, state the kinds and numbers of luminous devices transferred, and specify the quantity of tritium or promethium-147 in each kind of device. Each report must cover the year ending June 30 and must be filed within thirty (30) days thereafter.

■ 36. In § 32.210, paragraph (b) is revised to read as follows:

§ 32.210 Registration of product information.

* * * * *

(b) The request for review must be sent to the Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter.

* * * * *

PART 34—LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

■ 37. The authority citation for part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 34.45 also issued under sec. 206, 88 Stat. 1246, (42 U.S.C. 5846).

■ 38. In § 34.27, paragraph (d) is revised to read as follows:

§ 34.27 Leak testing and replacement of sealed sources.

* * * * *

(d) Any test conducted pursuant to paragraph (c) of this section which reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material must be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall have it decontaminated and repaired or disposed of in accordance with Commission regulations. A report must be filed with the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, the report to be filed within 5 days of any test with results that exceed the threshold in this paragraph (d), and to describe the

equipment involved, the test results, and the corrective action taken. A copy of the report must be sent to the Administrator of the appropriate Nuclear Regulatory Commission's Regional Office listed in appendix D of 10 CFR part 20 of this chapter ''Standards for Protection Against Radiation.''

* * * * *

■ 39. In § 34.43, paragraph (a)(1) is revised to read as follows:

§ 34.43 Training.

(a) * * *

(1) Has received training in the subjects in paragraph (g) of this section, in addition to a minimum of 2 months of on-the-job training, and is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in appendix A of this part. (An independent organization that would like to be recognized as a certifying entity shall submit its request to the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter.); or

* * * * *

■ 40. In § 34.101, the introductory text of paragraph (a) is revised to read as follows:

§ 34.101 Notifications.

(a) In addition to the reporting requirements specified in § 30.50 and under other sections of this chapter, such as § 21.21, each licensee shall send a written report to the NRC's Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

■ 41. The authority citation for part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 42. Section 35.3067 is revised to read as follows:

§ 35.3067 Report of a leaking source.

A licensee shall file a report within 5 days if a leak test required by § 35.67 reveals the presence of 185 Bq (0.005 μCi) or more of removable contamination. The report must be filed with the appropriate NRC Regional Office listed in § 30.6 of this chapter, by an appropriate method listed in § 30.6(a) of this chapter, with a copy to the Director, Office of Federal and State Materials and Environmental Management Programs. The written report must include the model number and serial number, if assigned, of the leaking source; the radionuclide and its estimated activity; the results of the test; the date of the test; and the action taken.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

■ 43. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 44. In § 40.5, paragraph (a)(1) is revised to read as follows:

§ 40.5 Communications.

(a) * * *

(1) By mail addressed: ATTN: Document Control Desk, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Security, or Director, Office of Nuclear Security and Incident Response, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

* * * * *

■ 45. In § 40.25, the introductory text of paragraph (c)(1) and paragraphs (c)(2) and (d)(4) are revised to read as follows:

§ 40.25 General license for use of certain industrial products or devices.

* * * * *

(c)(1) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by paragraph (a) of this section shall file NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License,'' with the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 40.5, with a copy to the appropriate NRC Regional Administrator. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on NRC Form 244 the following information and such other information as may be required by that form:

* * * * *

(2) The registrant possessing or using depleted uranium under the general license established by paragraph (a) of this section shall report in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of part 20 of this chapter, any changes in information furnished by him in the NRC Form 244 ''Registration Certificate—Use of Depleted Uranium Under General License.'' The report shall be submitted within 30 days after the effective date of such change.

(d) * * *

(4) Within 30 days of any transfer, shall report in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of part 20 of this chapter, the name and address of the person receiving the source material pursuant to such transfer.

* * * * *

■ 46. In § 40.26, paragraph (c)(2) is revised to read as follows:

§ 40.26 General license for possession and storage of byproduct material as defined in this part.

* * * * *

(c) * * *

(2) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in appendix D to part 20 of this chapter, or the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not

contemplated in the design of the retention system) that if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas; and any additional requirements the Commission may by order deem necessary. The licensee shall retain this documentation of each daily inspection as a record for three years after each inspection is documented.

* * * * *

■ 47. In § 40.32, paragraph (e) is revised to read as follows:

§ 40.32 General requirements for issuance of specific licenses.

* * * * *

(e) In the case of an application for a license for a uranium enrichment facility, or for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director, Office of Federal and State Materials and Environmental Management Programs or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility. As used in this paragraph, the term ''commencement of construction'' means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

* * * * *

■ 48. In § 40.35, paragraphs (e)(1) and (f) are revised to read as follows:

§ 40.35 Conditions of specific licenses issued pursuant to § 40.34.

* * * * *

(e)(1) Report to the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 40.5, all transfers of industrial products or devices to persons for use under the general license in § 40.25. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Commission and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under § 40.25 during the reporting period, the report shall so indicate;

* * * * *

(f) Licensees required to submit emergency plans by § 40.31(i) shall follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 40.5, and to affected offsite response organizations, within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Commission.

■ 49. In § 40.65, paragraph (a)(1) is revised to read as follows:

§ 40.65 Effluent monitoring reporting requirements.

(a) * * *

(1) Within 60 days after January 1, 1976 and July 1, 1976, and within 60 days after January 1 and July 1 of each year thereafter, submit a report to the Director, Office of Federal and State Materials and Environmental Management Programs, using an appropriate method listed in § 40.5, with a copy to the appropriate NRC Regional Office shown in appendix D to part 20 of this chapter; the report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation, and such other information as the Commission may require to estimate maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above the licensee's design objectives previously reviewed as part of the licensing action, the report shall cover this specifically. On the basis of such reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 50. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 51. In § 50.30, paragraph (a)(2) is revised to read as follows:

§ 50.30 Filing of application for licenses; oath or affirmation.

(a) * * *

(2) The applicant shall maintain the capability to generate additional copies of the general information and the safety analysis report, or part thereof or amendment thereto, for subsequent distribution in accordance with the written instructions of the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate.

* * * * *

■ 52. In § 50.55a, the introductory text of paragraph (a)(3) and paragraph (g)(6)(ii)(A)(5) are revised to read as follows:

§ 50.55a Codes and standards.

(a) * * *

(3) Proposed alternatives to the requirements of paragraphs (c), (d), (e), (f), (g), and (h) of this section or portions thereof may be used when authorized by the Director, Office of Nuclear Reactor Regulation, or Director, Office of New Reactors, as appropriate. The applicant shall demonstrate that:

* * * * *

(g) * * *

(6) * * *

(ii) * * *

(A) * * *

(*5*) Licensees that make a determination that they are unable to completely satisfy the requirements for the augmented reactor vessel shell weld examination specified in paragraph (g)(6)(ii)(A) of this section shall submit information to the Commission to support the determination and shall propose an alternative to the examination requirements that would provide an acceptable level of quality and safety. The licensee may use the proposed alternative when authorized by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate.

* * * * *

■ 53. In § 50.61, paragraphs (a)(5) and (c)(3) are revised to read as follows:

§ 50.61 Fracture toughness requirements for protection against pressurized thermal shock events.

(a) * * *

(5) $RT_{NDT(U)}$ means the reference temperature for a reactor vessel material in the pre-service or unirradiated condition, evaluated according to the procedures in the ASME Code, Paragraph NB–2331 or other methods approved by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate.

* * * * *

(c) * * *

(3) Any information that is believed to improve the accuracy of the RT_{PTS} value significantly must be reported to the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate. Any value of RT_{PTS} that has been modified using the procedures of paragraph (c)(2) of this section is subject to the approval of the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, when used as provided in this section.

* * * * *

■ 54. In § 50.70, paragraph (b)(1) is revised to read as follows:

§ 50.70 Inspections.

* * * * *

(b)(1) Each licensee and each holder of a construction permit shall, upon request by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air conditioning, light, electrical outlets, and janitorial services shall be furnished by each licensee and each holder of a construction permit. The office shall be convenient to and have full access to the facility and shall provide the inspector both visual and acoustic privacy.

* * * * *

■ 55. In § 50.75, paragraphs (h)(1)(iii), (h)(1)(iv), and (h)(2) are revised to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(h) * * *

(1) * * *

(iii) The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period; and

(iv) Except for withdrawals being made under § 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under § 50.82(a)(8), no further notification need be made to the NRC.

(2) Licensees that are ''electric utilities'' under § 50.2 that use prepayment or an external sinking fund to provide financial assurance shall include a provision in the terms of the trust, escrow account, Government fund, or other account used to segregate and manage funds that except for withdrawals being made under § 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended

disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under § 50.82(a)(8), no further notification need be made to the NRC.

* * * * *

■ 56. In Appendix G, Section I, the note paragraph is revised, in Section III, paragraphs A and B are revised, and in Section IV, paragraphs A.1.a. and A.1.c. are revised to read as follows:

Appendix G to Part 50—Fracture Toughness Requirements

* * * * *

I. Introduction and Scope

* * * * *

Note: The adequacy of the fracture toughness of other ferritic materials not covered in this section must be demonstrated to the Director, Office of Nuclear Reactor Regulation or the Director, Office of New Reactors, as appropriate, on an individual case basis.

* * * * *

III. Fracture Toughness Tests

A. To demonstrate compliance with the fracture toughness requirements of section IV of this appendix, ferritic materials must be tested in accordance with the ASME Code and, for the beltline materials, the test requirements of appendix H of this part. For a reactor vessel that was constructed to an ASME code earlier than the Summer 1972 Addenda of the 1971 Edition (under § 50.55a), the fracture toughness data and data analysis must be supplemented in a manner approved by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, to demonstrate equivalence with the fracture toughness requirements of this appendix.

B. Test methods for supplemental fracture toughness tests described in paragraph IV.A.1.b of this appendix must be submitted to and approved by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, prior to testing.

* * * * *

IV. Fracture Toughness Requirements

A. * * *

1. * * *

a. Reactor vessel beltline materials must have Charpy upper-shelf energy [1] in the transverse direction for base material and along the weld for weld material according to the ASME Code, of no less than 75 ft-lb (102 J) initially and must maintain Charpy upper-shelf energy throughout the life of the vessel of no less than 50 ft-lb (68 J), unless it is demonstrated in a manner approved by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, that lower values of Charpy upper-shelf energy will provide margins of safety against fracture equivalent to those required by Appendix G of Section XI of the ASME Code. This analysis must use the latest edition and addenda of the ASME Code incorporated by reference into § 50.55a(b)(2) at the time the analysis is submitted.

* * * * *

c. The analysis for satisfying the requirements of section IV.A.1 of this appendix must be submitted, as specified in § 50.4, for review and approval on an individual case basis at least three years prior to the date when the predicted Charpy upper-shelf energy will no longer satisfy the requirements of section IV.A.1 of this appendix, or on a schedule approved by the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate.

* * * * *

■ 57. In Appendix H, Section III, the introductory text of paragraph C.1 and paragraph C.3 are revised to read as follows:

Appendix H to Part 50—Reactor Vessel Material Surveillance Program Requirements

* * * * *

III. Surveillance Program Criteria

* * * * *

C. * * *

1. In an integrated surveillance program, the representative materials chosen for surveillance for a reactor are irradiated in one or more other reactors that have similar design and operating features. Integrated surveillance programs must be approved by the Director, Office of Nuclear Reactor Regulation or the Director, Office of New Reactors, as appropriate, on a case-by-case basis. Criteria for approval include the following:

* * * * *

3. After (the effective date of this section), no reduction in the amount of testing is permitted unless previously authorized by the Director, Office of Nuclear Reactor Regulation or the Director, Office of New Reactors, as appropriate.

* * * * *

■ 58. In Appendix J, Section V, paragraph B.2 is revised to read as follows:

Appendix J to Part 50—Primary Reactor Containment Leakage Testing for Water-Cooled Reactors

* * * * *

V. Application

* * * * *

B. * * *

2. A licensee or applicant for an operating license under this part or a combined license under part 52 of this chapter may adopt Option B, or parts thereof, as specified in Section V.A of this appendix, by submitting its implementation plan and request for revision to technical specifications (see paragraph B.3 of this section) to the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate.

* * * * *

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

■ 59. The authority citation for part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

■ 60. In § 51.4, the definition of NRC Staff Director is revised to read as follows:

§ 51.4 Definitions.

* * * * *

[1] Defined in ASTME 185–79 and –82 which are incorporated by reference in appendix H to part 50.

NRC Staff Director means:
Executive Director for Operations;
Director, Office of Nuclear Reactor Regulation;
Director, Office of New Reactors;
Director, Office of Nuclear Material Safety and Safeguards;
Director, Office of Federal and State Materials and Environmental Management Programs;
Director, Office of Nuclear Regulatory Research;
Director, Office of Governmental and Public Affairs; and
The designee of any NRC staff director.

■ 61. In § 51.40, paragraph (c)(1) is revised to read as follows:

§ 51.40 Consultation with NRC staff.

* * * * *

(c) * * *

(1) *Utilization facilities:* ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1270, e-mail *RidsNrrOd@nrc.gov.*

* * * * *

■ 62. In § 51.105, paragraph (a)(5) is revised to read as follows:

§ 51.105 Public hearings in proceedings for issuance of construction permits or early site permits.

(a) * * *

(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the construction permit or early site permit should be issued as proposed by the NRC's Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate.

* * * * *

■ 63. Section 51.105a is revised to read as follows:

§ 51.105a Public hearings in proceedings for issuance of manufacturing licenses.

In addition to complying with applicable requirements of § 51.31(c), in a proceeding for the issuance of a manufacturing license, the presiding officer will determine whether, in accordance with the regulations in this subpart, the manufacturing license should be issued as proposed by the NRC's Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate.

■ 64. In § 51.107, paragraph (a)(5) is revised to read as follows:

§ 51.107 Public hearings in proceedings for issuance of combined licenses.

(a) * * *

(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the combined license should be issued as proposed by the NRC's Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate.

* * * * *

■ 65. In § 51.121, paragraph (a) is revised to read as follows:

§ 51.121 Status of NEPA actions.

(a) *Utilization facilities:* ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1270, e-mail *RidsNrrOd@nrc.gov.*

* * * * *

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 67. Section 52.35 is revised to read as follows:

§ 52.35 Use of site for other purposes.

A site for which an early site permit has been issued under this subpart may be used for purposes other than those described in the permit, including the location of other types of energy facilities. The permit holder shall inform the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate, (Director) of any significant uses for the site which have not been approved in the early site permit. The information about the activities must be given to the Director at least 30 days in advance of any actual construction or site modification for the activities. The information provided could be the basis for imposing new requirements on the permit, in accordance with the provisions of § 52.39. If the permit holder informs the Director that the holder no longer intends to use the site for a nuclear power plant, the Director may terminate the permit.

■ 68. In § 52.75, paragraph (a) is revised to read as follows:

§ 52.75 Filing of applications.

(a) Any person except one excluded by § 50.38 of this chapter may file an application for a combined license for a nuclear power facility with the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate.

* * * * *

PART 55—OPERATOR'S LICENSES

■ 69. The authority citation for part 55 continues to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953 , as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended,1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

■ 70. In § 55.5, paragraph (a)(1) and (b)(1) and the introductory text of paragraph (b)(2) are revised to read as follows:

§ 55.5 Communications.

(a) * * *

(1) By mail addressed to—Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or

* * * * *

(b)(1) Except for test and research reactor facilities, the Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, has delegated to the Regional Administrators of Regions I, II, III, and IV authority and responsibility under the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear power reactors licensed under 10 CFR part 50 or part 52 of this chapter and located in these regions.

(2) Any application for a license or license renewal filed under the regulations in this part involving a nuclear power reactor licensed under 10 CFR part 50 or part 52 of this chapter and any related inquiry, communication, information, or report must be submitted to the Regional Administrator by an appropriate method listed in paragraph (a) of this section. The Regional Administrator or the Administrator's designee will transmit to the Director, Office of New Reactors or Director, Office of Nuclear Reactor

Regulation, as appropriate, any matter that is not within the scope of the Regional Administrator's delegated authority.

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

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

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 72. In § 61.2, the definition of *Director* is revised to read as follows:

§ 61.2 Definitions.

* * * * *

Director means the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission.

* * * * *

■ 73. Section 61.4 is revised to read as follows:

§ 61.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at *http://www.nrc.gov/site-help/eie.html*, by calling (301) 415–6030, by e-mail to *EIE@nrc.gov,* or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

■ 74. In § 61.80, paragraph (i)(1) is revised to read as follows:

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(i)(1) Each licensee authorized to dispose of waste materials received from other persons under this part shall submit annual reports to the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 60.4 of this chapter, with a copy to the appropriate NRC Regional Office shown in appendix D to part 20 of this chapter. Reports must be submitted by the end of the first calendar quarter of each year for the preceding year.

* * * * *

PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

■ 75. The authority citation for part 62 continues to read as follows:

Authority: Secs. 81, 161, as amended, 68 Stat. 935, 948, 949, 950, 951, as amended (42 U.S.C. 2111, 2201; secs. 201, 209, as amended, 88 Stat. 1242, 1248, as amended (42 U.S.C. 5841, 5849); secs. 3, 4, 5, 6, 99 Stat. 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857 (42 U.S.C. 2021c, 2021d, 2021e, 2021f; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 76. Section 62.3 is revised to read as follows:

§ 62.3 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk, Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at *http://www.nrc.gov/site-help/eie.html*, by calling (301) 415–6030, by e-mail to *EIE@nrc.gov,* or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

■ 77. The authority citation for part 73 continues to read as follows:

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Authority: Secs. 53, 161, 149, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2169, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005). Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C, 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

■ 78. In § 73.4, paragraph (a) is revised to read as follows:

§ 73.4 Communications.

* * * * *

(a) By mail addressed to: ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Nuclear Material Safety and Safeguards, or Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

* * * * *

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

■ 79. The authority citation for part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note) .

Section 75.4 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

■ 80. In § 75.6, paragraphs (b) and (c) are revised to read as follows:

§ 75.6 Maintenance of records and delivery of information, reports, and other communications.

* * * * *

(b) If an installation is a nuclear power plant or a non-power reactor for which a construction permit or operating license has been issued, whether or not a license to receive and possess nuclear material at the installation has been issued, the cognizant Director is the Director, Office of New Reactors, or Director, Office of Nuclear Reactor Regulation, as appropriate. For all other installations, the cognizant Director is the Director, Office of Nuclear Material Safety and Safeguards, or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate.

(c) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Materials Safety and Safeguards, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at *http://www.nrc.gov/site-help/eie.html*, by calling (301) 415–6030, by e-mail to *EIE@nrc.gov,* or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

* * * * *

PART 100—REACTOR SITE CRITERIA

■ 81. The authority citation for part 100 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 68 Stat. 936, 937, 948, 953, as amended (42 U.S.C. 2133, 2134, 2201, 2232); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 82. Section 100.4 is revised to read as follows:

§ 100.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed to: ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at *http://www.nrc.gov/site-help/eie.html*, by calling (301) 415–6030, by e-mail to *EIE@nrc.gov,* or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. Copies should be sent to the appropriate Regional Office and Resident Inspector.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 83. The authority citation for part 140 continues to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576 as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Pub. L. 109–58.

■ 84. Section 140.5 is revised to read as follows:

§ 140.5 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed to: ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at *http://www.nrc.gov/site-help/eie.html*, by calling (301) 415–6030, by e-mail to *EIE@nrc.gov,* or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

■ 85. Section 140.6, paragraph (a) is revised to read as follows:

§ 140.6 Reports.

(a) In the event of bodily injury or property damage arising out of or in connection with the possession or use of the radioactive material at the location or in the course of transportation, or in the event any claim is made therefor, written notice containing particulars sufficient to identify the licensee and reasonably obtainable information with respect to the time, place, and circumstances thereof, or to the nature of the claim, shall be furnished by or for the licensee to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, using an appropriate method listed in § 140.5, but in any case as promptly as practicable. The terms the radioactive material, the location, and in the course of transportation as used in this section shall have the meanings defined in the applicable indemnity agreement between the licensee and the Commission.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 86. The authority citation for part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

■ 87. Section 150.4 is revised to read as follows:

§ 150.4 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be sent by mail addressed: ATTN: Document Control Desk, Director, Office of Federal and State Materials and Environmental Management Programs, and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at *http://www.nrc.gov/site-help/eie.html*, by calling (301) 415–6030, by e-mail to *EIE@nrc.gov,* or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

■ 88. In § 150.16, paragraph (b)(2) is revised to read as follows:

§ 150.16 Submission to Commission of nuclear material transfer reports.

* * * * *

(b) * * *

(2) Within 15 days, the licensee shall follow the initial report with a written report that sets forth the details of the incident. The report must be sent by an appropriate method listed in § 150.4 to the Director, Office of Federal and State Materials and Environmental Management Programs, with a copy to the appropriate NRC Regional Office, shown in appendix A to part 73 of this chapter.

* * * * *

■ 89. In § 150.19, paragraph (c) is revised to read as follows:

§ 150.19 Submission to Commission of tritium reports.

* * * * *

(c) Except as specified in paragraph (d) of this section, each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office as shown in appendix D of part 20 of this chapter by telephone and telegraph, mailgram, or facsimile any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any one calendar year. The initial report must be followed within a period of fifteen days by a written report that sets forth the details of the incident and its consequences. The report must be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, using an appropriate method listed in § 150.4, with a copy to the appropriate NRC Regional Office as shown in appendix A to part 73 of this chapter. Subsequent to the submission of the written report required by this paragraph, each person subject to the provisions of this paragraph shall promptly inform the appropriate NRC Regional Office by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of tritium.

* * * * *

Dated at Rockville, Maryland, this 18th day of January, 2008.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E8–1646 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has adopted final amendments to its Regulation A to reflect the Board's approval of a decrease in the primary credit rate at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically decreased by formula as a result of the Board's primary credit rate action.

DATES: The amendments to part 201 (Regulation A) are effective January 31, 2008. The rate changes for primary and secondary credit were effective on the dates specified in 12 CFR 201.51, as amended.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board (202/452–3259); for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

The Board approved requests by the Reserve Banks to decrease by 75 basis points the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby decreasing from 4.75 percent to 4.00 percent the rate that each Reserve Bank charges for extensions of primary credit. As a result of the Board's action on the primary credit rate, the rate that each Reserve Bank charges for extensions of secondary credit automatically decreased from 5.25 percent to 4.50 percent under the secondary credit rate formula. The final amendments to Regulation A reflect these rate changes.

The 75-basis-point decrease in the primary credit rate was associated with a similar decrease in the target for the federal funds rate (from 4.25 percent to 3.50 percent) approved by the Federal Open Market Committee (Committee) and announced at the same time. A press release announcing these actions indicated that:

The Committee took this action in view of a weakening of the economic outlook and increasing downside risks to growth. While strains in short-term funding markets have

eased somewhat, broader financial market conditions have continued to deteriorate and credit has tightened further for some businesses and households. Moreover, incoming information indicates a deepening of the housing contraction as well as some softening in labor markets.

The Committee expects inflation to moderate in coming quarters, but it will be necessary to continue to monitor inflation developments carefully.

Appreciable downside risks to growth remain. The Committee will continue to assess the effects of financial and other developments on economic prospects and will act in a timely manner as needed to address those risks.

Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the new primary and secondary credit rates will not have a significantly adverse economic impact on a substantial number of small entities because the final rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The Board did not follow the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of these amendments because the Board for good cause determined that delaying implementation of the new primary and secondary credit rates in order to allow notice and public comment would be unnecessary and contrary to the public interest in fostering price stability and sustainable economic growth. For these same reasons, the Board also has not provided 30 days prior notice of the effective date of the rule under section 553(d).

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[1]

(a) *Primary credit.* The interest rates for primary credit provided to depository institutions under § 201.4(a) are:

Federal Reserve Bank	Rate	Effective
Boston	4.00	January 22, 2008.
New York	4.00	January 22, 2008.
Philadelphia	4.00	January 22, 2008.
Cleveland	4.00	January 22, 2008.
Richmond	4.00	January 22, 2008.
Atlanta	4.00	January 24, 2008.
Chicago	4.00	January 22, 2008.
St. Louis	4.00	January 23, 2008.
Minneapolis	4.00	January 22, 2008.
Kansas City	4.00	January 24, 2008.
Dallas	4.00	January 22, 2008.
San Francisco	4.00	January 22, 2008.

(b) *Secondary credit.* The interest rates for secondary credit provided to depository institutions under 201.4(b) are:

Federal Reserve Bank	Rate	Effective
Boston	4.50	January 22, 2008.
New York	4.50	January 22, 2008.
Philadelphia	4.50	January 22, 2008.
Cleveland	4.50	January 22, 2008.
Richmond	4.50	January 22, 2008.
Atlanta	4.50	January 24, 2008.
Chicago	4.50	January 22, 2008.
St. Louis	4.50	January 23, 2008.
Minneapolis	4.50	January 22, 2008.
Kansas City	4.50	January 24, 2008.
Dallas	4.50	January 22, 2008.
San Francisco	4.50	January 22, 2008.

[1] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 25, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–1657 Filed 1–30–08; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27192; Directorate Identifier 2007–CE–008–AD; Amendment 39–15350; AD 2008–03–01]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited Model DHC–6 Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. This 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:

> Certain structural components must be replaced by new components at a certain stage of the aircraft's life to avoid any possibility of fatigue failure.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 6, 2008.

As of March 6, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Duckett, Aerospace Engineer, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone: (516) 228–7325; fax: (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 14, 2007 (72 FR 64010) and proposed to supersede AD 83–02–02, Amendment 39–4553. That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

> Certain structural components must be replaced by new components at a certain stage of the aircraft's life to avoid any possibility of fatigue failure.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This 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 required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 166 products of U.S. registry. We also estimate that it will take about 30 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $988 per product. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $562,408 or $3,388 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is 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, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 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 Amendment 39–4553 (AD 83–02–02, February 4, 1983) and adding the following new AD:

2008–03–01 Viking Air Limited: Amendment 39–15350; Docket No. FAA–2007–27192; Directorate Identifier 2007–CE–008–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 6, 2008.

Affected ADs

(b) This AD supersedes AD 83–02–02, Amendment 39–4553.

Applicability

(c) This AD applies to Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 51: Structures.

Reason

(e) The mandatory continuing airworthiness information (MCAI) refers to the Product Support Manual (PSM) 1–6–11, Revision 5, dated January 11, 2000, which states:

Certain structural components must be replaced by new components at a certain stage of the aircraft's life to avoid any possibility of fatigue failure.

The MCAI requires you to inspect, modify, and/or retire affected structural components to maintain the structural integrity of DHC–6 airplanes.

Actions and Compliance

(f) Unless already done, within 30 days after March 6, 2008 (the effective date of this AD), for all aircraft, incorporate the inspections, modifications, and/or retirement of components specified in Bombardier Inc.(formerly de Havilland) DHC–6 ''Twin Otter'' PSM 1–6–11, Revision 6, dated March 28, 2007, into the aircraft maintenance program. The compliance times are specified in the manual. For aircraft that are approaching or have exceeded the threshold of the new or revised inspections introduced by this AD, compliance with the threshold inspection may be modified as detailed below:

(1) *Pre Mod 6/1117 Wing Assemblies:*

(i) If the last inspection done of the main wing spar attachment lug fastener holes, before March 6, 2008 (the effective date of this AD), was an eddy current inspection following Bombardier Inc. (formerly de Havilland) DHC–6 ''Twin Otter'' PSM 1–6–11, Revision 5, dated January 11, 2000; or PSM 1–6–11, Revision 6, dated March 28, 2007; do the repeat high frequency eddy current inspection in accordance with the schedule in PSM 1–6–11, Revision 6, dated March 28, 2007.

(ii) If the last inspection done of the main wing spar attachment lug fastener holes, before March 6, 2008 (the effective date of this AD), was an ultrasonic inspection following Bombardier Service Bulletin 6/525, dated September 6, 1996, do the first high frequency eddy current inspection within 1,000 hours time-in-service (TIS) or 2000 cycles, whichever occurs first, after the last ultrasonic inspection. Repetitively inspect thereafter in accordance with the schedule in PSM 1–6–11, dated March 28, 2007.

Note 1: Operators that do not have landing (or cycle) records may determine the number of landings (or cycles) by dividing the number of hours of time-in-service of each airplane by the time of the average flight for the aircraft of that type in the operator's fleet.

(2) *Post Mod 6/1117 and Post Mod 6/1630 Wing Assemblies:* If the inspection threshold for the lower wing skin, stringers, and aft spar lower flange WS122 to WS263 (ribs 8 to 20) has been exceeded or will be exceeded within 6 months after March 6, 2008 (the effective date of this AD), do the first high frequency eddy current inspection within the next 500 hours TIS after March 6, 2008 (the effective date of this AD), or within the next 6 months after March 6, 2008 (the effective date of this AD), whichever occurs first, following PSM 1–6–11, Revision 6, dated March 28, 2007.

(g) You may take ''unless already done'' credit if the above actions were done following the procedures described in Bombardier Inc. (formerly de Havilland) DHC–6 ''Twin Otter'' PSM 1–6–11, Revision 5, dated January 11, 2000.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: The MCAI references PSM 1–6–11, Revision 5, dated January 11, 2000. PSM 1–6–11, Revision 6, dated March 28, 2007, has since been issued and is referenced for compliance in this AD.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: George Duckett, Aerospace Engineer, Airframe and Propulsion Branch, FAA, New York Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone: (516) 228–7325; fax: (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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

(i) Refer to MCAI Transport Canada AD No. CF–2000–14, dated May 25, 2000; and Viking Air Limited Structural Components Service Life Limits Manual PSM 1–6–11, Revision 6, dated March 28, 2007, for related information.

Material Incorporated by Reference

(j) You must use PSM 1–6–11, Revision 6, dated March 28, 2007 to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5; telephone: (416) 633–7310.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; 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.*

Issued in Kansas City, Missouri, on January 18, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1461 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0172; Directorate Identifier 2007–NM–225–AD; Amendment 39–15353; AD 2008–03–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, A300 B4–600R, A300 C4–600R, and A300 F4–600R Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated 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:

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88). * * *

Under this regulation, all holders of type certificates for passenger transport aircraft * * * are required to conduct a design review against explosion risks.

The replacement of some types of P-clips and improvement of the electrical bonding of the equipment in the fuel tanks are rendered mandatory by this AD.

The unsafe condition is damage to wiring in the wing, center, and trim fuel tanks, due to failed P-clips used for retaining the wiring and pipes, which could result in a possible fuel ignition source in the wing, center, or trim fuel tanks. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 6, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 6, 2008.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 9, 2007 (72 FR 63503). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88). In their letters referenced 04/00/02/07/01–L296, dated March 4th, 2002 and 04/00/02/07/03–L024, dated February 3rd, 2003, the JAA (Joint Aviation Authorities) recommended the application of a similar regulation to the National Aviation Authorities (NAA).

Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 7,500 pounds (3402 kg) or more, which have received their certification since January 1st, 1958, are required to conduct a design review against explosion risks.

The replacement of some types of P-clips and improvement of the electrical bonding of the equipment in the fuel tanks are rendered mandatory by this AD.

Note: Initially, EASA AD 2006–0325, which addresses the same unsafe condition, also applied to A300–600 aircraft. The approval holder subsequently introduced additional work at revision 1 of SB (service bulletin) A300–28–6064 applicable to A300–600 aircraft. [On September 21, 2007, the FAA issued parallel AD 2007–20–04 for only Airbus Model A300 Airplanes and Model A310 Airplanes, which was published in the **Federal Register** (72 FR 56258, October 3, 2007).]

As a result, AD 2006–0325 has been revised to remove A300–600 aircraft from applicability, and this new AD applicable to A300–600 aircraft is issued.

The unsafe condition is damage to wiring in the wing, center, and trim fuel tanks, due to failed P-clips used for retaining the wiring and pipes, which could result in a possible fuel ignition source in the wing, center, or trim fuel tanks. The corrective action is checking the electrical bonding points of certain equipment in the center fuel tank for the presence of a blue coat and doing related investigative and corrective actions if necessary. The related investigative action is to measure the electrical resistance between the equipment and structure, if a blue coat is not present. The corrective action is to electrically bond the equipment, if the measured resistance is greater than 10 milliohms. The corrective action also includes installing new bonding leads and electrical bonding points on certain equipment in the left and right wing fuel tanks and center fuel tank. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This 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 required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 114 products of U.S. registry. We also estimate that it will take about 632 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $6,870 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 parts. 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 this AD to the U.S. operators to be $6,547,020, or $57,430 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527 is 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, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2008–03–04 Airbus: Amendment 39–15353. Docket No. FAA–2007–0172; Directorate Identifier 2007–NM–225–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airbus Model A300 B4–600 series airplanes (without trim tank), all serial numbers, certificated in any category, except airplanes on which Airbus Modifications 12226, 12365, 12490, and 12308 have been incorporated in production, or Airbus Service Bulletins A300–28–6064, Revision 01, dated April 3, 2007; and A300–28–6068, dated July 20, 2005; have been performed in service.

(2) Airbus Model A300 B4–600R, A300 C4–600R, and A300 F4–600R series airplanes (fitted with a trim tank), all serial numbers, certificated in any category, except airplanes on which Airbus Modifications 12226, 12365, 12490, 12308, 12294, and 12476 have been incorporated in production, or on which the service bulletins listed in paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this AD have been performed in service.

(i) Airbus Service Bulletin A300–28–6064, Revision 01, dated April 3, 2007.

(ii) Airbus Service Bulletin A300–28–6068, dated July 20, 2005.

(iii) Airbus Service Bulletin A300–28–6077, dated July 25, 2005; or A300–28–6077, Revision 01, dated October 26, 2006.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88). In their letters referenced 04/00/02/07/01–L296, dated March 4th, 2002 and 04/00/02/07/03–L024, dated February 3rd, 2003, the JAA (Joint Aviation Authorities) recommended the application of a similar regulation to the National Aviation Authorities (NAA).

Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 7,500 pounds (3402 kg) or more, which have received their certification since January 1st, 1958, are required to conduct a design review against explosion risks.

The replacement of some types of P-clips and improvement of the electrical bonding of the equipment in the fuel tanks are rendered mandatory by this AD.

Note: Initially, EASA AD 2006–0325, which addresses the same unsafe condition, also applied to A300–600 aircraft. The approval holder subsequently introduced additional work at revision 1 of SB (service bulletin) A300–28–6064 applicable to A300–600 aircraft. [On September 21, 2007, the FAA issued parallel AD 2007–20–04 for only Airbus Model A300 Airplanes and Model A310 Airplanes, which was published in the **Federal Register** (72 FR 56258, October 3, 2007).]

As a result, AD 2006–0325 has been revised to remove A300–600 aircraft from applicability, and this new AD applicable to A300–600 aircraft is issued.

The unsafe condition is damage to wiring in the wing, center, and trim fuel tanks, due to failed P-clips used for retaining the wiring and pipes, which could result in a possible fuel ignition source in the wing, center, or trim fuel tanks. The corrective action is checking the electrical bonding points of certain equipment in the center fuel tank for the presence of a blue coat and doing related investigative and corrective actions if necessary. The related investigative action is to measure the electrical resistance between the equipment and structure, if a blue coat is not present. The corrective action is to electrically bond the equipment, if the measured resistance is greater than 10 milliohms. The corrective action also includes installing new bonding leads and electrical bonding points on certain equipment in the left and right wing fuel tanks and center fuel tank.

Actions and Compliance

(f) Within 40 months after the effective date of this AD, unless already done, do the following actions.

(1) Remove NSA5516–XXND or NSA5516–XXNJ type P-clips, used in the wing and center fuel tanks to retain wiring and pipes, and replace them by NSA5516–XXNF type P-clips in accordance with the instructions of Airbus Service Bulletin A300–28–6068, dated July 20, 2005.

(2) Check the electrical bonding points in the center tank and do all applicable related investigative and corrective actions, and install additional bonding leads and electrical bonding points in the wing and center fuel tanks in accordance with the instructions of Airbus Service Bulletin A300–28–6064, Revision 01, dated April 3, 2007. Do all applicable related investigative and corrective actions before further flight.

(3) For airplanes fitted with a trim tank, in addition to the actions defined in paragraphs (f)(1) and (f)(2) of this AD, install bonding leads and electrical bonding points in the trim tanks, in accordance with the instructions of Airbus Service Bulletin A300–28–6077, Revision 01, dated October 26, 2006.

(4) Actions done before the effective date of this AD in accordance with Airbus Service

Bulletin A300–28–6064, dated July 28, 2005, for aircraft under configuration 05, as defined in the service bulletin, are considered acceptable for compliance with the requirements of paragraph (f)(2) of this AD.

(5) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A300–28–6077, dated July 25, 2005, for aircraft under configuration 05, as defined in the service bulletin, are considered acceptable for compliance with the requirements of paragraph (f)(3) of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The applicability of the MCAI does not address Airbus Modification 12490. We have added this Modification number to the applicability of this AD, as requested by Airbus and coordinated with the European Aviation Safety Agency (EASA).

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0233, dated August 27, 2007, and the service information listed in Table 1 of this AD, for related information.

TABLE 1.—SERVICE INFORMATION

Airbus Service Bulletin	Revision level	Date
A300–28–6064	01	April 3, 2007.
A300–28–6068	Original	July 20, 2005.
A300–28–6077	01	October 26, 2006.

Material Incorporated by Reference

(i) You must use the service information specified in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin	Revision level	Date
A300–28–6064	01	April 3, 2007.
A300–28–6068	Original	July 20, 2005.
A300–28–6077	01	October 26, 2006.

Issued in Renton, Washington, on January 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1462 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0105; Directorate Identifier 2008–CE–001–AD; Amendment 39–15355; AD 2008–03–06]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10–VT Powered Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A leakage in the area of a plastic T-connector was found during a daily pre-flight check. The investigation has shown a crack in the centre part of this connector.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective February 20, 2008.

On February 20, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by March 3, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Gregory Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency AD No. 2007–0315–E, dated December 21, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A leakage in the area of a plastic T-connector was found during a daily pre-flight check. The investigation has shown a crack in the centre part of this connector.

This proposed AD would require you to inspect all plastic connectors in the area of the fuel pumps and the connection point of the pressure lines to the fuel shut-off valve for possible leakage and replace the plastic connectors in the fuel system with metal connectors if leaks are found.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

STEMME F & D has issued Service Bulletin A31–10–082, Am.–Index: 01.a, dated November 30, 2007. 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 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 issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This 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 have also required 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 AD. These requirements take precedence over those copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a leak in the area of a fuel line plastic T-connector was found, which could result in the possibility of fuel leaking into the engine compartment. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0105; Directorate Identifier 2008–CE–001–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2008–03–06 Stemme GmbH & Co. KG: Amendment 39–15355; Docket No. FAA–2008–0105; Directorate Identifier 2008–CE–001–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 20, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model S10–VT powered sailplanes, serial numbers 11–001 through 11–112, except 11–036, 11–067, 11–068, and 11–090, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

A leakage in the area of a plastic T-connector was found during a daily pre-flight check. The investigation has shown a crack in the centre part of this connector.

This AD requires you to inspect all plastic connectors in the area of the fuel pumps and the connection point of the pressure lines to the fuel shut-off valve for possible leakage and replace the plastic connectors in the fuel system with metal connectors if leaks are found.

Actions and Compliance

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

(1) Before the first flight of each day after February 20, 2008 (the effective date of this AD) until the replacement required in paragraph (f)(3) of this AD is done, inspect all plastic connectors in the area of the fuel pumps and the connection point of the pressure lines to the fuel shut-off valve (behind the rear bulkhead of the front fuselage) for possible leakage. Do the inspection following STEMME F & D Service Bulletin A31–10–082, Am.–Index: 01.a, dated November 30, 2007.

(2) Before further flight after the inspection required in paragraph (f)(1) of this AD, replace the plastic T- and Y-connectors in the fuel system with metal connectors if leaks are found. Do the replacements following STEMME F & D Service Bulletin A31–10–082, Am.–Index: 01.a, dated November 30, 2007. This replacement terminates the repetitive inspections required in paragraph (f)(1) of this AD.

(3) Within the next 30 days after February 20, 2008 (the effective date of this AD), replace all plastic T- and Y-connectors in the fuel system with metal connectors. Do the replacements following STEMME F & D Service Bulletin A31–10–082, Am.–Index: 01.a, dated November 30, 2007. This replacement terminates the repetitive inspections required in paragraph (f)(1) of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Gregory Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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

(h) Refer to MCAI European Aviation Safety Agency (EASA), Emergency AD 2007–0315–E, dated December 21, 2007, and STEMME F & D Service Bulletin A31–10–082, Am.–Index: 01.a, dated November 30, 2007, for related information.

Material Incorporated by Reference

(i) You must use STEMME F & D Service Bulletin A31–10–082, Am.–Index: 01.a, dated November 30, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact STEMME GmbH & Co. KG, Flugplatzstraße F 2, Nr. 7, 15344 Strausberg, Federal Republic of Germany; telephone: 49.33.41.3612.0; facsimile: 49.33.41.3612.30.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri on January 24, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1679 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27891; Directorate Identifier 2007–NE–14–AD; Amendment 39–15349; AD 2008–02–19]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, –5R, –20R, –20AR, –20BR, –40, –40AR, –40R, and –60 Series Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Honeywell International Inc. (Honeywell) TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, –5R, –20R, –20AR, –20BR, –40, –40AR, –40R, and –60 series turbofan engines. This AD requires removal from service of certain high pressure (HP) turbine rotor assemblies with part numbers (P/Ns) 3075772–1 and 3060841–1 using a drawdown schedule, and returning them to Honeywell for curvic root radius inspection. This AD results from the manufacturer's report

that some HP turbine rotor discs received improperly machined radii in the root of the forward and aft curvic teeth during manufacture. We are issuing this AD to prevent uncontained failure of the HP turbine rotor assembly, which could result in damage to the airplane.

DATES: This AD becomes effective March 6, 2008. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 6, 2008.

ADDRESSES: You can get the service information identified in this AD from Honeywell Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial Aviation), fax: (602) 365–5577 (General Aviation and Commercial Aviation).

The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *joseph.costa@faa.gov;* telephone: (562) 627–5246; fax: (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Honeywell TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, –5R, –20R, –20AR, –20BR, –40, –40AR, –40R, and –60 series turbofan engines. We published the proposed AD in the **Federal Register** on September 4, 2007 (72 FR 50648). That action proposed to require removal from service of certain HP turbine rotor assemblies with P/Ns 3075772–1 and 3060841–1 using a drawdown schedule, and returning them to Honeywell for curvic root radius inspection.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 400 HP turbine rotor discs installed in TFE731–20R, –20AR, –20BR, –40, –40AR, –40R, and –60 series turbofan engines, and 170 HP turbine rotor discs installed in TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, and –5R series turbofan engines, installed in airplanes of U.S. registry. We also estimate that it will take about 42 work-hours per engine to perform the actions at an unscheduled removal, and about 2 work-hours at a scheduled removal. The average labor rate is $80 per work-hour. Required parts will cost about $46,535 per engine. We estimate that 50 percent of the HP turbine rotor discs will fail the curvic root radius inspection. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $13,490,000.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–02–19 Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.): Amendment 39–15349. Docket No. FAA–2007–27891; Directorate Identifier 2007–NE–14–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. (Honeywell) TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, –5R, –20R, –20AR, –20BR, –40, –40AR, –40R, and –60 series turbofan engines with certain high pressure (HP) turbine rotor discs part numbers and serial numbers. These engines are installed on, but not limited to, the following airplanes:

Avions Marcel Dassault Mystere-Falcon 10 and 50 Series

Cessna Model 650; Citations III, VI, and VII
Dassault-Aviation 20, 50, 50EX, 900, MF900, and 900EX (900DX) Series
Gulfstream Aerospace LP (formerly IAI) 1125 Westwind Astra, Astra SPX, Gulfstream 100 Series
Israel Aircraft Industries (IAI) 1124 Series (Westwind 1124)
Learjet 31, 35, 36, 45 (or Learjet 40), and 55 Series
Lockheed-Georgia 3329–25 Series (731 Jetstar, Jetstar II)
Raytheon Corporate Jets (formerly British Aerospace) Hawker 800 and 850 Series
Sabreliner NA–265–65 (Sabreliner 65)

Unsafe Condition

(d) This AD results from the manufacturer's report that some HP turbine rotor discs received improperly machined radii in the root of the forward and aft curvic teeth during manufacture. We are issuing this AD to prevent uncontained failure of the HP turbine rotor assembly, which could result in damage to the airplane.

Compliance

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

TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, and –5R Series Turbofan Engines

(f) For TFE731–2C, –3B, –3BR, –3C, –3CR, –3D, –3DR, –4R, –5AR, –5BR, and –5R series turbofan engines, remove HP turbine rotor assemblies from service containing HP turbine rotor discs, part number (P/N) 3075772–1, having any serial number (SN) in Table 1 of Honeywell Service Bulletin (SB) No. TFE731–72–3720, dated July 5, 2006. Use the following drawdown schedule:

(1) For HP turbine discs with 4,200 cycles-since-new (CSN) or more on the effective date of this AD, remove HP turbine rotor assemblies within 100 cycles-in-service (CIS) after the effective date of this AD.

(2) For HP turbine discs with fewer than 4,200 CSN on the effective date of this AD, remove HP turbine rotor assemblies at the next access to the HP turbine rotor discs, but not to exceed 4,300 CSN.

TFE731–20R, –20AR, –20BR, –40, –40AR, –40R, and –60 Series Turbofan Engines

(g) For TFE731–20R, –20AR, –20BR, –40, –40AR, –40R, and –60 series turbofan engines, remove HP turbine rotor assemblies from service containing HP turbine rotor discs, P/N 3060841–1, having any SN in Table 1 of Honeywell Alert SB No. TFE731–A72–5185, dated July 5, 2006. Use the following drawdown schedule:

(1) For HP turbine discs with 3,200 CSN or more on the effective date of this AD, remove HP turbine rotor assemblies within 100 CIS after the effective date of this AD.

(2) For HP turbine discs with fewer than 3,200 CSN on the effective date of this AD, remove HP turbine rotor assemblies at the next access to the turbine rotor discs, but not to exceed 3,300 CSN.

For All Engines

(h) HP turbine rotor discs removed per paragraphs (f) and (g) of this AD must pass a curvic root radius inspection performed by Honeywell Engines, Systems and Services, Phoenix, Arizona, Certificate Repair Station No. ZN3R030M, before the discs are eligible for reinstallation in an engine.

(i) For the purposes of this AD, access to the HP turbine rotor discs is defined as the removal of the HP turbine rotor assembly from the engine.

Alternative Methods of Compliance

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

Related Information

(k) Contact Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *joseph.costa@faa.gov;* telephone: (562) 627–5246; fax: (562) 627–5210, for more information about this AD.

(l) For more information regarding the engine manufacturer's accomplishment instructions or material information, refer to Honeywell Alert SB No. TFE731–A72–5185, dated July 5, 2006, and SB No. TFE731–72–3720, dated July 5, 2006.

(m) Also, for technical support regarding the curvic root dimensional inspection criteria, contact the Technical Operations Center: telephone: (800) 601–3099 (U.S.) or (602) 365–3099 (International) and press option #9; e-mail: *AeroTechSupport@Honeywell.com;* or fax: (602) 365–3343.

Material Incorporated by Reference

(n) You must use Table 1 of Honeywell Alert Service Bulletin No. TFE731–A72–5185, dated July 5, 2006, or Table 1 of Honeywell Service Bulletin No. TFE731–72–3720, dated July 5, 2006, as applicable, to determine SN applicability of HP turbine rotor discs requiring removal by this AD. The Director of the Federal Register approved the incorporation by reference of these service bulletins in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Honeywell Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial Aviation), fax: (602) 365–5577 (General Aviation and Commercial Aviation) for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on January 16, 2008.

Peter A. White,

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

[FR Doc. E8–1238 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29138; Directorate Identifier 2007–CE–073–AD; Amendment 39–15351; AD 2008–03–02]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 172R and 172S Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 172R and 172S airplanes. This AD requires you to inspect the fuel return line assembly for chafing; replace the fuel return line assembly if chafing is found; and inspect the clearance between the fuel return line assembly and both the right steering tube assembly and the airplane structure, adjusting as necessary. This AD results from reports of chafed fuel return line assemblies, which were caused by the fuel return line assembly rubbing against the right steering tube assembly during full rudder pedal actuation. We are issuing this AD to detect and correct chafing of the fuel return line assembly, which could result in fuel leaking under the floor and fuel vapors entering the cabin. This condition could lead to fire under the floor or in the cabin area.

DATES: This AD becomes effective on March 6, 2008.

On March 6, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax: (316) 942–9006.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington,

DC 20590, or on the Internet at *http://www.regulations.gov*. The docket number is FAA–2007–29138; Directorate Identifier 2007–CE–073–AD.

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4148; fax: (316) 946–4107; e-mail: *jeff.janusz@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On October 17, 2007, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Cessna Models 172R and 172S airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 24, 2007 (72 FR 60291). The NPRM proposed to require you to detect and correct chafing of the fuel return line assembly.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Differences Between This AD and the Service Information

The service information permits tube damage up to a depth of 0.0035 inch. There is no known method to accurately measure the thickness damage on a tube. We require replacement of the fuel return line assembly if any damage is found.

If no chafing is found in the inspection of the fuel return line assembly, the service information does not require inspection for clearance around the fuel return line assembly. We require you to inspect the clearance between the fuel return line assembly and both the right steering tube assembly and airplane structure, for all applicable aircraft.

The service information does not specify a minimum clearance requirement between the fuel return line assembly and the right steering tube assembly, only that the fuel return line assembly does not touch either the right steering tube assembly or the airplane structure. We require a minimum of 0.5 inch of clearance between the fuel return line assembly and both the right steering tube assembly and the airplane structure, during full rudder pedal actuation.

The requirements of this AD take precedence over the provisions in the service information.

Costs of Compliance

We estimate that this AD affects 928 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $80 per hour = $80	N/A	$80	$74,240

We estimate the following costs to do any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost per airplane
0.5 work-hour × $80 per hour = $40	$123	$163

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 AD.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–29138; Directorate Identifier 2007–CE–073–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration

amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding the following new AD:

2008–03–02 Cessna Aircraft Company: Amendment 39–15351; Docket No. FAA–2007–29138; Directorate Identifier 2007–CE–073–AD.

Effective Date

(a) This AD becomes effective on March 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
172R	17281188 through 17281390.
172S	172S9491 through 172S10489.

Unsafe Condition

(d) This AD results from reports of chafed fuel return line assemblies caused by the fuel return line assembly rubbing against the right steering tube assembly during full rudder pedal actuation. We are issuing this AD to detect and correct chafing of the fuel return line assembly, which could result in fuel leaking under the cabin floor and fuel vapors entering the cabin. This condition could lead to fire under the floor or in the cabin area.

Compliance

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

Note: The requirements of this AD take precedence over the actions required in the service information.

Actions	Compliance	Procedures
(1) Inspect the fuel return line assembly (Cessna part number (P/N) 0500118–49 or FAA-approved equivalent P/N) for chafing.	Within the next 100 hours time-in-service (TIS) after March 6, 2008 (the effective date of this AD) or within the next 12 months after March 6, 2008 (the effective date of this AD), whichever occurs first.	Follow Cessna Service Bulletin SB07–28–01, dated June 18, 2007.
(2) If chafing is found in the inspection required in paragraph (e)(1) of this AD, replace the fuel return line assembly (Cessna P/N 0500118–49 or FAA-approved equivalent P/N).	Before further flight after the inspection required in paragraph (e)(1) of this AD where evidence of chafing was found.	Follow Cessna Service Bulletin SB07–28–01, dated June 18, 2007.
(3) Inspect for a minimum clearance of 0.5 inch between the following parts throughout the entire range of copilot rudder pedal travel and adjust the clearance as necessary: (i) The fuel return line assembly (Cessna P/N 0500118–49 or FAA-approved equivalent P/N) and the steering tube assembly (Cessna P/N MC0543022–2C); and (ii) The fuel return line assembly (Cessna P/N 0500118–49 or FAA-approved equivalent P/N) and the airplane structure.	Before further flight after: (A) The inspection required in paragraph (e)(1) of this AD if no chafing is found; or (B) The replacement required in paragraph (e)(2) of this AD.	Follow paragraph 6 of the Instructions section of Cessna Service Bulletin SB07–28–01, dated June 18, 2007. This AD requires a minimum clearance of 0.5 inch.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jeff Janusz, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4148; fax: (316) 946–4107; e-mail: *jeff.janusz@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(g) You must use Cessna Service Bulletin SB07–28–01, dated June 18, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax: (316) 942–9006.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; 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*.

Issued in Kansas City, Missouri, on January 22, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1460 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0276; Airspace Docket No. 07–AEA–16]

Establishment of Class E Airspace; Lewisburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Lewisburg, PA to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations into the Evangelical Community Hospital East Heliport. This action enhances the safety and

management of Instrument Flight Rule (IFR) operations by providing the required controlled airspace for this approach at Lewisburg, PA.

DATES: Effective 0901 UTC, April 10, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before March 17, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2007–0276; Airspace Docket No. 07–AEA–16, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Daryl Daniels, Airspace Specialist, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5581, fax (404) 305–5572 or via e-mail to *Daryl.Daniels@faa.gov.*

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov*. Recently published rulemaking dockets can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html*. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2007–0276; Airspace Docket No. 07–AEA–16.'' The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Lewisburg, PA, providing the controlled airspace required to support the new Copter RNAV (GPS) 360 Point in Space (PinS) approach developed for the Evangelical Community Hospital East Heliport. In today's environment where speed of treatment for medical injuries is imperative, various landing sites have been developed for helicopter medical Lifeguard flights or Lifeflights to assist local hospitals; this is one of those sites. Controlled airspace, known as Class E5 airspace, extending upward from 700 feet Above Ground Level (AGL) is required for instrument flight rule operations and to encompass all instrument approach procedures to the extent practical. In this instance, that airspace is airspace within a six mile radius of the Point in Space associated with this approach at Lewisburg, PA. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007, effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein 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 various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 I, Section 106 describes the

authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace serving the Evangelical Community Hospital East in Lewisburg, PA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 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 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Lewisburg, PA [New]

Evangelical Community Hospital East Heliport
(lat. 40°58′47″ N., long. 76°53′08″ W.)
Point in Space Coordinates
(lat. 40°58′09″ N., long. 76°52′58″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space coordinates (lat. 40°58′09″ N., long. 76°52′58″ W.) serving the Evangelical Community Hospital East Heliport.

* * * * *

Issued in College Park, Georgia, on December 17, 2007.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–349 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 401

[TD 9378]

RIN 1545–BE35

Release of Lien or Discharge of Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations related to release of lien and discharge of property under sections 6325, 6503, and 7426 of the Internal Revenue Code (Code). These regulations update existing regulations and contain procedures for processing a request made by a property owner for discharge of a Federal tax lien from his property under section 6325(b)(4). The regulations also clarify the impact of these procedures on sections 6503(f)(2) and 7426(a)(4) and (b)(5). These regulations reflect the enactment of sections 6325(b)(4), 6503(f)(2), and 7426(a)(4) by the IRS Restructuring and Reform Act of 1998.

DATES: *Effective Date:* These regulations are effective January 31, 2008.

Applicability Date: These regulations apply to any release of lien or discharge of property that is requested after January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Debra A. Kohn, (202) 622–7985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations that amend the Procedure and Administration Regulations (26 CFR part 301) under sections 6325, 6503, and 7426 of the Code. The IRS Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685) (RRA 1998), enacted sections 6325(b)(4), 6503(f)(2), 7426(a)(4), and 7426(a)(5) to provide a statutory mechanism for a person other than the person against whom the underlying tax was assessed, upon furnishing a deposit or bond, to obtain a discharge of the Federal tax lien from property owned by him, and for the IRS or the courts to determine the disposition of the deposit or bond amount. RRA 1998 thereby necessitated changes to the rules under sections 6325, 6503, and 7426.

On January 11, 2007, a notice of proposed rulemaking (REG–159444–04) relating to release of lien or discharge of property was published in the **Federal Register** (72 FR 1301–03). No comments were received and no public hearing was requested or held. Accordingly, the proposed regulations are adopted as amended by this Treasury decision. These final regulations generally retain the provisions of the proposed regulations but include one modification as explained in more detail below.

Explanation of Modification

The final regulations differ substantively in one respect from the version of the regulations set forth in the notice of proposed rulemaking. The proposed regulations interpret section 6325(b)(4)(D), which states that section 6325(b)(4)(A) is inapplicable ''if the owner of the property is the person whose unsatisfied liability gave rise to the lien,'' as indicating that the procedures for obtaining a discharge of a Federal tax lien under section 6325(b)(4) are not available to a person who owns the subject property with the person whose tax liability gave rise to the lien (the taxpayer). Upon further consideration of this issue, it was decided that section 6235(b)(4)(D) should not be so interpreted, as that interpretation would unfairly leave some third-party property owners without a means to discharge Federal tax liens from their properties. Accordingly, the final regulations reflect an interpretation of section 6325(b)(4)(D) that makes the section 6325(b)(4) procedures available to a person who co-owns property with the taxpayer.

Special Analyses

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

Drafting Information

The principal author of these regulations is Debra A. Kohn of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 401

Reporting and recordkeeping requirements, Taxes.

Adoption of Amendments to the Regulations

■ Accordingly, under the authority of 26 U.S.C. 7805, 26 CFR parts 301 and 401 are amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read, in part, as follows:

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

■ **Par. 2.** Section 301.6325–1 is amended as follows:

■ 1. Paragraphs (a) and (b)(1)(i), (b)(2)(i), and (b)(2)(ii) and (b)(3) are revised.

■ 2. Paragraph (b)(2)(iii) is redesignated as paragraph (b)(6) and revised.

■ 3. Paragraph (b)(4) is redesignated as paragraph (b)(5) and revised.

■ 4. A new paragraph (b)(4) is added.

■ 5. Paragraphs (c)(1) and (c)(2) are amended by removing the language ''district director'' and adding the language ''appropriate official'' in its place, wherever it appears.

■ 6. The first sentence of paragraph (d)(1) is amended by removing the language ''A district director'' and adding the language ''The appropriate official'' in its place, by removing the word ''Code'' and adding the language ''Internal Revenue Code'' in its place, and by removing the language ''the district director'' and adding the language ''the appropriate official'' in its place. The third sentence is amended by removing the language ''a district director'' and adding the language ''the appropriate official'' in its place, and removing the language ''the district director'' and adding ''the appropriate official'' in its place.

■ 7. Paragraph (d)(2)(i) is amended by removing the language ''A district director'' and adding the language ''The appropriate official'' in its place, by removing the word ''Code'' and adding the language ''Internal Revenue Code'' in its place, and by removing the language ''the district director'' and adding the language ''the appropriate official'' in its place.

■ 8. Paragraph (d)(2)(ii), *Examples 1* through *4*, are amended by removing the language ''district director'' and adding the language ''appropriate official'' in its place, wherever it appears.

■ 9. Paragraphs (d)(3) and (d)(4) are amended by removing the language ''district director'' and adding the language ''appropriate official'' in its place, wherever it appears.

■ 10. The first sentence of paragraph (e) is amended by removing the language ''a district director'' and adding the language ''the appropriate official'' in its place, and by removing the language ''the district director'' and adding the language ''the appropriate official'' in its place. The third and fourth sentences are amended by removing the language ''district director'' and adding the language ''appropriate official'' in its place.

■ 11. Paragraphs (f)(1) and (f)(2)(i) are amended by removing the language ''a district director'' and adding the language ''the appropriate official'' in its place, paragraph (f)(2)(i)(*b*) is amended by removing the language ''the district director'' and adding the language ''the appropriate official'' in its place, and paragraph (f)(3) is amended by removing the word ''Code'' and adding the language ''Internal Revenue Code'' in its place.

■ 12. Paragraphs (h) and (i) are added.

The revisions and additions read as follows:

§ 301.6325–1 Release of lien or discharge of property.

(a) *Release of lien*—(1) *Liability satisfied or unenforceable*. The appropriate official shall issue a certificate of release for a filed notice of Federal tax lien, no later than 30 days after the date on which he finds that the entire tax liability listed in such notice of Federal tax lien either has been fully satisfied (as defined in paragraph (a)(4) of this section) or has become legally unenforceable. In all cases, the liability for the payment of the tax continues until satisfaction of the tax in full or until the expiration of the statutory period for collection, including such extension of the period for collection as is agreed to.

(2) *Bond accepted*. The appropriate official shall issue a certificate of release of any tax lien if he is furnished and accepts a bond that is conditioned upon the payment of the amount assessed (together with all interest in respect thereof), within the time agreed upon in the bond, but not later than 6 months before the expiration of the statutory period for collection, including any agreed upon extensions. For provisions relating to bonds, see sections 7101 and 7102 and §§ 301.7101–1 and 301.7102–1.

(3) *Certificate of release for a lien which has become legally unenforceable*. The appropriate official shall have the authority to file a notice of Federal tax lien which also contains a certificate of release pertaining to those liens which become legally unenforceable. Such release will become effective as a release as of a date prescribed in the document containing the notice of Federal tax lien and certificate of release.

(4) *Satisfaction of tax liability*. For purposes of paragraph (a)(1) of this section, satisfaction of the tax liability occurs when—

(i) The appropriate official determines that the entire tax liability listed in a notice of Federal tax lien has been fully satisfied. Such determination will be made as soon as practicable after tender of payment; or

(ii) The taxpayer provides the appropriate official with proof of full payment (as defined in paragraph (a)(5) of this section) with respect to the entire tax liability listed in a notice of Federal tax lien together with the information and documents set forth in paragraph (a)(7) of this section. See paragraph (a)(6) of this section if more than one tax liability is listed in a notice of Federal tax lien.

(5) *Proof of full payment*. As used in paragraph (a)(4)(ii) of this section, the term proof of full payment means—

(i) An internal revenue cashier's receipt reflecting full payment of the tax liability in question;

(ii) A canceled check in an amount sufficient to satisfy the tax liability for which the release is being sought;

(iii) A record, made in accordance with procedures prescribed by the Commissioner, of proper payment of the tax liability by credit or debit card or by electronic funds transfer; or

(iv) Any other manner of proof acceptable to the appropriate official.

(6) *Notice of a Federal tax lien which lists multiple liabilities*. When a notice of Federal tax lien lists multiple tax liabilities, the appropriate official shall issue a certificate of release when all of the tax liabilities listed in the notice of Federal tax lien have been fully satisfied or have become legally unenforceable. In addition, if the taxpayer requests that a certificate of release be issued with respect to one or more tax liabilities

listed in the notice of Federal tax lien and such liability has been fully satisfied or has become legally unenforceable, the appropriate official shall issue a certificate of release. For example, if a notice of Federal tax lien lists two separate liabilities and one of the liabilities is satisfied, the taxpayer may request the issuance of a certificate of release with respect to the satisfied tax liability and the appropriate official shall issue a release.

(7) *Taxpayer requests.* A request for a certificate of release with respect to a notice of Federal tax lien shall be submitted in writing to the appropriate official. The request shall contain the information required in the appropriate IRS Publication.

(b) *Discharge of specific property from the lien*—(1) *Property double the amount of the liability.* (i) The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code if he determines that the fair market value of that part of the property remaining subject to the Federal tax lien is at least double the sum of the amount of the unsatisfied liability secured by the Federal tax lien and of the amount of all other liens upon the property which have priority over the Federal tax lien. In general, fair market value is that amount which one ready and willing but not compelled to buy would pay to another ready and willing but not compelled to sell the property.

* * * * *

(2) *Part payment; interest of United States valueless*—(i) *Part payment.* The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code if there is paid over to him in partial satisfaction of the liability secured by the Federal tax lien an amount determined by him to be not less than the value of the interest of the United States in the property to be so discharged. In determining the amount to be paid, the appropriate official will take into consideration all the facts and circumstances of the case, including the expenses to which the government has been put into the matter. In no case shall the amount to be paid be less than the value of the interest of the United States in the property with respect to which the certificate of discharge is to be issued.

(ii) *Interest of the United States valueless.* The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to the Federal tax lien if he determines that the interest of the United States in the property to be so discharged has no value.

(3) *Discharge of property by substitution of proceeds of sale.* The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code if such part of the property is sold and, pursuant to a written agreement with the appropriate official, the proceeds of the sale are held, as a fund subject to the Federal tax liens and claims of the United States, in the same manner and with the same priority as the Federal tax liens or claims had with respect to the discharged property. This paragraph does not apply unless the sale divests the taxpayer of all right, title, and interest in the property sought to be discharged. Any reasonable and necessary expenses incurred in connection with the sale of the property and the administration of the sale proceeds shall be paid by the applicant or from the proceeds of the sale before satisfaction of any Federal tax liens or claims of the United States.

(4) *Right of substitution of value*—(i) *Issuance of certificate of discharge to property owner who is not the taxpayer.* If an owner of property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code submits an application for a certificate of discharge pursuant to paragraph (b)(5) of this section, the appropriate official shall issue a certificate of discharge of such property after the owner either deposits with the appropriate official an amount equal to the value of the interest of the United States in the property, as determined by the appropriate official pursuant to paragraph (b)(6) of this section, or furnishes an acceptable bond in a like amount. This paragraph does not apply if the person seeking the discharge is the person whose unsatisfied liability gave rise to the Federal tax lien. Thus, if the property is owned by both the taxpayer and another person, the other person may obtain a certificate of discharge of the property under this paragraph, but the taxpayer may not.

(ii) *Refund of deposit and release of bond.* The appropriate official may, in his discretion, determine that either the entire unsatisfied tax liability listed on the notice of Federal tax lien can be satisfied from a source other than the property sought to be discharged, or the value of the interest in the United States is less than the prior determination of such value. The appropriate official shall refund the amount deposited with interest at the overpayment rate determined under section 6621 or release the bond furnished to the extent that he makes this determination.

(iii) *Refund request.* If a property owner desires an administrative refund of his deposit or release of the bond, the owner shall file a request in writing with the appropriate official. The request shall contain such information as the appropriate IRS Publication may require. The request must be filed within 120 days after the date the certificate of discharge is issued. A refund request made under this paragraph neither is required nor is effective to extend the period for filing an action in court under section 7426(a)(4).

(iv) *Internal Revenue Service's use of deposit if court action not filed.* If no action is filed under section 7426(a)(4) for refund of the deposit or release of the bond within the 120-day period specified therein, the appropriate official shall, within 60 days after the expiration of the 120-day period, apply the amount deposited or collect on such bond to the extent necessary to satisfy the liability listed on the notice of Federal tax lien, and shall refund, with interest at the overpayment rate determined under section 6621, any portion of the amount deposited that is not used to satisfy the liability. If the appropriate official has not completed the application of the deposit to the unsatisfied liability before the end of the 60-day period, the deposit will be deemed to have been applied to the unsatisfied liability as of the 60th day.

(5) *Application for certificate of discharge.* Any person desiring a certificate of discharge under this paragraph (b) shall submit an application in writing to the appropriate official. The application shall contain the information required by the appropriate IRS Publication. For purposes of this paragraph (b), any application for certificate of discharge made by a property owner who is not the taxpayer, and any amount submitted pursuant to the application, will be treated as an application for discharge and a deposit under section 6325(b)(4) unless the owner of the property submits a statement, in writing, that the application is being submitted under another paragraph of section 6325 and not under section 6325(b)(4), and the owner in writing waives the rights afforded under paragraph (b)(4), including the right to seek judicial review.

(6) *Valuation of interest of United States*. For purposes of paragraphs (b)(2) and (b)(4) of this section, in determining the value of the interest of the United States in the property, or any part thereof, with respect to which the certificate of discharge is to be issued, the appropriate official shall give consideration to the value of the property and the amount of all liens and encumbrances thereon having priority over the Federal tax lien. In determining the value of the property, the appropriate official may, in his discretion, give consideration to the forced sale value of the property in appropriate cases.

* * * * *

(h) As used in this section, the term *appropriate official* means either the official or office identified in the relevant IRS Publication or, if such official or office is not so identified, the Secretary or his delegate.

(i) *Effective/applicability date*. This section applies to any release of lien or discharge of property that is requested after January 31, 2008.

■ **Par. 3.** Section 301.6503(f)–1 is amended as follows:

■ 1. The section heading is revised.

■ 2. The undesignated paragraph is designated as paragraph (a), a paragraph heading is added, and a new sentence is added immediately prior to the *Example*.

■ 3. In newly designated paragraph (a), the language ''a district director'' is removed and the language ''the appropriate official'' is added in its place, the language ''the district director'' is removed and the language ''the appropriate official'' is added in its place, and in the *Example* the language ''district director'' is removed and the language ''appropriate official'' is added in its place, wherever it appears.

■ 4. Paragraphs (b), (c), and (d) are added.

The revisions and additions read as follows:

§ 301.6503(f)–1 Suspension of running of period of limitation; wrongful seizure of property of third-party owner and discharge of lien for substitution of value.

(a) *Wrongful seizure*. * * * The following example illustrates the principles of this section:

* * * * *

(b) *Discharge of wrongful lien for substitution of value*. If a person other than the taxpayer submits a request in writing for a certificate of discharge for a filed Federal tax lien under section 6325(b)(4), the running of the period of limitations on collection after assessment under section 6502 for any liability listed in such notice of Federal tax lien shall be suspended for a period equal to the period beginning on the date the appropriate official receives a deposit or bond in the amount specified in § 301.6325–1(b)(4)(i) and ending on the date that is 30 days after the earlier of—

(1) The date the appropriate official no longer holds, or is deemed to no longer hold, within the meaning of paragraph (b)(4)(iv) of this section, any amount as a deposit or bond by reason of taking such actions as prescribed in sections 6325(b)(4)(B) and (C); or

(2) The date the judgment secured under section 7426(b)(5) becomes final.

(c) As used in this section, the term *appropriate official* means either the official or office identified in the relevant IRS Publication or, if such official or office is not so identified, the Secretary or his delegate.

(d) *Effective/applicability date*. This section applies to any request for a certificate of discharge made after January 31, 2008.

■ **Par. 4.** In § 301.7426–1, paragraphs (a)(4), (b)(5), and (d) are added.

§ 301.7426–1 Civil actions by persons other than taxpayers.

(a) * * *

(4) *Substitution of value*. A person who obtains a certificate of discharge under section 6325(b)(4) with respect to any property may, within 120 days after the day on which the certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the appropriate official. A civil action under this provision shall be the exclusive judicial remedy for a person other than the taxpayer who obtains a certificate of discharge for a filed notice of Federal tax lien.

(b) * * *

(5) *Substitution of value*. If the court determines that the determination by the appropriate official of the value of the interest of the United States in the property exceeds the actual value of such interest, the court may grant a judgment ordering a refund of the amount deposited, or a release of the bond, to the extent that the aggregate of those amounts exceeds the value as determined by the court.

* * * * *

(d) Paragraphs (a)(4) and (b)(5) of this section apply to any request for a certificate of discharge made after January 31, 2008.

PART 401—[REMOVED]

■ **Par. 5.** Part 401 is removed.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: January 9, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E8–1569 Filed 1–30–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2008–0041 formerly published under CGD05–06–064]

RIN 1625–AA01

Anchorage Grounds, Hampton Roads, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is updating the coordinates of the boundaries of the anchorages listed below from the former North American Datum 1927 (NAD 27) standard to the current North American Datum 1983 (NAD 83) standard. These changes will not affect the locations or size of the anchorages on the NOAA charts as published by NOAA. The change simply updates the anchorage positions in our regulations to match the current datum in use on the applicable charts, which are NAD 83.

DATES: This rule is effective March 3, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0041 formerly published under CGD05–06–064 and are available for copying or inspection at the Fifth Coast Guard District (dpw), 431 Crawford Street, Room 100, Portsmouth, VA 23704–5004, between 9 a.m. and 3 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Grimes, Fifth Coast Guard District Prevention and Waterways, (757) 398–6360, E-mail: *Albert.L.Grimes@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 8, 2007, we published a notice of proposed rulemaking (NPRM)

entitled Anchorage Grounds, Hampton Roads, VA in the **Federal Register** (72 FR 10440). We received one e-mail commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

On May 25, 2005, the Coast Guard published a final rule (70 FR 29953) that provided changes and improvements to many of the anchorages in the Hampton Roads area. Coordinates for anchorages changed or improved as part of this final rule were also updated from their former NAD 27 position to a new NAD 83 position. Anchorages discussed herein were listed as ''No Change'' in that final rule, while in another section of that final rule the reader was led to believe that the positions of these ''No Change'' anchorages had also been changed from NAD 27 to NAD 83. However, these anchorages are in fact still listed in 33 CFR part 110.168 as NAD 27 positions. This final rule will ensure that all of the Hampton Roads Anchorages listed in 33 CFR part 110.168 are NAD 83 positions.

Discussion of Comments and Changes

The Coast Guard received one comment from the National Ocean Service (NOS) Marine Chart Division. In the comment the NOS representative noted that it appeared the last longitude in Anchorage E (76°14′4.9″) might be incorrectly converted to NAD 83, and that the longitude of 76°14′8.9″ is correct. Additionally, the NOS representative noted that it appeared in Anchorage I, the third and fourth points were in the wrong order and should be switched.

The Coast Guard agrees with these comments and has changed the reading of Anchorages E and I accordingly in this final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this action merely modifies the datum of the geographic positions that define the boundaries of the existing anchorages.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. The changes only make the boundary points of the anchorages referenced herein consistent with the current applicable NOAA navigation charts.

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 (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(i) of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

■ For the reasons discussed in the preamble the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority for part 110 is revised to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.168 to revise paragraphs (a)(1), (a)(2), (a)(3)(i), (a)(3)(ii), (a)(3)(iv), (a)(3)(v), (a)(3)(viii), (a)(4) (i), and (a)(4)(ii), to read as follows:

§ 110.168 Hampton Roads, Virginia and adjacent waters (Datum: NAD 83).

(a) *Anchorage Grounds. (1) Anchorage A [Naval Anchorage].* The waters bounded by the shoreline and a line connecting the following points:

Latitude	*Longitude*
36°55′36.2″ N	76°02′46.3″ W
36°57′03.3″ N	76°03′01.4″ W
36°56′45.5″ N	76°01′28.8″ W
36°55′55.7″ N	76°01′35.7″ W

(2) *Chesapeake Bay, Thimble Shoals Channel Anchorages.*

(i) *Anchorage B [Naval Anchorage].* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°57′58.5″ N	76°06′05.8″ W
36°57′11.5″ N	76°03′00.9″ W
36°55′49.3″ N	76°03′12.8″ W
36°56′32.3″ N	76°06′05.8″ W
36°57′04.5″ N	76°06′05.8″ W
36°57′09.0″ N	76°06′23.3″ W

(ii) *Anchorage C [Naval Anchorage].* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°58′55.3″ N	76°09′40.3″ W
36°58′19.3″ N	76°07′16.8″ W
36°57′27.5″ N	76°07′36.3″ W
36°58′04.5″ N	76°09′58.8″ W

(iii) *Anchorage D [Naval Anchorage].* The waters bounded by the shoreline and a line connecting the following points:

Latitude	*Longitude*
36°55′49.5″ N	76°10′31.6″ W
36°58′04.5″ N	76°10′00.9″ W
36°57′31.7″ N	76°07′53.6″ W
36°55′24.6″ N	76°08′27.6″ W

(iv) *Anchorage E [Commercial Explosives Anchorage].* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°59′59.2″ N	76°13′45.8″ W
36°59′08.7″ N	76°10′32.6″ W
36°58′13.5″ N	76°10′50.6″ W
36°59′02.5″ N	76°14′08.9″ W

(v) *Explosives Handling Berth E–1 [Explosives Anchorage Berth].* The waters bounded by the arc of a circle with a radius of 500 yards and the center located at:

Latitude	*Longitude*
36°59′05.5″ N	76°11′21.8″ W

(3) *Hampton Roads Anchorages.* (i) *Anchorage F, Hampton Bar.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°59′25.5″ N	76°20′05.8″ W
36°59′52.1″ N	76°19′10.8″ W
36°59′25.7″ N	76°18′47.3″ W
36°58′49.6″ N	76°19′32.6″ W

(ii) *Anchorage Berth F–1.* The waters bounded by the arc of a circle with a radius of 500 yards and the center located at:

Latitude	*Longitude*
36°59′29.6″ N	76°19′13.9″ W

* * * * *

(iv) *Explosives Handling Berth G–1.* The waters bounded by the arc of a circle with a radius of 500 yards and the center located at:

Latitude	*Longitude*
36°57′50.5″ N	76°21′35.8″ W

(v) *Explosives Handling Berth G–2.* The waters bounded by the arc of a circle with a radius of 500 yards and the center located at:

Latitude	*Longitude*
36°58′14.5″ N	76°21′00.3″ W

* * * * *

(viii) *Anchorage H, Newport News Bar.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°57′38.8″ N	76°24′18.5″ W
36°57′52.3″ N	76°22′29.7″ W
36°58′07.4″ N	76°22′01.8″ W
36°57′31.6″ N	76°22′00.6″ W
36°57′18.7″ N	76°24′10.1″ W

(4) *James River Anchorages.* (i) *Anchorage I, Newport News.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
36°58′49.0″ N	76°27′09.8″ W
36°58′35.9″ N	76°26′37.2″ W
36°57′52.2″ N	76°26′01.6″ W
36°57′31.1″ N	76°25′33.3″ W
36°57′07.2″ N	76°24′43.1″ W
36°56′23.1″ N	76°24′26.8″ W
36°56′03.5″ N	76°24′35.8″ W
36°57′54.2″ N	76°26′40.3″ W
36°58′23.5″ N	76°27′09.8″ W

(ii) *Anchorage Berth I–1.* The waters bounded by the arc of a circle with a radius of 400 yards and the center located at:

Latitude	*Longitude*
36°57′09.0″ N	76°25′20.4″ W

* * * * *

Dated: January 3, 2008.

Fred M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E8–1762 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2007–0026; [formerly published under CGD05–07–093]]

RIN 1625–AA09

Drawbridge Operation Regulations; Corson Inlet, New Jersey Intracoastal Waterway (NJICW), Townsend Inlet, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of four Cape May County Bridge Commission (the Commission) bridges: The Corson Inlet Bridge, at mile 0.9, at Strathmere; the Stone Harbor Boulevard Bridge, at NJICW mile 102.0, across Great Channel at Stone Harbor; the Two-Mile Bridge, at NJICW mile 112.2, across Middle Thorofare in Wildwood Crest; and the Townsend Inlet Bridge, at mile 0.3 in Avalon, NJ. This final rule allows the drawbridges to operate on an advance notice basis for specific dates, times and holiday in December of every year. These changes will still provide for the reasonable needs of navigation.

DATES: This rule is effective March 3, 2008.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG–2007–026 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 1, 2007, the new Federal Docket Management System (FDMS) was established and FDMS numbers were assigned to all actions published in the **Federal Register**. New FDMS numbers are posted and requested comments are reviewed at *www.regulations.gov.* The FDMS number assigned to this rule was USCG–2007–0026.

On October 11, 2007, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulations; Corson Inlet, New Jersey Intracoastal Waterway (NJICW), Townsend Inlet, NJ'' in the **Federal Register** (72 FR 57904). We received three comments on the proposed rule. The previously assigned NPRM docket number was CGD05–07–093. No public meeting was requested, and none was held.

Background and Purpose

The owner of the drawbridges, the Cape May County Bridge Commission (the Commission), requested changes to the operating regulations for the four drawbridges to allow them to operate on an advance notice basis at different times on December 24th, 25th and 26th of every year.

A review of the bridge logs supplied by the Commission for the Corson Inlet Bridge, at mile 0.9, at Strathmere; the Stone Harbor Boulevard Bridge, at NJICW mile 102.0, across Great Channel at Stone Harbor; the Two-Mile Bridge at NJICW mile 112.2, across Middle Thorofare in Wildwood Crest; and the Townsend Inlet Bridge, at mile 0.3 in Avalon; reveals that these drawbridges have not received any requests nor performed any bridge openings on the aforementioned dates for at least the previous nine years.

The Cape May County Bridge Commission Department of Public Works currently maintains a 24-hour telephone at (609) 368–4591 to request bridge openings. Qualified personnel will be on-call and ready for dispatch with two-hour advance notice for the following drawbridges:

Corson Inlet

The Corson Inlet Bridge, mile 0.9, at Strathmere has a vertical clearance of 15 feet above mean high water (MHW) and 18 feet above mean low water (MLW) in the closed position to vessels. The existing operating regulations are set out in 33 CFR 117.714.

New Jersey Intracoastal Waterway

The Stone Harbor Boulevard Bridge, at NJICW mile 102.0, across Great Channel at Stone Harbor has a vertical clearance of 11 feet above MHW and 15 feet above MLW in the closed position to vessels. The existing operating regulations are set out in 33 CFR § 117.733(i).

The Two-Mile Bridge, at NJICW mile 112.2, across Middle Thorofare in Wildwood Crest has a vertical clearance of 23 feet above MHW and 27 feet above MLW. The existing regulations are set out in 33 CFR § 117.733(k).

Townsend Inlet

The Townsend Inlet Bridge, at mile 0.3, in Avalon has a vertical clearance of 23 feet above MHW and 26 feet above MLW in the closed position to vessels. The existing regulations are set out in 33 CFR 117.757.

Discussion of Comments and Changes

The Coast Guard received three comments to the NPRM. One written comment was from the U.S. Department of the Interior, Fish and Wildlife Service (the Service). The Service has no objection to the issuance of the NPRM.

We received two comments from the same respondent at *www.regulations.gov* under the new FDMS docket number USCG–2007–0026. In both comments, the respondent essentially agreed with the issuance of the NPRM.

Based on the comments received and information provided, we will implement a final rule with no changes to the NPRM.

Discussion of Rule

Corson Inlet

The Coast Guard is amending 33 CFR 117.714 by revising the operating regulations by extending the two-hour notice period in effect during the off season to include all of December 25. The final rule would read as follows: The draw of the Corson Inlet Bridge, mile 0.9, at Strathmere, shall open on signal: Except, that from October 1 through May 15 from 10 p.m. to 6 a.m. and from 6 a.m. to 10 p.m. on December 25 the draw need open only if at least two hours notice is given.

New Jersey Intracoastal Waterway

The Coast Guard is amending 33 CFR 117.733 by revising paragraph (i), which details the operating regulations for the Stone Harbor Boulevard Bridge at NJICW mile 102.0, across Great Channel at Stone Harbor.

A new paragraph will be added at § 117.733(i)(3) to read that the draw shall open on signal from 10 p.m. on December 24 until 6 a.m. on December 26 if at least two hours notice is given.

The Coast Guard is also amending 33 CFR 117.733 by revising paragraph (k), which details the operating regulations for the Two-Mile Bridge, at NJICW mile 112.2, across Middle Thorofare in Wildwood Crest.

Paragraph (k) will state that the draw shall open on signal except: (1) From 9:15 a.m. to 10:30 a.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open for

vessels from 9:15 a.m. to 10:30 a.m. on the third Sunday of March of every year; and (2) from 10:30 p.m. on December 24 until and including 10:30 p.m. on December 26, the draw need open only if at least two hours notice is given.

Townsend Inlet

The Coast Guard is amending 33 CFR 117.757 by revising the operating regulations to read as follows: The draw of Townsend Inlet Bridge, mile 0.3 in Avalon, shall open on signal except: (1) From 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year; and (2) from 11 p.m. on December 24 until 11 p.m. on December 25, the draw need open only if at least two hours notice is given.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that these changes have only a minimal impact on maritime traffic transiting the bridges. Mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays, and vessels that can pass under the bridges without a bridge opening may do so at all times.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the changes will have only a minimal impact on maritime traffic transiting the bridge. Mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay and vessels that can pass under the bridges without a bridge opening may do so at all times.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction because this rule involves drawbridge regulations. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Words of Issuance and Regulatory Text

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.714 to read as follows:

§ 117.714 Corson Inlet.

The draw of the Corson Inlet Bridge, mile 0.9, at Strathmere, shall open on signal; except that from October 1 through May 15 from 10 p.m. to 6 a.m. and from 6 a.m. to 10 p.m. on December 25 the draw need open only if at least two hours notice is given.

■ 3. § 117.733 is amended by adding a new paragraph (i)(3) and revising paragraph (k) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(i) * * *

(3) From 10 p.m. on December 24 until 6 a.m. on December 26, the draw need open only if at least two hours notice is given.

* * * * *

(k) The draw of Two-Mile Bridge, mile 112.2, across Middle Thorofare in Wildwood Crest, shall open on signal except:

(1) From 9:15 a.m. to 10:30 a.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open for vessels from 9:15 a.m. to 10:30 a.m. on the third Sunday of March of every year.

(2) From 10:30 p.m. on December 24 until 10:30 p.m. on December 26, the draw need open only if at least two hours notice is given.

* * * * *

■ 4. § 117.757 is revised to read as follows:

§ 117.757 Townsend Inlet.

The draw of Townsend Inlet Bridge, mile 0.3 in Avalon, shall open on signal except:

(a) From 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year.

(b) From 11 p.m. on December 24 until 11 p.m. on December 25, the draw need open only if at least two hours notice is given.

Dated: January 16, 2008.

Fred M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E8–1764 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–0169]

RIN 1625–AA00

Safety Zone: Trent River Between New Bern and James City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard will reinstate a safety zone on the waters of the Trent River between New Bern and James City, North Carolina in the vicinity of the U.S. Route 70 Highway Swing Bridge. This safety zone is necessary to provide for safety of life on navigable waters during the movement of bridge construction equipment from the southern end of the bridge construction project to the northern end of the project.

DATES: This rule is effective from January 25, 2008 through February 28, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2007–0169 and are available online at *www.regulations.gov.* They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Commander Jennifer Williams, Prevention Department Head, United States Coast Guard Sector North Carolina at (252) 247–4570 or (252) 247–4546.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to protect the maritime public from the hazards associated with this maintenance project. The necessary information to determine whether the construction poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. For the safety concerns noted, it is in the public interest to have this regulation in effect during the construction.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety.

Background and Purpose

Originally, Balfour Beatty Infrastructure, Inc. planned to relocate construction equipment on Tuesdays, Wednesdays and Thursdays from 10 a.m. to 2 p.m. from January 8, 2008 through January 24, 2008. Balfour has since determined that they need another month to complete the project. For this reason, the Coast Guard is reinstating this regulation through February 28, 2008. The construction will take place in the vicinity of the U.S. Route 70 Highway Swing Bridge from James City, NC to New Bern, NC. To provide for the safety of the public, the Coast Guard

will temporarily restrict access to this section of the Trent River during equipment relocation.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone that will extend from the Norfolk Southern Railroad Bridge and Union Point New Bern, NC to the U.S. Route 17 Highway Bridge at James City, NC. This zone will require mariners to avoid entry into the area. Entry into the zone will not be permitted except as specifically authorized by the Captain of the Port or his designated representative. The contractor originally underestimated the amount of time it would take to complete the project. This is why a reinstatement of the regulation through February 28, 2008 is necessary.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) the safety zone will be in effect for a limited duration of time and (ii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this temporary final rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities. Although the regulated area will apply to waters of the Trent River, the zone will not have a significant impact on small entities because the zone will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this temporary final rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This temporary final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34) (g), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34) (g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A temporary § 165.T05–901 is added to read as follows: *§ 165.T05–901 Safety Zone: Trent River between New Bern and James City, North Carolina.*

(a) *Regulated area:* The following area is a safety zone: waters of the Trent River, from the Norfolk Southern Railroad Bridge and Union Point New Bern, NC to the U.S. Route 17 Highway Bridge at James City, NC, latitude 35°06′ N, longitude 77°02′ W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* Captain of the Port Representative any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or a Captain of the Port Representative. All vessel movement within the safety zone is prohibited except as specifically authorized by the Captain of the Port or a Captain of the Port Representative. The general requirements of § 165.23 also apply to this regulation.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or his Representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247–4570 or (252) 247–4546, or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(e) *Enforcement period:* This rule is effective from 10:00 a.m. to 2:00 p.m. each Tuesday, Wednesday, and Thursday from January 25, 2008 through February 28, 2008.

Dated: January 23, 2008.

J.E. Ryan,

Commander, U.S. Coast Guard, Captain of the Port, North Carolina.

[FR Doc. 08–448 Filed 1–29–08; 9:57 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[EPA–R07–RCRA–2006–0878; FRL–8523–2]

Adequacy of Nebraska Municipal Solid Waste Landfill Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves Nebraska's Research, Development and Demonstration (RD&D) permit program and updates to the approved Municipal Solid Waste Landfill Permit (MSWLP) program. On March 22, 2004, the EPA issued final regulations allowing RD&D permits to be issued to certain municipal solid waste landfills by approved States. On September 27, 2006, Nebraska submitted an application to the EPA seeking Federal approval of its RD&D requirements and to update Federal approval of its MSWLP Program. On November 16, 2006, the EPA published direct final and proposed rules to approve the application on January 16, 2007, if adverse comment was not received. EPA received adverse comment and withdrew the direct final rule on January 16, 2007. This action addresses the comment and approves the Nebraska application.

DATES: This final determination is effective January 31, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–RCRA–2006–0878. All documents in the docket are listed on the *http://www.regulations.gov* web site. 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 through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Solid Waste/Pollution Prevention Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Chilton McLaughlin, EPA Region 7, Solid Waste/Pollution Prevention Branch, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7666, or by e-mail at *mclaughlin.chilton@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

On March 22, 2004, the EPA issued final regulations allowing RD&D permits to be issued at certain municipal solid waste landfills (69 FR 13242). This new provision may only be implemented by an approved State. While States are not required to seek approval for this new provision, those States that are interested in providing RD&D permits to municipal solid waste landfills must seek approval from EPA before issuing such permits. The current request is for approval to issue RD&D permits. Nebraska received partial approval for 40 CFR part 258 provisions on October 5, 1993 (58 FR 51819). The provision that it received partial approval for did not include requirements for groundwater monitoring at small, arid landfills as required by an opinion by the United States Court of Appeals on February 12, 1992, which instructed

EPA to require groundwater monitoring at all landfills. The updated State rules impose groundwater monitoring at small, arid landfills. The current request also incorporates the August 7, 1995, rule (60 FR 40105) which modifies the financial assurance criteria; September 25, 1996, rule (61 FR 50413) which relates to groundwater exemptions of small, arid, remote landfills; November 27, 1996, rule (61 FR 60328 at 60337) which adds financial mechanisms for local governments; and April 10, 1998, rule (63 FR 17706 at 17729) which adds a financial test and corporate guarantee to financial assurance mechanisms. Approval procedures for new provisions of 40 CFR part 258 are outlined in 40 CFR 239.12.

On September 27, 2006, Nebraska submitted an application to the EPA seeking Federal approval of its RD&D requirements and to update Federal approval of its MSWLP Program. On November 16, 2006, the EPA published direct final and proposed rules (71 FR 66686 and 71 FR 66722, respectively) to approve the application on January 16, 2007, if adverse comment was not received. EPA received adverse comment and withdrew the direct final rule on January 16, 2007 (72 FR 1670).

B. Response to Comment

The comment was from the GrassRoots Recycling Network (GRRN). The GRRN objected to Nebraska's effort to implement an RD&D permit program alleging that the underlying RD&D violates the Resource Conservation and Recovery Act (RCRA) and the National Environmental Policy Act (NEPA). The commenter objected to what it claims are inadequacies in the underlying RD&D rule, namely, an allegedly unlimited number of permits and an allegedly unlimited program duration.

EPA is proceeding with its approval of the Nebraska program. First, it should be noted that the timeframe within which challenges to the Federal underlying RD&D rule may be filed has expired. (See 42 U.S.C. 6976, petitions challenging a RCRA regulation must be filed within 90 days of promulgation.) The GRRN has challenged the rule before the U.S. Court of Appeals for the D.C. Circuit, which found that GRRN did not have standing to challenge the rule (*GrassRoots Recycling Network* v. *EPA*, No. 04–1196 (D.C. Cir.)).

Moreover, EPA does not intend to reopen the underlying RD&D rule in its approval of state programs. The issue before the Agency in this action is whether Nebraska's submitted RD&D program is adequate under RCRA and EPA's Subtitle D regulations, but the comment is addressed to the underlying Federal program. Thus, the comment does not change EPA's decision to approve Nebraska's submitted RD&D program.

C. Decision

After a thorough review, EPA Region 7 determined that Nebraska's RD&D provisions and the updated rules for its Municipal Solid Waste Landfill Permit Program (the August 7, 1995, rule (60 FR 40105) which modifies the financial assurance criteria; September 25, 1996, rule (61 FR 50413) which relates to groundwater exemptions of small, arid, remote landfills; November 27, 1996, rule (61 FR 60328, at 60337) which adds financial mechanisms for local governments; and April 10, 1998, rule (63 FR 17706, at 17729) which adds a financial test and corporate guarantee to financial assurance mechanisms) as defined under Nebraska Title 132—Integrated Solid Waste effective March 7, 2006, are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.1, 258.4, 258.70, 258.74, and 258.75.

D. Statutory and Executive Order Reviews

This action approves State solid waste requirements pursuant to Resource Conservation and Recovery Act (RCRA) Section 4005 and imposes no Federal requirements. Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review—The Office of Management and Budget has exempted this action from its review under Executive Order (EO) 12866;
2. Paperwork Reduction Act—This action does not impose an information collection burden under the Paperwork Reduction Act;
3. Regulatory Flexibility Act—After considering the economic impacts of today's action on small entities under the Regulatory Flexibility Act, I certify that this action will not have a significant economic impact on a substantial number of small entities;
4. Unfunded Mandates Reform Act—Because this action approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, this action does not contain any unfunded mandate, or significantly or uniquely affect small governments, as described in the Unfunded Mandates Act;
5. Executive Order 13132: Federalism—EO 13132 does not apply to this action because this action will not have federalism implications (i.e., there are no substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities between Federal and State governments);
6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments—EO 13175 does not apply to this action because it will not have tribal implications (i.e., there are no substantial direct effects 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);
7. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks—This action is not subject to EO 13045 because it is not economically significant and is not based on health or safety risks;
8. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use—This action is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866;
9. National Technology Transfer Advancement Act—EPA approves State programs so long as the State programs meet the criteria delineated in RCRA. It would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets RCRA requirements. Thus, section 12(d) of the National Technology Transfer and Advancement Act does not apply to this action;
10. Congressional Review Act—EPA will submit a report containing this action and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

List of Subjects

40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment disposal, Water pollution control.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: January 18, 2008.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E8–1786 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2007–1171; FRL–8521–8]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Commonwealth of Massachusetts has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this immediate final action.

DATES: This final authorization will become effective on March 31, 2008 unless EPA receives adverse written comment by March 3, 2008. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take immediate effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2007–1171, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: biscaia.robin@epa.gov.*
- *Fax:* (617) 918–0642, to the attention of Robin Biscaia.
- *Mail:* Robin Biscaia, Hazardous Waste Unit, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023.
- *Hand Delivery or Courier:* Deliver your comments to: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystem Protection, EPA New England—Region 1, One Congress Street, 11th Floor, (CHW), Boston, MA 02114–2023. Such deliveries are only accepted during the Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Identify your comments as relating to Docket ID No. EPA–R01–RCRA–2007–1171. 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 claimed to be other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. 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: EPA has established a docket for this action under Docket ID No. EPA–R01–RCRA–2007–1171. All documents in the docket are listed on the *www.regulations.gov* Web site. Although it may be listed in the index, some information might not be publicly available, e.g., 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 through *www.regulations.gov* or in hard copy at the following two locations: (i) Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street—8th Floor, Boston, MA 02108, business hours Monday through Friday 9 a.m. to 5 p.m., tel: (617) 556–1096; and (ii) EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114–2023, by appointment only, (617) 918–1990.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; telephone number: (617) 918–1642; fax number: (617) 918–0642, e-mail address: *biscaia.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We have concluded that Massachusetts's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Massachusetts final authorization to operate its hazardous waste program with the changes described in the authorization application. The Massachusetts Department of Environmental Protection (MassDEP) has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program covered by its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such requirements and prohibitions in Massachusetts, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of This Authorization Decision?

The effect of this decision is that a facility in Massachusetts subject to RCRA will now have to comply with the authorized State requirements instead of

the equivalent Federal requirements in order to comply with RCRA. Massachusetts has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions.

This action does not impose additional requirements on the regulated community because the regulations for which Massachusetts is being authorized by today's action are already effective under State law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before This Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect adverse comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule based upon this proposed rule that also appears in today's **Federal Register**. You may not have another opportunity to comment. If you want to comment on this authorization, you should do so at this time.

If we receive adverse comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Massachusetts Previously Been Authorized for?

The Commonwealth of Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344), to implement its base hazardous waste management program. This authorized base program generally tracked Federal hazardous waste requirements through July 1, 1984. In addition, the EPA previously has authorized particular Massachusetts regulations which address several of the EPA requirements adopted after July 1, 1984. Specifically, on September 30, 1998, the EPA authorized Massachusetts to administer the Satellite Accumulation rule, effective November 30, 1998 (63 FR 52180). Also, on October 12, 1999, the EPA authorized Massachusetts to administer the Toxicity Characteristics rule (except with respect to Cathode Ray Tubes), and the Universal Waste rule, effective immediately (64 FR 55153). On November 15, 2000, the EPA granted interim authorization for Massachusetts to regulate Cathode Ray Tubes under the Toxicity Characteristics rule through January 1, 2003, effective immediately (65 FR 68915). This interim authorization subsequently was extended to run through January 1, 2006 (67 FR 66338, October 31, 2002) which was then further extended until January 1, 2011 (70 FR 69900, November 18, 2005). On March 12, 2004, EPA authorized the State for updates to its hazardous waste program which generally track Federal requirements through the July 1, 1990 edition of Title 40 of the Code of Federal Regulations (and in some cases beyond), including definitions and miscellaneous provisions, provisions for the identification and listing of hazardous wastes and standards for hazardous waste generators; it also approved a State-specific modification to the Federal hazardous waste regulations regarding recyclable materials under an ECOS flexibility project; and finally it approved Massachusetts site-specific regulations developed under the Project XL, New England Universities Laboratories XL Project (69 FR 11801, March 12, 2004), effective immediately.

G. What Changes Are We Authorizing With This Action?

On November 30, 2007, Massachusetts submitted a final complete program revision application, seeking authorization for its changes in accordance with 40 CFR 271.21. In particular, Massachusetts is seeking authorization for updated State regulations addressing Federal requirements for Corrective Action, Radioactive Mixed Waste, and the Hazardous Waste Manifest revisions. Massachusetts is also seeking authorization for various changes it recently has made to its base program regulations, including the hazardous waste exemption for dredged material regulated under the Federal Clean Water Act, requirements relating to elementary neutralization, an exemption for dental amalgam being recycled, and a State regulation which allows for the waiving of State requirements that are more stringent than the Federal RCRA counterparts. In addition, Massachusetts has revised its base program regulations regarding interim status facilities and is seeking authorization of the revised regulations. Finally, Massachusetts is seeking authorization for an extension of the special regulations governing the New England Universities' Laboratories XL project.

The State's authorization application includes such documents as a Corrective Action Program Description, a Corrective Action Memorandum of Agreement (MOA) between EPA and the MassDEP, a Final Project Agreement Modification for the New England Universities Laboratories XL Project between EPA and the MassDEP, a copy of MassDEP's Hazardous Waste Regulations effective July 13, 2007, and an Attorney General's Statement.

We are now making an immediate final decision, subject to reconsideration only if we receive written comments that oppose this action, that Massachusetts's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant Massachusetts final authorization for the following program changes identified below. Note, the Federal requirements are identified either by their rule checklist (CL) number or by direct reference to a Federal regulation, followed by the corresponding State regulatory analogs from Massachusetts Hazardous Waste Regulations, 310 CMR 30.0000, as in effect on July 13, 2007.

First, we are authorizing revised state rules that are analogous to the following Federal rules which relate to EPA's Corrective Action program: CL 17L—HSWA Codification Rule, Corrective Action, 50 FR 28702–28755, July 15, 1985; CL 17 O—HSWA Codification Rule, Omnibus Provision, 50 FR 28702–28755, July 15, 1985; CL 44A—HSWA Codification Rule 2, Permit Application Requirements Regarding Corrective Action, 52 FR 45788–45799, December 1, 1987; CL 44B—HSWA Codification Rule 2, Corrective Action Beyond the Facility Boundary, 52 FR 45788–45799,

December 1, 1987; CL 44C—HSWA Codification Rule 2, Corrective Action for Injection Wells, 52 FR 45788–45799, December 1, 1987; CL 121—Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C, 58 FR 8658–8685, February 16, 1993; CL 174—Post-Closure Permit Requirements and Closure Process, 63 FR 56710–56735, October 22, 1998; CL 196—Amendments to the Corrective Action Management Unit (CAMU) Rule, 67 FR 2962–3029, January 22, 2002; 40 CFR 270.73(a) (regarding termination of interim status at facilities where corrective action has been completed); and 40 CFR 270.1(c)(3), 270.72(a)(5) and 270.1(c) as limited by CERCLA 121(e) (exemptions from RCRA permitting for certain remedial activities). The analogous State citations are as follows: 310 CMR 30.010, definitions of ''Facility'' and ''Solid Waste Management Unit,'' 30.602(9), 30.602(10), 30.661(1), 30.604(1), 30.605(1), 30.829, 30.003(8), 30.804(23), 30.804(29), 30.672(5) and (6), 30.602(12), 30.099(13)(a)–(g), 30.602(13)–(15), 30.099(4)(b), 30.099(6), 30.801(11)(a) and (b), and 30.801(intro.) as limited by 30.801(11)(c).

Second, we are authorizing revised state rules that are analogous to the following Federal rules which relate to EPA's Mixed Waste program: MW CL—Radioactive Mixed Waste, 51 FR 24504, July 3, 1986; and CL 191—Storage, Treatment, Transportation, and Disposal of Mixed Waste, 66 FR 27218–27266, May 16, 2001. The analogous State citations are as follows: 310 CMR 30.010, definitions of ''Low-Level Mixed Waste,'' ''Low-Level Radioactive Waste,'' ''Mixed Waste,'' ''Naturally Occurring and/or Accelerator-produced Radioactive Material,'' and ''NRC,'' 30.104(3)(g), and 30.099(6)(r).

Third, we are authorizing the following revised state rules that are analogous to the EPA's Uniform Hazardous Waste Manifest revisions: CL 207—Hazardous Waste Management System, Modification of the Hazardous Waste Management System, 70 FR 10776–10825, March 4, 2005: 310 CMR 30.010, definition of ''Designated Facility,'' 30.106(2)(a)(3) and (4), 30.310, 30.311(1), 30.312, 30.313, 30.313(1)–(9), 30.314(1)–(5), 30.317, 30.323(2), 30.324, 30.331(1) and (2), 30.334(2), 30.340(9), 30.340(9)(a) and (b), 30.341(6)(b), 30.351(2)(a), 30.351(2)(c)(2)–(4), 351(5)(a)(2), 30.351(10)(e) (excluding reference to 30.316), 30.353(2)(a)(2), 30.353(2)(b)(6), 30.353(2)(c)(3)–(5), 30.353(6)(e) (excluding reference to 30.316), 30.361(1) and (2), 30.340(9), 30.361(1)(a), 30.361(2), 30.404(2) and (3), 30.405(1), 30.405(8)(a)–(d), 30.531, 30.532(1)(a)–(d), 30.532(1)(f) and (g), 30.533(1)(a)–(c), 30.533(2), 30.533(3), 30.533(4)(a) and (b), 30.533(5)(a)–(g), 30.533(6)(a)–(g), 30.533(7), 534(2)(1)–(g), 30.099(6)(a).

In addition to the regulations listed above, there are various previously authorized State program regulations to which the State has made changes. The EPA is also authorizing these revised provisions as in effect in 310 CMR on July 13, 2007. Regarding 40 CFR 261.33(f), Commercial Chemical Products: State technical correction to the U28 listing at 310 CMR 30.133. Regarding 40 CFR 262.34(a)(1)(i), Generator accumulation time: 310 CMR 30.342(1)(c) including an update in container management requirements at 30.685. Regarding Elementary Neutralization Requirements at 40 CFR 260.10 ''Elementary Neutralization Unit'' definition, 40 CFR 264.1(g)(6), 40 CFR 265.1(c)(10), 40 CFR 270.1(c)(2): 310 CMR 30.010 ''Elementary Neutralization'' and ''Elementary Neutralization Unit'' definitions, 310 CMR 30.340(8), 310 CMR 30.351(11), 310 CMR 30.501(2)(h), 310 CMR 30.601(2)(h), 310 CMR 30.801(17), 310 CMR 30.1103. Regarding requirements related to Dredged Material Exemption at 40 CFR 261.4(g): 310 CMR 30.010 ''Dredged Material'' definition and 310 CMR 30.104(3)(f). Regarding Federal Minimum Requirements in 40 CFR Parts 260 to 279: 310 CMR 30.1100–1102—State Waiver Authority—allowing the State to waive requirements more stringent than the minimum Federal requirements. Regarding 40 CFR 261.2, Characteristic sludge exemption: 310 CMR 30.104(2)(u) (exemption for dental amalgam). Regarding 40 CFR part 265—Interim Status Standards for Owners and Operators of Hazardous Waste TSDFs, Subpart A—Purpose Scope and Applicability, 40 CFR Part 265.1: 310 CMR 30.010, ''polyhalogenated aromatic hydrocarbons'' (PAH) definition, 30.099(1)(a) and (b), and 30.099(11). Regarding Subpart B—General Facility Standards, 40 CFR 265.10–19: 310 CMR 30.099(6)(a). Regarding Subpart C—Preparedness and Prevention, 40 CFR 265.30–37: 310 CMR 30.099(6)(a). Regarding Subpart D—Contingency Plan and Emergency Procedures, 40 CFR 265.50–56: 310 CMR 30.099(6)(a). Regarding Subpart E—Manifest System, Record Keeping and Reporting, 40 CFR 265.70–77: 310 CMR 30.099(6)(a). Regarding Subpart F—Ground-water Monitoring, 40 CFR 265.90–94: 310 CMR 30.099(6)(d). Regarding Subpart G—Closure and Post-Closure, 40 CFR 265.110–121: 310 CMR 30.099(6)(b). Regarding Subpart H—Financial Requirements, 40 CFR 265.140–150: 310 CMR 30.099(6)(c). Regarding Subpart I—Containers, 40 CFR 265.170–202: 310 CMR 30.099(6)(e). Regarding Subpart J—Tanks, 40 CFR 265.190–202: 310 CMR 30.099(6)(f). Regarding Subpart K—Surface Impoundments, 40 CFR 265.220–231: 310 CMR 30.099(6)(g). Regarding Subpart L—Waste Piles, 40 CFR 265.250–260: 310 CMR 30.099(6)(h). Regarding Subpart M—Land Treatment, 40 CFR 265.270–282: 310 CMR 30.099(6)(i). Regarding Subpart N—Landfills, 40 CFR 265.300–316: 310 CMR 30.099(6)(j). Regarding Subpart O—Incinerators, 40 CFR 265.340–352. Regarding Subpart P—Thermal Treatment, 40 CFR 265.370–383: 310 CMR 30.099(6)(l). Regarding Subpart Q—Chemical, Physical and Biological Treatment, 40 CFR 265.400–406. Regarding Subpart R—Underground Injection, 265.430: 310 CMR 30.604(1) (prohibition). Regarding Subpart W—Drip Pads, 40 CFR 265.440–445: 310 CMR 30.099(6)(n). Regarding Subpart AA—Air Emission Standards for Process Vents, 40 CFR 265.1030–1036: 310 CMR 30.099(6)(o). Regarding Subpart BB—Air Emission Standards for Equipment Leaks, 40 CFR 265.1050–1064: 310 CMR 30.099(6)(p). Regarding Subpart DD—Containment Buildings, 40 CFR 265.1100–1102: 310 CMR 30.099(6)(q). Regarding 40 CFR part 270—EPA Administered Permit Programs: The Hazardous Waste Permit Program, Subpart B—Permit Application, General Application Requirements, 40 CFR 270.10(e): 310 CMR 30.099(2)(a)(1) and (2), and 310 CMR 30.099(12)(d) and (e). Regarding Subpart G—Interim Status, Qualifying for Interim Status, 40 CFR 270.70(a)–270.70(c): 310 CMR 30.010 ''Existing Facility'' definition, 310 CMR 30.060, and 310 CMR 30.099(1)(a)–(d). Regarding Operation during Interim Status, 40 CFR 270.71(a) and (b): 310 CMR 30.099(4)(a) and (b). Regarding Changes During Interim Status, 40 CFR 270.72(a) and (b): 310 CMR 30.064(2)(a), and 310 CMR 30.099(5)(a) and (b). Regarding Termination of Interim Status, 40 CFR 270.73(a)–(g): 310 CMR 30.099(6), and 310 CMR 30.099(12)(a)–(c).

The State has also extended the expiration date of its special regulations governing the universities participating in the New England Universities' Laboratories XL project. The Massachusetts Project XL regulations were originally authorized by the EPA and became part of the Federally enforceable Massachusetts RCRA program on March 12, 2004. See 69 FR

11801. We are now authorizing the extension of these regulations through April 15, 2009. EPA amended its Federal regulations to allow for extension of the expiration date of the XL Project from September 30, 2006 to this new date of April 15, 2009. See 71 FR 35547. The State has adopted a regulation allowing the extension of the XL Project through September 30, 2012. *See* 310 CMR 30.354(3). In line with its regulation as currently amended, the EPA is only able to authorize an extension through April 15, 2009 at this time, but could later consider another Federal extension should a longer one prove to be necessary. EPA believes the current extension is appropriate since it has recently proposed a national set of alternative regulations for academic laboratories (see 71 FR 29712, May 23, 2006). Pending promulgation of a national rule, the extension will allow the universities currently participating in the Labs XL Project to continue to build upon the successes of the project and not have to terminate their participation in the Project. This extension also includes an updated Final Project Agreement (FPA) for this XL Project to reflect the extended period of coverage through April 15, 2009. To allow this extension, we are authorizing the following revised state regulation: 310 CMR 30.354(3) (through only April 15, 2009). EPA also is authorizing the updated cross-references in the State regulations at 310 CMR 30.354(1)(a) and 310 CMR 30.354(2).

Today's final authorization of new State regulations and regulation changes is in addition to the previous authorizations of State regulations which remain part of the authorized program.

H. Where Are the Revised State Rules Different From the Federal Rules?

The most significant differences between the State rules being authorized and the Federal rules are summarized below. It should be noted that this summary does not describe every difference, or every detail regarding the differences that are described. Members of the regulated community are advised to read the complete regulations to ensure that they understand all of the requirements with which they will need to comply.

1. More Stringent Provisions

There are aspects of the Massachusetts program which are more stringent than the Federal program. All of these more stringent requirements are or will become part of the federally enforceable RCRA program when authorized by the EPA, and must be complied with in addition to the State requirements which track the minimum Federal requirements. These more stringent requirements include the following:

- Massachusetts has adopted an exemption from hazardous waste requirements for elementary neutralization at 310 CMR 30.1103. While generally tracking the Federal exemption at 40 CFR 264.1(g)(6), 264.17(b), 265.1(c)(10), 265.17(b), and 270.1(c)(v), the State regulations are more stringent than the Federal regulations in several respects. First, the State regulations contain general requirements that all elementary neutralization be conducted in a manner that does not present a danger to public health, safety, welfare or the environment, does not generate toxic vapors or fumes, does not generate extreme heat or pressure, and does not damage the structural integrity of the container or tank containing the waste. The Federal regulations at 40 CFR 264.17(b) and 265.17(b) similarly require the safe conducting of treatment, for certain wastes posing particular concerns, but the State provision applies more stringently to the treatment of all hazardous wastes. Second, the State regulations exempt from the permit requirement only elementary neutralization conducted at the site of generation. In contrast, the Federal regulations also exempt from the permit requirement elementary neutralization conducted at a treatment, storage or disposal facility. Thus the State regulates TSDFs more stringently.

2. Broader in Scope Provisions

There are parts of regulations in the Massachusetts program which are broader in scope than the Federal program. The portions of State requirements which are broader in scope are not considered to be part of the Federally enforceable RCRA program. However, they are fully enforceable under State law and must be complied with by sources within Massachusetts. These broader in scope portions of State requirements include the following:

- Massachusetts has adopted an exemption from hazardous waste requirements for dredged materials at 310 CMR 30.104(3)(f). While generally tracking the Federal exemption at 40 CFR 261.4(g), the Massachusetts exemption is narrower in some respects than the Federal exemption, which results in the State regulating more broadly than the Federal regulations. In particular, the Massachusetts exemption applies to dredged materials only when they are temporarily stored at an intermediate facility pursuant to 314 CMR 9.07(4) or when they are placed in confined disposal pursuant to 314 CMR 9.07(8). Under the Federal regulations, the exemption also could apply to dredged material that was land applied, provided that such placement was instead regulated under Section 404 of the Clean Water Act. In addition, the Massachusetts regulations specify that the exemption applies only when a source complies with the alternative requirements established by a Clean Water Act section 404 permit. In contrast, under the Federal regulations, the exemption applies so long as the source is subject to a Clean Water Act section 404 permit. In addition, the Massachusetts regulations specify that the exemption applies only when requirements have been established by both the State requiring them pursuant to a Clean Water Act section 401 certification (of a section 404 permit), and the requirements then being included in the Clean Water Act section 404 permit. In contrast, under the Federal regulations, the exemption applies so long as there are alternative requirements in the 404 permit, whether or not they were set pursuant to a State section 401 certification. Finally, the State exemption only applies to activities regulated under Clean Water Act section 404, while the Federal exemption also applies to activities regulated under the Marine Protection, Research and Sanctuaries Act. Note that in addition to the provisions making the Massachusetts requirements partially broader in scope, the Massachusetts regulation also has clarifying language emphasizing that for this exemption to apply to a particular activity (i.e., temporary storage, or placement in confined disposal), specific alternative requirements must be established (under Clean Water Act section 404) with respect to that activity.

3. Different but Equivalent Provisions

There are some Massachusetts regulations which differ from, but have been determined to be equivalent to, the Federal regulations. These State regulations are or will become part of the Federally enforceable RCRA program when authorized by the EPA. These different but equivalent requirements include some requirements related to Corrective Action described in the next section, and also the following:

- Under the State's Environmental Results Program (ERP), the State has adopted regulations requiring dental offices to install wastewater treatment units to collect dental amalgam containing mercury and to ship such

amalgam for recycling (including mercury reclamation). The environmentally poor practices of putting such amalgam in the trash or flushing it down the drain both are banned, as a part of the State's efforts to reduce mercury in the environment. As a part of this set of regulations, the State has exempted from its hazardous waste regulations ''amalgam waste'' that is hazardous solely due to the mercury characteristic, when the ''amalgam waste'' is managed by dental facilities in accordance with the proposed ERP sector regulations. *See* 310 CMR 30.104(2)(u). The State regulates such ''amalgam waste'' under the ERP sector regulations rather than its hazardous waste regulations. As further explained in a March 9, 2005 memorandum by Jeffry Fowley, EPA Region I Office of Regional Counsel, entitled ''Proposed Massachusetts Regulations Regarding Dental Amalgam'' (included in the administrative docket), the Massachusetts exemption is equivalent to Federal RCRA requirements. Under the Federal RCRA regulations, the dental amalgam would be classified as a characteristic sludge, which is not considered to be a solid or hazardous waste when being reclaimed, and thus is exempt from RCRA requirements. In general, the Massachusetts hazardous waste program does not exempt characteristic sludge from hazardous waste requirements—but rather regulates it under the State's Class A recycling program. But Massachusetts has chosen to regulate dental amalgam in a different way, outside of its hazardous waste program. Massachusetts may of course choose to exempt certain characteristic sludges from hazardous waste requirements—e.g., dental amalgam—in line with Federal requirements, while regulating more stringently and broadly in its hazardous waste program other characteristic sludges. Thus, the EPA is authoring the State's exemption in 310 CMR 30.104(2)(u) and the associated definitions of ''amalgam'' and ''amalgam waste'' in 310 CMR 30.010.

- Massachusetts has adopted regulations allowing the MassDEP to grant waivers from State RCRA regulatory requirements for wastes or activities that the MassDEP determines are insignificant as a potential hazard to public health, safety, welfare or the environment, or are adequately regulated by another government agency. 310 CMR 30.1100 (including 30.1101 and 30.1102). These regulations specify that waivers may be granted only from requirements that are, ''more stringent than the minimum Federal requirements promulgated under the Resource Conservation and Recovery Act.'' Moreover the person seeking the waiver must demonstrate that the waiver ''will not result in the Department's requirements applicable to the person becoming less stringent than the minimum Federal requirements promulgated under the Resource Conservation and Recovery Act.'' The person receiving the waiver must comply with the terms of the waiver (which will be established in place of any waived requirements), in addition to all requirements that are not waived. As further explained in a March 8, 2005 letter to MassDEP from Ernest Waterman, Chief of the EPA Region I Hazardous Waste Unit, and Jeffry Fowley of the Region I Office of Regional Counsel (included in the administrative docket), since the State regulations mandate that requirements equivalent to the minimum Federal RCRA requirements always will be maintained, the State regulations are equivalent to the Federal RCRA regulations. Thus the EPA is authorizing these State regulations. As a result of today's authorization, individual waiver determinations may be issued by the State without needing to separately and repeatedly go through the authorization process, provided of course that equivalency with the minimum Federal requirements is maintained. Any alternative requirements set by the State in any waiver determination, in order to maintain equivalency with the Federal requirements, will become part of the Federally enforceable (as well as State enforceable) RCRA program, as a result of being specified in the waiver determination by the State. EPA Region I has encouraged the MassDEP to consult with the Region with respect to each waiver, to ensure that the Department and EPA are in agreement that any waiver is only from more stringent State requirements.

I. What Is the Massachusetts Corrective Action Program That Is Being Authorized?

As part of this program update, the State will be assuming responsibility for operating the Federal Corrective Action program. The program being authorized covers all Treatment Storage and Disposal Facilities (TSDFs) subject to 40 CFR 264.101, which includes (i) active facilities which need permits to conduct ongoing treatment, storage or disposal, and (ii) interim status land disposal facilities which have been required to seek post closure permits under the EPA regulations.

Massachusetts is planning to carry out the Corrective Action program utilizing three different approaches. First, the State will issue RCRA permits (called licenses in Massachusetts) to active TSDFs, in accordance with State regulations that track 40 CFR 264.101. Second, Massachusetts will issue enforceable Orders to some interim status land disposal facilities (LDFs) undergoing closure or in post closure, in accordance with State regulations which track the requirements of the EPA's closure/post-closure rule, 63 FR 56710 (October 22, 1998). The State regulations regarding such permits and Orders raise no significant authorization issues.

Use of the 21E Program

Third, Massachusetts also plans to allow some clean-ups at interim status LDFs to be conducted under the State's Superfund program promulgated under M.G.L. c. 21E (the 21E program). This should result in the acceleration of the cleanups. This deferral of corrective action to the 21E program will occur only at sites which have not yet been issued RCRA closure/post-closure permits, and will involve moving forward with the clean-ups without waiting for the issuance of the permits. The 21E program regulations contain enforceable deadlines and standards that facilities must follow. This deferral of corrective action also will avoid duplication of effort. Cleanups at most of the sites in question already are occurring under the 21E program, and it makes sense to take advantage of that fact, rather than starting the cleanups over again under another program.

However, the State's plan to utilize the 21E program at sites subject to Corrective Action under RCRA raised certain RCRA authorization issues. In particular, these issues arose because in the 21E program, Massachusetts utilizes State licensed but privately employed professionals (Licensed Site Professionals or LSPs) for day-to-day oversight of many of the clean-ups. In the 21E program generally, only some LSP clean-up determinations are subject to State audit. Also, in the 21E program generally, the public comment process does not include a comment period in connection with the audits. In contrast, the EPA corrective action regulations contemplate that there will be governmental oversight and the opportunity for public comment (to the government) in connection with clean-ups.

These authorization issues have been resolved as follows. First, Massachusetts has adopted a regulation requiring State audits at all corrective action sites at which clean-ups are conducted in the 21E program under the day-to-day

direction of LSPs. 310 CMR 30.099(13)(e)(3). If the audit finds that a site has not been remediated so as to meet the same State clean-up standards as would be applied under a RCRA permit or Order, then the facility must carry out additional corrective action as required. *Id.* The State regulations also clarify that the MassDEP may intervene at any time during the carrying out of a remediation to correct any violations of the corrective action requirements. 310 CMR 30.099(13)(e)(2). In addition, the State regulations require that a public comment period will be conducted by the State regarding each audit, prior to making the determination that corrective action is complete. 310 CMR 30.099(13)(e)(4). This is in addition to the public comment process that must occur at the time of remedy selection. 310 CMR 30.099(13)(e)(1).

The adoption of these additional State regulations along with commitments made by the State in the Memorandum of Agreement and Program Description, have resolved the EPA's concerns. There will be government oversight and a meaningful opportunity for public comment in connection with all clean-ups at corrective action sites subject to today's authorization. To the extent that the State's use of the 21E program will result in cleanups occurring with less immediate day-to-day government oversight than might occur under a permit or Order, this is compensated for by the acceleration of the cleanups and the fact that there will be a thorough governmental review at the end of the process.

If instead of authorizing Massachusetts to carry out the Corrective Action program, the EPA was to continue to operate the program in Massachusetts, it similarly could allow a clean-up to occur, prior to permitting, under another program such as the 21E program. In such a situation, the EPA would then review the adequacy of the clean-up prior to determining that corrective action was complete, and thus allowing the facility to be terminated from interim status, pursuant to 40 CFR 270.73(a).[1] Prior to terminating the facility's interim status, the EPA also would follow the public comment procedures specified in 40 CFR 124.6 and 124.10(a)(1)(i). The State has adopted similar regulations requiring governmental review and public comment prior to interim status being terminated. These State regulations are equivalent to—or more stringent than—40 CFR 270.73(a).[2]

The EPA is not authorizing as part of the Federal RCRA program the 21E program as such, or the 21E program regulations themselves, or the use of LSPs. As explained above, the 21E program standing alone is not equivalent to the Federal Corrective Action program in certain respects. Rather, the EPA is authorizing the regulations at 310 CMR 30.099(13) that the State will utilize to ensure that clean-ups that have occurred in the 21E program meet Federal Corrective Action requirements.

Today's authorization does not alter the previously authorized State requirements regarding regulated unit closure. Regulated unit closure will continue to be governed by the State's hazardous waste program regulations rather than being conducted under the 21E program under the supervision of LSPs. *See* 310 CMR 30.099(13)(f). Also, sites which are addressed in the 21E program, but which are unable to clean close, will be issued post closure permits or Orders rather than remaining under LSP supervision over the long term. In its discussion of the 21E program audits, at page 5, the Memorandum of Agreement specifies: ''[f]or facilities requiring long-term operation and maintenance, and monitoring (e.g., closed landfills), these [audits] will be conducted in connection with the issuance of post-closure permits or orders requiring the long-term operation and maintenance, and monitoring.''

Exemption From Permitting

Massachusetts also has adopted a hazardous waste program regulation which exempts some remediation activities from the RCRA permit (state license) requirement, if the activities are conducted within a ''disposal site'' in compliance with the 21E program requirements. 310 CMR 30.801(c).[3] The EPA is authorizing this regulation in connection with today's authorization of the Corrective Action program.

The State regulation narrowly exempts from only the permit requirement only certain low risk treatment activities which may occur within previously contaminated areas in order to reduce or eliminate the contamination. A permit still will be required before higher risk treatment involving the combustion of hazardous waste is allowed. 310 CMR 30.801(c)(1). The exemption also does not apply to treatment which occurs outside of the boundary of a contaminated ''disposal site.'' 310 CMR 30.801(c)(3) and (4). The exemption also is only from the permit requirement and does not exempt even on-site treatment activities from other applicable hazardous waste program requirements. 310 CMR 30.801(c)(5).

The EPA long has allowed States to waive the RCRA permit requirement in order to foster the on-site clean-up of remediation wastes. On November 16, 1987, the EPA Director of the Office of Solid Waste and Emergency Response, J. Winston Porter, issued guidance—OSWER Policy Directive 9522.00–2 (Porter Memorandum)—stating that ''[i]n general, * * * a State authorized to conduct the RCRA base permit program will have the authority to waive RCRA permit requirements for State Superfund actions as long as: (1) The State has the authority under its own statutes and regulations to grant permit waivers, and (2) the State waiver authority is used in no less stringent a manner than allowed under Federal permit waiver authority, for example, sec. 7003 of RCRA or sec. 121(e) of CERCLA.'' The Porter Memorandum goes on to state that ''* * * States should be encouraged to move ahead on cleanups under their own Superfund authorities and * * * it does not make sense to delay actions until a RCRA permit can be issued, as long as an appropriate waiver mechanism applies and adequate measures are taken to protect human health and the environment.'' That the Porter Memorandum would continue to be followed was reiterated by EPA in the Preamble to the HWIR-Media Rule. In its discussion of when RCRA permits

[1] An EPA decision terminating interim status after corrective action had been completed (with no waste left in place) would technically be a 'permit denial' based on there being no need for a closure/post closure permit since corrective action (and all other required closure activities) had been completed. The State program similarly contemplates that facilities fully cleaned up prior to getting a permit (with no waste left in place) never will need to be issued a closure/post closure permit.

[2] Pursuant to the EPA regulations on State authorization at 40 CFR 271.12(a) and 271.14, States with interim status facilities must track the requirements of 40 CFR 270.73, but generally need not track the public comment requirements of 40 CFR 124.6 and 124.10(a)(1)(i) when denying a permit under 40 CFR 270.73. This is because permit denials typically are employed to not allow facilities to operate, and a State may be more stringent in not allowing a facility to operate without needing to follow any federally prescribed comment process. However, since Massachusetts will be employing a procedure similar to the federal ''permit denial'' to recognize the completion of correction action and allow facilities to be terminated from interim status, Massachusetts appropriately agreed to adopt public comment procedures (as well as audit procedures) as a part of that process.

[3] This new hazardous waste program regulation actually narrows the exemption from RCRA permitting earlier allowed by Massachusetts in its 21E program regulations, at 310 CMR 40.0031(3) and 40.0041(4). This new regulation specifies that its terms ''govern'' in the event of any inconsistency between its terms and the 21E program regulations. *See* 310 CMR 30.801(11) (intro.).

are required, the Preamble states, ''There are also instances when treating, storing and disposing of remediation wastes do not require a RCRA permit. * * * Another example would be when [a] State that is authorized to implement the RCRA program has a permit waiver authority that is analogous to EPA's authority under CERCLA 121(e) or RCRA 7003. This permit waiver authority is described in a memorandum from J. Winston Porter * * * available in the docket to today's rule. Today's rule does not change or affect this policy in any way.'' 63 FR 65874, 65887–65888 (November 30, 1998).

The Massachusetts permit exemption meets the tests set forth in the Porter Memorandum. Massachusetts has been authorized to conduct the RCRA base permit program. The State has the statutory authority to grant waivers from RCRA permit requirements pursuant to M.G.L. c. 21C, sec. 4, so long as there is ''adequate regulation'' under another program—such as exists under the State's 21E program. Finally, the State's waiver authority is being used in a manner that is no less stringent than allowed under sec. 121(e) of CERCLA. That Federal provision specifies that ''No Federal, State or local permit shall be required for the portion of any removal or remedial action conducted entirely onsite, where such remedial action is carried out in compliance with this section.'' The Massachusetts exemption similarly applies only to remediation activities conducted within a ''disposal site'' and only when they are conducted in accordance with the State's 21E program requirements. The State's 21E program requirements which ensure that LSPs will safely carry out hazardous waste remediation activities within disposal sites are described in the Program Description at pages 29–30. At least for the lower risk treatment activities covered by the State's exemption, these requirements are equivalent in ensuring environmental protection to the requirements under CERCLA.

Under the Federal RCRA regulations—40 CFR 270.1(c)—a RCRA permit is required for the ''treatment,'' ''storage'' and ''disposal'' of hazardous waste, but that requirement is limited by CERCLA 121(e). Under the Massachusetts hazardous waste program regulations, a RCRA ''license'' similarly is required for treatment, storage and disposal of hazardous waste by 310 CMR 30.801 (intro.), but that requirement is limited by 310 CMR 30.801(11)(c). The State requirement at 30.801 (intro.) as limited by 30.801(11)(c) is equivalent to the Federal requirement at 40 CFR 270.1(c), as limited by CERCLA 121(e). Thus the EPA is authorizing 310 CMR 30.801(11)(c).

Additional Issues

In determining whether remediation is complete at corrective action sites, the State will utilize the clean-up standards set forth in its 21E program regulations. 310 CMR 40.0000. The EPA has reviewed those regulations. For the reasons explained in the Memorandum entitled ''MA Contingency Plan Regulations'' by Frank Battaglia, MA State Coordinator, RCRA Corrective Action Section, dated February 6, 2007 (included in the administrative docket), the EPA has determined that the State standards meet the Federal requirement (40 CFR 264.101) for protection of human health and the environment.

In connection with today's authorization, the EPA also did an analysis to determine if the State has the capability to administer the Corrective Action program. This analysis went beyond reviewing the State regulations to focus on such things as resources and technical capability. For the reasons explained in the Memorandum entitled ''Capability Assessment'' by Frank Battaglia, dated March 9, 2007 (included in the administrative docket), the EPA has determined that the State has the capability to administer this important program.

J. How Does This Action Affect Indian Country (18 U.S.C. 115) in Massachusetts?

Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State (land of the Wampanoag tribe). Therefore, EPA will continue to implement and administer the RCRA program in these lands.

K. Who Handles Permits After the Authorization Takes Effect?

Massachusetts will issue permits for provisions for which it is authorized and will administer the permits it issues. However, EPA will continue to administer and enforce any RCRA and HSWA (Hazardous and Solid Waste Act) permits or portions of permits which it has issued in Massachusetts prior to the effective date of this authorization. In particular, as further specified in the Memorandum of Agreement, the EPA will continue to administer the EPA corrective action permit reissued to General Electric—Pittsfield in 2007, including handling any permit modifications, and any administrative and court appeals from any permit modifications. EPA will not issue any more new permits, or new portions of permits, for the provisions listed in this notice above after the effective date of this authorization. EPA will continue to implement and issue permits for any HSWA requirements for which Massachusetts is not yet authorized.

L. What Is Codification and Is EPA Codifying Massachusetts's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart UU for this authorization of Massachusetts's program until a later date.

M. Administrative Requirements

The Office of Management and Budget has exempted this action (RCRA State Authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements under RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885,

April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. 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.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This 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 document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action nevertheless will be effective March 31, 2008, because it is an immediate final rule.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 17, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E8–1316 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070907502–7668–03]

RIN 0648–XB01

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the annual harvest guideline (HG) for Pacific mackerel in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of July 1, 2007, through June 30, 2008. This HG has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific mackerel off the Pacific coast. The HG for the 2007–2008 fishing season is 40,000 metric tons (mt). If this total is reached, Pacific mackerel fishing will be closed to directed harvest and only incidental harvest will be allowed at a 45 percent by weight incidental catch rate when landed with other CPS, except that up to one mt of Pacific mackerel can be landed without landing any other CPS.

DATES: Effective March 3, 2008 through June 30, 2008.

ADDRESSES: Copies of the report *Pacific Mackerel (Scomber japonicus) Stock Assessment for U.S. Management in the 2007–2008 Fishing Year* may be obtained from the Southwest Regional Office by contacting Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: The CPS FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

During annual public meetings, the biomass for each actively managed species within the CPS FMP is presented to the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team), the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel) and the CPS Subcommitee of the Scientific and Statistical Committee (SSC). At that time, the biomass, the acceptable biological catch (ABC) and the status of the fisheries are reviewed and discussed. This information is then presented to the Council along with HG recommendations and comments from the Team and Subpanel. Following review by the Council and after hearing public comments, the Council makes its HG recommendation to NOAA's National Marine Fisheries Service (NMFS). The Pacific mackerel season begins on July 1 and ends on June 30 of each year.

A full assessment for Pacific mackerel was conducted this year and reviewed by a Stock Assessment Review (STAR) Panel in La Jolla, CA, May 1–4. Public meetings of the Team and Subpanel were then held May 8–10 in Long Beach, CA. During these meetings the STAR Panel report and current stock assessment for Pacific mackerel, which included a preliminary biomass estimate and ABC, were presented and reviewed in accordance with the procedures of the FMP. Based on a total stock biomass estimate of 359,290 metric tons (mt), the ABC for U.S. fisheries for the 2007/2008 management season is 71,629 mt.

In June, the Council held a public meeting in Foster City, CA, during which time they reviewed the current

stock assessment, biomass numbers and ABC and heard statements from the SSC, Team and Subpanel (72 FR 29130). The SSC endorsed the assessment as the best available science for use in management. Both the Team and Subpanel recommended setting the 2007/2008 HG below ABC and no higher than 40,000 mt. This HG recommendation is still roughly double the HG adopted by the Council for the 2006/2007 fishing year (19,845 mt) and much greater than the average U.S. harvest since the year 2000 (5,700 mt). Setting the harvest guideline substantially below the ABC was recommended as a precautionary measure in response to uncertainty associated with changes to assessment modeling parameters and the reference in the FMP that the domestic fishery appears to be market limited to roughly 40,000 mt.

Following the SSC, Team and Subpanel reports the Council adopted an HG of 40,000 mt for the 2007–2008 fishing year. The Council also adopted the Subpanel recommendation that in the event that the 40,000 mt is attained by the fishery, that Pacific mackerel fishing be closed to directed harvest and only incidental harvest be allowed. This incidental fishery is constrained to a 45 percent by weight incidental catch rate when Pacific mackerel are landed with other CPS, except that up to one metric ton of Pacific mackerel could be landed without landing any other CPS.

The Council may schedule an inseason review of the Pacific mackerel fishery for the March or April 2008 Council meeting, in order to consider either releasing a portion of the incidental allotment to the directed fishery or further constraining incidental landings to ensure total harvest remains below the ABC.

Information on the fishery and the stock assessment are found in the report *Pacific mackerel (Scomber japonicus) Stock Assessment for U.S. Management in the 2007–08 Fishing Season* (see **ADDRESSES**).

Classification

The Administrator, Southwest Region, NMFS, determined that this final rule is necessary for the conservation and management of the CPS fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule is exempt from Office of Management and Budget review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule (72 FR 35419) and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: January 24, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–1683 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 73, No. 21

Thursday, January 31, 2008

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket No. PRM–51–9]

State of Nevada; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or Commission) is denying a petition for rulemaking submitted by the State of Nevada (PRM–51–9). The petition requests that NRC modify its regulation setting criteria for adoption of an environmental impact statement prepared by the Secretary of the Department of Energy in proceedings for issuance of a construction authorization and materials license with respect to a geologic repository. The petitioner asserts that the current regulation must be ''corrected'' because it is at odds with a recent court of appeals decision. Further, petitioner asserts that certain litigation procedures that will be used in the proceedings to consider the adoption question violate the National Environmental Policy Act of 1969, as amended (NEPA). NRC is denying the petition because the court found no reason for NRC to correct its adoption criteria and because the petition does not demonstrate that NRC's litigation procedures violate NEPA. Commissioner Gregory B. Jaczko's vote on this denial is included in Appendix I to this notice.

ADDRESSES: Publicly available documents related to this petition, including the petition for rulemaking, the comments received, and NRC's letter of denial to the petitioner may be viewed electronically on public computers in NRC's Public Document Room (PDR), 01F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR reference staff at (800) 387–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jerry Bonanno, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1328 or Toll Free: 1–800–368–5642, e-mail: *jxb5@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

On April 8, 2005, the State of Nevada (petitioner or the State) submitted a ''Petition by the State of Nevada to Amend 10 CFR 51.109'' (petition), which was docketed as a petition for rulemaking under 10 CFR 2.802 of the Commission's regulations (PRM–51–9). The petition was noticed on August 12, 2005 (70 FR 47148) with a public comment period that closed on October 26, 2005. Three comment letters were received. The petition requests amendments to the Commission's regulation at 10 CFR 51.109 governing NRC's adoption of the Department of Energy's (DOE) final environmental impact statement (FEIS), and any supplements thereto, which accompanied the Secretary of Energy's (the Secretary) recommendation to the President that the Yucca Mountain, Nevada (YM) site be approved for the development of a geologic repository. Petitioner believes that the current regulation is contrary to the NEPA, the Nuclear Waste Policy Act of 1982, as amended (NWPA), and the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Nuclear Energy Institute, Inc.* v. *Environmental Protection Agency,* 373 F.3d 1251 (D.C. Cir. 2004) (NEI).

Background

A. Statutory and Regulatory Background of § 51.109

Section 114(f)(4) of the NWPA provides that ''[a]ny [EIS] prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, *to the extent practicable,* be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository'' (emphasis added). The statute further provides that ''[t]o the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the [NEPA] and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect public health under the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*).'' In 1988–89, NRC conducted a rulemaking to set out the standards and procedures that would be used in licensing proceedings for determining whether NRC's adoption of DOE's FEIS is practicable. *See,* 53 FR 16131; May 5, 1988 (proposed rule); 54 FR 27864; July 3, 1989 (final rule). In that rulemaking, NRC determined that the NWPA had altered NRC's ordinary NEPA responsibilities in such a manner as to narrow the scope of NRC's independent review of environmental issues that had been decided by DOE in its FEIS. As summarized by the Commission in the final rule,

> [T]he Commission continues to emphasize its view that its role under NWPA is oriented toward health and safety issues and that, in general, nonradiological environmental issues are intended to be resolved in advance of NRC licensing decisions through the actions of the Department of Energy, subject to Congressional and judicial review in accordance with NWPA and other applicable law. The Commission anticipates that many environmental questions would have been, or at least could have been, adjudicated in connection with an environmental impact statement prepared by DOE, and such questions should not be reopened in proceedings before NRC.

54 FR at 27865.

Accordingly, NRC's 1989 final rule established, in a new 10 CFR 51.109, ''Public hearings in proceedings for issuance of materials license with

respect to a geologic repository,'' procedures and criteria for implementing the statutory directive to adopt DOE's FEIS to the extent practicable. Under § 51.109(a)(1), the NRC staff must present its position on whether it is practicable to adopt, without further supplementation, DOE's FEIS upon publication of the notice of hearing in the **Federal Register**. Under § 51.109(a)(2), parties to a proceeding are given the opportunity to submit contentions asserting that it is not practicable to adopt:

(a)(2) Any other party to the proceeding who contends that it is not practicable to adopt the DOE [FEIS], as it may have been supplemented, shall file a contention to that effect within thirty (30) days after the publication of the notice of hearing in the **Federal Register**. Such contention must be accompanied by one or more affidavits which set forth factual and/or technical bases for the claim that, under the principles set forth in paragraphs (c) and (d) of this section, it is not practicable to adopt the DOE [FEIS], as it may have been supplemented. The presiding officer shall resolve disputes concerning adoption of the DOE [FEIS] by using, to the extent possible, the criteria and procedures that are followed in ruling on motions to reopen under § 2.236 of this chapter.

10 CFR 51.109(a)(2)(2007).[1] The criteria governing the practicability of adoption are set forth in § 51.109(c):

(c) The presiding officer will find that it is practicable to adopt any environmental impact statement prepared by the Secretary of Energy in connection with a geologic repository proposed to be constructed under Title I of the Nuclear Waste Policy Act of 1982, as amended, unless:

(1)(i) The action proposed to be taken by the Commission differs from the action proposed in the license application submitted by the Secretary of Energy; and

(ii) The difference may significantly affect the quality of the human environment; or

(2) Significant and substantial new information or new considerations render such environmental impact statement inadequate.

10 CFR 51.109(c) (2007).

B. DOE's FEIS

The NWPA, *inter alia,* establishes a process for the characterization, siting, construction, and operation of a geologic repository at the YM site. As relevant here, when site characterization activities are completed, the Secretary of Energy may recommend site approval to the President and any such recommendation must be accompanied by a FEIS. See, section 114(a)(1) of the NWPA. Then, the President may recommend the site to the Congress and must include a copy of the documents comprising the basis of the Secretary's recommendation, including the FEIS. See, section 114(a)(2). The State is then given an opportunity to submit a notice of disapproval of the site designation which, however, may be overcome by a joint resolution of the Congress approving the recommended repository site. See, sections 115 and 116 of the NWPA. If the site designation is permitted to take effect under the provisions of section 115, the Secretary of Energy shall submit an application for a construction authorization to NRC. See, section 114(b) of the NWPA. In February 2002, the Secretary issued the *Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada* and recommended the YM site to the President. The President then recommended the YM site to the Congress. In April 2002, the State of Nevada submitted a notice of disapproval to the Congress. However, Congress approved the site designation by a Joint Resolution signed by the President on July 23, 2002. Public Law 107–200, 116 Stat. 735 (2002) (codified at 42 U.S.C. 10135 note (Supp. IV 2004)).

C. The NEI Decision

Thereafter, the State of Nevada sought court review of the Secretary's decision to recommend the YM site to the President, the President's decision to recommend the YM site to the Congress, and DOE's FEIS, which had been used to support both recommendations. In response, DOE argued that the Joint Resolution had rendered moot Nevada's challenges to the Secretary's and the President's recommendations, with the result that Nevada's claims that the FEIS was inadequate could not be considered as part of the challenges to these recommendations. Further, DOE argued that, insofar as the FEIS might be used to support future DOE and NRC decisions, the FEIS was unripe for review because there was no final agency action affecting the State at that time.

In the litigation resulting in the *NEI* decision, the State's challenges to the Secretary's and the President's recommendations and to the FEIS were combined with other issues raised by the State and with other lawsuits concerning the YM repository, including challenges to both the Environmental Protection Agency's final standards (66 FR 32,074; June 13, 2001) and NRC's final regulations for the proposed geologic repository at YM (66 FR 55,732; November 2, 2001). However, NRC's procedures and criteria for adoption of DOE's FEIS were not issues raised in any of the lawsuits and NRC's rationale for adoption of the § 51.109 procedures and criteria was neither briefed nor argued by NRC. NRC did describe in its brief its regulatory adoption process in the context of an issue raised by Nevada concerning NRC's regulation at 10 CFR 63.341, which required DOE to include the results of its projections of peak dose in its FEIS.[2] *See, Brief for the Federal Respondents, State of Nevada* v. *U.S. Nuclear Regulatory Commission,* Nos. 01–1116 and 03–1058, June 6, 2003, at 44–45. In resolving this issue, the court noted NRC's statement ''that it has imposed no categorical limitation on any challenge to DOE's peak dose calculations and that, under its regulations, parties to the proceeding may challenge the practicability of adopting aspects of DOE's EIS, including the peak dose calculations, based on substantial new information to the contrary.'' 375 F.3d 1251, at 1300 (internal quotations omitted).

In *NEI,* the court agreed with DOE that Congress' enactment of the Joint Resolution had rendered moot issues raised concerning the Secretary's and the President's recommendation of the YM site. *See* 373 F.3d at 1309. Thus, the court held that ''[i]nsofar as Nevada's instant challenge to the FEIS is intended to reverse the decision to select the Yucca site, the challenge is moot * * *'' 373 F.3d at 1312. However, the court noted the anticipated use of the FEIS in future decisionmaking related to YM, including its potential adoption by NRC in NRC's licensing proceeding, and considered whether the court should review the FEIS because it might be used to support future decisions. The court determined that the FEIS was not ripe for review under the two-part test used to determine ripeness: The fitness of the issue for judicial decision and the hardship to the parties of withholding court consideration. Under the first prong of the test, the court noted that it was unclear to what extent NRC would adopt the FEIS and whether the FEIS would require supplementation prior to any adoption. The court concluded that ''[o]ur review of the FEIS therefore would benefit from postponing consideration until the FEIS has been used to support a specific, concrete, and final decision.'' 373 F.3d at 1313. Under

[1] In 2004, § 51.109(a)(2) was revised to reference a new section number for motions to reopen as part of the Commission's revision of its rules of practice in adjudicatory proceedings. See 69 FR 2182, 2276 (January 14, 2004). The standards for reopening were not changed.

[2] In 2005, NRC proposed to eliminate § 63.341 as part of its proposed amendments to 10 CFR Part 63. See, 70 FR 53313 (September 8, 2005).

the second prong of the test, the court concluded that ''withholding consideration of Nevada's substantive claims at this time imposes no hardship on Nevada * * * [because] Nevada may raise its substantive claims against the FEIS if and when NRC or DOE makes * * * a final decision.'' Id. In reaching this conclusion as to hardship, the court stated that ''we rely on the assurances of counsel for both NRC and DOE at oral argument that Nevada will be permitted to raise its substantive challenges to the FEIS in any NRC proceeding to decide whether to adopt the FEIS and in any DOE proceeding to select a transportation alternative.'' *Id.*

The Petition

The petitioner agrees that § 51.109 ''in most respects tracks the language of [section 114(f)(4) of the NWPA]'' on which it is based. Petition at 2. However, the petitioner claims that this regulation also adds three special provisions not found in the statute: (1) Special procedures for litigation of NEPA issues; (2) allowance for adoption of DOE supplements to the FEIS; and (3) special standards that specify in some detail precisely when NRC will adopt the FEIS. The petitioner believes that the Commission must conduct a rulemaking to eliminate the ''special litigation procedures'' and to correct the ''special adoption standards.'' The petition makes no further reference to the second ''special provision'' and suggests no rule change with respect to this provision. There is no apparent reason why Congress would have intended to exclude supplements to the FEIS in its requirement for NRC to adopt DOE's FEIS to the extent practicable, so we do not regard this provision of the regulation as being within the petition for rulemaking.

To correct the criteria for assessing the practicability of adoption, petitioner requests that the Commission add a new paragraph (h) to § 51.109:

> Nothing in this section shall be construed to limit the ability of any party or interested governmental participant to challenge in a licensing hearing any environmental impact statement (including any supplement thereto) prepared by the Secretary of Energy on the ground that such statement violates NEPA or the regulations of the Council on Environmental Quality, provided that the challenge is not barred by traditional principles of federal collateral estoppel. Collateral estoppel shall not bar the admission of a NEPA contention if the standards in subparagraphs (c)(1) and (c)(2) of this section are met, provided that the change in the proposed action or new information or considerations became known after the litigation in question.

Petitioner further proposes that the Commission delete § 51.109(a)(2), with the result that the admission of NEPA contentions will be guided by the same principles in 10 CFR 2.309(f) that apply to other kinds of contentions.

Public Comments on the Petition

Three comment letters were received on the petition. The Board of Lincoln County Commissioners supports the petition for the reasons advanced in the petition, noting that it expects to participate in an NRC proceeding which will examine NRC's independent review of the FEIS. The National Association of Regulatory Utility Commissioners (NARUC) expressed the view that Nevada's substantive issues on the FEIS could be considered in NRC's licensing proceeding without any need to amend the regulations because, *inter alia,* ''the Court of Appeals provided the State the right to have consideration be given to outstanding concerns with the EIS prepared for the Yucca Mountain repository when * * * the NRC prepares its own EIS for the licensing decision.'' [3] DOE does not think that Nevada's requested rulemaking is warranted because ''[t]he regulation at issue comports with NRC's responsibilities under both NEPA and the NWPA, and nothing in the *NEI* case supports Nevada's claim that the regulation must be revised.''

Reasons for Denial

A. The Adoption Standards in § 51.109(c)

With regard to the ''special adoption standards'' in § 51.109(c), petitioner notes that both Nevada and the Council on Environmental Quality (CEQ) had objected to NRC's criteria for determining that it is practicable to adopt the FEIS. In comments submitted at the time of the 1988–89 rulemaking, Nevada and CEQ argued that NEPA does not allow NRC to adopt the FEIS without a full and independent review of the FEIS. Further, Nevada also disagreed, and continues to disagree, with NRC's position in that rulemaking that in the NWPA, Congress intended to alter NRC's ordinary NEPA obligations and lessened the need for NRC to conduct a fully independent review of the FEIS prior to adoption. In support of its position, the petitioner cites the statements of two Senators made during the congressional debates leading to the NWPA, statements considered by NRC in its rulemaking but rejected as ''less illuminating'' than the legislative history stemming from the House of Representatives' consideration of the issues. *See,* 53 FR 16137.

The State's main basis for requesting rulemaking stems from the NEI court's discussion of NRC's potential adoption of the FEIS. The petitioner notes the court's observations that Nevada may raise its substantive claims against the FEIS when it is used by NRC to support a future construction authorization or licensing decision, and that NRC counsel had assured the court that Nevada would be permitted to raise its substantive challenges to the FEIS in any NRC proceeding to decide whether to adopt the FEIS. The petitioner further notes the court's statement that NWPA's mandate that the FEIS be adopted by NRC ''to the extent practicable'' * * * ''cannot reasonably be interpreted to permit NRC to premise a construction-authorization or licensing decision upon an EIS that does not meet the substantive requirements of the NEPA or [CEQ's] NEPA regulations.'' 373 F.3d at 1314.

Finally, the petitioner notes the court's rejection of the position taken in a letter from NRC counsel to the court that § 51.109(c) only affected issues that could be raised and litigated in NRC administrative proceedings and not issues that could be raised on judicial review. *See,* Petition at 5; 373 F.3d 1314. Rather, the court stated, ''Nevada's claims have not been adjudicated on the merits here and presumably will not have been passed upon by any court prior to the relevant NRC proceedings. The claims thus would certainly raise 'new considerations' with regard to any decision to adopt the FEIS.'' *Id.* The petitioner believes that ''any Commission interpretation of 10 CFR 51.109 at odds with counsel's representation at oral argument would clearly be unlawful'' and asserts that ''[NRC's] current regulation is directly at odds with [its counsel's and the court's] interpretation,'' so that the Commission must correct the regulation. Petition at 5–6.

Petitioner's assertion that § 51.109(c) must be ''corrected'' because it is ''directly at odds'' with the interpretation of this regulation by the *NEI* court directly contradicts what the court itself said on the subject of any need for the Commission to amend its regulations. The court stated:

> Government counsel's unequivocal representation to the court during oral argument that Nevada will not be foreclosed from raising substantive claims against the FEIS in administrative proceedings comports with the terms of the regulation and reflects a reasonable and compelling interpretation.

[3] It is not clear whether NARUC recognizes that NRC may adopt DOE's EIS to the extent practicable, rather than prepare its own EIS.

Therefore, on the record at hand, there is no reason to assume that the regulation will bar consideration of Nevada's substantive claims in the relevant NRC administrative proceedings.

373 F.3d at 1314.

Far from suggesting that NRC's regulation needed to be amended to accommodate the court's interpretation of the regulation, the court expressed its satisfaction that there was no reason to assume that the present language of the regulation would bar consideration of Nevada's substantive claims. This conclusion follows the court's explicit consideration of the language of the § 51.109(c) criteria. The court focused on the second criterion; *i.e.*, that it might not be practicable for NRC to adopt the FEIS if ''significant and substantial new information or new considerations render such environmental impact statement inadequate.'' The court noted that ''Government counsel assured the court that NRC will not construe the 'new information or new considerations' requirement to preclude Nevada from raising substantive claims against the FEIS in administrative proceedings.'' *Id.* Further, the court observed that ''Nevada's claims have not been adjudicated on the merits here and presumably will not have been passed upon by any court prior to the relevant NRC proceedings. The claims thus would certainly raise 'new considerations' with regard to any decision to adopt the FEIS.'' *Id.*[4] There is no need for the Commission to expend the resources needed for a rulemaking to ''correct'' a rule which the court gave no indication of needing correction. NRC will treat Nevada's substantive claims against the FEIS as ''new considerations'' within the framework of § 51.109(c).

Although the petitioner frames its request for correction of § 51.109(c) in terms of a supposed need to bring the regulation into line with the views of the court, the petitioner may actually be seeking to raise once again the issues the State and CEQ raised in comments made during the 1988–89 rulemaking. The petition raises no issues that were not raised and fully considered in that rulemaking. The Commission's rationale for the adoption criteria issued as part of that rulemaking was not before the court in NEI and the court, as explained above, found nothing amiss with the criteria. The court's decision presents no reasons for the Commission to reexamine the basis of that rulemaking.

B. The Litigation Procedures in § 51.109(a)(2)

With regard to the ''special litigation procedures,'' the petitioner notes that § 51.109(a)(2) conditions the admissibility of a contention which asserts that NRC should not adopt the FEIS on satisfaction, to the extent possible, of the standards for reopening a closed record under 10 CFR 2.326. The petitioner asserts that the principal difference between this standard and the contention standard in 10 CFR 2.309(f) that applies to other issues is that the former requires submission of admissible evidence, while the latter does not. The petitioner asserts that NRC's creation of ''special litigation procedures'' violates NEPA: ''Section 102(2)(C) of NEPA requires that an FEIS must be considered in the 'existing agency review processes' [emphasis added], not some different review process applicabl[e] only to NEPA where interested persons must satisfy additional pleading requirements that would otherwise not apply.'' Petition at 6 (citing *Calvert Cliffs,* 449 F.2d 1109 (D.C. Cir. 1971); 40 CFR 1505.1; *Aberdeen & Rockfish R. Co.* v. *SCRAP,* 422 U.S. 289, 320 (1975)).

The relevant portion of section 102(2)(C) of the NEPA states that copies of the requisite ''detailed statement'' must ''accompany the proposal through the existing agency review processes.''[5] This language does not require that an agency establish one uniform agency process for all NEPA reviews. Here, NRC has adopted a contention standard in § 51.109(a)(2) which takes account of the NWPA's effect on its NEPA responsibilities as explained in its 1988–89 rulemaking. In the relevant portion of the Calvert Cliffs decision, the question before the court was ''whether the [Atomic Energy] Commission is correct in thinking that its NEPA responsibilities may be carried out in toto outside the hearing process—whether it is enough that environmental data and evaluations merely accompany the application through the review process, but receive no consideration whatever from the hearing board.'' *Calvert Cliffs,* 449 F.2d at 1117 (internal quotation marks omitted). In the discussion that follows, the court focused on the meaning of the term ''accompany,'' not whether changes in agency procedures for considering NEPA issues would be inconsistent with the ''existing agency review process'' language. The court concluded that the word ''accompany'' meant that the detailed statement must be considered during the agency review process. In *Aberdeen,* the Court held that an oral hearing held before an agency made a recommendation or report on a proposal for Federal action was not an ''existing agency review process'' under section 102(2)(C) of the NEPA and thus, a FEIS was not required to be available during this hearing. *See*, 422 U.S. at 320–21. Thus, the Supreme Court's discussion in *Aberdeen* focuses on when the FEIS must be made available, not whether the term ''existing agency review process'' means that one contention standard must apply to all NEPA reviews in all cases before an agency. In short, the case law cited by the petitioner does not provide a reason for NRC to delete § 51.109(a)(2) from its regulations.

Conclusion

The *NEI* court found no need for NRC to amend its regulations for the purpose of allowing the State to have its substantive claims examined in NRC's licensing proceeding for a potential YM repository. Petitioner's claims that NRC's adoption criteria violate the NEPA or the NWPA were addressed in the 1988–89 rulemaking and petitioner offers no new arguments for the Commission's consideration. Nor does the petitioner provide adequate legal support for NRC to amend its litigation procedures. Given this, it would be an unwise expenditure of resources for the Commission to conduct a rulemaking on this matter.

For these reasons, the Commission denies PRM–51–9.

Dated at Rockville, Maryland, this 25th day of January 2008.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Appendix I—Commissioner Jaczko's Comments on SECY–07–0159, Denial of a Petition for Rulemaking (PRM–51–9)—State of Nevada

I approve in part and disapprove in part the recommendation to proceed with option 2 which would deny the rulemaking petition while offering the assurance that the NRC will interpret the existing regulations to allow substantive claims to the Department of Energy's (DOE) Final Environmental Impact Statement (FEIS). Instead, I approve a combination of options 1 and 2. The original regulations governing the agency's review of the FEIS were based upon an assumption of how the site selection process for a potential repository would unfold. But because the judicial review of environmental

[4] At the same time, the court recognized that ''[t]he NWPA's mandate that the FEIS be adopted by NRC 'to the extent practicable' is intended to avoid duplication of the environmental review process.'' 373 F.3d 1251.

[5] The CEQ regulation at 40 CFR 1505.1 is based on the statutory language and requires that agency procedures require ''that relevant environmental documents * * * accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.''

issues did not happen as we envisioned, I believe we should grant the petition and fix the corresponding regulations to appropriately reflect that the entire FEIS will be open for litigation in any NRC administrative proceeding regarding a repository application. At the same time, I believe the notice of the proposed rule should explain that the agency will interpret the regulations in a manner consistent with this approach should the rulemaking not be completed in time for a hearing on a potential Yucca Mountain license application.

Based upon the history of this issue, I think granting the petition and amending our regulations is the right answer in this case. First, it is important to remember that the NRC could have originally interpreted the Nuclear Waste Policy Act (NWPA) to allow the NRC to handle the adoption of DOE's FEIS in the same manner it currently handles the adoption of any other federal agency EIS in the NEPA review process. The NWPA's direction to avoid duplicative environmental analysis does not necessarily equate to a direction to eliminate most, if not all, of the FEIS from the NRC's hearing process. I believe we should treat DOE's FEIS in the same manner as we treat any other FEIS submitted by a similarly situated regulated entity. In this case, that would mean defending the agency's independent review of the entire FEIS—not just limited portions of it—in the NRC's administrative proceedings. Commenters, including the Council on Environmental Quality, said as much in comments to this rulemaking and I find their logic persuasive. Had the agency opted for that interpretation in the proposed rulemaking, perhaps we would not find ourselves facing this petition today.

NRC's rationale for not doing so, however, while not ideal, made sense in the context of what the agency thought would happen with the FEIS. According to the rulemaking history, section 51.109 of NRC's regulations was based, at least in large part, upon the theory that the administrative litigation of NEPA issues at the NRC should be limited because many of these issues should have already had the opportunity to be litigated in another forum. Thus, legal doctrines which prevent issues and claims from being re-litigated, such as res judicata and collateral estoppel, would prevent the re-litigation of these issues in NRC hearings. This was premised upon NRC's expectation that an interested person would have had an opportunity to legally challenge DOE's FEIS after it was used to support the recommendations of Yucca Mountain as a site for a repository by the Secretary of Energy and the President.

With that expectation in mind, the regulations were then designed to ensure that the environmental issues in any NRC proceeding on the proposed repository would appropriately focus on issues that were new—that were not able to be raised at the earlier opportunity to challenge the FEIS. So the regulations adopted in section 51.109 focused not on the entire FEIS, as would be the normal NRC practice, but on the NRC's decision to adopt the FEIS. The regulations limited challenges to NRC's adoption decision to those issues that had changed from the original application, or that were issues raising ''significant and substantial new information'' since that earlier opportunity to challenge the FEIS. This makes sense if any of the other issues regarding the FEIS had already had the opportunity to be challenged. Given that presumption, it also explains why the regulations direct the Board to use the higher standards governing a motion to reopen when ruling upon the issues raised regarding adoption of the FEIS—because litigating the FEIS in NRC's administrative proceeding was seen as re-opening the record on an already litigated FEIS.

All that being said, as is often the case, actual events regarding judicial review of environmental issues transpired differently. Instead of the FEIS being used to support the recommendation of Yucca Mountain as a site for a repository, there was a Joint Resolution of Congress approving the Yucca Mountain site designation. This change of events, according to the Federal Court of Appeals decision in *Nuclear Energy Institute, Inc.* v. *Environmental Protection Agency,* 373 F.3d 1251 (D.C. Circuit 2004), rendered any such challenge to the FEIS' support for the Yucca Mountain site moot; and to the extent the NRC may rely upon the FEIS, rendered challenges unripe because the NRC had not reached a decision regarding adopting or relying upon the FEIS in a way that could have yet harmed the parties.

It was part of this discussion that led the NRC and DOE to assure the court that the parties would have an opportunity during NRC's administrative hearing to raise substantive challenges to the FEIS. And it is this assurance from NRC counsel that generated the petition for rulemaking. In essence, the petitioners do not understand how NRC's current regulations can be in accord with the assurance the court relied upon—that parties would have the opportunity at the NRC to substantively challenge the FEIS. Because current NRC regulations limit challenges to NRC's decision about adoption of the FEIS rather than the FEIS itself; and further limit those challenges to require they be based upon significant and substantial new information, it is easy to see how our stakeholders might be confused. Add to that the direction in the current regulations that the Boards are directed to review any challenge to the decision regarding adoption using the standards that govern re-opening a record—which is an intentionally higher bar for review—and there can be little question that the current regulations are confusing in light of the discussion in front of the court and the relied upon assurance that substantive issues regarding the FEIS could, in fact, be raised in NRC proceedings.

For all of these reasons, it appears to me that the best way to transparently resolve the real question presented—the question of what issues surrounding the FEIS can be challenged in a prospective hearing on an application for a construction authorization—is to grant this petition and ensure that the regulations transparently capture precisely how the environmental review will be conducted in NRC's administrative proceeding. The earlier rulemaking was based upon assumptions, but we can now answer the questions with the benefit of knowing now what we did not know then.

I recognize that the timing of the agency's decision on this petition is not ideal because an application for a repository may be submitted before this rulemaking would end. That is especially unfortunate in this particular situation where the petition was filed in 2005. Had we granted this petition at the close of the public comment period in October 2005, we likely would now be voting on the final rule instead of voting on this petition. I am hopeful that the staff's work to improve the rulemaking process will include ways to improve the timeliness of the petition process so we are not in this unfortunate position in the future.

But we are where we are, and with that in mind, I believe the notice that grants the petition for rulemaking should indicate that, if the rulemaking is not resolved prior to the receipt of an application for a repository, the agency intends to interpret the regulations in a manner consistent with the court's decision—as the staff has drafted in the notice accompanying option 2—with some additional clarification. The notice should also explain that section 51.109(c), which indicates that challenges to the NRC's adoption decision are to be based upon ''significant and substantial new information'', will be interpreted in a manner that recognizes, as the court did, that claims regarding DOE's FEIS have not been adjudicated on the merits and thus, would certainly raise ''new considerations'' with regard to any decision to adopt the FEIS. The notice should also make it clear that the current direction in section 51.109(a) that the presiding officer should, to the extent possible, use the criteria for ruling on a motion to reopen in resolving disputes regarding the adoption of the FEIS, is rendered moot. The notice should clearly state that it is not possible to rely upon criteria used for a motion to reopen given the relevant history of this matter where there was no opportunity to originally open these issues. Instead, the contention admissibility should be determined by reliance upon section 2.309(f), the agency's current contention standard.

I appreciate that because these regulations have not yet been interpreted and applied in any proceeding, the agency has more flexibility to interpret them now without recreating them in a new rulemaking—and thus the recommendation for option 2. But this is not a situation where the regulations intent could have been clearer; this is a situation where the interpretation of the regulations will essentially require the agency to exercise great latitude in applying them in a manner consistent with the discussion in court. Transparency should dictate that we, at least, try to correct this situation through the appropriate rulemaking channels regardless of the impacts of the timing of this decision. We should not let the prospect of a potential application complicate what is clearly the right answer. We can and should deal with the possible complications of an intervening application

by providing appropriate guidance should the rulemaking not resolve itself in time. But the two are not mutually exclusive and thus, I support a combination of options 1 and 2—granting the petition and clarifying in the notice the agency's regulatory interpretation of the existing regulations should they be required to be used prior to completion of the rulemaking.

Also, this paper should be reviewed for a release determination and, at a minimum, the voting record and SRM from this paper should be made publicly available five business days after the letter is sent to the petitioner, as is current practice for release of information regarding decisions on rulemaking petitions.

Gregory B. Jaczko.

[FR Doc. E8–1751 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Nos. FAA–2007–0413 and FAA–2007–0414; Directorate Identifiers 2007–NM–341–AD and 2007–NM–340–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440), CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM); correction.

SUMMARY: The FAA is correcting typographical errors in two NPRMs that were published in the **Federal Register** on January 4, 2008 (73 FR 833, and 73 FR 830). The errors resulted in incorrect docket numbers. One NPRM applies to all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The other NPRM applies to all Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. Both actions proposed to require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION: On December 26, 2007, the FAA issued a notice of proposed rulemaking (NPRM) for all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That NPRM, Directorate Identifier 2007–NM–341–AD, was published in the **Federal Register** on January 4, 2008 (73 FR 833).

On December 21, 2007, the FAA issued an NPRM for all Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. That NPRM, Directorate Identifier 2007–NM–340–AD, was published in the **Federal Register** on January 4, 2008 (73 FR 830).

Both actions proposed to require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

As published, those NPRMs specify incorrect docket numbers throughout the preamble and the regulatory text. The docket number associated with NPRM Directorate Identifier 2007–NM–341–AD was FAA–2008–0413, and the docket number associated with NPRM Directorate Identifier 2007–NM–340–AD was FAA–2008–0414. The docket numbers were assigned by the Federal Document Management System. We have been informed that incorrect docket numbers were assigned. The correct docket number for NPRM Directorate Identifier 2007–NM–341–AD is FAA–2007–0413. The correct docket number for NPRM Directorate Identifier 2007–NM–340–AD is FAA–2007–0414.

Any commenter who submitted comments to an original, incorrect docket number should check Docket No. FAA–2007–0413 or FAA–2007–0414 on *www.regulations.gov* to determine whether the comments have been received and filed in the appropriate docket. If not, or if it is not possible to determine whether comments have been posted to the correct docket, the comments should be resubmitted using the correct docket number.

No other part of the preamble or regulatory information has been changed; therefore, the NPRMs are not republished in the **Federal Register**.

The last date for submitting comments to the NPRMs remains February 4, 2008.

Correction

In the **Federal Register** of January 4, 2008, on page 833, in the second column, the headings section of NPRM Docket No. FAA–2008–0413, Directorate Identifier 2007–NM–341–AD, is corrected to read as follows:

''[Docket No. FAA–2007–0413; Directorate Identifier 2007–NM–341–AD]''

In the **Federal Register** of January 4, 2008, on page 833, in the third column, the **SUPPLEMENTARY INFORMATION** section of NPRM Docket No. FAA–2008–0413, Directorate Identifier 2007–NM–341–AD, is corrected to read as follows:

''* * * Include ''Docket No. FAA–2007–0413; Directorate Identifier 2007–NM–341–AD'' at the beginning of your comments. * * *''

In the **Federal Register** of January 4, 2008, on page 830, in the second column, the headings section of NPRM Docket No. FAA–2008–0414, Directorate Identifier 2007–NM–340–AD, is corrected to read as follows:

''[Docket No. FAA–2007–0414; Directorate Identifier 2007–NM–340–AD]''

In the **Federal Register** of January 4, 2008, on page 831, in the first column, the **SUPPLEMENTARY INFORMATION** section of NPRM Docket No. FAA–2008–0414, Directorate Identifier 2007–NM–340–AD, is corrected to read as follows:

''* * * Include ''Docket No. FAA–2007–0414; Directorate Identifier 2007–NM–340–AD'' at the beginning of your comments. * * *''

§ 39.13 [Corrected]

In the **Federal Register** of January 4, 2008, on page 835, in the first column, paragraph 2. of PART 39—AIRWORTHINESS DIRECTIVES of NPRM Docket No. FAA–2008–0413, Directorate Identifier 2007–NM–341–AD is corrected to read as follows:

* * * * *

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2007–0413; Directorate Identifier 2007–NM–341–AD.

* * * * *

In the **Federal Register** of January 4, 2008, on page 832, in the second

column, paragraph 2. of PART 39—AIRWORTHINESS DIRECTIVES of NPRM Docket No. FAA–2008–0414, Directorate Identifier 2007–NM–340–AD is corrected to read as follows:

* * * * *

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2007–0414; Directorate Identifier 2007–NM–340–AD.

* * * * *

Issued in Renton, Washington, on January 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1695 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0107; Directorate Identifier 2007–NM–087–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747 airplanes. This proposed AD would require inspections for scribe lines in affected lap and butt splices, wing-to-body fairing locations, and external repair and cutout reinforcement areas; and related investigative and corrective actions if necessary. This proposed AD results from reports of scribe lines found at lap joints and butt joints, around external doublers and antennas, and at locations where external decals had been cut. We are proposing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin and cause sudden decompression of the airplane.

DATES: We must receive comments on this proposed AD by March 17, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.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 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

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–2008–0107; Directorate Identifier 2007–NM–087–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://www.regulations.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

We have received a report indicating that scribe lines have been found by 8 operators on 15 Model 747 airplanes. Scribe lines were found at lap joints and butt joints, around external doublers and antennas, and at locations where external decals had been cut. Many of the scribe lines appear to have been made when sealant was removed as part of preparation of the airplane for repainting. Although fatigue cracks can develop in the skin at scribe line locations—and have been found on some airplane models, no such cracking has been found on Model 747 airplanes. Such fatigue cracks, if not corrected, could grow large and cause sudden decompression of the airplane.

Related ADs

This proposed AD is similar to two existing ADs. AD 2006–07–12, amendment 39–14539 (71 FR 16211, March 31, 2006), applies to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–19–07, amendment 39–15198 (72 FR 60244, October 24, 2007), applies to all Boeing Model 757–200, –200PF, and –200CB series airplanes. Those ADs require inspections to detect scribe lines in the fuselage skin at certain lap joints, butt joints, external repair doublers, and other areas; and related investigative/corrective actions if necessary. Those actions resulted from reports of fuselage skin cracks adjacent to the skin lap joints on airplanes that had scribe lines.

Relevant Service Information

We have reviewed Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008. The service bulletin describes procedures for exploratory detailed inspections to detect scribe lines in affected lap and butt splices, wing-to-body fairing locations, and external repair and cutout reinforcement areas. The service bulletin specifies removing paint and sealant from affected areas before the initial exploratory inspection. The compliance time for the exploratory inspections is 15,000 or 25,000 total flight cycles (depending on the inspection location), with a grace period between 500 and 1,500 flight cycles depending on the age of the airplane and the location of the inspection.

The service bulletin specifies conditional actions, depending on the size, depth, and location of the damage. These actions include performing eddy current or ultrasonic inspections of the scribe lines to detect cracks, and either repairing scribe lines and cracks or contacting Boeing for repair instructions.

The service bulletin specifies repairing scribe lines before further flight, except when a limited return to service (LRTS) program for qualifying scribe lines would allow return to service for a limited period before scribe lines are repaired. The LRTS program includes repetitive inspections to detect cracks where scribe lines are found. To

qualify for an LRTS program, scribe lines must meet certain criteria based on their depth and location. The service bulletin specifies contacting Boeing for final repair instructions, which would eliminate the need for the repetitive inspections of the LRTS program. The repetitive intervals for the LRTS program range from 250 to 10,000 flight cycles, depending on the depth and location of the scribe lines and the configuration of the airplane.

The service bulletin notes that certain inspections would not be required under the following conditions:

- The airplane had never been stripped or repainted.
- The wing-to-body fairings had never been removed.
- The airplane had never been stripped or repainted under the wing-to-body fairings.
- For each repair, the airplane had never been stripped or repainted since the repair was installed.
- No sealant had been removed except in accordance with the specified sealant removal processes as given in Appendix A of the service bulletin.

The service bulletin specifies submitting the initial inspection results to Boeing. The service bulletin also provides procedures for addressing scribe lines detected before the initial inspection threshold.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed below. This proposed AD would also require sending the results of the exploratory inspections to Boeing.

Difference Between the Proposed AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Clarification of Proposed Requirements Beyond Specified Inspection Areas and Threshold

Although the service bulletin provides procedures for addressing scribe lines that are found outside the inspection areas and before the initial inspection threshold, this proposed AD would not include such requirements.

Interim Action

This proposed AD is considered to be interim action. The inspection reports that would be required by this proposed AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the cracking, and eventually to develop final action to address the unsafe condition. Once final action has been identified, we may consider further rulemaking.

Costs of Compliance

There are about 1,038 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Exploratory inspections	1,020 to 1,140	$80	$81,600 to $91,200	219	$17,870,400 to $19,972,800.
Report	1	80	$80	219	$17,520.

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.

You can find our regulatory evaluation and the estimated costs of compliance 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:

Boeing: Docket No. FAA–2008–0107; Directorate Identifier 2007–NM–087–AD.

Comments Due Date

(a) We must receive comments by March 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SP, and 747SR series airplanes, certificated in any category; as identified in Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008.

Unsafe Condition

(d) This AD results from reports of scribe lines found at lap joints and butt joints, around external doublers and antennas, and at locations where external decals had been cut. We are issuing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin and cause sudden decompression of the airplane.

Compliance

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

Inspection

(f) At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008, except as provided in paragraph (g) of this AD, do detailed exploratory inspections for scribe lines of affected lap and butt splices, wing-to-body fairing locations, and external repair and cutout reinforcement areas, and do all applicable related investigative and corrective actions, by accomplishing all actions specified in the Accomplishment Instructions of the service bulletin, except as provided by paragraph (h) of this AD.

Note 1: The inspection exemptions noted in paragraph 1.E. of Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008, apply to this AD.

Exceptions to Service Bulletin Specifications

(g) Where Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(h) Where Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008, specifies to contact Boeing for appropriate action, accomplish applicable actions before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

Report

(i) At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD: Submit a report of the findings (both positive and negative) of the inspections required by paragraph (f)(1) of this AD. One approved method for reporting is Appendixes B and C as applicable of Boeing Service Bulletin 747–53A2563, Revision 2, dated January 3, 2008. Send the report to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. The report must contain, at a minimum, the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane. 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 contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(j) Actions accomplished before the effective date of this AD according to Boeing Alert Service Bulletin 747–53A2563, dated March 29, 2007, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair or limited return to service (LRTS) plan specified in this AD, if the repair or LRTS plan is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair and LRTS plan must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on January 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1703 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0091; Directorate Identifier 2007–NM–311–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747 airplanes. This proposed AD would require modification of the refuel valve control unit for the reserve fuel tanks. This proposed AD would also require a revision to the FAA-approved maintenance program to incorporate airworthiness limitation (AWL) No. 28–AWL–20 or AWL No. 28–AWL–25, as applicable. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent lightning-induced electrical energy from entering a reserve fuel tank through the refuel valve, which could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 17, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.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 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

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–2008–0091; Directorate Identifier 2007–NM–311–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://www.regulations.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 FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Boeing has found that it is possible for unsafe energy to enter a reserve fuel tank through the refuel valve from induced electrical energy on the unshielded wire during a lightning strike. This condition, if not corrected, could result in a fuel tank explosion and consequent loss of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–28A2291, dated September 27, 2007. The service bulletin describes procedures for modifying the refuel valve control unit for the reserve fuel tanks. The modification includes installing a new angle bracket with two grounding studs, installing bonding ground jumpers between the refuel valve mounting bolts and the grounding studs, and doing a resistance check.

We have also reviewed the Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–13747–CMR, Revision January 2007 (hereafter referred to as ''Document D6–13747–CMR''). (For the purposes of Document D6–13747–CMR, the Model 747SR series airplane is basically a Model 747–100 series airplane with certain modifications to improve fatigue life.) Section D of Document D6–13747–CMR describes new AWLs for fuel tank systems. The AWLs include:

- AWL inspections, which are periodic inspections of certain features for latent failures that could contribute to an ignition source.
- Critical design configuration control limitations (CDCCLs), which are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Section D of Document D6–13747–CMR adds new fuel system AWL No. 28–AWL–20, which is a CDCCL to maintain the design features of the reserve tank fueling valve controller when the fueling valve controller is removed and replaced.

We have also reviewed the Boeing 747–400 Maintenance Planning Data (MPD) Document, D621U400–9, Section 9, Revision 24, dated June 2006 (hereafter referred to as the ''Boeing 747–400 MPD''). Subsection D of the Boeing 747–400 MPD adds new fuel system AWL No. 28–AWL–25, which is a CDCCL to maintain the design features of the reserve tank fueling valve controller when the fueling valve controller is removed and replaced.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require the following actions:

- Modification of the refuel valve control unit for the reserve fuel tanks.
- Revision to the FAA-approved maintenance program to incorporate AWL No. 28–AWL–20, which would require maintaining the design features of the reserve tank fueling valve controller when the fueling valve controller is removed and replaced on Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes.
- Revision to the FAA-approved maintenance program to incorporate

AWL No. 28–AWL–25, which would require maintaining the design features of the reserve tank fueling valve controller when the fueling valve controlled is removed and replaced on Model 747–400, 747–400D, and 747–400F series airplanes.

This proposed AD would also allow accomplishing the revision to the AWLs section of the Instructions for Continued Airworthiness in accordance with later revisions of the MPD as an acceptable method of compliance if they are approved by the Manager, Seattle Aircraft Certification Office, FAA.

Costs of Compliance

We estimate that this proposed AD would affect 300 airplanes of U.S. registry. The following table provides the estimated costs, at an average labor rate of $80 per hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per product	Fleet cost
Modification	Up to 7	Up to $286	Up to $846	Up to $253,800.
Maintenance program revision	1	None	$80	$24,000.

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.

You can find our regulatory evaluation and the estimated costs of compliance 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:

Boeing: Docket No. FAA–2008–0091; Directorate Identifier 2007–NM–311–AD.

Comments Due Date

(a) We must receive comments by March 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–28A2291, dated September 27, 2007.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (h) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent lightning-induced electrical energy from entering a reserve fuel tank through the refuel valve, which could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Modification

(f) Within 60 months after the effective date of this AD, modify the refuel valve control unit for the reserve fuel tanks, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–28A2291, dated September 27, 2007.

Maintenance Program Revision

(g) Concurrently with accomplishing the modification required by paragraph (f) of this AD, revise the FAA-approved maintenance program by incorporating the information specified in paragraphs (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes: Incorporate AWL No. 28–AWL–20 of Section D of the Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–13747–CMR, Revision January 2007, into the FAA-approved maintenance program. Accomplishing the revision in accordance with a later revision of Document D6–13747–CMR is an acceptable method of compliance if the revision is approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(2) For Model 747–400, 747–400D, and 747–400F series airplanes: Incorporate AWL No. 28–AWL–25 of Subsection D of the Boeing 747–400 Maintenance Planning Data (MPD) Document, D621U400–9, Section 9, Revision 24, dated June 2006, into the FAA-approved maintenance program. Accomplishing the revision in accordance with a later revision of the MPD is an acceptable method of compliance if the revision is approved by the Manager, Seattle ACO, FAA.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle ACO, FAA, ATTN: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Issued in Renton, Washington, on January 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1704 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0090; Directorate Identifier 2007–NM–312–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747 airplanes. This proposed AD would require measuring the electrical bond resistance between the motor operated valve (MOV) actuators and airplane structure for the main, center, auxiliary, and horizontal stabilizer fuel tanks as applicable, and corrective action if necessary. This proposed AD would also require a revision to the FAA-approved maintenance program to incorporate airworthiness limitation (AWL) No. 28–AWL–21 or AWL No. 28–AWL–27, as applicable. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent electrical current from flowing through a MOV actuator into a fuel tank, which could create a potential ignition source inside the fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 17, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.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 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

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–2008–0090; Directorate Identifier 2007–NM–312–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://www.regulations.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 FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination

with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Boeing has found that, under specific conditions, it is possible for electrical current to flow through a motor operated valve (MOV) actuator into a fuel tank, which could create a potential ignition source inside the fuel tank. This condition, if not corrected, in combination with flammable fuel vapors could result in a fuel tank explosion and consequent loss of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–28A2292, dated September 14, 2007, for Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. The service bulletin describes procedures for measuring the electrical bond resistance between the MOV actuators and airplane structure for the main, center, and auxiliary fuel tanks, and corrective action if necessary. The corrective action includes reworking the index plate and cleaning the surface of the adapter plate and airplane structure as necessary.

We have also reviewed Boeing Alert Service Bulletin 747–28A2294, dated September 21, 2007, for Model 747–400 series airplanes equipped with an active horizontal stabilizer fuel tank. The service bulletin describes procedures for measuring the electrical bond resistance between the MOV actuators and airplane structure for the horizontal stabilizer fuel tank, and corrective action if necessary. The corrective action includes reworking the index plate and cleaning the surface of the adapter plate and airplane structure as necessary.

We have also reviewed the Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–13747–CMR, Revision January 2007 (hereafter referred to as ''Document D6–13747–CMR''). (For the purposes of Document D6–13747–CMR, the Model 747SR series airplane is basically a Model 747–100 series airplane with certain modifications to improve fatigue life.) Section D of Document D6–13747–CMR describes new AWLs for fuel tank systems. The AWLs include:

- AWL inspections, which are periodic inspections of certain features for latent failures that could contribute to an ignition source.
- Critical design configuration control limitations (CDCCLs), which are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Section D of Document D6–13747–CMR adds new fuel system AWL No. 28–AWL–21, which is a CDCCL to maintain the design features of the MOV actuator.

We have also reviewed the Boeing 747–400 Maintenance Planning Data (MPD) Document, D621U400–9, Section 9, Revision December 2006 R1 (hereafter referred to as the ''Boeing 747–400 MPD''). Subsection D of the Boeing 747–400 MPD adds new fuel system AWL No. 28–AWL–27, which is a CDCCL to maintain the design features of the MOV actuator.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require the following actions:

- Measuring the electrical bond resistance between the MOV actuators and airplane structure for the main, center, auxiliary, and horizontal stabilizer fuel tanks as applicable, and corrective action if necessary.
- Revising the FAA-approved maintenance program to incorporate AWL No. 28–AWL–21, which would require maintaining the design features of the MOV actuator on Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes.
- Revising the FAA-approved maintenance program to incorporate AWL No. 28–AWL–27, which would require maintaining the design features of the MOV actuator on Model 747–400, 747–400D, and 747–400F series airplanes.

Costs of Compliance

We estimate that this proposed AD would affect 300 airplanes of U.S. registry. The following table provides the estimated costs, at an average labor rate of $80 per hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per product	Fleet cost
Measurements	Up to 447	Up to $350	Up to $36,110	Up to $10,833,000.
Maintenance program revision	1	None	$80	$24,000.

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.

You can find our regulatory evaluation and the estimated costs of compliance 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:

Boeing: Docket No. FAA–2008–0090; Directorate Identifier 2007–NM–312–AD.

Comments Due Date

(a) We must receive comments by March 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–28A2292, dated September 14, 2007.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent electrical current from flowing through a motor operated valve (MOV) actuator into a fuel tank, which could create a potential ignition source inside the fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Measurement and Corrective Action

(f) For all airplanes: Within 60 months after the effective date of this AD, measure the electrical bond resistance between the MOV actuators and airplane structure for the main, center, and auxiliary fuel tanks as applicable, and do all the applicable corrective actions, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–28A2292, dated September 14, 2007. The corrective actions must be accomplished before further flight.

(g) For Model 747–400 series airplanes identified in paragraph 1.A of Boeing Alert Service Bulletin 747–28A2294, dated September 21, 2007: Within 60 months after the effective date of this AD, measure the electrical bond resistance between the MOV actuators and airplane structure for the horizontal stabilizer fuel tanks, and do all the applicable corrective actions, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of the service bulletin. The corrective actions must be accomplished before further flight.

Maintenance Program Revision

(h) For Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes: Concurrently with accomplishing the actions required by paragraph (f) of this AD, revise the FAA-approved maintenance program by incorporating AWL No. 28–AWL–21 of Section D of the Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–13747–CMR, Revision January 2007. Accomplishing the revision in accordance with a later revision of Document D6–13747–CMR is an acceptable method of compliance if the revision is approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(i) For Model 747–400, 747–400D, and 747–400F series airplanes: Concurrently with accomplishing the applicable actions required by paragraph (f) and (g) of this AD, revise the FAA-approved maintenance program by incorporating AWL No. 28–AWL–27 of Subsection D of the Boeing 747–400 Maintenance Planning Data (MPD) Document, D621U400–9, Section 9, Revision December 2006 R1. Accomplishing the revision in accordance with a later revision of the MPD is an acceptable method of compliance if the revision is approved by the Manager, Seattle ACO, FAA.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle ACO, FAA, ATTN: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Issued in Renton, Washington, on January 14, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1705 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Directorate Identifier 2000–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes. That action would have required repetitive calibration testing of potentiometers to detect noisy signals, replacement of only those with noisy signals, and reporting results of the

calibration tests of the potentiometers and the readouts of the flight data recorder (FDR) to the airplane manufacturer. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has determined that while a noisy or defective potentiometer may hamper the ability to access certain aircraft data in support of either an accident or incident investigation or just general maintenance activities, there is no direct effect on the aircraft's ability to be operated safely. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, was published in the **Federal Register** as a second supplemental Notice of Proposed Rulemaking (NPRM) on February 1, 2005 (70 FR 5070). The proposed rule would have required repetitive calibration testing of potentiometers to detect noisy signals, replacement of only those with noisy signals, and reporting results of the calibration tests of the potentiometers and the readouts of the flight data recorder (FDR) to the airplane manufacturer. The proposed actions were intended to prevent the potentiometers that provide information on the positions of the primary flight controls to the FDR from transmitting noisy signals or becoming improperly calibrated, resulting in the transmission of incomplete or inaccurate data to the FDR.

Actions That Occurred Since the Second Supplemental NPRM Was Issued

Since the issuance of the second supplemental NPRM, the FAA has determined that while a noisy or defective potentiometer may hamper the ability to access certain aircraft data in support of either an accident or incident investigation or just general maintenance activities, there is no direct effect on the aircraft's ability to be operated safely.

On December 7, 2007, we issued Special Airworthiness Information Bulletin (SAIB) NM–08/10 to recommend calibrating, testing, and replacing certain potentiometers to the ailerons, elevators, and rudder of the subject airplanes, which is part of the manufacturer's recommended maintenance program.

FAA's Conclusions

Upon further consideration, the FAA has determined that no unsafe condition exists. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this second supplemental NPRM constitutes only such action, and does not preclude the agency from issuing another action in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the second supplemental notice of proposed rulemaking, Directorate Identifier 2000–NM–120–AD, published in the **Federal Register** on February 1, 2005 (70 FR 5070), is withdrawn.

Issued in Renton, Washington, on January 15, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–1706 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–29260; Airspace Docket 07–ASO–24]

Proposed Establishment of Class E Airspace; Winona, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Winona, MS. An Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) Runways (RWY) 03–21 has been developed for Winona-Montgomery County Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rule (IFR) operations at Winona-Montgomery County Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP. This action enhances the safety and airspace management of Winona-Montgomery County Airport.

DATES: Comments must be received on or before March 17. 2008.

ADDRESSES: Send comments on this proposal to the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Ave., SE. West Building, Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527. You must identify the docket number FAA–2007–29260; Airspace Docket 07–ASO–24, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.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.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, view 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. Those 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–2007–29260; Airspace Docket No. 07–ASO–24.'' The postcard will be date/time stamped and returned to the commenter. All communications received 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 the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html.* 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 Part 71 of the Code of Federal Regulations (14 CFR Part 71) to establish Class E airspace at Winona, MS. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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 I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it proposes to establish Class E airspace at Winona, MS.

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 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 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO MS E5 Winona, MS [New]

Winona-Montgomery County Airport, MS (Lat. 33°27′54″ N., long. 89°43′48.8″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Winona-Montgomery County Airport.

* * * * *

Issued in College Park, Georgia, on December 14, 2007.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–351 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–29361; Airspace Docket 07–AEA–5]

Proposed Amendment of Class E Airspace; Factoryville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Class E airspace area at Factoryville, PA, to accommodate a new Standard Instrument Approach Procedure (SIAP) that has been developed for Seamans Field. This proposal would enhance the safety and management of IFR operations at Seamans Field, Factoryville, PA.

DATES: Comments must be received on or before March 17, 2008.

ADDRESSES: Send comments on this proposal to the Docket Management Facility, U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., Washington, DC 20590; telephone: 1–800–647–5527. You must identify the docket number FAA–2007–29361; Airspace Docket 07–AEA–5, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.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.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

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. Persons 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–2007–29361/Airspace Docket No. 07–AEA–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received 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 the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html.* Persons interested in being placed on a mailing list for future NPRMs 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 Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace at Factoryville, PA. A new Runway 4 Standard Instrument Approach Procedure (SIAP) has been developed for Seamans Field. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rules (IFR) operations at Seamans Field. This proposal would increase current Class E airspace from a 6.2-mile radius to an 8.2-mile radius of Seamans Field and including the airspace within 5.3 miles each side of the Lake Henry VORTAC 299° radial extending from the 8.2-mile radius of Seamans Field to the VORTAC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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 the Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E Airspace at Factoryville, PA.

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 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 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Factoryville, PA [Amended]

Seamans Field, PA
(Lat. 41°35′22″ N., long. 75°45′22″ W.)
Lake Henry VORTAC
(Lat. 41°28′33″ N., long. 75°28′57″ W.)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Seamans Field and including the airspace within 5.3 miles each side of the Lake Henry VORTAC 299° radial extending from the 8.2-mile radius of Seamans Field to the VORTAC.

* * * * *

Issued in College Park, Georgia, on December 17, 2007.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–350 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–283P]

Schedules of Controlled Substances: Placement of Indiplon Into Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to place the substance indiplon (N-methyl-N-[3-[3-(2-thienylcarbonyl)-pyrazolo[1,5-a]pyrimidin-7-

yl]phenyl]acetamide), including its salts, and all products containing indiplon into schedule IV of the Controlled Substances Act (CSA). This proposed action is based on a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (DHHS) and an evaluation of the relevant data by DEA. This scheduling of indiplon in schedule IV will not be finalized until a New Drug Application (NDA) for an indiplon product is approved by the Food and Drug Administration (FDA). If finalized, this action will impose the regulatory controls and criminal sanctions applicable to schedule IV non-narcotics on those who handle indiplon and products containing indiplon.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before March 3, 2008.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–283'' on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Attention: DEA Federal Register Representative/ ODL, 8701 Morrissette Drive, Springfield, VA 22152. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. However, persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. DEA will accept electronic comments containing MS Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Drug Enforcement Administration's public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION** paragraph.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Note Regarding This Proposed Scheduling Action

In accordance with the provisions of the Controlled Substances Act (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. 556 and 557). Interested persons are invited to submit their comments, objections or requests for a hearing with regard to this proposal. Persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. Requests for a hearing should be made in accordance with 21 CFR 1308.44 and should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the DEA using the address information provided above.

Background

Indiplon acts as an agonist at benzodiazepine sites of the $GABA_A$ receptor-channel complex. It has comparable sedative/hypnotic action to that of the benzodiazepines, diazepam and triazolam, and non-benzodiazepines that bind to the $GABA_A$ complex, such as zolpidem, zaleplon and zopiclone, all of which are controlled as depressants in schedule IV of the CSA. Indiplon has a similar pharmacological profile as these substances in addition to a short plasma half-life and short duration of action. In a human abuse-liability study in individuals with known histories of sedative abuse, oral administration of indiplon (30 mg, 50 mg and 80 mg) produced dose-dependent increases in drug-liking and decreases in psychomotor and cognitive functioning comparable to those produced by the schedule IV benzodiazepine, triazolam. Indiplon is likely to be diverted and abused in the same manner as other schedule IV depressants.

The FDA has received two NDAs for indiplon products, Somposure® and Somposure® MR. These products are currently under review for the treatment of insomnia, as characterized by difficulty in sleep onset or sleep maintenance. Indiplon is a new chemical entity and has not been marketed in the United States or in other countries.

On January 23, 2006, the Assistant Secretary for Health of the DHHS sent the Administrator of the DEA a scientific and medical evaluation and a letter recommending that indiplon be placed into schedule IV of the CSA. Enclosed with the January 23, 2006, letter was a document prepared by the FDA entitled, ''Basis for the Recommendation for Control of Indiplon in Schedule IV of the Controlled Substances Act (CSA).'' The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)).

The factors considered by the Assistant Secretary of Health and DEA with respect to Indiplon were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effects;

(3) The state of current scientific knowledge regarding the drug;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter (21 U.S.C. 811(c)).

Based on the recommendation of the Assistant Secretary for Health, received in accordance with section 201(b) of the Act (21 U.S.C. 811(b)), and the independent review of the available data by the DEA, the Deputy Administrator of the DEA, pursuant to section 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Based on information now available, indiplon has a low potential for abuse relative to the drugs or other substances in schedule III;

(2) Once approved for marketing, indiplon will have a currently accepted medical use in treatment in the United States; and

(3) Abuse of indiplon may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Based on these findings, the Deputy Administrator of the DEA concludes that indiplon, including its salts, and all products containing indiplon, warrant control in schedule IV of the CSA, if and when a NDA for indiplon is approved.

Interested persons are invited to submit their comments, objections or requests for a hearing with regard to this proposal. Requests for a hearing should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Drug Enforcement Administration using the address information provided above. Persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. In the event that comments, objections, or requests for a hearing raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Requirements for Handling Indiplon

If this rule is finalized as proposed, indiplon and all products containing indiplon would be subject to the Controlled Substances Act and the Controlled Substances Import and Export Act regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, dispensing, importing and exporting of a schedule IV controlled substance, including the following:

Registration. Any person who manufactures, distributes, dispenses, imports, exports, engages in research or conducts instructional activities with indiplon, or who desires to manufacture, distribute, dispense, import, export, engage in instructional activities or conduct research with indiplon, would need to register with the DEA to conduct such activities in accordance with part 1301 of Title 21 of the Code of Federal Regulations.

Security. Indiplon would be subject to schedule III-V security requirements and must be manufactured, distributed and stored in accordance with 21 CFR 1301.71, 1301.72(b), (c), and (d), 1301.73, 1301.74, 1301.75(b) and (c), 1301.76, and 1301.77.

Labeling and Packaging. All labels and labeling for commercial containers of indiplon which are distributed on or after finalization of this rule would need to comply with requirements of 21 CFR 1302.03–1302.07.

Inventory. Every registrant required to keep records and who possesses any quantity of indiplon would be required to keep an inventory of all stocks of indiplon on hand pursuant to 21 CFR 1304.03, 1304.04 and 1304.11. Every registrant who desires registration in schedule IV for indiplon would be required to conduct an inventory of all stocks of the substance on hand at the time of registration.

Records. All registrants would be required to keep records pursuant to 21 CFR 1304.03, 1304.04, 1304.05, 1304.21, 1304.22, and 1304.23.

Prescriptions. All prescriptions for indiplon or prescriptions for products containing indiplon would be required to be issued pursuant to 21 CFR 1306.03–1306.06, 1306.21–1306.27.

Importation and Exportation. All importation and exportation of indiplon would need to be in compliance with 21 CFR Part 1312.

Criminal Liability. Any activity with indiplon not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act occurring on or after finalization of this proposed rule would be unlawful.

Regulatory Certifications

Executive Order 12866

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, section 3(d)(1).

Regulatory Flexibility Act

The Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Indiplon products will be prescription drugs used for the treatment of insomnia. Handlers of indiplon often handle other controlled substances which are already subject to the regulatory requirements of the CSA.

Executive Order 12988

This regulation meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by § 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby proposes that 21 CFR part 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.14 is amended by redesignating paragraphs (c)(25) through (c)(51) as (c)(26) through (c)(52) and adding a new paragraph (c)(25) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(25) indiplon (N-methyl-N-[3-[3-(2-thienylcarbonyl)-pyrazolo[1,5-a]pyrimidin-7-yl]phenyl]-acetamide)—2726

* * * * *

Dated: January 22, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–1692 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1139; FRL–8523–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Control of Volatile Organic Compound (VOCs) Emissions From the Kraft Foods Global, Inc.—Richmond Bakery located in Henrico County, VA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia on October 29, 2007. This revision pertains to a federally enforceable state operating permit containing terms and conditions for the control of emissions of volatile organic compounds (VOCs) from the Kraft Foods Global, Inc.—Richmond Bakery located in Henrico County, Virginia. The submittal is for the purpose of meeting the requirements for reasonably available control technology (RACT) in order to implement the maintenance plan for the Richmond 8-hour ozone maintenance area. EPA is proposing to approve the revision to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before March 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–1139, by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2007–1139, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–10139. 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 information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. 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.

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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by e-mail at *shandruk.irene@epa.gov*.

SUPPLEMENTARY INFORMATION: On October 29, 2007, the Commonwealth of Virginia submitted a revision to its State Implementation Plan (SIP) for the control of emissions of VOCs from the Kraft Foods Global, Inc.—Richmond Bakery located in Henrico County, Virginia. The submittal is for the purpose of meeting the requirements for Reasonably Available Control Technology (RACT) in order to implement the maintenance plan for the Richmond 8-hour ozone maintenance area.

I. Background

RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available with the consideration of technological and economic feasibility. When the Richmond area was originally designated as an ozone nonattainment area under the 1-hour standard, it was classified as moderate and thereby had to meet the non-CTG RACT requirements of section 182 of the CAA. As part of the 1-hour ozone attainment plan, one of the sources located in the area identified as being subject to non-CTG RACT was Nabisco Brands (now Kraft Foods). Cookies, crackers, and pretzels are produced at this plant. The sources of VOC emissions at this plant

are proof-room, ovens for baking the dough, and oil treatment facilities.

The Kraft Foods Global, Inc. in Henrico County, Virginia underwent RACT analysis, and a federally-enforceable state operating permit was issued to the facility, which became effective on April 24, 1991. The permit was then submitted to EPA as a SIP revision, and approved into the Commonwealth's SIP on March 6, 1992 (57 FR 8080).

On September 22, 2004, under the new 8-hour ozone standard, the Richmond area was classified as a marginal nonattainment area. On September 20, 2006, the Virginia Department of Environmental Quality (VADEQ) formally submitted a request to redesignate the Richmond area from nonattainment to attainment for the 8-hour ozone NAAQS. On September 25, 2006, the VADEQ submitted a maintenance plan for the Richmond area as a SIP revision to ensure continued attainment. The redesignation request and maintenance plan were approved on June 1, 2007 (72 FR 30485). Section 107(d)(3)(E) of the CAA stipulates that for an area to be redesignated, EPA must approve a maintenance plan that meets the requirements of section 175A. All applicable nonattainment area requirements remain in place. The plan includes a demonstration that emissions will remain within the 2005 levels for a 10-year period by keeping in place key elements of the current federal and state regulatory programs, including case-by-case RACT requirements for the area. Because the Richmond area in which this facility is located has continuously been classified as either a nonattainment or a maintenance area, the RACT requirements remain in effect.

II. Summary of SIP Revision

In 2006, Kraft made modifications to its process that necessitated the following revisions to its RACT permit: (1) Kraft will demonstrate compliance with RACT for oven #1 by testing the catalyst annually to demonstrate that it is functioning properly; and (2) Compliance with the exhaust gas flow through the catalytic oxidizer will be achieved by installing and operating the fan model with a rated capacity no less than 3,500 scfm.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding (§ 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Proposed Action

EPA's review of this material indicates that Virginia has met the requirements for submitting a SIP revision concerning a federally enforceable state operating permit containing terms and conditions for the control of emissions of VOCs from the Kraft bakery in Henrico County, Virginia. This revision request is for the purpose of meeting the requirements for RACT in order to implement the maintenance plan for the Richmond 8-hour ozone maintenance area. EPA is proposing to approve Virginia's SIP revision concerning this state operating permit, which was submitted on October 29, 2007. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional

requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This action proposing approval of Virginia's SIP revision concerning a federally enforceable State operating permit containing terms and conditions for the control of emissions of VOCs from the Kraft Foods Global, Inc.—Richmond Bakery does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: January 23, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–1777 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2007–1171; FRL–8521–7]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Massachusetts has applied to EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Massachusetts. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through an immediate final action.

DATES: Comments must be received on or before March 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2007–1171, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: biscaia.robin@epa.gov.*
- *Fax:* (617) 918–0642, to the attention of Robin Biscaia
- *Mail:* Robin Biscaia, Hazardous Waste Unit, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023
- *Hand Delivery or Courier:* Deliver your comments to: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystem Protection, EPA New England—Region 1, One Congress Street, 11th Floor, (CHW), Boston, MA 02114–2023. Such deliveries are only accepted during the Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

For further information on how to submit comments, please see today's immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023, telephone number: (617) 918–1642; fax number: (617) 918–0642, e-mail address: *biscaia.robin@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing these changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect adverse comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written adverse comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take immediate effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you should do so at this time.

Dated: December 17, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E8–1313 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 6

[FAR Case 2007–008; Docket 2007–0001; Sequence 14]

RIN 9000–AK90

Federal Acquisition Regulation; FAR Case 2007–008, Limiting Length of Noncompetitive Contracts in ''Unusual and Compelling Urgency'' Circumstances

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to limit the length of contracts awarded noncompetitively under unusual and compelling urgency circumstances to the minimum contract period necessary to meet the requirements, and no longer than one year, unless approved by the head of the contracting activity.

DATES: Interested parties should submit comments in writing on or before March 31, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR Case 2007–008 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by inputting ''FAR Case 2007–008'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with FAR Case 2007–008. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''FAR Case 2007–008'' on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4035, ATTN: Diedra Wingate, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2007–008 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, at (202) 501–3775, for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR Case 2007–008.

SUPPLEMENTARY INFORMATION:

A. Background

The Administrator of the Office of Federal Procurement Policy (OFPP) issued a memorandum on enhancing competition in Federal acquisition, dated May 31, 2007, to executive agency chief acquisition officers and senior procurement executives. One of the initiatives identified by the Administrator for strengthening competitive policies was limiting the length of contracts awarded noncompetitively under the authority in FAR Part 6.302–2, unusual and compelling urgency, to the minimum period necessary for meeting the requirements, and no longer than one year unless approved by the head of the contracting activity. This rule implements a contract period limitation under FAR Part 6.302–2.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule addresses internal agency procedures and will benefit small entities by encouraging competition after a one year contract period, except when a longer contract period is properly approved. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Part 6.303–2 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2007–008), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the changes to the FAR do not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*.

List of Subjects in 48 CFR Part 6

Government procurement.

Dated: January 15, 2008.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 6 as set forth below:

PART 6—COMPETITION REQUIREMENTS

1. The authority citation for 48 CFR part 6 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 6.302–2 by adding paragraph (d) to read as follows:

6.302–2 Unusual and compelling urgency.

(d) *Period of Performance*. The total period of performance of a contract awarded using this authority shall not exceed the minimum period necessary for meeting the unusual and compelling urgency requirements, but no longer than one year unless a longer period of performance is approved by the head of the contracting activity. Approval of a longer contract period of performance is in addition to the justification approval of requirements in 6.304.

[FR Doc. E8–1681 Filed 1–30–08; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

[FWS–R9–FHC–2008–0015; 94410–1342–0000–N3]

RIN 1018–AV68

Injurious Wildlife Species; Review of Information Concerning Constrictor Snakes From Python, Boa, and Eunectes genera

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of inquiry.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or We), are reviewing available biological and economic information on constrictor snakes in the *Python, Boa* and *Eunectes* genera for possible addition to the list of injurious wildlife under the Lacey Act. The importation and introduction of constrictor snakes into the natural ecosystems of the United States may

pose a threat to the interests of agriculture, horticulture, forestry; to the health and welfare of human beings; and to the welfare and survival of wildlife and wildlife resources in the United States. An injurious wildlife listing would prohibit the importation into, or transportation between, States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means, without a permit. Permits may be issued for scientific, medical, educational, or zoological purposes. This document seeks comments from the public to aid in determining if a proposed rule is warranted.

DATES: We will accept comments received or postmarked on or before April 30, 2008.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018–AV68, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203.

Instructions: We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Erin Williams, Branch of Invasive Species at (703) 358–2034 or *erin_williams@fws.gov*.

SUPPLEMENTARY INFORMATION: On September 21, 2006, we received a petition from the South Florida Water Management District (SFWMD) requesting that Burmese pythons be considered for inclusion in the injurious wildlife regulations pursuant to the Lacey Act (18 U.S.C. 42). SFWMD is concerned about the number of Burmese pythons found in Florida, particularly in the Everglades National Park. We are looking at obtaining information on constrictor species in the *Python, Boa* and *Eunectes* genera for possible addition to the injurious wildlife list under the Lacey Act.

The regulations contained in 50 CFR part 16 implement the Lacey Act, as amended. Under the terms of the injurious wildlife provisions of the Lacey Act, the Secretary of the Interior is authorized to prohibit the importation and interstate transportation of species designated by the Secretary as injurious. Injurious wildlife are those species, offspring, and eggs that are injurious or potentially injurious to wildlife and wildlife resources, to human beings, and to the interests of forestry, horticulture, or agriculture of the United States. Wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, and reptiles are the only organisms that can be added to the injurious wildlife list. The lists of injurious wildlife are at 50 CFR 16.11–16.15. If the process initiated by this notice results in the addition of a species to the list of injurious wildlife contained in 50 CFR part 16, their importation into or transportation between States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States would be prohibited, except by permit for zoological, educational, medical, or scientific purposes (in accordance with permit regulations at 50 CFR 16.22), or by Federal agencies without a permit solely for their own use.

Public Comments

This notice of inquiry solicits biological, economic, or other data on adding species in the *Python, Boa* and *Eunectes* genera to the list of injurious wildlife. This information, along with other sources of data, will be used to determine if these species are a threat, or potential threat, to those interests of the United States delineated above, and thus warrant addition to the list of injurious reptiles in 50 CFR 16.15.

You may submit your comments and materials concerning this notice of inquiry by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not accept anonymous comments; your comment must include your first and last name, city, State, country, and postal (zip) code. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in addition to the required items specified in the previous paragraph, such as your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this notice of inquiry, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203.

We are soliciting public comments and supporting data to gain additional information and specifically seek comment on the following questions:

(1) What regulations does your State have pertaining to the use, transport, or production of *Python, Boa* and *Eunectes* genera?

(2) How many species in the *Python, Boa* and *Eunectes* genera are currently in production for wholesale or retail sale, and in how many and which States?

(3) How many businesses sell *Python, Boa* or *Eunectes* species?

(4) How many businesses breed *Python, Boa* or *Eunectes* species?

(5) What are the annual sales for *Python, Boa* or *Eunectes* species?

(6) Please provide the number of *Python, Boa* or *Eunectes* species, if any, permitted within each State.

(7) What would it cost to eradicate *Python, Boa* or *Eunectes* individuals or populations, or similar species, if found?

(8) What are the costs of implementing propagation, recovery, and restoration programs for native species that are affected by *Python, Boa* or *Eunectes* species, or similar snake species?

(9) What State-listed species would be impacted by the introduction of *Python, Boa* or *Eunectes* species?

(10) What species have been impacted, and how, by *Python, Boa* or *Eunectes* species?

Dated: January 11, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8–1770 Filed 1–30–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 071105649–8028–01]

RIN 0648–AW22

Marine Mammals: Advanced Notice of Proposed Rulemaking

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

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS is considering proposing changes to its implementing regulations governing the taking of stranded marine mammals under section 109(h), section 112(c), and Title IV of the Marine Mammal Protection Act (MMPA), and is soliciting public comment to better inform the process. The taking of stranded marine mammals and release of rehabilitated marine mammals to the wild is governed by the MMPA and NMFS implementing regulations. NMFS intends to clarify requirements and procedures for responding to stranded marine mammals and for determining the disposition of rehabilitated marine mammals, which includes procedures for the placement of non-releasable animals and for authorizing the retention of releasable rehabilitated marine mammals for scientific research, enhancement, or public display. Any other recommendations received in response to this Advanced Notice of Proposed Rulemaking (ANPR) (see **DATES** and **ADDRESSES**) will be considered prior to proposed rulemaking.

DATES: Written comments must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. local time on March 31, 2008.

ADDRESSES: You may submit comments, identified by ''RIN 0648–AW22,'' by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*;
- Fax: (301) 427–2525, Attn: Stranding Regulations ANPR
- Mail: Chief, Marine Mammal and Sea Turtle Division, Attn: Stranding Regulations ANPR, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13635,

Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Sarah Howlett, Fishery Biologist, Office of Protected Resources, NMFS, at (301) 713–2322, ext. 202.

SUPPLEMENTARY INFORMATION: NMFS has the authority, delegated from the Secretary of Commerce, to take stranded marine mammals under section 109(h) of the MMPA (16 U.S.C. 1379) and to establish and manage the Marine Mammal Health and Stranding Response Program (MMHSRP) under Title IV of the MMPA (16 U.S.C. 1421 *et seq.*). Title IV of the MMPA charges the Secretary of Commerce to develop and maintain a marine mammal health and stranding response program with three goals: (1) Facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild; (2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and (3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 404 of the MMPA.

Under the MMHSRP, NMFS has the authority to: enter into agreements with persons to take marine mammals in response to a stranding (in accordance with section 112(c) of the MMPA); collect information on procedures and practices for rescue and rehabilitation of stranded marine mammals; develop criteria and provide guidance for determining the releasability of a rehabilitated marine mammal to the wild; and collect information on strandings, life history, and reference level data. The National Marine Mammal Stranding Network (Network) is a major component of the MMHSRP. The Network consists of organizations nationwide that respond to stranded cetaceans and pinnipeds (except walrus) on land and within U.S. waters. These organizations are authorized through Stranding Agreements issued by NMFS under section 112(c) of the MMPA or through section 109(h), which authorizes Federal, state, and local government employees to take marine mammals in the course of their official duties. Organizations involved in the Network include academic institutions, museums, government agencies, Native American tribes and Alaska Native communities, non-profit and for-profit organizations, and individuals.

The regulations in 50 CFR 216.22 implement MMPA sections 109(h)(1)(A) and (B); and 109(h)(3) (16 U.S.C. 1379-Federal Cooperation With States) and were last updated in 1991. NMFS is considering updating § 216.22 to be consistent with the 1994 Amendments to the MMPA, and broadening the scope to include other authorized activities including: MMPA sections 109(h)(1)(C) and 109(h)(2) (16 U.S.C. 1379); section 112(c) (16 U.S.C. 1382– Regulations and Administration); section 403 (16 U.S.C. 1421b—Stranding Response Agreements), and possibly other aspects of Title IV—Marine Mammal Health and Stranding Response, of the MMPA (16 U.S.C. 1421). The regulations in 50 CFR 216.27 implement MMPA section 402(a) (16 U.S.C. 1421a—Determination; Data Collection and Dissemination) and were last updated in 1996. NMFS is considering updating § 216.27 to clarify procedures and requirements for: rehabilitated marine mammal release determinations, which are defined in the draft *Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation, and Release* (Policies and Best Practices), disposition of non-releasable animals; data and sample collection; euthanasia of stranded marine mammals; and public viewing of marine mammals in rehabilitation.

The MMHSRP is currently undergoing a programmatic National Environmental Policy Act review, which includes the finalization and issuance of the Policies and Best Practices. The notice of availability for the Draft Programmatic Environmental Impact Statement (PEIS) was published in the **Federal Register** on March 16, 2007 (72 FR 12610). The Draft PEIS, Policies and Best Practices, and other supporting documents are available on the MMHSRP website: *http://www.nmfs.noaa.gov/pr/health/eis.htm*. The Final PEIS is anticipated in early 2008.

The following paragraphs contain potential regulatory changes being considered by NMFS. The regulatory sections under consideration can be found at 50 CFR 216.3, 216.22, 216.26, and 216.27. The specific parts and subparts are identified below and are either followed by recommendations

from NMFS on possible alternatives or changes to the current language, or a general solicitation by NMFS for public comments pertaining to that section.

In § 216.3, a number of new terms have been introduced into the implementing guidelines, protocols, and policies, and terms may currently be used differently than when they were first defined. New definitions may need to be included or current definitions may need to be revised in order to reflect these changes. For example, the definition of a ''stranded marine mammal'' may be clarified or expanded. Are there existing definitions relevant to marine mammal strandings that need clarification or expansion? Are there any new definitions pertaining to stranded marine mammals that need to be added to these regulations?

In § 216.22 (a), we are considering expanding this paragraph to include all persons authorized to respond to stranded marine mammals, including Federal, state, and local government employees (government employees) (MMPA section 109(h)(1)) and any non-governmental persons designated under MMPA section 112(c). Should regulations for government employees and 112(c) designated responders be combined in the same section or in separate sections? Should all stranding responders, regardless of whether they are a government employee or a designated responder (authorized by a Stranding Agreement), be required to follow the same procedures for taking stranded marine mammals, including following the same animal handling and treatment, data collection, and reporting requirements? If so, should these regulations provide specific policies or procedures that government employees must follow and specify what these government stranding responders operating under section 109(h) of the MMPA should and should not do, similar to those established in Stranding Agreements for responders designated under MMPA section 112(c)?

NMFS may also clarify that ''taking'' includes euthanasia, as specified in MMPA section 109(h)(1), and add paragraph § 216.22(a)(4) to further address euthanasia. NMFS proposes to list acceptable humane methods of euthanasia in the regulations, as defined in the draft Policies and Best Practices. Should euthanasia methods be part of NMFS policy and referred to in regulations or should they be specifically included in regulations? Should NMFS add criteria regarding qualifications necessary to obtain authorization to perform euthanasia of a stranded marine mammal and criteria for the use of firearms to accomplish euthanasia? Any recommendations on the subject of euthanasia will be considered.

In § 216.22(a)(3), NMFS is planning to publish the minimum requirements for stranding responders, defined in the Policies and Best Practices, including: (1) criteria for receiving designation under MMPA section 112(c); (2) criteria for maintaining good standing under section 112(c) designation; (3) standards for maintaining marine mammals in rehabilitation; (4) data collection required under MMPA sections 402(b)(3) (stranding information by NMFS region), 402(b)(4) (other life history and reference level data), and 402(c) (availability of collected stranding data and information); and (5) carcass disposal (acceptable methods and protocols; Federal, state, and local environmental laws and jurisdiction; private land owner considerations, etc.). NMFS may also add provisions for taking and transporting samples from live stranded animals for diagnostic analysis and/or archiving, and criteria and procedures for revoking MMPA section 112(c) agreements.

In § 216.22(b), NMFS may also change the reporting requirements (i.e., information required and frequency of reporting) for government officials and employees to be the same as the reporting requirements for stranding network participants designated under MMPA section 112(c). Section 112(c) agreement holders are required to submit Level A data within 30 days of a stranding event per their Stranding Agreement; NMFS proposes to include this as a regulatory requirement. Level A data includes, but is not limited to, location information, animal disposition, morphological data, whether or not the animal was necropsied, and carcass/specimen disposition. The complete required Level A data can be found on the following website: *http://www.nmfs.noaa.gov/pr/pdfs/health/levela.pdf*. Given the increased number of disease outbreaks observed in marine mammals that have population level effects and the potential for transmission of diseases from marine mammals to humans, NMFS is proposing to incorporate language in this paragraph to require disease reporting or sample submission for specific diseases from all stranding responders (those designated under MMPA sections 109(h) and 112(c)).

In § 216.22 (c), NMFS is considering deleting the word ''salvage'' and utilizing a term relevant to taking samples from both live and dead stranded animals.

In § 216.22(c)(1), NMFS is considering expanding the purposes of sample collection to include diagnostic purposes, in addition to research, curation, and educational purposes.

In § 216.22(c)(2), NMFS intends to expand the scope of this paragraph to include live animals and modify reporting requirements, including Level A data collection and submission. Is the 30–day reporting requirement and information required adequate? Should special reporting provisions for die-off or disease outbreak events be required?

In § 216.22(c)(3), NMFS recognizes a significant need for a standard method of identifying an animal so that each animal is recorded only once (to avoid ''double-counting'') and so that NMFS can ensure that parts and samples will be traced back to the original stranding (or other legal take) for scientific, diagnostic, and management purposes. NMFS intends to develop a specific numbering system that allows responders to assign a unique number in the field which would be used in the Marine Mammal National Database. This numbering system would not replace organizational/institutional numbering systems, but may require responders to add a field to their databases.

In § 216.22(c)(4), Is it acceptable, for example, to use marine mammal tissues in research to develop a commercial vaccine that can be sold, where the vaccine itself is not composed in part or whole of any marine mammal? NMFS intends to clarify the language regarding reimbursement from recipients for services and transportation costs associated with transferring stranded animal samples or parts.

In § 216.22(c)(5), NMFS is considering combining regulations governing the transfer of parts taken under this paragraph with § 216.37 Marine Mammal Parts (May 10, 1996; 61 FR 21937) and having one section of the regulations covering transfers of any marine mammal part legally taken (during scientific research, subsistence harvest, stranding, etc.). NMFS is also considering establishing criteria under which cell cultures and cell lines of tissues collected from stranded marine mammals may be developed, used, or transferred for research, diagnostic, treatment, or archival purposes.

In § 216.22(c)(7), NMFS is proposing to include a provision for allowing Regional Administrators and Office Directors, as well as the Assistant Administrator, to authorize export and re-import of stranded animal parts for diagnostic testing, research, education, and curatorial purposes under these regulations, and combine this paragraph

with parts transfer procedures under § 216.37.

§ 216.22(c)(8), Are there any other exceptions that should be considered (e.g., transferring carcasses for necropsy training workshops)?

§ 216.26, NMFS intends to clarify the scope and procedures within this paragraph, including whether they apply to ESA-listed species and/or how to properly manage parts from endangered species under these circumstances. Should NMFS consolidate § 216.26 with other parts sections to simplify the information and procedures? Is there any other clarification required in this section, such as whether this section would be applicable to a hard part with soft tissue still attached?

In § 216.27, in paragraph (a) Release requirements, NMFS intends to publish regulatory requirements and/or standards for releasing rehabilitated marine mammals to the wild based on the draft Policies and Best Practices. Do any of the administrative procedures need to be clarified or modified, and if so, in what way? NMFS proposes these regulatory requirements to include a standardized health certificate for rehabilitated marine mammals to be completed prior to their release to the wild and retention of these records. What are the necessary components of this health certificate and the appropriate retention time for records?

In § 216.27(b), NMFS may clarify the procedures for making a non-releasable or postponed release determination and provide further guidance on procedures in paragraphs (b)(3)(i) and (ii) regarding making a request to retain or transfer custody of a non-releasable marine mammal, and when euthanasia is appropriate. Any comments on these sections would be appreciated.

In § 216.27(c), NMFS may develop a standardized method for making disposition decisions, including procedures for the placement of non-releasable animals for public display, research, or enhancement purposes and for informing facilities of the availability of non-releasable marine mammals. How should facilities be notified of the availability of non-releasable animals? How should NMFS determine the placement of marine mammals? This would include decisions on which facility receives the animal and what purpose the animal would be used for (scientific research or public display). Should NMFS have standard criteria to use to determine where to place an animal (e.g., pool size, availability of suitable conspecifics, distance of transport, etc.)? How much flexibility is necessary for these criteria? NMFS may clarify this paragraph to state that a special exemption permit is required to retain a stranded marine mammal that was determined to be releasable to the wild following rehabilitation for scientific research, enhancement, or public display. Any recommendations on how these processes should be implemented and what concerns there are associated with disposition determinations would be appreciated.

In § 216.27(c)(5), Should marine mammals undergoing rehabilitation or pending disposition determination be subject to public viewing? If not, provide justification. If so, under what circumstances and why? And, if so, does NMFS need to clarify the definition of public viewing for animals undergoing rehabilitation to differentiate this from permanently captive animals on public display? Would public viewing of rehabilitating marine mammals have an effect on their chances for survival post-release? NMFS understands the significant public interest in animals undergoing rehabilitation, however public access to sick or injured animals does carry some risks to the animals and public health. NMFS proposes to provide guidelines or regulations on public access to marine mammals undergoing rehabilitation. What should NMFS include in these guidelines or regulations and how should they be implemented?

In § 216.27(c)(6), Does NMFS need to further define or clarify what activities would qualify as intrusive research on a marine mammal undergoing rehabilitation, based on the definition in § 216.3, or qualify the procedures for making this determination for animals undergoing rehabilitation? Should NMFS require Institutional Animal Care and Use Committee (IACUC) review before intrusive research occurs on animals in rehabilitation?

Public Involvement

NMFS invites the public to submit written comments (see DATES and **ADDRESSES**) on the current regulations, recommended changes to the current regulations and any relevant issues pertaining to stranding response activities for consideration during the future proposed rulemaking. Be as specific as possible when providing draft language. NMFS does not intend to convene public meetings associated with this ANPR. Comments and recommendations received in response to this ANPR will be reviewed as part of a proposed rulemaking, which may be the next step in this regulatory process.

Dated: January 24, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–1666 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 73, No. 21

Thursday, January 31, 2008

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–LS–07–0131]

United States Standards for Livestock and Meat Marketing Claims, Naturally Raised Claim for Livestock and the Meat and Meat Products Derived From Such Livestock

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and Extension of the Comment Period.

SUMMARY: The Agricultural Marketing Service (AMS) is reopening and extending the comment period for the proposed voluntary standard for a naturally raised marketing claim that was published in the **Federal Register** on November 28, 2007 (72 FR 67266).

DATES: Comments must be received by March 3, 2008 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments should be submitted through the Web site at *http://www.regulations.gov.* Send written comments to: Naturally Raised Marketing Claim, Room 2607–S, AMS, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–0254, or by facsimile to (202) 720–1112. All comments should reference the docket number. Comments received will be posted on the Web site at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martin E. O'Connor, Chief, Standards, Analysis, and Technology Branch, Livestock and Seed Program, AMS, USDA, Room 2607–S, 1400 Independence Avenue, SW., Washington, DC 20250–0254; facsimile: (202) 720–1112; telephone: (202) 720–4486; or e-mail: *Martin.OConnor@usda.gov.* Additional information can also be found by accessing the Web site at *http://www.ams.usda.gov/lsg/stand/naturalclaim.htm.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622), directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' USDA is committed to carrying out this authority in a manner that facilitates the marketing of agricultural products. One way of achieving this objective is through the development and maintenance of voluntary standards by AMS. AMS is seeking comments on a proposed voluntary U.S. Standard for Livestock and Meat Marketing Claims, Naturally Raised Claim for Livestock and the Meat and Meat Products Derived from such Livestock, in accordance with procedures that are contained in Title 7 Part 36 of the Code of Federal Regulations.

On November 28, 2007, AMS published a notice (72 FR 67266) with request for comments for the proposed voluntary standard for a naturally raised marketing claim. The comment period closed on January 28, 2008. However, a number of interested producers, processors, and marketers have requested additional time to evaluate the full impact of the requirements of the proposed standard in order to provide more meaningful and substantive comments. Therefore, AMS has determined that there is sufficient justification to reopen and extend the comment period.

Authority: 7 U.S.C. 1621–1627.

Dated: January 25, 2008.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. E8–1722 Filed 1–30–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

San Juan National Forest; Columbine Ranger District; Colorado; Hermosa Landscape Grazing Analysis; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement; correction.

SUMMARY: The San Juan National Forest published a document in the **Federal Register** of January 17, 2008, giving notice of intent to prepare an Environmental Impact Statement. The document contained incorrect location information in the Summary.

FOR FURTHER INFORMATION CONTACT: Cam Hooley, 970–884–1414, *chooley@fs.fed.us.*

Correction

In the **Federal Register** of January 17, 2008, in FR Doc. E8–749, on page 3234, in the third column, correct the ''Summary'' caption to read:

SUMMARY: The San Juan National Forest proposes to continue to authorize livestock grazing on all or portions of the Hermosa Landscape in a manner that moves resource conditions toward desired on-the-ground conditions and is consistent with Forest Plan standards and guidelines. The analysis area encompasses approximately 122,000 acres on three active cattle allotments (Elbert Creek, Dutch Creek, and Upper Hermosa) and four vacant cattle allotments (Cascade, Forebay, Hope Creek, and South Fork). The area is located north of Durango, Colorado, in San Juan and La Plata Counties, in Townships 37–40 North, Ranges 8–11 West, N.M.P.M. and is within the Columbine Ranger District, San Juan National Forest, Colorado.

The proposed action is designed to increase the flexibility of livestock grazing systems through adaptive management, which will allow quicker and more effective response to problems areas when they are revealed. Problems will be revealed through the use of short and long term monitoring. Application of adaptive management practices should result in healthier soil, watershed, and vegetative conditions.

Dated: January 25, 2008.

Pauline E. Ellis,

District Ranger/Field Office Manager.

[FR Doc. E8–1728 Filed 1–30–08; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting and briefing.

DATE AND TIME: Friday, February 8; 9 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Rm. 540, Washington, DC 20425.

Meeting Agenda

I. Approval of Agenda
II. Approval of Minutes of January 11 Meeting
III. Management and Operations
- Transition Issues

IV. Adjourn Meeting

Briefing Agenda

Topic: Religious Discrimination in Prisons

I. Introductory Remarks by Chairman
II. Speakers' Presentations
III. Questions by Commissioners and Staff Director
IV. Adjourn Briefing

CONTACT PERSON FOR FURTHER INFORMATION: Sock-Foon MacDougall, Acting Chief, Public Affairs Unit (202) 376–8582.

Dated: January 29, 2008.

David Blackwood,

General Counsel.

[FR Doc. 08–461 Filed 1–29–08; 2:27 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

[Docket No. 080123079–8081–01]

RIN 0648–XF35

Notice of Funding Availability for Postsecondary Internship Program

AGENCY: Office of Human Resources Management, U.S. Department of Commerce.

ACTION: Notice and request for proposals.

SUMMARY: The Department of Commerce (DOC) established a postsecondary internship program to aid and promote experiential training activities which foster future employment opportunities within DOC and the Federal Government in general. United States citizens enrolled as students in post-secondary accredited educational institutions, i.e., community college, undergraduate, graduate, post-graduate, and professional institutions will participate in onsite work experiences in DOC bureaus and offices in order to: integrate academic theory and workplace requirements, gain relevant skills and knowledge, explore federal career options, develop professional networks, and develop a greater awareness of the role of federal agencies. The program will be administered through a partnership between DOC and nonprofit and/or educational institution(s) of higher education and funded by cooperative agreement(s).

The DOC will serve as host for the student interns and provide program support through the financial assistance award. There will be no employer-employee relationship between DOC and its hosted interns. The nonprofit and/or educational institution will be the supervisor of record for the intern and shall control the means and manner of the interns' activities. This notice solicits proposals from eligible institutions that desire to collaborate with the DOC on this initiative.

DATES: Proposals must be received through Grants.gov no later than 5 p.m. Eastern Standard Time, March 3, 2008. If applicants submit through surface mail, proposals must be received no later than 5 p.m. EST, March 3, 2008. For proposals submitted through Grants.gov, a date and time receipt indication by Grants.gov will be the basis of determining timeliness. Hard copy applications delivered by mail will be date and time stamped when they are received. Applications received after that time will not be reviewed or considered. Applications or portions of applications will not be accepted by email or via facsimile.

FOR FURTHER INFORMATION CONTACT: For a copy of the Federal Funding Opportunity (FFO) announcement for this request for proposals, please note the website below listed under ''Electronic Access.'' For a paper copy of the FFO, announcement contact Adam Santo, U.S. Department of Commerce, Office of Human Resources Management, 1401 Constitution Avenue, NW., Room 5204, Washington DC 20230, or via e-Mail at *asanto@doc.gov*, or via telephone at (202) 482–4286.

SUPPLEMENTARY INFORMATION:

Electronic Access: Applicants are advised to carefully read the FFO announcement for a detailed description of program information and application requirements. The FFO for the Postsecondary Internship Program is available via the Internet at: *http://www.grants.gov*.

Funding Availability: Projections based upon previous experience indicate an average availability of between $300,000–$1,000,000 to support from 25 up to about 100 interns. However, the exact level of funding available is not yet known until DOC and other agency host offices project their participation levels. Actual awards may differ from these estimates. Funding for the program listed in this notice is contingent upon the availability of Fiscal year 2008 appropriations under the Consolidated Appropriations Act, 2008 (Pub. L. 110–161).

Statutory Authority: Authority for the Postsecondary Internship Program is provided by 5 U.S.C. 7201, which requires that each Executive agency conduct a continuing program for the recruitment of members of minorities to address under representation of minorities in various categories of federal employment. Executive Order 13256 provides for Executive departments to enter into, among other things, cooperative agreements with Historically Black Colleges and Universities (HBCUs) to further the goals of the Executive Order, principally that of strengthening the capacity of HBCUs to provide quality education, and to increase opportunities to participate in and benefit from federal programs. Executive Order 13230 calls for increasing opportunities for Hispanic Americans to participate in and benefit from federal education programs. Executive Order 13270 helps ensure that greater federal resources are available to the tribal colleges. Executive Order 13216 directs federal agencies to increase participation of Asian and Pacific Islanders in federal programs. Applications will be accepted from any eligible institution, and applications for internships shall be accepted from all students meeting program eligibility criteria. Application, referral and selection processes shall be conducted without any consideration of race, ethnicity, gender, or other personal factors.

Catalog of Federal Domestic Assistance: 11.702–Internship Program for Postsecondary Students

Eligibility: Accredited universities, colleges and nonprofit organizations are eligible to apply. Eligible institutions may form joint ventures to submit a joint application to share costs and administration roles and

responsibilities. In such cases, one of the institutions must be designated as the lead organization for purposes of receipt and overall accountability for any financial assistance award received under this program.

Cost Sharing or Matching Requirement: Cost sharing or matching is not required for the internship program.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Evaluation and Selection Procedures: Prior to the formal paneling process, each application will receive an initial screening to ensure that all required forms, signatures and documentation are present. Each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted. The Independent Review Panel, consisting of at least three individuals (who are federal employees), will review all applications based on the criteria stated above. The Independent Review Panel will evaluate and rank the proposals. Each reviewer will evaluate and provide a score for each proposal. After all proposals are assigned a score, each proposal will be ranked according to the average total score given by reviewers. The final decision on awards will be based upon the proposal ranking, availability of funding, and the Selecting Official's (DOC Program Manager) determination of which proposals best meet the objectives of the program, specifically related to ensuring who will best reach the targeted audience of intern candidates. The amount of funds awarded to each recipient will be determined in pre-award negotiations between the applicant, the Grants Officer, and the DOC Program Manager.

Evaluation Criteria (total 100 points, plus 5 bonus points): The evaluation criteria and weighting of the criteria are as follows:

1. Quality of Program Plan (45 total points). Includes quality of strategy for outreach, recruitment, and publicity; procedures for collecting and evaluating applications; comprehensiveness of program design to include plans for onsite orientation for summer sessions; other program activities; and practicality of approach. This criterion is broken down into the following sub-criteria:

(1a.) Recruitment (20 points). DOC internship positions will require academic studies in the diverse fields of business, math, science and engineering. Recruitment must be conducted so that students who have the required academic background are identified for the program. Applications should be solicited from a broad range of students who meet defined program criteria such as U.S. citizenship, Grade Point Average (GPA) and academic standing.

(1b.) Outreach and Publicity (15 points). Must be conducted so that women and minorities that are underrepresented in the DOC are included in the target groups. Publicity should be conducted to inform academic institutions and students about upcoming program opportunities. Participation in the program must be open to all eligible students without regard to age, race, ethnicity, gender, or other pertinent factors.

(1c.) Other Program Activities (10 points). Includes procedures for collecting and evaluating applications, comprehensiveness of program design to include plans for onsite orientation for summer sessions, and other required program activities described in Section I.B of this FFO.

2. Proposed Costs (20 points). The proposed budget must be comprehensive and should include all costs for program personnel, fringe benefits, travel, equipment, supplies, and other associated items. The stipend level and other benefits (i.e., housing, local transportation, etc.) proposed for students should be stated in the budget and the budget narrative. Proposals should be based upon the cost of administering a summer program for 25 student interns and should include a per capita cost for additional interns. Proposals for a semester or quarter session (spring and fall) should be projected on the basis of 5 interns, and should include a per capita cost for additional interns. Actual awards may differ from these estimates.

3. Key Personnel Qualifications (15 points). This includes an assessment of the number, qualifications, and proposed roles of staff who will administer the internship program. Resumes of proposed personnel will facilitate the evaluation of the competency and experience of the proposed staff.

4. Capabilities of the Applicant Organization (20 points). This considers, among other things, previous experience and success administering similar programs, and staff and resources to assure adequate development, supervision, and execution of the proposed program. Additionally, an organization's commitment to educate/advance the education of women and minorities will be a consideration in evaluating this factor.

5. Bonus criteria: Accredited universities, colleges and nonprofit organizations that form joint ventures to increase the diversity of their talent pool and submit a joint application to share costs and administration roles and responsibilities will receive five (5) bonus points to their score.

Limitation of Liability: In no event will the DOC be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. Publication of this announcement does not oblige the DOC to award any specific project or to obligate any available funds.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this notice.

Paperwork Reduction Act: This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866: This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act: Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore,

a regulatory flexibility analysis has not been prepared.

Dated: January 25, 2008.

Deborah A. Jefferson,

Director for Human Resources Management, Department of Commerce.

[FR Doc. E8–1659 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–BS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–888

Floor–standing, Metal–top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Notice of Extension of Time Limit for Final Results of Second Antidumping Administrative Review

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

EFFECTIVE DATE: January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Bobby Wong, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0409.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2007, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of this antidumping administrative review. *Floor–Standing, Metal–Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 51781 (September 11, 2007). On December 28, 2007, the Department extended the deadline for these results by 23 days. *Floor–standing, Metal–top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Notice of Extension of Time Limit for Final Results of Second Antidumping Administrative Review*, 72 FR 73758 (December 28, 2007). The period of review for this administrative review is August 1, 2005, to July 31, 2006.

Extension of Time Limits for Final Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and section 351.213(h)(1) of the Department's regulations, the Department shall issue the preliminary results of an administrative review within 245 days after the last day of the Error! Main Document Only.anniversary month of the date of publication of the order. The Act further provides that the Department shall issue the final results of review within 120 days after the date on which the notice of the preliminary results was published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245–day period to 365 days and the 120–day period to 180 days.

In the instant review, the Department finds that the current deadline for the final results of February 1, 2008, is not practicable. The Department requires additional time to conduct surrogate value research and review and analyze interested party comments. As a result, the Department has determined to extend the current time limits of this administrative review by an additional 37 days. Since a 37–day extension would result in the deadline for the final results falling on March 9, 2008, which is a Sunday, the new deadline for the final results will be the next business day, March 10, 2008. *Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

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

Dated: January 24, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–1800 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–549–813

Canned Pineapple Fruit from Thailand: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On August 8, 2007, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand. *See Canned Pineapple Fruit from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 44490 (August 8, 2007) (*Preliminary Results*). This review covers shipments of subject merchandise to the United States for the period July 1, 2005 through June 30, 2006, made by Vita Food Factory (1989) Ltd. (Vita) and Tropical Food Industries Co. Ltd. (Trofco).

The Department determines that Vita and Trofco made sales to the U.S. at less than normal value. The final results are listed below in the section titled ''Final Results of Review''.

EFFECTIVE DATE: January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3782 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2007, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on CPF from Thailand. *See Preliminary Results*. We conducted a sales and cost verification of Vita from September 17 through September 25, 2007. *See Verification of the U.S. and Comparison Market Sales Information and the Cost Information in the Response of Vita Food Factory (1989) Co., Ltd. for the 2005–06 Administrative Review of Canned Pineapple Fruit (CPF) from Thailand*, issued on November 30, 2007 (*Vita Verification Report*). Furthermore, we conducted a sales verification of Trofco on September 26 through September 28, 2007. *See Verification of the U.S. and Comparison Market Sales Information of Tropical Food Industries Co., Ltd. for the 2005–06 Administrative Review of Canned Pineapple Fruit (CPF) from Thailand*, issued on November 30, 2007 (*Trofco Verification Report*). We invited interested parties to comment on the preliminary results and the verification reports. We received no comments.

Scope of the Antidumping Duty Order

The product covered by this order is CPF, defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. CPF is currently classifiable

under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (''HTSUS''). HTSUS 2008.20.0010 covers CPF packed in a sugar–based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (*i.e.*, juice–packed). Although these HTSUS subheadings are provided for convenience and for customs purposes, the written description of the scope is dispositive. There have been no scope rulings for the subject order.

Changes Since the Preliminary Results

Based on our findings at verification, we have made minor adjustments in the methodology that was used in the *Preliminary Results* for Trofco and Vita and accounted for corrections to their reported data.

At verification, Vita provided minor corrections relating to its reported commissions in the comparison market. Moreover, the Department identified additional minor corrections to Vita's reported commissions data. As a result, we have made adjustments to certain comparison market commissions made by Vita. Vita also provided minor corrections to its packing expenses and its direct selling expenses. As a result, we have made adjustments to Vita's packing expenses and direct selling expenses. For a further explanation of these changes, *see Vita Verification Report* at pages 3–4. Furthermore, based on information obtained since the preliminary results of this review, we have determined that Vita's reported commissions are more appropriately treated as discounts for the majority of sales by Vita to the United States. *See Vita Verification Report at page 7; see also the Memorandum to the File, from Douglas Kirby through Dana Mermelstein (Program Manager) re: Analysis of Vita for the Final Results*, dated January 24, 2008, on file in the Central Record Unit, room B–099 of the main Department of Commerce building (CRU).

Trofco also provided minor corrections at verification to its reported packing expenses. As a result, we have revised Trofco's packing expenses. Furthermore, Trofco provided minor corrections to its direct selling expenses for U.S. sales. As a result, we have revised Trofco's direct selling expenses for U.S. sales. *See Trofco Verification Report* at page 2; *see also* the *Memorandum to the File, from Myrna Lobo through Dana Mermelstein (Program Manager) re: Analysis of Trofco for the Final Results*, dated January 24, 2008, on file in the Central Record Unit, room B–099 of the main Department of Commerce building (CRU).

Final Results of Review

As a result of this review, we determine that the following weighted–average dumping margins exist for the period July 1, 2005 through June 30, 2006:

Manufacturer/Exporter	Weighted Average Margin
Vita Food Factory (1989) Ltd.	7.13 percent
Tropical Food Industries Co., Ltd.	10.40 percent

Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, pursuant to section 751(a)(1)(B) of the Tariff Act of 1930 (the Act), and 19 CFR 351.212(b). The Department calculated importer-specific duty assessment rates (or, when the importer was unknown by the respondent, customer–specific duty assessment rates) on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales observations involving each importer to the total entered value of the examined sales observations for that importer. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the ''All Others'' rate if there is no rate for the intermediate company(ies) involved in the transaction. For a discussion of this clarification, *see Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposits

Furthermore, the following deposit requirements will be effective upon publication of these final results of this administrative review for all shipments of canned pineapple fruit from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a) of the Act: (1) for companies covered by this review, the cash deposit rate will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the investigation, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review, a prior review, or in the final determination; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the investigation, the cash deposit rate will be 24.64 percent, the ''all–others'' rate established in the less–than-fair–value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Certificate on Reimbursement

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

Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 24, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–1794 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–922

Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Raw Flexible Magnets from the People's Republic of China

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

EFFECTIVE DATE: January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge or Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482–3518 or (202) 482–0679, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On October 18, 2007, the Department of Commerce (the ''Department'') initiated the antidumping duty investigation of raw flexible magnets from the People's Republic of China. *See Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan*, 72 FR 59071 (July 24, 2007) (''*Initiation Notice*''). The notice of initiation stated that, unless postponed, the Department would make its preliminary determination in these antidumping duty investigations no later than 140 days after the date of the initiation. *See Initiation Notice.*

On January 16, 2008, Magnum Magnetics Corporation (''Petitioner'') made a timely request pursuant to 19 CFR 351.205(e) for a fifty–day postponement of the preliminary determination in this investigation. Petitioner requested postponement of the preliminary determination because of the complexity of the case, the Department's unfamiliarity with the industry, and the difficult time schedule ahead.For the reasons identified by the Petitioner, and because there are no compelling reasons to deny the request, the Department is postponing the preliminary determination under section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the ''Act''), by fifty days from February 29, 2008 to April 19, 2008. However, as that date falls on a Saturday, the preliminary determination will be due no later than the next business day, Monday, April 21, 2008. The deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless extended.

This notice is issued and published pursuant to sections 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: January 24, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–1759 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–859]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Light-Walled Rectangular Pipe and Tube From the Republic of Korea

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

EFFECTIVE DATE: January 31, 2008.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed in the ''Suspension of Liquidation'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from Nexteel Co., Ltd. (Nexteel), we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

FOR FURTHER INFORMATION CONTACT: David Cordell, (Kukje Steel Co., Ltd.), Mark Flessner (Nexteel Co., Ltd.), or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0408, (202) 482–6312, or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2007, the Department initiated the antidumping duty investigation of light-walled rectangular pipe and tube from the Republic of Korea. *See Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from the Republic of Korea, Mexico, Turkey, and the People's Republic of China*, (*Initiation Notice*), 72 FR 40274 (July 24, 2007). The Petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (Petitioners).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments. *See Initiation Notice*, 72 FR 40274, 40275 (July 24, 2007). No party submitted comments on the scope.

On August 28, 2007, the United States International Trade Commission (the Commission) preliminarily determined there is a reasonable indication that imports of light-walled rectangular pipe and tube from Korea, Mexico and Turkey are materially injuring the U.S. industry and notified the Department of its findings. *See Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey*, Investigation Nos. 701–TA–449 and 731–TA–1118–1121 (Preliminary), 72 FR 49310 (August 28, 2007).

Section 777A(c)(1) of the Tariff Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. The Department identified a large number of producers and exporters of light-walled rectangular pipe and tube from the Republic of Korea (Korea) and determined that it was not practicable to examine each known exporter/producer of the subject merchandise, as provided in section 777A(c)(2) of the Tariff Act. The Department sent quantity and value (Q&V) questionnaires to the companies identified in the petition, as well as to other companies identified during our analysis. On July 31, 2007, the Department sent Q&V questionnaires to the following companies: Ahshin Pipe & Tube, Dong-A Steel Pipe Co. Ltd., Han Gyu Rae Steel, Co., Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Kukje Steel Co. (Kukje), Ltd., Miju Steel Mfg. Co. Ltd., Nexteel, SeAH Steel Corporation, Ltd. (SeAH), and Yujin Steel Industry Co.

Ahshin Pipe & Tube mailed its response by first class mail dated August 20, 2007, but that letter was not

submitted as required through our Central Records Unit, did not include a complete response to the Department's Q&V questionnaire or include the required certifications, and was not served on all interested parties. Consequently, the response did not comport with 19 CFR 351.103, 351.302(d)(1), 351.303(f)(2) and 351.303(g), and was returned to Ahshin Pipe & Tube on September 7, 2007.

On August 27, 2007 and September 28, 2007, the Department requested that Han Gyu Rae Steel Co., Ltd., (Han Gyu Rae) resubmit its public version of its response to the Q&V questionnaire which it had submitted on August 17, 2007, because a proper public version was not provided. In its September 28, 2007, letter the Department warned Han Gyu Rae that it may not accept the response as currently filed and that the Department may apply facts available in accordance with section 776 of the Tariff Act, and pursuant to 19 CFR 351.308. The Department received no reply from Han Gyu Rae and thus returned its August 17, 2007, submission on November 9, 2007. Furthermore, the Department did not receive any response at all to either its July 31, 2007, quantity and value questionnaire or its August 16, 2007, follow-up letter from the following companies: Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., and Yujin Steel Industry Co.[1]

Three respondents—SeAH, Kukje and Nexteel—responded to the Department's Q&V questionnaire. Kukje and Nexteel accounted for the largest volume of subject merchandise exported to the United States during the period of investigation (POI). Hence, these two firms were selected as mandatory respondents pursuant to section 777A(c)(2)(1)(B) of the Tariff Act. See the September 5, 2007, Memorandum to Deputy Assistant Secretary Stephen J. Claeys, entitled ''Antidumping Duty Investigation on Light-Walled Rectangular Pipe and Tube from the Republic of Korea (Korea) (A–580–859), Respondent Selection'' (Respondent Selection Memorandum). We issued antidumping questionnaires to Kukje and Nexteel on September 7, 2007.

The Department received the Section A response from Kukje on October 5, 2007, and from Nexteel on October 10, 2007. Petitioners provided comments on Kukje's and Nexteel's Section A responses on October 16, 2007. On October 19, 2007, the Department issued Nexteel a supplemental questionnaire concerning its October 10, 2007, Section A response. On October 22, 2007, Kukje informed the Department that Kukje was unable to respond further to the antidumping questionnaire. We received the Sections B and C responses from Nexteel on October 29, 2007. Nexteel also responded voluntarily to Section D, Cost of Production, in this submission.

On November 9, 2007, Petitioners provided comments on Nexteel's Sections B and C response, and submitted a cost allegation with respect to Nexteel. On November 27, 2007, the Department issued a supplemental questionnaire to Nexteel concerning Nexteel's Sections B and C response, to which Nexteel responded on December 19, 2007.

On December 7, 2007, the Department initiated a cost investigation on Nexteel. *See* memorandum from Mark Flessner, Case Analyst, and Christopher J. Zimpo, Accountant, to Richard O. Weible, Director, Office 7, entitled ''Petitioners'' Allegation of Sales Below the Cost of Production for Nexteel Co. Ltd.,'' dated December 7, 2007 (Cost Allegation Memorandum). On December 21, 2007, the Department issued a supplemental questionnaire to Nexteel concerning Nexteel's Section D response, to which Nexteel responded on January 10, 2008.

On December 26, 2007, petitioners timely filed with the Department an allegation of targeted dumping for Nexteel. Nexteel filed comments regarding petitioners' allegation on January 3, 2008. Upon review of petitioners' allegation, the Department determined that further information was needed in order to adequately analyze petitioners' allegation. The Department issued a supplemental questionnaire to petitioners on January 14, 2008, requesting that they address deficiencies identified by the Department. *See* Letter from Richard O. Weible, Director, Office 7, to Petitioners, dated January 14, 2008. Because there was a need for supplemental information regarding the allegation, we do not have sufficient bases for making a finding of targeted dumping prior to the January 23, 2008, deadline for issuance of the preliminary determination. We intend to address the allegation in full upon receipt of a satisfactory response by Petitioners to our request for additional information.

On October 19, 2007, the Petitioners requested the Department postpone the preliminary determination by 50 days pursuant to 19 CFR 351.205(e). The Department published a notice of postponement on November 14, 2007, which set the new deadline for the preliminary determination at January 23, 2008. *See Light-Walled Rectangular Pipe and Tube from Mexico, Turkey, and the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 72 FR 64044 (November 14, 2007).

Period of Investigation

The POI is April 1, 2006, to March 31, 2007.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Model Match

In accordance with section 771(16) of the Tariff Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Korea during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

On August 16, 2007, the Department asked all parties in the investigation of light-walled rectangular pipe and tube from the Republic of Korea and in the concurrent antidumping duty investigations of light-walled

[1] The Department sent its questionnaires and its follow up letter via an international delivery service. Records show each of the companies in question received and signed for the July 31, 2007, quantity and value questionnaire and the August 16, 2007, follow-up letter.

rectangular pipe and tube from Mexico, Turkey, and the People's Republic of China, for comments on the appropriate product characteristics for defining individual products; parties in this investigation and in the concurrent antidumping duty investigations of light-walled rectangular pipe and tube from Mexico and Turkey were also invited to comment on the appropriate model matching methodology. *See* Letter from Richard Weible, Director, Office 7, dated August 16, 2007. The Department received comments from the Mexican company Perfiles y Herrajes LM on August 23, 2007; from the Mexican companies Productos Laminados de Monterrey S.A. de C.V. and Prolamsa USA, Inc. on August 24, 2007 August 27, 2007 and September 4, 2007; from the Turkish company Noksel Celik Boru Sanayi A.S. on August 24, 2007; from the Chinese producer/exporter Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.; and from the Petitioners on August 24, 2007. The Department did not make any changes to its proposed characteristics and model matching methodology as a result of the comments submitted by parties.

We have relied on six criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: steel input type, whether metallic coated or not, whether painted or not, perimeter, wall thickness and shape. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Use of Facts Otherwise Available

For the reasons discussed below, we determine the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to the following nine companies: Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae, and Kukje. As noted in the Supplementary Information section above, the first six companies failed to respond to the Department's Q&V questionnaire and to the Department's follow up letter of August 16, 2007. Ahshin Pipe & Tube submitted an improper, incomplete, and untimely Q&V questionnaire response that the Department returned; Han Gyu Rae failed to resubmit its August 17, 2007 Q&V response and the Department returned Han Gyu Rae's Q&V submission on November 9, 2007. On October 22, 2007, Kukje informed the Department that it was unable to respond further to the antidumping questionnaire.

Section 776(a)(2) of the Tariff Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in 782(I), the administering authority shall use, subject to section 782(d) of the Tariff Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Tariff Act provides that, if the administering authority determines a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Tariff Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, and Han Gyu Rae all failed to provide necessary information by the deadlines for submission of the information and/or in the form or manner requested. Thus, for these eight companies in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin on facts otherwise available.

Kukje, one of the mandatory respondents, did not provide pertinent information we requested that is necessary to calculate an antidumping margin for the preliminary determination. Specifically, Kukje failed to provide a complete response to our questionnaire, thereby withholding, among other things, home-market and U.S. sales information that is necessary for reaching the applicable determination, pursuant to section 776(a)(2)(A) of the Tariff Act. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin for Kukje on facts otherwise available.

Application of Adverse Inferences for Facts Available

According to section 776(b) of the Tariff Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); *see also Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. *See, e.g., id.* Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (Nippon); *see also Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

Although the Department provided all respondents, including Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje, with notice informing them of the consequences of their failure to respond adequately to the questionnaire in this case, pursuant to section 782(d) of the Tariff Act, the companies listed above did not respond as requested. This constitutes a failure on the part of these companies to cooperate to the best of their ability to comply with a request for information by the Department within the meaning of section 776(b) of the Tariff Act.[2] Based on the above, the

[2] As noted earlier, the Department sent its quantity and value questionnaires and its follow up leeter via an international delivery service and records show that each of the companies in question received and signed for the July 31, 2007,

Department has preliminarily determined that Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje failed to cooperate to the best of their ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g.*, *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Tariff Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c). It is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland,* 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland,* 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje the highest margin alleged in the petition, as referenced in the *Initiation Notice,* of 30.66 percent. *See Initiation Notice* at 40278.

When using facts otherwise available, section 776(c) of the Tariff Act provides that when the Department relies on secondary information (such as the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal.

To ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act,* H.R. Doc. No. 103–316, vol. 1 (1994) at 870 (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–4199. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d).

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination. *See Initiation Checklist.* We examined evidence supporting the calculations in the Petition to determine the probative value of the margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the export price and normal value calculations used in the Petition to derive margins. During our pre-initiation analysis we also examined information from various independent sources provided either in the Petition or in supplements to the Petition that corroborates key elements of the export price and normal value calculations used in the Petition to derive estimated margins.

Specifically, the Petitioners calculated an export price using U.S. price quotes it obtained for light-walled rectangular pipe and tube from Korea. These price quotes identify the price that the first U.S. purchaser unaffiliated with the foreign producer, *i.e.*, the international trader/importer, offered to its customer. The Petitioners also calculated a second export price using the average monthly Customs Unit Values (AUVs) ((Free Alongside Ship) (F.A.S.)) of light-walled rectangular pipe and tube from Korea for consumption in the United States, classified under HTSUS numbers 7306.60.50.00 and 7306.61.50.00, gathered from the Bureau of the Census IM145 import statistics. We then compared the U.S. price quote to the AUVs for this period and confirmed that the value of the U.S. price quote was consistent with the AUV's. Further, we obtained no other information that would make us question the reliability of the pricing information provided in the Petition.

The Petitioners adjusted export prices for international freight and dealer mark-up. The Petitioners used the difference between the F.A.S. and C.I.F. AUVs for imports from Korea to the United States to calculate international freight costs. *See* Petition at page II–10; see also July 6, 2007 Supplement to the Petition at 6. These data are from the U.S. Customs and Border Protection (CBP) and the U.S. Census Bureau, which are sources of information that we consider reliable. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan,* 70 FR 48538, 48540 (August 18, 2005), (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan,* 70 FR 65886 (November 1, 2005)). Further, we obtained no other information that would make us question the reliability of the adjusted information provided in the Petition. The Petitioners estimated the distributor mark-up based on Searing Industries sales personnel's knowledge of importer's mark-ups in the domestic light-walled rectangular tubing industry. The Petitioners provided an affidavit from persons attesting to the validity of the distributor mark-up value the Petitioners used in the calculation of net U.S. price. *See* Initiation Checklist at 9.

Based on our examination of the aforementioned information, we consider the Petitioners' calculation of net U.S. prices corroborated.

With respect to normal value, the Petitioners derived Korean home market prices from a January 2007 edition of the *Korean Metal Journal,* a recognized industry journal; no evidence on the

quantity and value questionnaire and the August 16, 2007, follow-up letter.

record questions the validity of this source. Two series of prices were listed: a ''consumer'' price (based on destination) and a ''wholesale price.'' As a conservative measure, the lower-valued wholesale price was selected; this is more reflective of sales to distributors. Prices were quoted in won per meter and were converted into U.S. dollars using an average dollar weight for the proposed POI. The prices were also converted from meters to hundred-pound-weight (cwt), as cwt is the weight by which the subject merchandise is typically sold in the United States. Petitioners claim the delivery term for the wholesale price is ex-factory as demonstrated by the single price for all regions of the country, whereas consumer prices vary by different regions of the country suggesting the inclusion of freight. Petitioners note the products for which they obtained U.S. prices fall within the product category used for Normal Value (NV) from the *Korean Metal Journal. See* Volume II of the Petition at pages 9–10 and Exhibits II 21–23 and Volume II of the Supplement to the Petition dated July 6, 2007 at pages 1–2 and Exhibit 1.

Based on our examination of the aforementioned information, we consider the Petitioners' calculation of net home market prices corroborated.

We also examined information obtained from interested parties to corroborate the home market and U.S. prices. Margin percentages calculated for Nexteel exceeded those from the Petition.

Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the Petition by examining source documents, publicly available information, and primary information submitted by respondent Nexteel, we preliminarily determine that the margins in the Petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as ''best information available'' (the predecessor to ''facts available'') because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In *American Silicon Technologies* v. *United States,* 273 F. Supp. 2d 1342, 1346 (CIT 2003), the court affirmed Commerce's adverse facts-available rate, noting that it bore a ''rational relationship'' to the respondent's ''commercial practices,'' and was, therefore, relevant. As described above, in the pre-initiation stage of this investigation, we confirmed the calculation of margins in the Petition reflects commercial practices of the particular industry during the period of investigation. Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we preliminarily determine the highest margin in the Petition, which we determined during our pre-initiation analysis was based on adequate and accurate information and which we have corroborated for purposes of this preliminary determination, is relevant as the adverse facts-available rate for Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review,* 71 FR 53405, 53407 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review,* 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving these companies, there are no probative alternatives. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determined to be relevant to Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje in this investigation, we have corroborated the adverse facts-available rate ''to the extent practicable.'' See section 776(c) of the Tariff Act, 19 CFR 351.308(d), and *NSK Ltd.* v. *United States,* 346 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, ''pursuant to the 'to the extent practicable' language * * * the corroboration requirement itself is not mandatory when not feasible''). Therefore, we find that the estimated margin of 30.66 percent in the *Initiation Notice* has probative value. Consequently, in selecting AFA with respect to Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje, we have applied the margin rate of 30.66 percent, the highest estimated dumping margin set forth in the notice of initiation. *See Initiation Notice,* 72 FR at 40278.

Date of Sale

Section 351.401(i) of the Department's regulations states the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulations further provide that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(I). The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand,* 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany,* 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil,* 64 FR 38756, 38767 (July 19, 1999). Nexteel maintains the quantity is fixed on the date of shipment from its factory but that the price is only finalized when Nexteel issues the commercial and tax invoices. The issuance of commercial and tax invoices is frequently after shipment, but was not before shipment for any POI sales in both the home and U.S. markets. Therefore, Nexteel has reported the date of shipment from its factory as the date of sale under the field SALEDATH. See Nexteel's Section B response dated October 29, 2007, at pages B–14 to B–15. However, since the material terms of sale are not finalized until issuance of the commercial invoice, we have preliminarily determined to use date of invoice as the date of sale in both the home and U.S. markets. *See* Nexteel's supplemental Section B response dated December 26, 2007, at pages 17 to 18.

Fair Value Comparisons

To determine whether sales of subject merchandise from Korea were made in the United States at less than NV, we compared the export price (EP) to the NV, as described in the *U.S. Price* and *Normal Value* sections below. In accordance with section 777A(d)(1) of the Tariff Act, we calculated the weighted-average prices for NV and compared these to the weighted-average of EP.

U.S. Price

For the price to the United States, we used EP in accordance with section 772(a) of the Tariff Act. Pursuant to section 772(a) of the Tariff Act, we used the EP methodology when the merchandise was sold by the producer or exporter outside the United States directly to the first unaffiliated purchaser in the United States prior to importation and when constructed export price (CEP) was not otherwise warranted based on the facts on the record. Nexteel has no affiliate in the United States and reports all its sales as EP sales. *See* Nexteel's Section C response at page C–9. Nothing on the record indicates that Nexteel's U.S. market sales are CEP sales, so we did not use the CEP methodology. We based EP on the packed prices charged to the unaffiliated Korean trading companies (as Nexteel knew the merchandise it was selling to that trading company was destined for the United States). *See* Nexteel's Section A questionnaire response dated October 9, 2007, at page A–11; *see also Wonderful Chemical Industrial, Ltd., et al.* v. *United States,* 259 F. Supp. 2d 1273, 1279 (Ct. Intl. Trade 2003). There were no reported billing adjustments or duty drawback claims.

In accordance with section 772(c)(2) of the Tariff Act, we make deductions, where appropriate, for movement expenses including inland freight and brokerage expenses from plant to delivery. Due to the nature of Nexteel's U.S. sales (all were made to unaffiliated Korean trading companies who took possession at the Korean port), however, Nexteel had no expenses from plant to delivery other than transportation.

Normal Value

A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Nexteel's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(ii)(II) of the Tariff Act, because Nexteel had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.

B. Arm's-Length Test

Nexteel reported sales of the foreign like product to affiliated customers. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, the sales were at ''arm's length.'' *See* 19 CFR 351.403(c). To test whether these sales were made at arm's length, we compared the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. *Id.* In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's-length prices and included such sales in the calculation of NV. Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party would be excluded from the NV calculation. *See* 19 CFR 351.403(c) *see also Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade,* 67 FR 69186 (November 15, 2002), and memorandum from Mark Flessner, Case Analyst, to the file entitled, ''Preliminary Determination of Sales at Less Than Fair Value of Light-Walled Rectangular Pipe and Tube from the Republic of Korea,'' dated January 23, 2008 (Analysis Memorandum). No such sales were excluded for Nexteel.

C. Cost of Production Analysis

Based on our analysis of the Petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Nexteel's sales of light-walled rectangular pipe and tube in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Tariff Act, we initiated a sales-below-cost investigation to determine whether Nexteel had sales that were made at prices below their respective COPs. *See* Cost Allegation Memorandum.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Tariff Act, we calculated Nexteel's COP based on the sum of its costs of materials and conversion for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (*see* the *Test of Comparison Market Sales Prices* section below for the treatment of home market selling expenses).

The Department relied upon Nexteel's COP and CV information from the company's submission dated January 10, 2008. To determine COP, the reported cost of manufacturing data (TOTCOM) were adjusted by incorporating G&A expenses and financial expenses based on Nexteel's financial statements, and included in Nexteel's section D response at Exhibits D–9 and D–10, respectively.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. Pursuant to section 773(b)(2)(c) of the Tariff Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) They were made within an extended period of time in ''substantial quantities,'' in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at

prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

Our cost test indicated that for certain Nexteel models, 20 percent or more of the home market sales volume (by weight) were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Tariff Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales in the calculation of NV.

D. Calculation of Normal Value Based on Comparison Market Prices

We based home market prices on packed prices to unaffiliated purchasers in Korea. We adjusted the starting price for inland freight, warehouse expense, and warehouse revenue, where appropriate, pursuant to section 773(a)(6)(B)(ii) of the Tariff Act. In addition, for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Tariff Act. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit and other direct selling expenses), where appropriate. *See* 19 CFR 351.410(c).

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. *See* 19 CFR 351.411(b).

E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. In identifying LOTs for EP and comparison market sales (*i.e.*, NV based on home market), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Tariff Act. *See Micron Technology, Inc.* v. *United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Tariff Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). Nexteel reported sales through one LOT corresponding to two channels of distribution in the home market. In the U.S. market, Nexteel reported one LOT corresponding to one channel of distribution for the EP sales made through unaffiliated Korean trading companies (as stated above, there were no CEP sales during the POI). In our analysis, we determined that there is one LOT in the home market and one LOT in the U.S. market. Nexteel did not claim that there were differing LOTs in the home and U.S. markets. Our analysis of the various selling functions indicates no differing LOTs in the home and U.S. markets. *See* Nexteel's section A questionnaire response dated October 9, 2007, at Exhibit A–5; Nexteel's Selling Function Chart shows the same level of activity in each market for every function listed in this exhibit. We have therefore preliminarily determined that sales to the U.S. and home markets were made at the same LOT, and as a result, no LOT adjustment was warranted.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Tariff Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

All-Others Rate

Section 735(c)(5)(B) of the Tariff Act states: ''If the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.'' Nexteel is the only respondent in this investigation for which the Department has calculated a company-specific rate. This rate, however, is *de minimis*. Nine remaining companies all received a margin based entirely on AFA under section 776 of the Tariff Act. One company, SeAH, will receive the all-others rate (*i.e.*, its rate was not calculated, as stated above). Therefore, for purposes of determining the all-others rate, because there are no other rates than *de minimis* or those based on AFA, we have reasonably determined to take a simple average of the AFA rate (30.66 percent) and the *de minimis* rate calculated for Nexteel (1.30 percent); therefore, 15.98 percent is the average to be assigned for the all-others rate, as referenced in the *Suspension of Liquidation* section, below.

Verification

As provided in section 782(i) of the Tariff Act, we intend to verify information upon which we will rely in making our final determination.

Preliminary Determination

We preliminarily determine the following weighted-average dumping margins exist for the period April 1, 2006 through March 31, 2007:

Producer/exporter	Weighted-average margin (percentage)
Nexteel Co., Ltd.	* 1.30
Dong-A Steel Pipe Co. Ltd.	30.66
HiSteel Co. Ltd.	30.66
Jinbang Steel Co. Ltd.	30.66
Joong Won	30.66
Miju Steel Mfg. Co., Ltd.	30.66
Yujin Steel Industry Co.	30.66
Ahshin Pipe & Tube	30.66
Han Gyu Rae Steel Co., Ltd.	30.66
Kukje Steel Co., Ltd.	30.66
SeAH Steel Corporation, Ltd.	15.98
All others	15.98

* (*de minimis*).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of LWR pipe and tube from the Republic of Korea, with the exception of those produced by Nexteel Co., Ltd. and exported by Nexteel Co., Ltd. or either of the two exporters named in its questionnaire responses, that are

entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart above, as follows: (1) The rate for the firms listed above (except for Nexteel, *see* below) will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 15.98 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for Nexteel is *de minimis*, we will instruct CBP not to suspend liquidation of merchandise produced by Nexteel Co., Ltd. and exported by Nexteel Co., Ltd. or either of the two exporters named in its questionnaire responses.

Commission Notification

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the Commission will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of light-walled rectangular pipe and tube from Korea are materially injuring, or threaten material injury to, the U.S. industry. Because we have postponed the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the Commission will make its final determination within 45 days of our final determination.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties the calculations performed in this preliminary determination within five days of the date of the public announcement.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Tariff Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and place to be determined. However, parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Tariff Act, on January 3, 2008, Nexteel, which accounted for a significant proportion of exports of light-walled rectangular pipe and tube, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Nexteel requested that the Department extend by 60 days the application of the provisional measures. *See* Section 735(a)(2) of the Tariff Act and 19 CFR 351.210(e)(2). In accordance with section 733(d) of the Tariff Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting Nexteel's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: January 23, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 08–415 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–916]

Laminated Woven Sacks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

DATES: *Effective Date:* January 31, 2008.

SUMMARY: We preliminarily determine that laminated woven sacks from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. We will make our final determination within 135 days after the publication of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–3207 or 202–482–2243, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On June 28, 2007, the Department of Commerce (''Department'') received a petition on imports of laminated woven sacks from the PRC from the Laminated Woven Sacks Committee and its individual members, Bancroft Bags, Inc., Coating Excellence International, LLC,

Hood Packaging Corporation, Mid-America Packaging, LLC, and Polytex Fibers Corporation (collectively, ''Petitioners''). This investigation was initiated on July 18, 2007. *See Laminated Woven Sacks from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 72 FR 40833 (July 25, 2007) (''*Initiation Notice*''). On August 14, 2007, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports from the PRC of laminated woven sacks. The ITC's determination was published in the **Federal Register** on August 17, 2007. *See, Laminated Woven Sacks From China,* 72 FR 46246 (August 17, 2007) (''*ITC Preliminary Determination*'').

Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice.* On August 7, 2007, Petitioners provided comments to the scope and requested that the Department include their suggested revisions and additions into the language of the scope. No other party provided scope comments or commented on Petitioners' August 7, 2007, submission. The Department has analyzed the comments received and has preliminarily determined to amend the scope from the *Initiation Notice*. We will afford interested parties an opportunity to provide comments on our preliminary finding on this issue in their case and rebuttal briefs, and, if any are provided, we will address these comments in our final determination.

Respondent Selection

On July 19, 2007, the Department sent a letter requesting quantity and value (''Q&V'') information to the China Bureau of Fair Trade for Imports & Exports (''BOFT'') of the Ministry of Commerce (''MOFCOM'') requesting that BOFT transmit the letter to all companies who manufacture and export subject merchandise to the United States, or produce the subject merchandise for the companies who were engaged in exporting the subject merchandise to the United States during the period of investigation (''POI''). The Department did not receive any type of communication from BOFT regarding its request for Q&V information. Also on July 19, 2007, we requested Q&V information from 41 potential exporters or producers of laminated woven sacks from the PRC. The Department received Q&V responses from 16 producers and/or exporters that exported subject merchandise to the United States during the POI.

On August 16, 2007, the Department selected two mandatory respondents, Shandong Shouguang Jianyuanchun Co., Ltd. (''SSJ''), and Zibo Aifudi Plastic Packaging Co., Ltd.(''Aifudi''), which were two exporters, of those companies that responded to the Department's request for Q&V information, that accounted for the largest volume measured by total pieces of subject merchandise shipped to the United States during the POI. *See* Memorandum to Gary Taverman, Acting Deputy Assistant Secretary, from Catherine Bertrand, Senior International Trade Analyst: Selection of Respondents for the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated August 16, 2007.

Separate Rates Applications

We received fifteen separate rate applications by the due date of September 17, 2007. However on September 27, 2007, we rejected two of these applications for filing deficiencies. The rejected applications were from The Seventh Plastic Factory of Danyang City and Jiangmen Jing Long Plastic Packing Co/Jiangmen Xinhui Sanjiang Plastic. We gave these two companies a deadline of October 11, 2007, to re-submit a corrected application. We did not receive an application from either company by the new deadline, and therefore we do not consider these two companies to be separate rate applicants. We also sent supplemental questionnaires to Jiangsu Hotson Plastics Co. Ltd., Shandong Qilu Plastic Fabric Group Stock Co., Ltd., Zibo Linzi Luitong Plastic Fabric Co. Ltd., Zibo Linzi Qitianli Plastic Fabric Co., Ltd., Zibo Linzi Worun Packing Product Co., Ltd., and, Zibo Qigao Plastic Cement Co. Ltd., and we received timely responses from all of these companies.

Product Characteristics & Questionnaires

On August 17, 2007, the Department received comments from Petitioners on product characteristics to be used in the designation of control numbers (''CONNUMs'') to be assigned to the subject merchandise. On August 17, 2007, the Department issued its sections A, C, D, and E, questionnaire to the two mandatory respondents, SSJ and Aifudi. After receiving responses to the questionnaire from both companies, the Department issued supplemental questionnaires to both companies and received timely responses. Petitioners submitted deficiency comments throughout the investigation for both companies.

Surrogate Country

On October 15, 2007, the Department determined that India, Sri Lanka, Egypt, Indonesia, and Philippines are countries comparable to the PRC in terms of economic development. *See* Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China: Request for a List of Surrogate Countries, dated October 15, 2007.

On October 15, 2007, the Department requested comments on the surrogate country selection from the interested parties in this investigation. Petitioners submitted surrogate country comments on October 31, 2007. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* the ''Surrogate Country'' section below.

Surrogate Value Comments

On December 19, 2007, Petitioners, SSJ, and Aifudi submitted comments on surrogate information with which to value the factors of production in this proceeding. On January 2, 2008, Petitioners, SSJ, and Aifudi filed rebuttal comments on the surrogate information. Also, on January 2, 2008, SSJ submitted additional surrogate value information.

Critical Circumstances

On November 2, 2007, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of laminated woven sacks from the PRC. On November 9, 2007, the Department issued questionnaires requesting data for monthly exports to the United States from January 2005 through October 2007 from SSJ and Aifudi, and received timely responses. For a detailed discussion, please *see* the ''Critical Circumstances'' section below.

Postponement of Preliminary Determination

On November 9, 2007, Petitioners made a timely request, pursuant to 19 CFR 351.205(e), for a 50-day postponement of the preliminary determination in this investigation, pursuant to section 733(c)(1)(A) of the

Act. The Department extended the preliminary determination by 50 days. *See Postponement of Preliminary Determination of Antidumping Duty Investigation: Laminated Woven Sacks From the People's Republic of China,* 72 FR 65706 (November 23, 2007).

Postponement of Final Determination

On January 11, 2008, Aifudi requested that, in the event of an affirmative preliminary determination in this investigation, the Department: (1) Postpone its final determination by 60 days in accordance with 19 CFR 351.210(2)(ii) and 735(a)(2)(A) of the Act; and (2) extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period.

Period of Investigation

The POI is October 1, 2006, through March 31, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition. *See* 19 CFR *351.204(b)(1).

Scope of Investigation

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (''BOPP'') or to an exterior ply of paper that is suitable for high quality print graphics; [1] printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measures more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Non-Market-Economy Country Treatment

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy (''NME''). *See Initiation Notice*, 72 FR at 40835. The Department considers the PRC to be an NME country. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country Selection

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value, in most circumstances, on the NME producer's factors of production valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the normal value section below.

We find that India, Sri Lanka, Egypt, Indonesia, and Philippines are all at an economic level of development equally comparable to that of the PRC. Based on the data provided by Petitioners, we recognize that India is a producer of comparable merchandise. *See* Petitioners' Surrogate Country Letter at 2. Petitioners provided a list of Indian laminated woven sacks producers. *See id.* at Exhibit 2. Additionally, the Department obtained worldwide export data for laminated woven sacks. Because the Department was unable to find production data, we are relying on export data as a substitute for overall production data in this case. Although India and Indonesia appear to both be significant producers of comparable merchandise, no party in this proceeding requested that Indonesia be selected as the surrogate country. Furthermore, Petitioners and both mandatory respondents submitted recommended surrogate values using Indian sources, suggesting greater availability of appropriate surrogate value data in India rather than Indonesia.

As noted above, the Department only received surrogate country comments from the Petitioners stating that the appropriate surrogate country is India, and the two mandatory respondents submitted suggested surrogate values from India. The Department is preliminarily selecting India as the surrogate country on the basis that: (1) It is at a similar level of economic development pursuant to 733(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the factors of production. Thus, we have calculated normal value using Indian prices when available and appropriate to value SSJ and Aifudi's factors of production. *See* Memorandum to the File from Javier Barrientos, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: Laminated Woven Sacks from the People's Republic of China: Surrogate Values for the Preliminary Determination, dated January 24, 2008 (''Surrogate Value Memorandum'').

[1] ''Paper suitable for high quality print graphics,'' as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of the preliminary determination.[2]

Affiliations

We preliminarily find SSJ and Shandong Longxing Plastic Pack Co., Ltd. (''Longxing'') to be affiliated parties within the meaning of section 771(33)(E) and (F) of the Act, based on ownership and common control. *See* SSJ's October 26, 2007, supplemental response at Exhibits SA–6, SA–8A, and SA–8b. Furthermore, we find that they should be considered as a single entity for purposes of this investigation. *See* 19 CFR 351.401(f). In addition to being affiliated, they have production facilities for similar or identical products that would not require substantial re-tooling in order to restructure manufacturing priorities and there is a significant potential for manipulation of production based on the level of common ownership and control, shared management, and an intertwining of business operations. *See* 19 CFR 351.401(f)(1) and (2); SSJ's October 26, 2007, supplemental response at pages SA–4, and SA–6–SA–8. For a detailed discussion of this issue, please *see* the proprietary Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, from Catherine Bertrand, Senior Case Analyst, AD/CVD Operations, Office 9: Affiliation and Single Entity status of Shandong Shouguang Jianyuanchun Co., Ltd., and Shandong Longxing Plastic Pack Co., Ltd., in the Preliminary Determination in the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated January 24, 2008.

Because the Department finds SSJ and Longxing to be a single entity, the Department is utilizing the integrated FOP database SSJ provided for purposes of the preliminary determination which includes the factors of production from Longxing and SSJ. Additionally, the Department plans to further investigate whether any other entities are affiliated with SSJ or Longxing.

Separate Rates

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME investigations. *See Initiation Notice*. The process requires exporters and producers to submit a separate-rate status application. *See also Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries*, (April 5, 2005), (''*Policy Bulletin 05.1*'') available at *http://ia.ita.doc.gov*.[3] However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities) has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. As discussed below, SSJ and Aifudi, and all but one of the companies that submitted a separate rate application, have provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore satisfy the standards for the assignment of a separate rate.

We have considered whether each PRC company that submitted a complete application is eligible for a separate rate. We note that because we rejected the applications filed by The Seventh Plastic Factory of Danyang City and Jiangmen Jing Long Plastic Packing Co/ Jiangmen Xinhui Sanjiang Plastic and because these companies did not re-file an application as instructed, they do not qualify for a separate rate.

The Department's separate-rate test is not concerned, in general, with macroeconomic/border-type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. Additionally, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

[2] In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

[3] The *Policy Bulletin 05.1*, states: ''{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise *both* exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.'' *See Policy Bulletin 05.1* (emphasis in original) at 6.

Wholly Foreign-Owned Applicant

In its separate-rate application, Polywell Industrial Co. (also known as Firstway (H.K.) Limited) (''Polywell'') reported that it is wholly foreign-owned. Polywell explained that it is a limited liability company incorporated in Hong Kong and its ultimate owners are citizens of a market-economy country. Therefore, because there is no PRC ownership of Polywell and because it is wholly foreign-owned, and we have no evidence indicating that it is under the control of the PRC, further separate rates analysis is not necessary to determine whether Polywell is independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104 (December 20, 1999) (where the respondent was wholly foreign-owned, and thus, qualified for a separate rate). Accordingly, we have preliminarily granted a separate rate to Polywell.

Other Separate Rate Applicants

Certain separate rate applicants stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies (''SR Applicants''). Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

The evidence provided by SSJ, Aifudi and the SR Applicants supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies.

2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22544–45 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for SSJ, Aifudi and all of the SR Applicants except Shandong Qilu Plastic Fabric Group Stock Co., Ltd. (''Qilu''), the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.

Therefore, the evidence placed on the record of this investigation by SSJ, Aifudi and the SR Applicants, with the exception of Qilu, demonstrate an absence of *de jure* and *de facto* government control with respect to each of the exporters' exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. As a result, for the purposes of this preliminary determination, we have granted a separate company-specific rate to SSJ and Aifudi. Additionally, we have granted all the SR Applicants, except Qilu as explained below, a weighted-average margin, for the purposes of this preliminary determination. Finally, and as discussed previously, we granted Polywell a separate company-specific rate because it is wholly foreign-owned.

Companies Not Receiving a Separate Rate

The Department is not granting a separate rate to Qilu because it did not fully report all of its ultimate owners, and because its financial statements are unreliable. Qilu failed to report all of its ultimate owners, and without this information, the Department cannot conclude that Qilu operates independently of the government and without the approval of a government authority. Further, we determine that Qilu's financial statements are unreliable, and because the financial statements have a direct impact on determining whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses, which is one of the critical elements considered in the analysis of *de facto* control, we conclude that Qilu is not entitled to a separate rate. For a detailed discussion of this issue, please *see* the proprietary Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, from Catherine Bertrand, Senior Case Analyst, AD/CVD Operations, Office 9: Separate Rate Memorandum in the Preliminary Determination in the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated January 24, 2008.

The PRC-Wide Entity

The Department has data that indicate there were more exporters of laminated woven sacks from the PRC than those indicated in the response to our request for Q&V information during the POI. *See Respondent Selection Memorandum*. We issued our request for Q&V information to 41 potential Chinese exporters of the subject merchandise, in addition to BOFT and MOFCOM.[4] We received 16 Q&V responses filed by the deadline. *See* Respondent Selection Memorandum at 1. We did not receive Q&V responses from the remaining companies to which we sent our request for Q&V information. *See id*. Based upon our knowledge of the volume of imports of subject merchandise from the PRC, the companies which responded to the Q&V questionnaire, SSJ, Aifudi, and the companies that submitted separate rate applications do not account for all imports into the United States.

[4] For a list of companies to which the Department sent its request for Q&V information, *see* Respondent Selection Memorandum at Attachment 1.

Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department's Q&V letter. Further, the Government of the PRC did not respond to the Department's questionnaire. Therefore, the Department determines preliminarily that there were PRC exports of the subject merchandise during the POI from PRC producers/exporters that did not respond to the Department's request for information. We have treated these PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate.

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(i) of the Act, use facts otherwise available in reaching the applicable determination.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Certain companies did not respond to our request for Q&V information and did not respond to the Department's questionnaire, and, as previously noted, the Government of the PRC did not respond. *See* Respondent Selection Memorandum at Attachment II for a full list of non-responsive companies. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts available is appropriate to determine the PRC-wide rate. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000); see also Uruguay Round Agreements Act *Statement of Administrative Action* H.R. Doc. No. 103–316, vol. 1, at 870 (1994) (''*SAA*''). We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Further, section 776(b) of the Act authorizes the Department to use as adverse facts available (''AFA'') information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. *See Final Determination of Sales at Less Than Fair Value: Certain Flat-Rolled Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum, at ''Facts Available.''

In the instant investigation, as AFA, we have assigned to the PRC-wide entity a margin based on the highest calculated rate of the mandatory respondents, which in this case is Aifudi. Therefore, we are applying the highest calculated rate of the mandatory respondents which is 108.09 percent. Section 776(c) of the Act requires that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal.[5] Here, we are not using secondary information as the basis of the PRC-wide rate, and therefore, corroboration is not necessary.

Consequently, we are applying 108.09 percent as the single antidumping rate to the PRC-wide entity. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from SSJ, Aifudi, and the separate rate applicants receiving a separate rate.

Margin for the Separate Rate Applicants

The Department received timely and complete separate rate applications from the Separate Rate Applicants, who are all exporters of laminated woven sacks from the PRC, which were not selected as mandatory respondents in this investigation. Through the evidence in their applications, with the exception of Qilu, these companies have demonstrated their eligibility for a separate rate, as discussed above. Consistent with the Department's practice, as the separate rate, we have established a weighted-average margin for the Separate Rates Applicants based on the rates we calculated for SSJ and Aifudi, excluding any rates that are zero, *de minimis*, or based entirely on AFA. Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

Date of Sale

Section 351.401(i) of the Department's regulations states that, ''in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business.'' However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp.* v. *United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001) (''*Allied Tube*''). The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. In order to simplify the determination of date of sale for both the respondent and the Department and in accordance with 19 CFR 351.401(i), the date of sale will normally be the date of the invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date. In *Allied Tube*, the

[5] Secondary information is described in the *SAA* as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See SAA* at 870.

Court of International Trade (''CIT'') found that a ''party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a 'different date better reflects the date on which the exporter or producer establishes the material terms of sale.' '' *Allied Tube* 132 F. Supp. 2d at 1090 (quoting 19 CFR 351.401(i)). In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome. For instance, in *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14067 (March 29, 1996), the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point.

After examining the questionnaire responses and the sales documentation that SSJ and Aifudi placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for all of SSJ's sales. For Aifudi's constructed export price (''CEP'') sales where shipment date preceded invoice date, we used shipment date as the date of sale. For Aifudi's CEP sales where shipment date was the same as or after the invoice date, we used the invoice date as the date of sale. *See* Aifudi's December 11, 2007, supplemental Section C response at Exhibit S2–2. Aifudi did not have any EP sales.

Fair Value Comparisons

To determine whether sales of laminated woven sacks to the United States by SSJ and Aifudi were made at less than fair value, we compared the export price (''EP'') or CEP, as appropriate, to normal value (''NV''), as described in the ''U.S. Price,'' and ''Normal Value'' sections of this notice.

U.S. Price

A. EP

For SSJ, in accordance with section 772(a) of the Act, we based the U.S. price on EP because the first sale to an unaffiliated purchaser was made prior to importation, and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, foreign inland freight, foreign brokerage and handling, international freight, and rebates from the gross unit price.

We based these movement expenses on surrogate values where a PRC company provided the service and was paid in Renminbi (''RMB'') (*see* ''Factors of Production'' section below for further discussion). If market-economy service providers, who were paid in a market economy currency, provided movement services for over 33 percent of subject merchandise shipments, by volume, we based the movement expenses on the actual price charged by the service provider. If market-economy service providers, who were paid in a market economy currency, provided movement services for less than 33 percent of subject merchandise shipments, by volume, we calculated the movement expenses by weight-averaging surrogate values with the actual price charged by the service provider. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717–18 (October 19, 2006) (''*Notice for Antidumping Methodologies*''). For details regarding our EP calculation, *see* Memorandum to the File from Catherine Bertrand, Senior Case Analyst: Preliminary Analysis Memorandum for the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China: SSJ, dated January 24, 2008 (''SSJ Analysis Memorandum'').

B. CEP

In accordance with section 772(b) of the Act, for Aifudi's sales we based the U.S. price on CEP because the sale to the unaffiliated customer was made after importation. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: marine insurance, discounts, rebates, inland freight from warehouse to the unaffiliated customer, other U.S. transportation expenses, U.S. customs duty, U.S. brokerage, credit expenses, advertising expenses, inventory carrying costs, billing adjustments, foreign movement expenses, and international freight. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: credit expenses, warranty expenses, other direct selling expenses, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values, actual expenses, or an average of the two as explained above in the ''EP'' section of this notice. For details regarding our CEP calculations, *see* Memorandum to the File from Javier Barrientos, Senior Case Analyst: Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China: Aifudi, dated January 24, 2008 (''Aifudi's Analysis Memorandum'').

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production (''FOP'') methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by respondents for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the Indian surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997). A detailed description of all surrogate values used for respondents can be found in the Surrogate Value Memorandum and company-specific analysis memoranda.

Additionally, for detailed descriptions of all actual values used, *see* the company-specific analysis memoranda dated January 24, 2008. We also made an adjustment to the factors of production for SSJ and Aifudi to account for the cost of the printing plates and engraving costs used in the production of laminated woven sacks. *See* SSJ's Analysis Memorandum and Aifudi's Analysis Memorandum. Further, we were unable to take into account the January 16, 2008,

supplemental responses of SSJ and Aifudi due to the close proximity to the preliminary determination. We will consider these submissions for the final determination.

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for the mandatory respondents' FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004). The record shows that data in the Indian Import Statistics, as well as that from the other Indian sources, represent data that are contemporaneous with the POI, product-specific, and tax-exclusive. In those instances where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index (''WPI'') as published in the International Financial Statistics of the International Monetary Fund.

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7. We are also instructed by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. *See Omnibus Trade and Competitiveness Act of 1988*, Conference Report to Accompanying H.R. 3, H.R. Rep. 100–576 at 590 (1988). Rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. *See Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1.

The Department used the Indian Import Statistics to value the raw material and packing material inputs that SSJ and Aifudi reported were used to produce the subject merchandise during the POI, except where listed below. For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, *http://ia.ita.doc.gov/wages/index.html.* The source of these wage-rate data on the Import Administration's Web site is the Yearbook of Labour Statistics 2002, ILO (Geneva: 2002), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. *See* Surrogate Value Memorandum.

To value factory overhead, selling, general, and administrative expenses, and profit, we used the 2006–2007 audited financial statements of Mody Plastics Industries Ltd, an Indian producer of laminated woven sacks. For a detailed discussion of all surrogate values used for this preliminary determination, *see* Surrogate Values Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Critical Circumstances

On November 2, 2007, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of laminated woven sacks from the PRC. On November 16, 2007, and November 19, 2007,[6] SSJ and Aifudi, respectively, submitted information on their exports of laminated woven sacks from January 2005 through October 2007 as requested by the Department (collectively, ''mandatory respondents'') (*see* mandatory respondents' December 16, 2007, and December 19, 2007, Critical Circumstances Questionnaire responses (''CCQR'')).[7] In accordance with 19 CFR 351.206(c)(2)(i), because Petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that,

[6] A revision was submitted on November 21, 2007.

[7] On November 19, 2007, the Department received monthly shipment data from Shandong Qilu Plastic Fabric Group Stock Co., Ltd (''Qilu''), a separate rate applicant in the instant investigation, even though the Department did not issue Qilu a request for information for monthly shipment data. Because the Department did not request/solicit information regarding monthly shipment data from Qilu, the Department rejected Qilu's November 19, 2007, submission as unsolicited factual information pursuant to section 351.302(d)(1)(ii) of the Department's regulations. *See* Letter from Alex Villanueva, Program Manager IA, to Shandong Qilu Plastic Fabric Group Stock Co., Ltd, dated December 5, 2007.

in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later (*i.e.*, the comparison period). The comparison period is normally compared to the three months prior to the filing of the petition (*i.e.*, the base period). The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may establish the base and comparison periods based on the earlier date. *See* 19 CFR 351.206(i).

In determining whether the above statutory criteria have been satisfied, we examined: (1) The evidence presented in Petitioners' November 2, 2007, submission; (2) new evidence obtained since the initiation of the LTFV investigation (*i.e.*, additional import statistics released by the U.S. Customs and Border Protection); and (3) additional information obtained from SSJ and Aifudi (*see* CCQR).

In accordance with section 733(e)(1)(A)(ii) of the Act, to determine whether importers of laminated woven sacks from the PRC knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary antidumping duty determination and the ITC preliminary injury determination.

The Department normally considers margins of 25 percent or more for export price EP sales and 15 percent or more for CEP sales sufficient to impute importer knowledge of sales at LTFV. *See*, *e.g.*, *Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002). In this preliminary determination, SSJ has a margin of 63.89 percent and Aifudi has a margin of 108.09 percent. The separate rate companies which have preliminarily received a separate rate have a margin of 87.60 percent, based on a weighted-average of the margins of the mandatory respondents. The PRC-wide entity has a margin of 108.09 percent. We find that the antidumping duty preliminary margins for Aifudi, SSJ, the separate rate companies, and the PRC-wide entity support a finding that there is a reasonable basis to believe or suspect that the importers knew or should have known that there was likely to be material injury by reason of sales at LTFV of laminated woven sacks from the PRC from these respondents.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act, the Department also looks to the preliminary injury determination of the ITC. *See*, *e.g.*, *Lemon Juice from Argentina: Preliminary Determination of Sales at Less than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 72 FR 20820, 20828 (April 26, 2007). On August 14, 2007, the ITC issued a preliminary affirmative determination for laminated woven sacks from the PRC. *See ITC.*

Preliminary Determination

In accordance with section 733(e)(1)(B) of the Act, the Department must determine whether there have been massive imports of the subject merchandise over a relatively short period. Pursuant to 19 CFR 351.206(h), we will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. As discussed above, the Department normally determines the comparison period for massive imports based on the filing date of the petition.

Based on the June 28, 2007, filing date, we have determined that July 2007 is the month in which importers, exporters or producers knew or should have known an antidumping duty investigation was likely. Additionally, we have used a period of four months as the period for comparison in preliminarily determining whether imports of the subject merchandise have been massive. We believe that a four-month period is most appropriate as the basis for analysis because using four months captures all data available at this time, based on July 2007 as the beginning of the comparison period. Additionally, a four-month period properly reflects the ''relatively short period'' set forth in the statute for determining whether imports have been massive. *See* section 733(e)(1)(B) of the Act and 19 CFR 351.206(i). It is our practice to base the critical circumstances analysis on all available data, using base and comparison periods of no less than three months. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 47111 (August 4, 2004) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India*, 69 FR 76916 (December 23, 2004); *see also Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (Apr. 16, 2004), and accompanying Issues and Decision Memorandum at Comment 3. Therefore, we have used all available data in our critical-circumstances analysis for the preliminary determination. Therefore, in applying the four-month period, we used a comparison period of March 2007 to June 2007, and a base period of July 2007 to October 2007.

Mandatory Respondents

The Department used the shipment data of Aifudi and SSJ to examine the relevant comparison period of four months before July 2007, *i.e.*, March–June 2007, and four months following that period, *i.e.*, July–October 2007. When we compared these companies' import data during the base period with the comparison period, Aifudi had an increased volume of exports over the base period of greater than 15 percent while SSJ did not and, consequently, we only find Aifudi's imports to be massive. *See* Memorandum to the File from Javier Barrientos, Senior Case Analyst: Critical Circumstances Data for the Preliminary Determination of Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated January 24, 2008, at Attachment I (''CC MTF'') for the exact percentage changes.

Separate Rate Companies

For the separate rate companies, we did not request the monthly shipment information necessary to determine if there were massive imports. As the basis

to measure whether massive imports existed for purposes of critical circumstances, we relied on the experience of the mandatory respondents receiving a separate rate. When we compared the weight-averaged import data during the base period with the comparison period from the mandatory respondents, we found that the weight-averaged volume of imports of laminated woven sacks for the separate rate companies did have an increased volume of exports over the base period of greater than 15 percent. Therefore, we find the imports of the separate rate companies to be massive. *See* CC MTF at Attachment I for the exact percentage changes.

PRC-Wide Entity

Because the PRC-wide entity failed to respond to the Department's antidumping questionnaire, we were unable to obtain shipment data from the PRC-wide entity for purposes of our critical circumstances analysis, and there is no information on the record with respect to its export volumes. We relied on the ITC Dataweb site (*http://databweb.usitc.gov*) to determine whether there were imports of laminated woven sacks from the PRC during the base and the comparison periods not accounted for in the shipment data for the mandatory respondents. We found that there were such imports and we were able to rely on such data to quantify the imports attributed to the PRC-wide entity because the HTSUS article codes covering imported laminated woven sacks from the PRC contain data for subject merchandise, allowing us to segregate the mandatory respondents and separate rate companies' data from the PRC-wide import data.

We have deducted the mandatory respondents' data from the China-wide import data as to avoid possibly double-counting. When we compared the PRC entity import data during the adjusted base period with the adjusted comparison period, we found that the volume of imports of laminated woven sacks for the PRC-wide entity during the comparison period was not greater than 15 percent over the base period. The total import volume difference is −15.95 percent. *See* CC MTF at Attachment I. Consequently, we find that the PRC-wide entity did not have an increased volume of exports over the base period of greater than 15 percent, and therefore, we do not find their imports to be massive.

In addition, as a result of the ITC's affirmative preliminary determination in the instant LTFV investigation, the Department preliminarily finds there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act. *See ITC Preliminary Determination.* As discussed above, the volume of imports of laminated woven sacks from the PRC from Aifudi and the separate rate companies was massive within the meaning of section 733(e)(1)(B) of the Act. The volume of imports of laminated woven sacks from the PRC for SSJ and the PRC-wide entity, however, were each below 15 percent, and thus not massive within the meaning of section 733(e)(1)(B) of the Act. As a result, we preliminarily find that critical circumstances exist for Aifudi and the separate rate companies, but do not exist for imports of laminated woven sacks for SSJ and the PRC-wide entity.

We will make a final determination concerning critical circumstances for all producers/exporters of subject merchandise from the PRC when we make our final dumping determination in this investigation.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice,* the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation Notice,* 72 FR 40833, 40837. This change in practice is described in *Policy Bulletin 05.1,* available at *http://ia.ita.doc.gov/.*

Preliminary Determination

The preliminary weighted-average dumping margins are as follows:

Exporter	Producer	Weight-average E margin (percent)
SHANGDONG SHOUGUANG JIANYUANCHUN CO., LTD./ SHANDONG LONGXING PLASTIC PACK CO. LTD.	SHANGDONG SHOUGUANG JIANYUANCHUN CO., LTD./ SHANDONG LONGXING PLASTIC PACK CO. LTD.	63.89
ZIBO AIFUDI PLASTIC PACKAGING CO., LTD	ZIBO AIFUDI PLASTIC PACKAGING CO., LTD	108.09
POLYWELL INDUSTRIAL CO., a.k.a. FIRST WAY (H.K.) LIMITED.	POLYWELL PLASTIC PRODUCT FACTORY	87.60
ZIBO LINZI WORUN PACKING PRODUCT CO., LTD	ZIBO LINZI WORUN PACKING PRODUCT CO., LTD	87.60
SHANDONG QIKAI PLASTICS PRODUCT CO., LTD	SHANDONG QIKAI PLASTICS PRODUCT CO., LTD	87.60
CHANGLE BAODU PLASTIC CO. LTD	CHANGLE BAODU PLASTIC CO. LTD	87.60
ZIBO LINZI SHUAIQIANG PLASTICS CO. LTD	ZIBO LINZI SHUAIQIANG PLASTICS CO. LTD	87.60
ZIBO LINZI QITIANLI PLASTIC FABRIC CO. LTD	ZIBO LINZI QITIANLI PLASTIC FABRIC CO. LTD	87.60
SHANDONG YOULIAN CO. LTD	SHANDONG YOULIAN CO. LTD	87.60
ZIBO LINZI LUITONG PLASTIC FABRIC CO. LTD	ZIBO LINZI LUITONG PLASTIC FABRIC CO. LTD	87.60
WENZHOU HOTSON PLASTICS CO. LTD	WENZHOU HOTSON PLASTICS CO. LTD	87.60
JIANGSU HOTSON PLASTICS CO. LTD	JIANGSU HOTSON PLASTICS CO. LTD	87.60
CANGNAN COLOR MAKE THE BAG	CANGNAN COLOR MAKE THE BAG	87.60
ZIBO QIGAO PLASTIC CEMENT CO. LTD	ZIBO QIGAO PLASTIC CEMENT CO. LTD	87.60
PRC-WIDE RATE		108.09

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of laminated woven sacks from the PRC as described in the ''Scope of Investigation'' section, entered, or withdrawn from warehouse, for consumption from SSJ and the PRC-wide entity on or after the date of publication of this notice in the **Federal**

Register. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above. For Aifudi, and the companies receiving a separate rate, we will direct CBP to suspend liquidation of any entries of laminated woven sacks from the PRC as described in the ''Scope of Investigation'' section, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination. The suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of laminated woven sacks, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Parties are also requested to submit an electronic version of their case and rebuttal briefs.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on January 11, 2008, Aifudi requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Aifudi requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four month period to a six month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: January 24, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–1755 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

U.S. Coral Reef Task Force Public Meeting and Public Comment

AGENCY: National Ocean Service, NOAA, Department of Commerce.

ACTION: Notice of public meeting, Notice of public comment.

SUMMARY: Notice is hereby given of a public meeting of the U.S. Coral Reef Task Force. The meeting will be held in Washington, DC. This meeting, the 19th bi-annual meeting of the U.S. Coral Reef Task Force, provides a forum for coordinated planning and action among federal agencies, state and territorial governments, and nongovernmental partners. Please register in advance by visiting the Web site listed below. This meeting has time allotted for public comment. All public comment must be submitted in written format. A written summary of the meeting will be posted on the Web site within two months of its occurrence.

DATES: The meeting will be held on Wednesday, February 27, 2008, 8:30–5:30. Advance public comments can be submitted to the e-mail, fax, or mailing address listed below from Wednesday, February 6, 2008—Wednesday, February 20, 2008.

Location: The meeting will be held at the Smithsonian Institution's National Museum of Natural History in the Baird Auditorium, located at 10th Street and Constitution Ave., NW., Washington, DC 20560.

FOR FURTHER INFORMATION CONTACT: Beth Dieveney, U.S. Coral Reef Task Force Steering Committee Co-Chair, Coral Reef Conservation Program, 1305 East-West Highway, Silver Spring, Maryland 20910 (Phone: 301–713–3155 ext. 129, Fax: 301–713–4389, e-mail: *Beth.Dieveney@noaa.gov,* or visit the U.S. Coral Reef Task Force Web site at *http://www.coralreef.gov*).

SUPPLEMENTARY INFORMATION: Established by Presidential Executive Order 13089 in 1998, the U.S. Coral Reef Task Force mission is to lead, coordinate, and strengthen U.S. government actions to better preserve and protect coral reef ecosystems. Co-chaired by the Departments of Commerce and Interior, Task Force members include leaders of 12 federal agencies, seven U.S. states and territories, and three freely associated states. For more information about the meeting, registering, and submitting public comment, go to *http://www.coralreef.gov.*

Dated: January 10, 2008.

David Kennedy,

Manager, Coral Reef Conservation Program.

[FR Doc. 08–414 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–JE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Solicitation for Members of the NOAA Science Advisory Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research.

ACTION: Notice of solicitation for members of the NOAA Science Advisory Board.

SUMMARY: NOAA is soliciting nominations for members of the SAB. The NOAA Science Advisory Board is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of 15 members reflecting the full breadth of NOAA's areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions. As a Federal Advisory Committee the SAB's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as including the interests of geographic regions of the country and the diverse sectors of our society (business and industry, science, academia, and the public at large).

DATES: Nominations should be sent to the address specified and must be received by thirty calendar days from publication of this notice.

ADDRESSES: Nominations should be submitted electronically to *noaa.sab.2008members@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, E-mail: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB Web site at *http://www.sab.noaa.gov*.

SUPPLEMENTARY INFORMATION: SAB activities and advice provide necessary input to ensure that NOAA science programs are of the highest quality and provide optimal support to NOAA's

Mission Goals

- Protect, Restore, and Manage the Use of Coastal and Ocean Resources Through an Ecosystem Approach to Management
- Understand Climate Variability and Change to Enhance Society's Ability to Plan and Respond
- Serve Society's Needs for Weather and Water Information
- Support the Nation's Commerce with Information for Safe, Efficient, and Environmentally Sound Transportation
- Provide Critical Support for NOAA's Mission

The SAB meets at least twice each year, exclusive of subcommittee, task force, and working group meetings. Board members must be willing to participate in periodic reviews of the conduct, support, and use of science in NOAA laboratories and programs. Board members are appointed for a 3-year term.

Nominations

Nominations should provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; and (3) a short description of their qualifications relative to the kinds of advice being solicited. Inclusion of a resume is desirable.

Dated: January 24, 2008.

Mark E. Brown,

Chief Financial Officer and Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. E8–1698 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability for Public Comment on Proposed Data Management and Communications Standards for U.S. Integrated Ocean Observing System

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: Notice of availability is hereby given for a 45-day public comment period on ''proposed'' Data Management and Communications (DMAC) standards for implementation of the U.S. Integrated Ocean Observing System (IOOS). A description and references for currently ''proposed'' standards are posted at the following URL: *https://ioosdmac.fedworx.org.* At that Web site, standards are categorized in a three level sequence as either ''submitted'', ''proposed'' or ''recommended''. This announcement seeks public comments on those categorized as ''proposed''. The public may view any standard using the anonymous guest login provided; however, submission of comments on the ''proposed'' standards using the website requires registration as provided by the website interface. Public comments are sought as part of the ongoing DMAC standards process adopted by the DMAC Steering Team in May 2006 to manage the review and adoption of standards (including guidance and best practices) in an open, objective, and balanced manner. Suggested standards may be submitted at anytime as this process will run continuously for submission of suggested standards and for public comment on those elevated to ''proposed'' status. Subsequent comment periods will be announced at approximately six-month intervals. The Web site will remain open continuously and display information about the schedule for future comment periods. All substantive comments received during a review period will be considered by a broadly based, expert panel convened by Ocean.US for that purpose. Possible decisions are to: (1) Advance the standard to ''recommended'' status; (2) defer for technical modifications, additional testing or comments; or (3) reject as not appropriate for IOOS implementation. Decisions will be posted to that Web site. Any subsequently modifications or additions to the developing set of IOOS standards shall be subjected to public review and comment through this same process.

DATES: Comments on the proposed standards must be received no later than 5 p.m. eastern standard time, on February 29, 2008. For the public unable to access the internet, printed copies of the currently proposed standards can be requested by contacting Ocean.us at the address given below. Written comments in lieu of using the website facility may be submitted via regular mail, e-mail, or FAX to Ocean.US, Attention: DMAC Standards; 1100 Wayne Avenue, Suite 1210; Silver Spring, MD 20910, U.S.A. The FAX number is 301–427–2131. E-mail should be addressed to *DMACStandards@ocean.us.*

FOR FURTHER INFORMATION CONTACT: For further information about this notice, please contact the Office of Ocean.US, telephone: 843–740–1229 E-mail: *DMACStandards@ocean.us.*

SUPPLEMENTARY INFORMATION: The Ocean.US Office, operating by interagency agreement under the statutory authority of the National Oceanographic Partnership Program (NOPP, 10 U.S.C. 7901 *et seq.*), serves as the national agent for integrating ocean observing activities (*http://www.ocean.us*). Ocean.US is also the focal point for relating U.S. ocean observing system elements to associated international efforts, such as the Global Earth Observing System of Systems (GEOSS) and the Intergovernmental Oceanographic Commission (IOC) sponsored Global Ocean Observing System (GOOS). The U.S. IOOS represents the U.S. contribution to the ocean components of these international partnership efforts. Key to the realization of the U.S. IOOS is the establishment of an integrated DMAC infrastructure. This infrastructure will enable users to discover, retrieve, and use data from Federal and State government, government-sponsored, other public, private, and commercial coastal and ocean observing activities regardless of source or location. In 2005 Ocean.US established an IOOS DMAC Steering Team drawn from government, industry, academia, public, and non-profit communities to: (a) Coordinate and oversee the evolution of DMAC standards; (b) identify and provide recommendations regarding gaps in needed standards; and, (c) help ensure that the DMAC standards process is conducted in an open, objective, and balanced manner. That team adopted a standards process in May 2006 that includes these public comment periods as a critical input to any decisions on a particular standard.

Review to Date of the Proposed Standards

Proposed standards have been reviewed by members of the DMAC Steering Team and its Expert Teams for non-technical and technical criteria. Their designation as 'proposed' indicates the standard has potential merit for application in IOOS and should be evaluated further based on actual use in pilot projects and demonstrations and based on public comments on experience using the standard in IOOS applications.

Authority: 10 U.S.C. 7901 *et seq.*

Dated: January 17, 2008.

Elizabeth R. Scheffler,

Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management.

[FR Doc. E8–1723 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF16

Vessel Monitoring Systems; Specification of Requirements for Mobile Transmitting Unit Type Approval

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

ACTION: Revision of type approval requirements for mobile transmitting units.

SUMMARY: This document provides notice of type approval requirements for Mobile Transmitting Units (MTU) to be authorized for use on any vessel participating in the NOAA Vessel Monitoring System (VMS) program. Vessels participating in VMS program must acquire an NMFS-approved MTU to comply with VMS standards set forth in NMFS rules requiring the use of VMS.

ADDRESSES: To obtain copies of the list of NMFS-approved VMS MTU and VMS communications service providers, or to obtain information regarding the status of VMS systems being evaluated by NOAA, write to NOAA Fisheries, Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For current listing information contact the VMS Support Center by phone: 888–210–9228, or by fax: 301–427–0049 or for questions regarding VMS installation and status of evaluations contact Jonathan Pinkerton, National VMS Program Manager by phone: 301 427 2300 or by fax: 301–427–0049.

SUPPLEMENTARY INFORMATION: This notice supersedes all previous notices on MTU type approval requirements. Previously installed MTU approved under prior notices will continue to be approved for the remainder of their service life. New installations of a previously approved MTU occurring 120 days or more after the publication date of this notice must comply with all of the requirements herein. All new requests for type approval must comply with all of the requirements herein.

Background

The Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office for Law Enforcement (OLE) maintains MTU specification requirements as an OLE National Directive. This notice sets prerequisite standards for the purpose of type approval that must be met by an MTU and any associated software before it is authorized for use in the NOAA VMS program. Vessels participating in VMS program must acquire an NMFS-approved MTU to comply with the specific VMS standards set forth in NMFS rules requiring the use of VMS. The MTU is a transceiver or communications device, including antennae, dedicated message terminal and display, and an input device such as a keyboard installed on fishing vessels participating in the VMS requirement. The MTU allows OLE to determine the geographic position of the vessel during specified intervals or events. In addition, it enables mobile communications services between OLE and the vessel when using an NMFS-accepted Mobile Communication Service Provider (MCSP). (Note: Standards for the MCSP are written in the complementary directive titled Mobile Communication Service Provider Specification of Requirements.)

Goal

OLE seeks to deploy an ''open system,'' whereby the fishing industry participants may select from a variety of suppliers that qualify and have been approved to participate in VMS program. Fishermen must comply with applicable Federal fishery regulations regarding VMS and therefore may be cited for a violation and held accountable for monitoring anomalies not attributable to faults in the MCSP or MTU. Therefore, type approval is essential to establish and maintain uniformly high system integrity. By this directive, OLE seeks to approve reliable, robust, and secure MTU products and thereby create and maintain a VMS meeting the requirement of high integrity. Specific VMS programs are created to support particular NMFS rules requiring the use of VMS, which typically are designed to manage or protect fish and other marine species within designated areas.

Process

Based on a request for type approval from an MTU supplier and certification of certain minimal standards, OLE will conduct a thorough evaluation and then issue a statement accepting or denying the type approval of the particular MTU. An MTU must meet the minimal national VMS standards, as required by this directive, and the requirements of the specific fisheries for which approval is sought. MTU supplier requesters are encouraged to review the national VMS

standards and NMFS rules requiring the use of VMS prior to submitting a request for approval. Upon successful demonstration of compliance with the requirements set forth in this directive, NMFS will issue an MTU type approval within a particular communications Class applicable to one or more VMS operations targeting particular NMFS rules requiring the use of VMS. OLE will maintain a current list of type approved MTU(s), and will forward lists of type approved MTU(s) to the respective regional Fisheries Management Council(s), post the information on the OLE website and provide it by fax upon request.

NMFS approval will not necessarily result in agency procurement of the MTU. Instead, OLE will request that the MTU supplier provide a fact sheet to the fishing industry. The fact sheet will allow fishermen to make purchase decisions that are compatible with the VMS standards and their individual needs. Purchasing strategies are determined on a per implementation basis.

Initiation

OLE will initiate the MTU type approval process upon written request from the supplier, subject to the demonstration of compliance with this directive and the availability of test units. The requestor for type approval may include the manufacturer, or an OEM/labeler, distributor, and/or reseller acting as a representative of the manufacturer. The evaluation may include consideration if that MTU has already passed a comparable type approval process to qualify for use in a foreign fisheries management effort. If applicable, the supplier should provide the MTU's identifying characteristics, the details of the foreign VMS requirement specifications, the MTU's level of compliance with them, and appropriate contact details of the approving authorities. NMFS also will consider approving an MTU OEM (original equipment manufacturer) model built from an equivalent MTU that already has received agency type approval under this directive.

Interoperability

A supplier of an MTU seeking type approval within a particular communications class for VMS shall demonstrate that it meets the standards when using at least one qualified MCSP within that same class. The standards in this directive are intended to ensure that type approval for a particular MTU will permit its interoperability with all qualified MCSPs within its same class. A class refers to the medium, protocol, and frequency of the mobile communications technology. Some examples of existing classes include Inmarsat-C and Qualcomm/OmniTracs. To best promote interoperability within a class, MTU and MCSP acceptance standards are outlined in separate directives. However, concurrent with the approval process for an MTU, the approval for a same-class MCSP must be either in place or pending. Data received by OLE from the MTU via an approved MCSP must be in a format compatible with OLE tracking software.

Submission

A supplier of an MTU requesting type approval shall begin by certifying that the MTU meets the minimum national VMS standards as required by this directive. Suppliers must describe in detail the extent to which its MTU complies with each of the requirements for the VMS implementation of interest as stated within this directive. The supplier, or requestor for type approval, must provide OLE with two MTUs for each fishery for which application is made for a minimum of 90-days for testing and evaluation. The supplier must also provide thorough MTU documentation, including fact sheets, installation guides, operator manuals, user handbooks, the applicable interfacing software, and technical support. OLE shall review the submissions against the criteria of this directive. Next, OLE shall perform field test and sea trials. For this, OLE will either coordinate test conditions with volunteer and/or contract fishing vessels, or contract a third-party to accomplish this task. The tests may involve demonstrating every aspect of MTU operation, including installation of a registered MTU, location tracking, messaging, and maintenance procedures.

Submit requests for type approval, along with hard and soft copies of support material to: U.S. Department of Commerce; National Oceanic and Atmospheric Administration; National Marine Fisheries Service; Office for Law Enforcement; Attention: Vessel Monitoring System Program; 8484 Georgia Ave. Suite 415; Silver Spring, MD 20910 USA; voice 301–427–2300; fax 301–427–0049.

Litigation Support

Due to the use of VMS for law enforcement, all technical aspects of a supplier's submission are subject to being admitted as evidence in a court of law, if needed. The reliability of all technologies utilized in the MTU may be analyzed in court for, inter alia, testing procedures, error rates, peer review, and general industry acceptance. Further, the supplier may be required to provide technical and expert support for a litigation to support the MTU capabilities to establish OLE's case against violators. If the technologies have previously been subject to such scrutiny in a court of law, the supplier should describe the evidence and any court finding on the reliability of the technology. Additionally, to maintain the integrity of VMS for fisheries management, the supplier will be required to sign a non-disclosure agreement limiting the release of certain information that might compromise the effectiveness of the VMS operations, such as, but not limited to, details of anti-tampering safeguards. The supplier shall include a statement confirming its agreement with these conditions.

Change Control

Once an MTU is approved, it is the supplier's responsibility to notify OLE of any substantive change in the original submission, such as changes to firmware versions, and customer support contacts. OLE reserves the right to reconsider and revoke the MTU approval if as a result of a change to the MTU or VMS requirement the unit no longer satisfies the requirement.

Any modification to the functionality of an approved MTU including but not limited to firmware, software, services, or passwords unless expressly authorized by NMFS OLE will invalidate the type approval of the unit and render it out of compliance with NMFS rules requiring the use of VMS. Any addition, deletion or change of the firmware, software, services, or passwords of an MTU unless expressly authorized by NMFS OLE will also invalidate the type approval of the unit and render it out of compliance with NMFS rules requiring the use of VMS. Fishermen that are determined to be out of compliance with Federal Fisheries VMS regulations may be cited for violations and held accountable for monitoring anomalies not attributable to faults in the MCSP or MTU.

Requester

Requesters must respond to each of the items listed in sections 1 through 6 of this document. The response should indicate how the requestor complies with the requirement referred to in the item. Items that the requestor does not currently comply with must be responded to by explaining how the requestor will comply with the requirement prior to approval.

Section 1. Identifiers

1. 1. Specify the identifying characteristics of the MTU:

1.1.1. Communications Class.

1.1.2. Manufacturer.

1.1.3. Brand Name.

1.1.4. Model Name.

1.1.5. Model Number.

1.1.6. Software Version Number and Date.

1.1.7. Firmware Version Number and Date.

1.1.8. Hardware Version Number and Date.

1.1.9. Antenna Type.

1.1.10. Antenna Model Number and Date.

1.1.11. Monitor or terminal Model Number and Date.

1.1.12. MCSP Providing Communications Services.

1.2. For the following responsibilities, name the business entities who act on behalf of the manufacturer and supplier applying for type approval. Include the address, phone, contacts, email, and designated geographic territory where applicable.

1.2.1. Manufacturer.

1.2.2. Label or use MTU for an OEM. This includes re-labeling OEM MTUs or reselling. Reselling includes value-added reselling. The MTU that is type approved is the final, value-added product and not the original manufacturer's MTU, if enhancements or modifications have been made. For example, if a transceiver is contained within an enclosure, it is the new enclosure including the transceiver that is being type approved.

1.2.3. Distribute.

1.2.4. Sell.

1.2.5. Bench configures the MTU at the warehouse or point of supply.

1.2.6. Install MTU onboard the vessel.

1.2.7. Offer limited warranty.

1.2.8. Offer maintenance and service agreement.

1.2.9. Repair.

1.2.10. Train.

1.2.11. Advertise.

Section 2. Messaging

The MTU must provide the following messaging functionality:

2.1. Transmit mandatory, automatically generated position reports.

2.2. Onboard visible or audible alarms for malfunctioning of the MTU.

2.3. Ability to disable non-essential alarms in non-Global Maritime Distress and Safety System (GMDSS) installations.

2.4. Ability to provide comprehensive and transparent communications, which function uniformly within the entire geographic coverage area for that communications class.

2.5. Two-way communications between MCSP and MTU.

2.6. The ability to send and receive free-form Internet email text messages and electronic forms.

2.7. All messages should be relayed so that OLE automatically receives no less than 97 percent of all messages within 15 minutes or less of the MTU timestamp and be transparent to the geographic region.

Section 3. Position Data Formats and Transmission

3.1. The MTU must provide position information as required by the applicable VMS rule in addition to:

3.1.1. Position fixes latitude and longitude, including the hemisphere of each.

3.1.2. The position fix precision must be to the decimal minute hundredths.

3.1.3. Accuracy of the reported position must be within 100 meters, unless otherwise indicated by an existing regulation or VMS requirement.

3.1.4. Communications between MTU and MCSP must be secure from tampering or interception, including the reading of passwords and data. Therefore, the MTU must have mechanisms to prevent to the extent possible:

3.1.4.1. Interception and ''sniffing'' during transmission from the MTU to MCSP via either wireless or terrestrial facilities.

3.1.4.2. Spoofing, whereby one MTU is fraudulently identifying itself as another MTU.

3.1.4.3. Modification of MTU identification.

3.1.4.4. Interference with GMDSS or other safety/distress functions.

3.1.4.5. Introduction of viruses that may corrupt, disturb, or disrupt messages, transmission, or the VMS system.

3.1.4.6. Introduction of software modifications through the use of input/output devices. Item such as CDDVD readers or writers should be removed, physically disabled, or rendered inaccessible, ports and connections not directly used for connecting to the VMS device or authorized peripherals should be removed or permanently sealed.

3.2. MTU shall provide the ability to meet minimum reporting requirements and intervals as required for specific NMFS rules requiring the use of VMS.

3.2.1. Provide automatically generated position reporting, for vessels managed individually or grouped by fleet, such that OLE automatically receives no less than 97 percent of the position reports sent at defined intervals within 15 minutes or less of the MTU timestamp and be transparent to the geographic region.

3.2.2. Have the ability to store 100 position fixes in local, non-volatile memory.

3.2.3. Allow for defining variable reporting intervals between 5 minutes and 24 hours.

3.2.4. MTU must be able to change reporting intervals remotely, and only by authorized users.

3.3. An MTU must be able to transmit automatically generated position reports, which contain the following:

3.3.1. Unique identification of an MTU within the communications class.

3.3.2. Date (year/month/day with century in the year) and time (GMT) stamp of the position fix.

3.4. In addition to automatically generated position reports, specially identified position reports shall be generated upon:

3.4.1. Antenna disconnection

3.4.2. Loss of the positioning reference signals.

3.4.3. Loss of the mobile communications signals.

3.4.4. Security events, power-up, power-down, and other status data.

3.4.5. The vessel crossing a pre-defined geographic boundary.

3.4.6. MTU status information such as configuration of programming and reporting intervals.

3.4.7. When an MTU is powered up, it must automatically re-establish its position reporting function without manual intervention.

Section 4. Text Messaging

4.1.1. Text messaging from vessel to shore with a minimum supported message length of 1kb.

4.1.2. User interface must support an 'address book' capability and a function permitting a ''reply'' to a received message without re-entry of the senders e-mail address.

4.1.3. A confirmation of delivery function is required such that a user can ascertain whether a specific message was successfully transmitted via the satellite system to the MCSP e-mail server(s).

4.1.4. Onward delivery to NMFS must be reliable and make use of features such as SMTP retries and delivery confirmation to ensure a reliable transport path exists for text messages sent from the vessel to NMFS.

4.1.5. The user interface must provide the ability to review by date order, or by recipient, messages that were previously sent. The terminal must support a minimum message history of 20 messages - commonly referred to as an ''Outbox'' or ''Sent'' messages display.

4.1.6. Text messaging from shore to vessel with a minimum supported message length of 1kb.

4.1.7. The user interface must provide the ability to review by date order, or by sender, all messages received. The terminal must support a minimum message history of 20 messages-commonly referred to as an ''Inbox''.

4.1.8. Negative delivery notifications must be sent to the originator where delivery to the terminal could not be completed for any reason. Such Non Delivery Notification must include sufficient information to uniquely identify the message that failed and the cause of failure (i.e., mobile number invalid, mobile switched off etc.).

4.2. Electronic Forms

Pre-formatted messages are required for the collection of validated data for specific fisheries programs (i.e., declaration systems, catch effort reporting). This capability is referred to as Electronic Forms. The E-MTU must support a minimum of 20 Forms, selectable by the user from a menu. Forms must be able to be updated over the air. Copies of forms currently used by NMFS are available upon request. From time to time NMFS will provide all E-MTU approved vendors with updates defining new forms or modifying existing forms. Such notice will be at least 60 (sixty) days prior to the implementation date for the new or changed form. Vendors will be responsible for translating the requirements into MTU specific forms definitions and transmitting the same to all VMS terminals supplied to fishing vessels. All forms software provided with the E-MTU must be capable of supporting the requirements described in this specification. Additional capabilities beyond those stated here are acceptable, provided that the minimum requirements are satisfied.

4.2.1. A form is defined as: (a) 1–40 characters describing the form, (b) Delivery address (i.e., e-mail or other network identifier), (c) Form number as defined by NMFS to uniquely identify the form, (d) Form version number (numeric with one decimal place; i.e., 1.2), and (e) a collection of 1–30 fields and associated logic rules.

4.2.2. Each field (within a form) is defined by the following elements. Except where noted, all elements of the field definition are mandatory: (a) Label (0 to 40 characters, alpha numeric), (b) Context Help Text (0 to 200 characters, alpha numeric), (c)Type (Either; enumeration, numeric, alpha, alphanumeric or Boolean), (d) Default Value, (e) Optional/Mandatory/Hidden/Logic indicator, (f) Min/Max values (for numeric fields only) in range 0.000 to 999,999, (g) Decimal places (for numeric fields only) 0–3, and (h) Min/Max characters (for alpha/alphanumeric fields only).

4.2.3. Up to 100 code/value/help text pairs (enumerations only) must be provided, where codes are defined as 1–20 alphanumeric characters, values are 1–80 alphanumeric characters and help text is 0–200 characters. Such fields are typically used to permit a user to select from a range of options (i.e., geographic areas, gear types, fish species). Codes are used to compress the form data for efficient transmission. Help text would typically be displayed only when the user selects a specific value from the enumeration.

4.2.4. Form Validation: Each field must be defined as; Optional, Mandatory or Logic Driven. Mandatory fields must be entered by the user before the form is complete, optional fields that do not require data entry, and logic driven fields have their attributes determined by earlier form selections. Specifically; it must be possible for selection of an enumeration to change the optional/mandatory setting, min/max values, or the permitted enumeration values on a later field within the same form.

4.2.5. State Information: The capability to populate a form based on the last values used must be available. This provides the user with an easy mechanism to ''modify'' or ''update'' a prior submission - without unnecessary re-entry of data. The user must be able to review a minimum of 20 past form submissions and ascertain for each form when the form was transmitted and whether delivery was successfully completed to the vendor's processing center. In the case of a transmission failure, the user must be provided with details of the cause and have the opportunity to retry the form submission.

4.2.6. Inclusion of VMS Position Report: In addition to the manually entered fields, the forms package must permit the inclusion of VMS position report fields such as latitude, longitude, date and time. Such fields must be obtained from the GPS function of the MTU and transmitted along with the manually entered form data within the same transaction.

4.2.7. Delivery Format for Form Data: It is preferred that form data be transferred from the terminal to NMFS using the same transport as for either text messages or VMS position reports (the selected option to be at the election of the E-MTU vendor). Currently supported protocols for transfer are; FTP, SMTP, XML and HTTP Post. The SMTP protocol is not permitted for the transmission of data sent to the OLE. The field coding within the data must follow either CSV or XML formatting rules. For CSV format the form must contain an identifier and the version number, and then the fields in the order defined on the form. In the CSV format strings that may contain '','' (comma) characters must be quoted. XML representations must use the field label to define the XML element that contains each field value.

Section 5. Customer Service

The MTU supplier or its designated entities shall provide customer service that is professional, courteous, and responsive. It should provide MTU diagnostic and troubleshooting support to OLE and the fishermen. No services shall be billed to any NOAA or any OLE office without being specifically contracted for in writing by an authorized entity. Services shall include:

5.1. Service level, warranty, and maintenance agreements. Clarify constraints, if any, on the geographic territory, personnel availability, and escalation procedures for problem resolution covered by such services.

5.2. Facilities and procedures in place to assist the fisherman in maintaining and repairing their MTU on a 24 hour basis, including timely responses to requests, and general system service turnaround time.

5.3. Help in the determination and isolation of the cause of communications anomalies.

5.4. Assist in the resolution of communications anomalies that are traced to the MTU.

5.5. All services will be considered to be free of charge unless specifically listed in service or purchase agreements.

Section 6. Other Information

6.1. The MTU must have the durability and reliability necessary to provide acceptable service in a marine environment where the unit may be subjected to saltwater (spray) in smaller vessels, and in larger vessels where the unit may be maintained in a wheelhouse. The unit, cabling and antenna must be resistant to moisture and shock associate with the marine environments.

6.2. The MTU must comply with any additional requirements specified in the regulations for the VMS implementation for which application is made. The requestor must review the applicable NMFS rules requiring the use of VMS and respond here to any specific requirements listed therein.

6.3. All personally identifying information provided by vessels owners

or other authorized personnel for the purchase or activation of MTU or E-MTU, or for the participation in any NMFS VMS-approved fishery must be protected from unauthorized disclosure. Personally identifying information includes, but is not limited to, names, addresses, telephone numbers, social security account numbers, credit card numbers, vessel names, federal, state, and local documentation numbers, e-mail addresses, and crew lists. Any information sent electronically to the OLE must be transmitted by a secure means that prevents interception, spoofing, or viewing by unauthorized individuals. Any release of such information must be requested and approved in writing by the vessel owner, authorized personnel, or the OLE. Inadvertent or intentional unauthorized release of personally identifying information will be grounds for reconsideration and possible revocation of the type approval for any MTU supplied by the offending provider.

Dated: January 25, 2008.

Samuel D. Rauch III

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

[FR Doc. E8–1662 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Post Registration (Trademark Processing).

Form Number(s): PTO–1583, PTO/TM/1583, PTO–1597, PTO–1963, PTO–4.16, PTO/TM/4.16.

Agency Approval Number: 0651–0055.

Type of Request: Revision of a currently approved collection.

Burden: 21,097 hours annually, including 1,349 hours per year for Section 7 Requests.

Number of Respondents: 133,587 responses per year, including 3,800 responses per year for Section 7 Requests.

Avg. Hours Per Response: The USPTO estimates that the public will require approximately 20 to 23 minutes (0.33 to 0.38 hours) to supply the information required for a Section 7 Request, depending upon the amount and type of information requested in a particular case.

Needs and Uses: This collection of information is required by the Trademark Act, 15 U.S.C. 1051 *et seq.*, which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the United States Patent and Trademark Office (USPTO). Such individuals and businesses may also submit various communications to the USPTO, including requests to correct or amend their registrations.

The USPTO is proposing to add one form to this information collection for Section 7 Requests (PTO–1597). Registrants may use a Section 7 Request to request a correction or amendment to the information appearing on the certificate of registration. Requests for changes that would result in a material alteration of the registration are not permitted under Section 7. Registrants may submit the proposed new form to the USPTO electronically through the USPTO Web site or submit the required information for the Section 7 Request to the USPTO on paper.

Affected Public: Individuals or households, businesses or other for-profits, and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–0055 copy request'' in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before March 3, 2008 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: January 24, 2008.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.

[FR Doc. E8–1727 Filed 1–30–08; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1 p.m., Wednesday, March 5, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–456 Filed 1–29–08; 1:03 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2008–OS–0004]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend two systems of records.

SUMMARY: The Office of the Secretary of Defense is amending two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 3, 2008, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–2386.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the

Federal Register and are available from the address above.

The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 24, 2008.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

S322.70 DMDC

SYSTEM NAME:

Defense Biometric Identification Data System (DBIDS) (November 18, 2004, 69 FR 67552).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with ''DMDC 10''.

* * * * *

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

Delete the word ''index''.

Added to entry ''iris scan, hand geometry template, and vehicle identification number (VIN)''.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete from entry ''23 U.S.C. 401 *et seq.* National Highway Safety Act of 1966.''

PURPOSE(S):

Delete entry and replace with ''To support DoD physical security and access control programs, the information assurance program, used for identity verification purposes, to record personal property registered with the Department, and for producing installation management reports.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USERS:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.''

CONTESTING RECORDS PROCEDURES:

Delete entry and replace with ''The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.''

* * * * *

DMDC 10

SYSTEM NAME:

Defense Biometric Identification System (DBIDS).

SYSTEM LOCATION:

Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955 6771. For a list of backup locations, contact the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserve, and Guard personnel from the Armed Forces and their family members; retired Armed Forces personnel and their families; DoD and non-DoD employees and dependents, U.S. residents abroad, foreign nationals and corporate employees and dependents who have access to U.S. installations in the continental U.S. and overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes personal data to include name, grade, Social Security Number, status, date and place of birth, weight, height, eye color, hair color, gender, passport number, country of citizenship, geographic and electronic home and work addresses and telephone numbers, marital status, fingerprints, photographs, iris scans, hand geometry template and identification card issue and expiration dates. The system also includes vehicle information such as manufacturer, model year, color and vehicle type, vehicle identification number (VIN), license plate type and number, decal number, current registration, automobile insurance data, and driver's license data. The system also contains data on government-issued and personal weapons such as type, serial number; manufacturer, caliber, firearm registration date, and storage location data to include unit, room, building, and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental regulations; 10 U.S.C. 113, Secretary of Defense, Note at Public Law 106–65; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 18 U.S.C. 1029, Fraud and related activity in connection with access devices; 18 U.S.C. 1030, Fraud and related activity in connection with computers; 40 U.S.C. Chapter 25, Information technology management; 50 U.S.C. Chapter 23, Internal Security; Public Law 106–398, Government Information Security Act; Public Law 100–235, Computer Security Act of 1987; Public Law 99–474, Computer Fraud and Abuse Act; E.O. 12958, Classified National Security Information as amended by E.O., 13142 and 13292; E.O. 10450, Security Requirements for Government Employees; and E.O. 9397 (SSN).

PURPOSE(S):

To support DoD physical security and access control programs, the information assurance program, used for identity verification purposes, to record personal property registered with the Department, and for producing installation management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a (b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Retrieved primarily by name, Social Security Number (SSN), vehicle identifiers, or weapon identification data. However, data may also be retrieved by other data elements such as passport number, photograph, fingerprint data, and similar elements in the database.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry is restricted by the use of locks, guards, and administrative procedures. Access to personal information is limited to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of unique logon and passwords, which are changed periodically.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington VA 22209–2593,

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORDS PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

Data is collected from existing DoD databases, the Military Services, DoD Components, and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S322.60 DMDC

SYSTEM NAME:

Archival Purchase Card File (November 16, 2004, 69 FR 67112).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with ''DMDC 09''.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.''

* * * * *

DMDC 09

SYSTEM NAME:

Archival Purchase Card File.

SYSTEM LOCATION:

Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD military members and civilian purchasing agents who have been issued credit purchase cards and/or granted approving authorization for the procurement of supplies, equipment, and services for official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes cardholder name, credit purchase card account number, billing address, work telephone number, and merchant data; approving official name, account number, work telephone number and addresses; and account processing and management information, including charge purchase card transactions, purchase and credit limitations, and card cancellation status indictor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under

Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; and 10 U.S.C. 2784, Management of Credit Cards.

PURPOSE(S):

The purpose of the system of records is to provide a single central file of credit purchases within the Department of Defense to assess historical purchase card data.

For card recovery purposes, the system is used to identify former card holders who failed to properly turn in cards. Data from the system is also provided to the Defense Finance and Accounting Service for reporting credit purchase card transactions to appropriate authorities. Statistical data is used by management for planning, evaluation, and program administration purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name or credit card purchase account number.

SAFEGUARDS:

Access to personal information is restricted to those who require access to the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures. Employees are warned through screen log-on protocols and periodic briefings of the consequences of improper access or use.

RETENTION AND DISPOSAL:

Records are deleted 6 years and 3 months after final payment or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

The military services, the Defense components, financial institutions, merchants, and cardholders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–1742 Filed 1–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2008-OS–0003]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Office of the Secretary of Defense is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 3, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Office of the Secretary of Defense, Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–2386.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a (r), of the Privacy Act of 1974, as amended, was submitted on January 24, 2008, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2008.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

DMDC 01

SYSTEM NAME:

Defense Manpower Data Center Data Base (October 1, 2007, 72 FR 189).

CHANGES:

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add to routine use #5. To the Social Security Administration (SSA), ''d. To the Office of Disability and Income Security Programs wounded military service members and veterans for the purpose of expediting disability processing.''

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DMDC 01

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army, Navy, Air Force, and Marine Corps officer and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired Army, Navy, Air Force, and Marine Corps officer and enlisted personnel; active and retired Coast Guard personnel; active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; active and retired members of the commissioned corps of the Public Health Service; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

Current and former DOD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Participants in the Department of Health and Human Services National Longitudinal Survey.

Survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors; survivors of retired Coast Guard personnel; and survivors of retired officers of the National Oceanic and Atmospheric Administration and the Public Health Service who are eligible for or are currently receiving Federal payments due to the death of the retiree.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active and retired members of the Uniformed Services, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DOD contractors and are subject to the provisions of 10 U.S.C. 2397.

All Federal civilian retirees.

All non appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

Individuals who are authorized web access to DMDC computer systems and databases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number (SSN), citizenship data, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; performance ratings of DOD civilian employees and military members; reasons given for leaving military service or DOD civilian service; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, assignment/deployment, length of service, military occupation, aptitude scores, post service education, training, and employment information for veterans; participation in various in-service education and training programs; date of award of certification of military experience and training; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care. Selective Service System registration data.

Index fingerprints of Military Entrance Processing Command (MEPCOM) applicants.

Privacy Act audit logs.

Department of Veteran Affairs disability payment records. Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number (SSN), date of birth, sex, work schedule (full time, part time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from Office of Personnel Management (OPM) OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non appropriated fund employment/personnel records consist of Social Security Number (SSN), name, and work address.

Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

Names of individuals, as well as DMDC assigned identification numbers, and other user-identifying data, such as organization, Social Security Number (SSN), email address, phone number, of those having web access to DMDC computer systems and databases, to include dates and times of access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. App. 3 (Pub. L. 95–452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1562, Database on Domestic Violence Incidents; Pub. L. 106–265, Federal Long-Term Care Insurance; 10 U.S.C. 2358, Research and Development Projects; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DOD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DOD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified.

To collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DOD Components in the preparation of studies and policy as related to the health and well-being of current and past military and DOD affiliated personnel; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals.

Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DOD wide drug testing demographic data will be approved by the DOD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

DMDC web usage data will be used to validate continued need for user access to DMDC computer systems and databases, to address problems associated with web access, and to ensure that access is only for official purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans and their family members.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968).

c. To register eligible veterans and their dependents for DVA programs.

d. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

e. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

f. To provide identifying military personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DOD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(2) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for

the Screening of the Ready Reserve of the Armed Services.

c. Matching for administrative purposes to include updated employer addresses of Federal civil service employees who are reservists and demographic data on civil service employees who are reservists.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DOD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DOD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter intelligence functions and a determination is made that disclosure could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n)).

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns, or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members.

e. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of determining continued eligibility and help eliminate fraud and abuse in benefit programs by identifying individuals who are receiving Federal compensation or pension payments and also are receiving payments pursuant to Federal benefit programs being administered by the States.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of

(1) Conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings, and

(2) Obtaining current earnings data on individuals who have voluntarily left military service or DOD civil employment so that analytical personnel studies regarding pay, retention and benefits may be conducted.

Note 3: Earnings data obtained from the SSA and used by DOD does not contain any information that identifies the individual about whom the earnings data pertains.

b. To the Bureau of Supplemental Security Income for the purpose of verifying information provided to the SSA by applicants and recipients/beneficiaries, who are retired members of the Uniformed Services or their survivors, for Supplemental Security Income (SSI) or Special Veterans' Benefits (SVB). By law (42 U.S.C. 1006 and 1383), the SSA is required to verify eligibility factors and other relevant information provided by the SSI or SVB applicant from independent or collateral sources and obtain additional information as necessary before making SSI or SVB determinations of eligibility, payment amounts, or adjustments thereto.

c. To the Client Identification Branch for the purpose of validating the assigned Social Security Number for individuals in DOD personnel and pay files, using the SSA Enumeration Verification System (EVS).

d. To the Office of Disability and Income Security Programs wounded military service members and veterans for the purpose of expediting disability processing.

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DOD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

8. To Federal and Quasi Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

9. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

10. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

11. To Federal and Quasi Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

12. To the Educational Testing Service, American College Testing, and like organizations for purposes of obtaining testing, academic, socioeconomic, and related demographic data so that analytical personnel studies of the Department of Defense civilian and military workforce can be conducted.

Note 4: Data obtained from such organizations and used by DOD does not contain any information that identifies the individual about whom the data pertains.

13. To Federal and State agencies for purposes of obtaining socioeconomic information on Armed Forces personnel so that analytical studies can be conducted with a view to assessing the present needs and future requirements of such personnel.

14. To Federal and state agencies for purposes of validating demographic data (e.g., Social Security Number, citizenship status, date and place of birth, etc.) for individuals in DOD personnel and pay files so that accurate information is available in support of DOD requirements.

15. To the Bureau of Citizenship and Immigration Services, Department of Homeland Security, for purposes of facilitating the verification of individuals who may be eligible for expedited naturalization (Pub. L. 108–136, Section 1701, and E.O. 13269, Expedited Naturalization).

16. To Federal and State agencies, as well as their contractors and grantees, for purposes of providing military wage, training, and educational information so that Federal-reporting requirements, as mandated by statute, such as the Workforce Investment Act (29 U.S.C. 2801, *et. seq.*) and the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2301, *et. seq.*) can be satisfied.

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

Note 5: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DOD 'Blanket Routine Uses' do not apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number (SSN), occupation, or any other data element contained in system.

SAFEGUARDS:

Access to personal information is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of Common Access Cards (CAC). Physical entry is restricted by the use of locks, guards, and administrative procedures. All individuals granted access to this system of records are to have taken Information Assurance and Privacy Act training; all have been through the vetting process and have ADP ratings.

RETENTION AND DISPOSAL:

The records are used to provide a centralized system within the Department of Defense to assess manpower trends, support personnel functions, perform longitudinal statistical analyses, and conduct scientific studies or medical follow-up programs and other related studies/analyses. Records are retained as follows:

(1) Input/source records are deleted or destroyed after data have been entered into the master file or when no longer needed for operational purposes, whichever is later. Exception: Apply NARA-approved disposition instructions to the data files residing in other DMDC data bases.

(2) The Master File is retained permanently. At the end of the fiscal year, a snapshot is taken and transferred to the National Archives in accordance with 36 CFR part 1228.270 and 36 CFR part 1234.

(3) Outputs records (electronic or paper summary reports) are deleted or destroyed when no longer needed for operational purposes. **Note:** This disposition instruction applies only to record keeping copies of the reports retained by DMDC. The DOD office requiring creation of the report should maintain its record keeping copy in accordance with NARA approved disposition instructions for such reports.

(4) System documentation (codebooks, record layouts, and other system documentation) are retained permanently and transferred to the National Archives along with the master file in accordance with 36 CFR part 1228.270 and 36 CFR part 1234.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DOD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative

Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

Record sources are individuals via survey questionnaires, the military services, the Department of Veteran Affairs, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, the Public Health Service, the Office of Personnel Management, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Executive Office of the President, and the Selective Service System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–1743 Filed 1–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2008–OS–0002]

Privacy Act of 1974; System of Records

AGENCY: Defense Information Systems Agency.

ACTION: Notice to Add a System of Records.

SUMMARY: Defense Information Systems Agency proposes to add a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 3, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Defense Information Systems Agency, 5600 Columbia Pike, Room 933-I, Falls Church, VA 22041–2705.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette M. Weathers-Jenkins at (703) 681–2103.

SUPPLEMENTARY INFORMATION: The Defense Information Systems Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a (r), of the Privacy Act of 1974, as amended, were submitted on January 23, 2008, to the House Committee on Oversight and Government of Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

K890.10

SYSTEM NAME:

Joint Enterprise Directory Services (JEDS).

SYSTEM LOCATION:

Defense Information Systems Agency, Directory Services Branch, PEO–IAN/IA42, P.O. Box 4502, Arlington, VA 22204–4502, or a list of system locations may be obtained by e-mailing *jeds2@disa.mil.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense (DoD) personnel who have been issued DoD Common Access Cards (CAC) or a DoD Class 3 Public Key Infrastructure (PKI) certificate to include civilian employees, military personnel, contractors and other individuals detailed or assigned to DoD Components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Electronic Data Interchange Person Identifier (EDI PI), other unique identifier (not SSN), rank, title, personnel type, DoD component, DoD sub-component, Non-DoD agency, position title, business e-mail address, and display name(s), office commercial and Defense System Network (DSN) phone and fax numbers, business mobile phone numbers, Internet Protocol (IP) phones, business location and mailing addresses, DoD PKI e-mail encryption certificate, distinguished name from source record(s), directory publishing restrictions, country of citizenship, U.S. citizenship status, DoD job skill, language skill and occupational codes, reserve component code, segment termination code, assigned unit name, code and location, attached unit name, code and location, major geographical location, major command, assigned major command, job series, billet code, and pay grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; DoD Directive 5105.19, Defense Information Systems Agency (DISA); DoD Chief Information Officer Memorandum for Director, Defense Information Systems Agency (DISA), Enterprise Directory Services Roadmap for the Department of Defense, 2 May 2005.

PURPOSE(S):

To provide a DoD Directory Services capability offering a single source from which to obtain identity and contact information about Combatant Command, Service, and Agency personnel as well as an enterprise level attribute service. JEDS will support the warfighter's mission by providing access, via controlled interfaces, to DoD personnel contact information and when requested by approved DoD applications, to identity attributes, and to support authorization decisions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DISA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Access to the type and amount of data is governed by privilege management software and policies developed and enforced by Federal government personnel. Defense-in-Depth methodology is used to protect the repository and interfaces, including (but not limited to) multi-layered firewalls, Secure Sockets Layer/Transport Layer Security connections, Directory access control lists, file system permissions, intrusion detection and prevention systems and log monitoring. Complete access to all records is restricted to and controlled by certified system management personnel, who are responsible for maintaining the JEDS system integrity and the data confidentiality.

RETENTION AND DISPOSAL:

Records are maintained on personnel while actively employed by, supporting or affiliated with the Department of Defense. Records for personnel no longer actively supporting the DoD are permanently deleted from the system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Information Systems Agency, Directory Services Branch, PEO–IAN/IA42, P.O. Box 4502, Arlington, VA 22204–4502.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should e-mail *jeds2@disa.mil* or address written inquiries to Defense Information Systems Agency, Directory Services Branch, PEO–IAN/IA42, P.O. Box 4502, Arlington, VA 22204–4502.

Requests must include the individual's full name, rank, grade or title, component affiliation, work e-mail address, telephone number, assigned office or unit, and complete mailing address.

E-mail requests must be digitally signed with the requester's valid DoD or ECA identity certificate.

RECORD ACCESS PROCEDURES:

Individuals seeking access to get information about themselves contained in this system of records should e-mail *jeds2@disa.mil* or address written inquiries to Defense Information Systems Agency, Directory Services Branch, PEO–IAN/IA42, P.O. Box 4502,. Arlington, VA 22204–4502.

Requests must include the individual's full name, rank, grade or title, component affiliation, work email address, telephone number, assigned office or unit, and complete mailing address.

E-mail requests must be digitally signed with the requester's valid DoD or ECA identity certificate.

CONTESTING RECORD PROCEDURES:

DISA's rules for accessing records, for contesting content and appealing initial agency determinations are published in DISA Instruction 210–225–2; 32 CFR part 316; or may be obtained from the system manager by e-mailing *jeds2@disa.mil.*

RECORD SOURCE CATEGORIES:

DoD Component directories, the Defense Eligibility Enrollment Reporting System (DEERS), and the DISA DoD PKI Global Directory Service (GDS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–1744 Filed 1–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2008–OS–0005]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Defense Logistics Agency (DLA) is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 3, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on January 23, 2008, to the House Committee on Government Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S800.20

SYSTEM NAME:

Military Clothing Database.

SYSTEM LOCATION:

Data regarding recruits is located at participating Recruit Induction/Training Centers and at Advantech, Inc., 2661 Riva Road, Suite 1000, Annapolis, MD 21401–7166. For a list of participating Recruit Induction/Training Centers contact the System manager below.

Data regarding active duty service members (Department of the Army, Department of the Air Force, U.S. Marine Corps, and select National Guard and Reserve units) is located at Fort Carson, CO, Central Issue Facility, Fort Bliss, TX, and Central Issue Facility and Advantech, Inc., 2661 Riva Road, Suite 1000, Annapolis, MD 21401–7166.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recruits being inducted at the participating Recruit Induction/Training Centers (Department of the Army, the Department of the Air Force, the U.S. Marine Corps, and select National Guard and Reserve units). These include recruits with special clothing requirements. The data for individual recruits is captured on a ''mark sense scan form''.

Active duty personnel in the Department of the Army, the Department of the Air Force, the U.S. Marine Corps, and select National Guard and Reserve units; Federal government civilian employees; DOD contractor personnel; and any other individuals deployed in support of military operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), gender, rank, MOS, duty station, roster ID, Platoon/Company assigned, records of receipts, sales, exchanges, replacements, and returns of individual clothing items, uniform sizes, body measurements, **body scan images, quantities of clothing items ordered by individuals and branch of military service cost center data.

**Body scan images (applies only to individuals processed at Fort Jackson, SC, Lackland Air Force Base, TX, and Fort Carson, CO) are converted into human readable body measurements which are then used to predict clothing sizes. The body scan images are not maintained in this system, but are provided to the Military Services which may use the data to perfect the sizes specified to Defense Logistics Agency (DLA) for procurement. Images are not used for any other purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; DoD Directive 1338.5, Armed Forces Clothing Monetary Allowance Policy; and E.O. 9397 (SSN).

PURPOSE(S):

To establish a database for the purpose of managing military recruit

clothing inventories; active duty Organizational Clothing and Individual Equipment inventories; to forecast future clothing needs; to reduce costs and lead times; to improve the quality of design and production of clothing; and to improve the efficiency of clothing distribution for the participating military services. Records are also used to record receipts, sales, exchanges, replacements, and returns of individual clothing items by the recruit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Measurement and size information may be disclosed to garment manufacturers for the purpose of producing military clothing in the necessary sizes.

The DOD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic storage media.

RETRIEVABILITY:

Individual's name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in secure, limited access, or monitored areas. Database is monitored and access is password protected. Physical entry by unauthorized persons is restricted through the use of locks, guards, passwords, or other administrative procedures. Archived data is stored on discs, or magnetic tapes, which are kept in a locked or controlled access area. Access to personal information is limited to those individuals who require the records to perform their official assigned duties.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the retention and disposal of these records, treat them as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

For recruit data—Product Executive, Dress Clothing, Defense Supply Center Philadelphia, DSCP–CRD, 700 Robbins Avenue, Philadelphia, PA 19111–5092.

For all others—Organizational Clothing and Individual Equipment Program Manager, Headquarters Defense Logistics Agency (J–339), Stop 6233, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Officer, Defense Supply Center Philadelphia, ATTN: DSCP–BPCA, 700 Robbins Avenue, Philadelphia, PA 19111–5092.

Written requests must contain the subject individual's full name, Social Security Number (SSN), and the Recruit Induction/Training Centers where inducted/trained.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Officer, Defense Supply Center Philadelphia, ATTN: DSCP–BPCA, 700 Robbins Avenue, Philadelphia, PA 19111–5092.

Written requests must contain the subject individual's full name, Social Security Number (SSN), and the Recruit Induction/Training Centers where inducted/trained.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records for contesting contents and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject and their affiliated Military Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–1746 Filed 1–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Remote Mosaic Imaging System Having High-Resolution, Wide Field-of-View and Low Bandwidth

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the invention set forth in U.S. Patent No. 6,704,460 entitled ''Remote mosaic imaging system having high-resolution, wide field-of-view and low bandwidth,'' issued on March 9, 2004. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Research Development and Engineering Command, ATTN: AMSRD–AMR–AS–PT–TR, Bldg. 5400, Redstone Arsenal, AL 35898–5000.

FOR FURTHER INFORMATION CONTACT: Dr. Russ Alexander, Office of Research & Technology Applications, (256) 876–8743.

SUPPLEMENTARY INFORMATION: The present invention uses image frame synchronization and multiplexing to reduce the bandwidth needed to transmit the plurality of images to a remote location. The use of readily available and inexpensive commercial imaging sensors significantly decreases the cost while increasing the capabilities.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–1747 Filed 1–30–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Army Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement for 408 Permission and 404 Permit to Sacramento Area Flood Control Agency for the Natomas Levee Improvement Project, Sacramento, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers; DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is the preparation of an environmental impact statement (EIS) for the issuance of both the 408 permission and 404 permit to SAFCA for their work on the Natomas Levee Improvement Project (NLIP). The 408 is permission to alter existing flood control structures and the 404 permit is required for the discharge of dredged or fill material into the waters of U.S. under the Clean Water Act. The NLIP is located in Sacramento and Sutter Counties, California. SAFCA is requesting this permission and permit

in order to complete construction along the Natomas Cross Canal and on the landside of the east levee of the Sacramento River.

DATES: A public scoping meeting was held January 9, 2008. Send written comments by February 15, 2008 to the address listed under the **ADDRESSES** section.

ADDRESSES: Send written comments and suggestions concerning this study to Ms. Elizabeth Holland, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK–PD–R), 1325 J Street, Sacramento, CA 95814. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be addressed to Liz Holland at (916) 557–6763, e-mail *Elizabeth.g.holland@usace.army.mil* or by mail to the address listed under the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The U.S. Army Corps of Engineers is preparing an EIS to analyze the impacts of the work proposed by SAFCA from the implementation of the NLIP. The NLIP is being constructed by SAFCA to improve flood protection to portions of the City and County of Sacramento and Sutter County lying within the Natomas Basin.

2. Alternatives

The EIS will address an array of flood control improvement alternatives. Alternatives analyzed during the investigation will include a combination of one or more flood protection measures. These measures include seepage berms, adjacent setback levees, seepage wells, seepage cutoff walls, and relocation of irrigation ditches.

3. Scoping Process

a. A public scoping meeting was held on January 9, 2008 to present information to the public and to receive comments from the public. The Corps has initiated a process to involve concerned individuals, and local, State, and Federal agencies.

b. Significant issues to be analyzed in depth in the EIS include effects on hydraulic, wetlands and other waters of the U.S., vegetation and wildlife resources, special-status species, esthetics, cultural resources, recreation, land use, fisheries, water quality, air quality, transportation, and socioeconomics; and cumulative effects of related projects in the study area.

c. The Corps is consulting with the State Historic Preservation Officer to comply with the National Historic Preservation Act, and the U.S. Fish and Wildlife Service to provide a Fish and Wildlife Coordination Act Report as an appendix to the EIS.

d. A 45-day public review period will be provided for individuals and agencies to review and comment on the draft EIS. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the draft EIS circulation.

4. Availability

The draft EIS is scheduled to be available for public review and comment in early 2008.

Dated: January 21, 2008.

Thomas Chapman,

COL, EN, Commanding.

[FR Doc. E8–1753 Filed 1–30–08; 8:45 am]

BILLING CODE 3710–EZ–P

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2008–0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 3, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 24, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01000–1

SYSTEM NAME:

Correction Board Case Files System (April 24, 1997, 62 FR 1994).

CHANGES:

Delete ''N01000–1'' and replace with ''NM01000–1''.

SYSTEM NAME:

Delete entry and replace with ''Board for Correction of Naval Records Tracking System (BCNRTS) and Case Files.''

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Board for Correction of Naval Records, Room 2432, 2 Navy Annex, Washington, DC 20370–5100.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records consist of file cards with basic information and computer records derived there from, case files containing records of board proceedings, material submitted for correction and supporting documentation, correspondence and transcripts of board formal hearings. The basic case information and computer records derived there from include the following: Rank; Social Security Number (SSN)/service number; docket number; date application received; subject category; subject category description; examiner's initials; date examiner assigned; branch of service; board decision; date of board decision; date decision promised if interested members of Congress; date case forwarded to the Secretary of the Navy; date case forwarded to Navy Personnel Command/Commandant of the Marine Corps; date case returned from Navy Personnel Command/ Commandant of the Marine Corps; date advisory opinion requested; identity of advisor's organization; date advisory opinion received; date service record ordered; date medical record ordered; date court-martial record ordered; date Navy Discharge Review Board record ordered; date other record ordered; date service record received; date medical record received; date court-martial record received; date Navy Discharge Review Board record received; date

other records received; number of Navy applications received; number of Marine Corps applications received; total number of Navy and Marine Corps applications received; statistical breakdown of cases; total number of Navy discharge cases; total number Marine Corps discharge cases; Navy grant count; Navy deny count; Navy modify count; Marine grant; Marine deny count; Marine modify count.''

* * * * *

PURPOSE(S):

Replace paragraphs 2, 3, and 4 entries with the following ''To officials and employees of the Navy Personnel Command, the Bureau of Medicine and Surgery, the Secretary of the Navy Council of Review Boards, the Physical Evaluation Board and the Judge Advocate General for the purpose of obtaining advisory opinions and to correct records in accordance with approved Correction Board decisions.

To officials and employees of Headquarters, U.S. Marine Corps for the purpose of obtaining advisory opinions in cases involving present and former Marine Corps personnel and to correct records of present and former Marine Corps personnel in accordance with approved correction Board decisions.

To officials and employees of the General Litigation Division, Office of the Judge Advocate General, Department of the Navy to prepare legal briefs and answers to complaints filed against the Department of the Navy.''

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

''Paper records and automated data base [Board for Correction of Naval Records Tracking System (BCNRTS)].''

RETRIEVABILITY:

Delete entry and replace with ''Name of the applicant; docket number; and Social Security Number (SSN)/service number.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Three years after record is closed, it is transferred to the Federal Records Center for storage. It is destroyed when 40 years old or when the military personnel service record is destroyed, whichever is earlier.''

* * * * *

NOTIFICATION PROCEDURE:

Delete para 2 and replace with ''Individual should submit a written request that includes their full name, Social Security Number (SSN) or service number, and branch of service.

The request should also include a current mailing address and telephone number.''

RECORD ACCESS PROCEDURES:

Delete para 2 and replace with ''Individual should submit a written request that includes their full name, Social Security Number (SSN) or service number, and branch of service.

The request should also include a current mailing address and telephone number.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual; military records; Department of Veterans Affairs; police and law enforcement records.''

* * * * *

NM01000–1

SYSTEM NAME:

Board for Correction of Naval Records Tracking System (BCNRTS) and Case Files.

SYSTEM LOCATION:

Board for Correction of Naval Records, Room 2432, 2 Navy Annex, Washington, DC 20370–5100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any member or former member of the U.S. Navy or Marine Corps who has applied for the correction of his/her naval record.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of file cards with basic information and computer records derived therefrom, case files containing records of board proceedings, material submitted for correction and supporting documentation, correspondence and transcripts of board formal hearings. The basic case information and computer records derived therefrom include the following: Rank; Social Security Number (SSN)/service number; docket number; date application received; subject category; subject category description; examiner's initials; date examiner assigned; branch of service; board decision; date of board decision; date decision promised if interested members of Congress; date case forwarded to the Secretary of the Navy; date case forwarded to Navy Personnel Command/Commandant of the Marine Corps; date case returned from Navy Personnel Command/ Commandant of the Marine Corps; date advisory opinion requested; identity of advisor's organization; date advisory opinion received; date service record ordered; date medical record ordered; date court-martial record ordered; date Navy Discharge Review Board record ordered; date other record ordered; date service record received; date medical record received; date court-martial record received; date Navy Discharge Review Board record received; date other records received; number of Navy applications received; number of Marine Corps applications received; total number of Navy and Marine Corps applications received; percent of total to grand total; total number of Navy discharge cases; total number Marine Corps discharge cases; Navy grant count; Navy deny count; Navy modify count; Marine grant; Marine deny count; Marine modify count.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1552; 32 CFR part 723; and E.O. 9397 (SSN).

PURPOSE(S):

To review applicant's Naval record to determine the existence of alleged error or injustice and to recommend appropriate corrective action when warranted—to report its findings, conclusions and recommendations to the Secretary of the Navy in appropriate cases—to respond to inquiries from applicants, their counsel, and members of Congress.

To officials and employees of the Navy Personnel Command, the Bureau of Medicine and Surgery, the Secretary of the Navy Council of Review Boards, the Physical Evaluation Board and the Judge Advocate General for the purpose of obtaining advisory opinions and to correct records in accordance with approved Correction Board decisions.

To officials and employees of Headquarters, U.S. Marine Corps for the purpose of obtaining advisory opinions in cases involving present and former Marine Corps personnel and to correct records of present and former Marine Corps personnel in accordance with approved correction Board decisions.

To officials and employees of the General Litigation Division, Office of the Judge Advocate General, Department of the Navy to prepare legal briefs and answers to complaints filed against the Department of the Navy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the

DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and automated data base [Board for Correction of Naval Records Tracking System (BCNRTS)].

RETRIEVABILITY:

Name of the applicant; docket number; and Social Security Number (SSN)/service number.

SAFEGUARDS:

Access to building is protected by uniformed security officers requiring positive identification; for admission after hours, records are maintained in areas accessible only to authorized personnel. Computer systems are password protected.

RETENTION AND DISPOSAL:

Three years after record is closed, it is transferred to the Federal Records Center for storage. It is destroyed when 40 years old or when the military personnel service record is destroyed, whichever is earlier.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Board for Correction of Naval Records, Room 2432, 2 Navy Annex, Washington, DC 20370–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Executive Director, Board for Correction of Naval Records, Room 2432, 2 Navy Annex, Washington, DC 20370–5100.

Individual should submit a written request that includes their full name, Social Security Number (SSN) or service number, and branch of service. In additional, the request should also include a current mailing address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Executive Director, Board for Correction of Naval Records, Room 2432, 2 Navy Annex, Washington, DC 20370–5100.

Individual should submit a written request that includes their full name, Social Security Number (SSN) or service number, and branch of service. In additional, the request should also include a current mailing address and telephone number.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; military records; Department of Veterans Affairs; police and law enforcement records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–1745 Filed 1–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP08–60–000]

Arlington Storage Company, LLC; Notice of Application

January 25, 2008.

Take notice that on January 23, 2008, Arlington Storage Company, LLC (Arlington), Two Brush Creek Boulevard, Kansas City, Missouri 64112, filed in Docket No. CP08–60–000, a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, and section 7(c)(1)(B) of the Natural Gas Act, seeking approval of an exemption from certificate requirements to perform temporary activities in order to drill up to two test wells in the Thomas Corners Fields to assess the optimal manner in which to develop an underground natural gas storage facility in Steuben County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to James M. Costan, Sullivan & Worcester LLP, 1666 K Street, NW., Washington, DC 20006, at (202) 775–1200, or by fax at (202) 293–2275, or e-mail *jcostan@sandw.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to

the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: February 8, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–1738 Filed 1–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–032–000]

Natural Gas Pipeline Company of America; Notice of Intent To Prepare an Environmental Assessment for the Proposed Herscher-Galesville Expansion Project and Request for Comments on Environmental Issues

January 25, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Herscher-Galesville Expansion Project involving construction and operation of facilities by Natural Gas Pipeline Company of America (Natural) in Kankakee County, Illinois.[1] These facilities would consist of new water withdrawal wells, new and extended water disposal wells, new water pipelines, one new compressor station addition, and extension of five existing natural gas injection/withdrawal wells. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on February 4, 2008. Details on how to submit comments are provided in the Public Participation section of this notice.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Natural provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Natural proposes to add new and modify existing natural gas storage facilities, and add new compression, at its existing Herscher Gas Storage Field near the town of Herscher, Illinois. The purpose of this project is to increase the storage field's working gas capacity by 10 billion cubic feet and increase the peak day withdrawal capacity. Natural would achieve this increased capacity by constructing facilities to remove water from the Galesville formation part of the storage field. Reworking of five existing withdrawal/injection wells, and construction of the new compressor station addition within its existing adjacent Compressor Station 201, would enable Natural to increase peak day withdrawal capacity. Natural proposes to:

- Install 15 new water withdrawal wells with pumps;
- Install 11 new water disposal wells;
- Install five water booster pumps at existing water disposal wells;
- Conduct up to four lateral extensions at existing water disposal wells;
- Conduct workover/extensions on five existing natural gas injection/withdrawal wells;
- Replace, loop or extend 12 waterlines with 8 13-inch-diameter plastic pipe; and
- Construct a new 8,180 horsepower (hp) gas-fired engine compressor station addition.

Natural requests certification by July 1, 2008, and expects to have the new water wells and associated water lines in service by April 1, 2009, followed by compressor services in September of 2009.

The location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require disturbance of 125 acres

[1] Natural's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's website at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

of land widely scattered around the western, southern and eastern outskirts of the Town of Herscher. This includes 107 acres under construction right-of-way that would be restored to previous land use following construction, and 18 acres under new permanent easement or ownership.

Natural would use eight existing well pads and 11 new well pads as staging for horizontal directionally-drilling (HDD) 15 new water withdrawal wells and 11 new disposal wells (11.3 acres of construction work area). Natural would use the HDD method for the four lateral extensions of water disposal wells, staged from existing well pad sites (0.9 acres of construction work area). Extension of the five natural gas injection/withdrawal wells would be performed at existing well sites (1.2 acres of construction work area). Natural would construct three new booster pumps at three existing water disposal wells (1.4 acres of construction work area).

Natural would require virtually the entire 83-acre Compressor Station 201 property as construction work areas, including staging, for installation of the compressor station facility additions. Natural plans to use a 50-foot-wide construction right-of-way for installation of the waterlines, and would retain the full 50 feet as permanent right-of-way for operation. This right-of-way would occur as looping, replacement, or along new alignments, and would require 27 acres of construction work area.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we [3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Water resources;
- Wetlands and fisheries;
- Vegetation and wildlife;
- Threatened and endangered species;
- Land use;
- Cultural resources;
- Air quality and noise;
- Reliability and safety; and
- Cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 2.
- Reference Docket No. CP08–032–000.
- Mail your comments so that they will be received in Washington, DC on or before February 25, 2008.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

As described above, we may publish and distribute the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Environmental Mailing List Form (Appendix 3). If you do not return the Environmental Mailing List Form, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor''. To become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov*. Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with e-mail addresses may be served electronically; others must be served a hard copy of the filing.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits (i.e., enter PF06–398) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–1737 Filed 1–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF08–4–000]

Williston Basin Interstate Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Sheyenne Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Site Visit

January 25, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will identify and address the environmental impacts that could result from the construction and operation of the Sheyenne Expansion Project proposed by Williston Basin Interstate Pipeline Company (Williston Basin). The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period for this Notice will close on February 25, 2008. Details on how to submit comments are provided in the Public Participation section of this notice.

Additionally, as part of the scoping process, we will also have a public site visit at the locations described below, to receive comments on the proposed project. Please note that attendees at the site visit must obtain their own transportation for the site visit.

Date and time	Location
8 a.m., February 6, 2008	Governor's Inn Parking Lot, 2050 Governors Dr, Casselton, ND 58012.
1 p.m., February 6, 2008	Lone Steer Hotel Parking Lot, I–94 & Hwy #3N, Exit 200, Steele, ND 58012.
3 p.m., February 6, 2008	Bismarck Compressor Station, 850 57th Ave NW., Bismarck, ND 58503.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers; all of which are encouraged to submit comments on the proposed project. Details on how to submit comments are provided in the Public Participation section of this notice.

If you are a landowner receiving this notice, you may be contacted by a Williston Basin representative about the acquisition of an easement to construct, operate, and maintain the proposed project facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

Williston Basin proposes to construct the new Steele Compressor Station in Kidder County, North Dakota; install additional compression at the existing Bismark Compressor Station in Burleigh County, North Dakota; undertake minor modifications to the existing Cleveland Compressor Station Stutsman County, North Dakota; and construct and operate approximately 6,400 feet of 8-inch-diameter pipeline lateral and metering facilities to connect to the proposed Tharaldson ethanol plant in Cass County, North Dakota. The Project would increase firm capacity into

Williston Basin's subsystem by 9,650 million cubic foot per day, approximately 96% of the addition capacity would be for the Tharaldson ethanol plant. Williston Basin plans to file the application by May 1, 2008 and requests that the Commission issue a certificate by September 1, 2008 to meet an in-service date of December 15, 2008.

The general location of the proposed pipeline is shown in the figure included as Appendix.[1]

Land Requirements for Construction

As proposed, the typical construction right-of-way for the project lateral would be 75-feet-wide. Following construction, Williston Basin has proposed to retain a 50-foot-wide permanent right-of-way for operation of the project.

Based on preliminary information, construction and operation of the proposed lateral and associated aboveground facilities would affect about 21.6 acres of land. Following construction, about 6.4 acres would be maintained as permanent right-of-way, and about 5 acres of land would be maintained as new aboveground facility sites. The remaining temporary workspace would be restored and allowed to revert to its former use. Construction at the existing Compressor Stations would be within the current fenced areas.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from the approval of an interstate natural gas pipeline. By this notice, we[2] are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA.

The purpose of the Pre-filing Process is to seek public and agency input early in the project planning phase and encourage involvement by interested stakeholders in a manner that allows for the early identification and resolution of environmental issues. We will work with all interested stakeholders to identify and attempt to address issues before Williston Basin files its application with the FERC. A diagram depicting the environmental review process for the proposed project is attached to this notice as Appendix 2.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. As part of the Pre-filing Process review, Williston Basin sponsored public open houses in the project area to explain the environmental review process to interested stakeholders and take comments about the project.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Water resources;
- Wetlands and vegetation;
- Fish, wildlife, threatened and endangered species;
- Land use, recreation, and visual resources;
- Air quality and noise;
- Cultural resources;
- Reliability and safety; and
- Cumulative environmental impacts.

In the EA, we will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on affected resources.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under the Commission's Pre-filing Process. The purpose of the Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please carefully follow these instructions:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of your comments for the attention of Gas Branch 3, DG2E.
- Reference Docket No. PF08–4–000 on the original and both copies.
- Mail your comments so that they will be received in Washington, DC on or before February 25, 2008.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Once Williston Basin formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Web site at the eLibrary link or from the Commission's Public Reference Room or by calling (202) 502–8371. For instructions on connecting to eLibrary refer to the public participation section of this notice. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section at the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Williston Basin.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

If you received this notice, you are on the environmental mailing list for this project. If you do not want to send comments at this time, but still want to remain on our mailing list, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be removed from the Commission's environmental mailing list.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–1736 Filed 1–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–13–000]

Floridian Natural Gas Storage Company, LLC; Notice of Technical Conference

January 25, 2008.

On Thursday, February 21, 2008, at 9 a.m. (EST), staff of the Office of Energy Projects will convene an engineering design and technical conference regarding the proposed Floridian Natural Gas Storage Project. The conference will be held at the Radisson Hotel in West Palm Beach, Florida. The hotel is located at 1808 South Australian Avenue, West Palm Beach, FL 33409. For hotel details call (561) 689–6888.

In view of the nature of Critical Energy Infrastructure Information and security issues to be explored, the cryogenic conference will not be open to the public. Attendance at this conference will be limited to existing parties to the proceeding (anyone who has specifically requested to intervene as a party) and to representatives of interested federal, state, and local agencies. Any person planning to attend the February 21st cryogenic conference must register by close of business on Tuesday, February 19th, 2008. Registrations may be submitted either online at *http://www.ferc.gov/whats-new/registration/cryo-conf-form.asp* or by faxing a copy of the form (found at the referenced online link) to 202–208–0353. All attendees must sign a non-disclosure statement prior to entering the conference. Upon arrival at the hotel, check the reader board in the hotel lobby for venue. For additional information regarding the cryogenic conference, please contact Sentho White at (202) 502–6216.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–1740 Filed 1–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–35–000]

PSEG Energy Resources & Trade, PSEG Fossil LLC, Cross Hudson LLC; Notice of Filing

January 25, 2008.

Take notice that on January 17, 2008, PSEG Energy Resources & Trade, PSEG Fossil, LLC and Cross Hudson, LLC tendered for filing a Petition for Declaratory Order.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 19, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–1739 Filed 1–30–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8523–1]

Science Advisory Board Staff Office; Notification of a Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public face-to-face meeting of the chartered SAB to: (1) Discuss EPA's research budget for Fiscal Year 2009; (2) Agency long-term research directions and priorities; (3) conduct a quality review of the Draft *SAB Advisory on EPA's ''Report on the Environment 2007: Science Report''*; and (4) continue planning for upcoming SAB meetings.

DATES: The meeting dates are Thursday, February 28, 2008, from 8:30 a.m. to 5:30 p.m. through Friday, February 29, 2008, from 8:30 a.m. to 2:00 p.m. (Eastern Time).

ADDRESSES: The meeting will be held at the Westin Arlington Gateway, 801 N. Glebe Road, Arlington, VA 22203; phone (703) 717–6200.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this meeting may contact Mr. Thomas O. Miller, Designated Federal Officer (DFO), by mail at EPA SAB Staff Office, (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9982; by fax at (202) 233–0643; or by e-mail at: *miller.tom@epa.gov*. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web Site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The purpose of this meeting will be to allow the SAB to discuss with Agency representatives the research priorities that are a component of the Fiscal Year 2009 research budget. The SAB conducts a review of the EPA research budget each year and as a result of discussions and evaluations that are a part of this review, provides written advice to the EPA Administrator and testimony to the U.S. Congress on how that budget might contribute to the achievement of EPA's overall research goals.

The SAB will also conduct a quality review of one draft SAB Committee report, *SAB Advisory on EPA's ''Report on the Environment 2007: Science Report.''* The EPA Report on the Environment (ROE) 2007 addresses key questions about the current status of and trends in the condition of the environment and human health. These questions are intended to be relevant to EPA's current regulatory and programmatic activities and mission. In its review, the SAB was asked to comment on: (1) The adequacy of the formulation and scope of the questions addressed in the ROE 2007 Science Report, (2) the appropriateness of the indicators used to answer the questions in the report, (3) the accuracy of the characterization of gaps and limitations in the indicators used in the report, (4) the appropriateness of regionalization of national indicators in the report, (5) the utility of regional indicators in the report, and (6) the overall quality of the report with respect to technical accuracy, clarity, and appropriateness of level of communication. Additional information on this review can be found in the announcement of the review in the **Federal Register** (see FR 72 29498–29499 of May 29, 2007) and the EPA SAB Web Site at: *http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/2457aac81d2003a98525701900616b47!OpenDocument*.

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web Site at: *http://www.epa.gov/sab* in advance of this meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider on the topics included in this advisory activity and/or the group conducting the activity.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than one hour for all speakers. Interested parties should contact Mr. Miller, DFO, at the contact information provided above, by February 21, 2008, to be placed on the public speaker list for the February 28–29, 2008 meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by February 14, 2008, so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO via e-mail to *miller.tom@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Thomas Miller at (202) 343–9982, or via e-mail at *miller.tom@epa.gov*. To request accommodation of a disability, please contact Mr. Miller, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 24, 2008.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–1793 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8523–3]

Science Advisory Board Staff Office; Request for Nominations for Science Advisory Board Panel on Risk and Technology Review Assessments for Phase II Source Categories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office is announcing the formation of an SAB Expert panel to review and provide advice about draft risk assessments that evaluate the effects of industrial emissions of hazardous air pollutants (HAPs) on public health and the environment in accordance with EPA's Risk and Technology Review (RTR) Assessment. The SAB Staff Office is soliciting public nominations of technical experts for this panel.

DATES: Nominations should be submitted by February 21, 2008 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding the submission of nominations may contact Dr. Resha M. Putzrath, via telephone at: (202) 343–9978 or e-mail at: *putzrath.resha@epa.gov*. The SAB Mailing address is: U.S. EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200

Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB as well as any updates concerning this request for nominations may be found on the SAB Web site at: *http://www.epa.gov/sab*.

Technical Contact: For questions and information concerning the Agency's draft technical documents and background information, contact Dr. Dave Guinnup, at: (919) 541–5368, or *guinnup.dave@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 112(f)(2)(A) of the 1990 Clean Air Act Amendments (CAA) requires EPA to evaluate whether emission standards that were previously adopted under the technology-based, Maximum Achievable Control Technology (MACT) program provide an ample margin of safety to protect public health and prevent adverse environmental effects (taking into consideration costs, energy, safety, and other relevant factors). Within eight years of the promulgation of a MACT standard for the source category, EPA is mandated by the CAA to assess the risks to determine whether additional standards are needed.

EPA's Office of Air and Radiation has developed a Risk and Technology Review (RTR) Assessment Plan (referred to as RTR II) that has a streamlined approach. The SAB provided advice in a consultation on the RTR II in December 2006 [Consultation on EPA's Risk and Technology Review (RTR) Assessment Plan (EPA–SAB–07–009) available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/33152C83D29530F08525730D006C3ABF/$File/sab-07-009.pdf*]. The SAB identified some key scientific issues and provided recommendations for the Plan. The SAB Panel being formed will review EPA's draft risk assessments developed under the RTR II approach, as modified to reflect SAB recommendations. These draft risk assessments will evaluate the potential risks to human health and the environment that remain after sources come into compliance with MACT.

Request for Nominations: The SAB Staff Office is requesting nominations for nationally and internationally recognized, non-EPA scientists with expertise and experience related to: Airborne (and possibly multi-pathway) fate-and-transport modeling of organic and inorganic chemicals; modeling of potential human exposures; modeling of human health risk; health effects of individual chemicals and mixtures of chemicals; risk assessment models and practices; uncertainty or sensitivity analyses; and risk communication theory and practice. The Agency is particularly interested in nominees with in-depth knowledge and experience in evaluating effects, exposure, and risk of hazardous air pollutants.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals with expertise and experience described above for consideration of service on the SAB Panel on Risk and Technology Review Assessments for Phase II Source Categories. Nominations should be submitted in electronic format through the SAB Web site at the following URL: *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/participatepanelformation?OpenDocument*. Please follow the instructions for submitting nominations carefully. To be considered, nominations should include all of the information required on the associated forms. Anyone unable to submit nominations using the electronic form or who has any questions concerning the nomination process may contact Dr. Resha M. Putzrath, as indicated above in this notice. Nominations should be submitted in time to arrive no later than February 21, 2008.

To be considered, all nominations should include: A current *curriculum vitae* (C.V.) which provides the nominee's background, qualifications, research expertise, and relevant publications for service on the Panel; and a brief biographical sketch (''biosketch''). The biosketch should be no longer than one page and should contain the following information for the nominee: (a) Current professional affiliations and positions held; (b) area(s) of expertise, and research activities and interests relevant to the Panel; (c) leadership positions in national associations or professional publications or other significant distinctions; (d) educational background, especially advanced degrees, including when and from which institutions these were granted; and (e) service on other advisory committees or professional societies, especially those associated with issues under discussion in this review. Incomplete biosketches will not be considered. The EPA SAB Staff Office will acknowledge receipt of nominations.

The names and biosketches of qualified nominees identified by respondents to the **Federal Register** notice and additional experts identified by the SAB Staff will be posted on the SAB Web site accessible through a link for this panel at: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebBOARD/CommitteesandMembership?OpenDocument*. Public comments on this ''Short List'' of candidates will be accepted for 21 calendar days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office, a balanced subcommittee or review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. To establish individual expert panels for the advisory activities described above, the SAB Staff Office will consider public comments on the ''Short List'' of candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Specific criteria to be used for Panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; and (e) skills working in committees, subcommittees, and advisory panels; and (f) for the Panel as a whole, diversity of, and balance among, factors such as scientific expertise and viewpoints.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form

may be viewed and downloaded from the following URL address: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebSABSO/ethics?OpenDocument*.

The approved policy under which the EPA SAB Office selects subcommittees and review panels is described in the following document: Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board (EPA–SAB–EC–02–010), which is posted on the SAB Web site at: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebSABSO/OverviewPanelForm?OpenDocument*.

Dated: January 24, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–1772 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8522–9]

Science Advisory Board Staff Office, SAB Particulate Matter (PM) Research Centers Program Review Panel; Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office is announcing the formation of an SAB panel to advise the Agency concerning the future direction of its Particulate Matter (PM) Research Centers Program. The SAB Staff Office is soliciting public nominations for this Panel.

DATES: New nominations should be submitted by February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nominations may contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9994; fax: (202) 233–0643; or e-mail at: *butterfield.fred@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the EPA Web Site: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

In EPA's 1998 appropriations bill, Congress directed EPA to establish as many as five university-based particulate matter (PM) research centers as part of the expanded Office of Research and Development (ORD) PM research program. The first research centers were funded from 1999 to 2005. The total budget for each center over five years was $8 million, for a program total of $40 million. In the original Request for Applications (RFA), prospective Centers were asked to propose an integrated research program on the health effects of PM, including exposure, dosimetry, toxicology and epidemiology. In 2004, a second competition was held. This RFA asked respondents to address the central theme of ''linking health effects to PM sources and components,'' and to focus on the research priorities of susceptibility, biological mechanisms, exposure-response relationships, and source linkages. From the second competition, five current centers are funded for 2005–2010 (the budget remains $40 million total).

ORD's PM Research Centers program was initially shaped by recommendations from the National Research Council. The SAB conducted an interim review of the Centers program in 2002 (see: *http://yosemite.epa.gov/sab/sabproduct.nsf/6374FD2B32EFE730852570CA007415FE/$File/ec02008.pdf)*, which was instrumental in providing additional guidance for the second phase of the program (2005–2010). The Agency now seeks the advice of an SAB expert panel on the structure and strategic direction for the program as ORD contemplates funding a third round of air pollution research centers into the future. This Federal Register notice solicitation is seeking nominations for the SAB PM Research Centers Program Review Panel.

Request for Nominations: The SAB Staff Office is requesting nominations for nationally- and internationally-recognized, non-EPA scientists with extensive research program management expertise and experience related to airborne pollution and the application of research results in reducing air pollution in protection human health and the environment. The experts should also have had direct research experience related to PM.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals to add expertise to the SAB PM Research Centers Program Review Panel in the areas of expertise listed above. Nominations should be submitted in electronic format through the SAB Web site: *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/participatepanelformation?OpenDocument.* Please follow the instructions for submitting nominations carefully. To be considered, nominations should include all of the information required on the associated forms. Anyone unable to submit nominations using the electronic form and who has any questions concerning the nomination process may contact Mr. Fred Butterfield, DFO, as indicated above in this notice. Nominations should be submitted in time to arrive no later than February 21, 2008.

To be considered, all nominations should include: A current curriculum vitae (C.V.) which provides the nominee's background, qualifications, research expertise and relevant publications for service on the Panel; and a brief biographical sketch (''biosketch''). The biosketch should be no longer than one page and should contain the following information for the nominee:

(a) Current professional affiliations and positions held;

(b) Area(s) of expertise, and research activities and interests relevant to the Panel;

(c) Leadership positions in national associations or professional publications or other significant distinctions;

(d) Educational background, especially advanced degrees, including when and from which institutions these were granted; and

(e) Service on other advisory committees or professional societies, especially those associated with issues under discussion in this review.

Incomplete biosketches will not be considered. The EPA SAB Staff Office will acknowledge receipt of nominations.

The EPA SAB Staff Office will post the biosketches of qualified nominees for public comment on the SAB Web site. Information will be made available via the link to this panel found at: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebBoard/SABAdHocCommitteesandPanels?OpenDocument,* and will include, for each candidate, the nominee's name and their biosketch. Public comments on this ''Short List'' of candidates will be accepted for 21 calendar days. The

public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office, a balanced subcommittee or review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In establishing the final SAB PM Research Centers Program Review Panel, the SAB Staff Office will consider public comments on the ''Short List'' of candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Specific criteria to be used for Panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; and (e) skills working in committees, subcommittees and advisory panels; and, for the Panel as a whole, (f) diversity of, and balance among, scientific expertise, viewpoints, etc.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following SAB Web site: *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/Ethics?OpenDocument.*

The approved policy under which the EPA SAB Office selects subcommittees and review panels is described in the following document: *Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board* (EPA–SAB–EC–02–010, September 2002), which is posted on the SAB Web site: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebSABSO/OverviewPanelForm?OpenDocument.*

Dated: January 25, 2008.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–1774 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0002; FRL–8349–3]

System Research and Application Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to the System Research and Application Corporation, in accordance with 40 CFR 2.309(c) and 2.308(h)(2). The System Research and Application Corporation, will perform work for OPP under an Interagency Agreement (IAG). Access to this information will enable System Research and Application Corporation, to fulfill the obligations of the IAG.

DATES: The System Research and Application Corporation, will be given access to this information on or before February 11, 2008.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0002. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under IAG No. EP-W-050-24, which supports the OPP's regulatory efforts, the System Research and Application Corporation, will perform configuration management and monitor tasks for the Office of Information Technology Resources Management Division.

The OPP has determined that the IAG described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this IAG. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.309(c), 2.307(h), and 2.308(h)(2), this IAG with the System Research and Application Corporation, prohibits use of the information for any purpose not specified in the IAG; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the subcontractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, the System Research and Application Corporation, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release

or compromise. No information will be provided to the System Research and Application Corporation, until the requirements in this document have been fully satisfied. Records of information provided under this IAG will be maintained by EPA Project Officers for this contract. All information supplied to the System Research and Application Corporation, by EPA for use in connection with this IAG will be returned to EPA when the System Research and Application Corporation, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: January 23, 2008.

Oscar Morales,

Acting Director, Office of Pesticide Programs.

[FR Doc. E8–1796 Filed 1–30–08; 8:45 am]

BILLING CODE 6560–50–S

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Thursday, February 7, 2008, 2 p.m. Eastern Time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Session:

1. Announcement of Notation Votes, and
2. Obligation of Funds for a Temporary Interactive Voice Response/Automatic Call Distribution (IVR/ACD) Non-competitive Hosting Contract and a Competitive Contract for Technology Support of Customer Response Function.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register** the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above. *Contact Person For More Information:* Stephen Llewellyn, Executive Officer on (202) 663–4070.

Dated: January 29, 2008.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. 08–454 Filed 1–29–08; 11:41 am]

BILLING CODE 6570–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Notice of Decision Under Section 127(f) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002

AGENCY: Office of Science and Technology Policy, Executive Office of the President.

ACTION: Notice of Decision to Waive Requirements of Sections 127(a) and (d) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. Notice of Availability of Associated OSTP Director's Decision Memorandum and Interagency Technical Evaluation Report.

SUMMARY: Notice is hereby given of the determination, under Section 127(f) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Act), to waive the requirements of Section 127(a) and (d) of the Act. Notice is also given that the Associated Decision Memorandum and an interagency technical analysis report are available on the Office of Science and Technology Policy (OSTP) Web site at *http://www.ostp.gov/KI.*

Section 127(a) of the Act directed the President to establish a Potassium Iodide (KI) distribution program, under which State and local governments could receive KI tablets for distribution to the population in the 20 mile radius surrounding nuclear power plants (NPPs). The Nuclear Regulatory Commission (NRC) already has such a program for the 10 mile emergency planning zones surrounding NPPs, so Section 127(a) effectively extended that program to the 10–20 mile range.

Through Section 127(f), Congress authorized the President to waive this distribution requirement if there exists ''an alternative and more effective prophylaxis or preventive measures for adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.''

On July 3, 2007, the President delegated the Section 127(f) waiver authority to the Director of the Office of Science and Technology Policy.

On July 30, 2007, to help inform his decision, the OSTP Director requested the Federal Radiological Policy Coordinating Committee (FRPCC) to provide a technical evaluation of the issues surrounding Section 127. The FRPCC is an interagency organization, with membership from 17 Federal agencies, established to coordinate Federal responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies. The FRPCC transmitted its final technical evaluation paper to the OSTP Director on October 23, 2007.

On January 22, 2008, the OSTP Director executed his final decision pursuant to the Section 127(f) delegation. The complete Decision Memorandum, as well as the FRPCC technical information paper, is available on the OSTP Web site at *http://www.ostp.gov/KI.*

The OSTP Director's determination waived Section 127(f) because a more effective preventive measure does exist for the extended zone covered by the Act, namely avoidance of exposure altogether through evacuation of the potentially affected population and interdiction of contaminated food. Analysis of radiological release events that could lead to adverse thyroid conditions beyond the current 10 mile zone shows that limiting or avoiding exposure to radiation through these mechanisms is practical and much more effective than the administration of KI in the proposed extended zone.

DATES: The Decision Memorandum was executed on January 22, 2008. Associated documents will be available on the OSTP Web site on January 31, 2008.

ADDRESSES: Questions concerning this Notice should be sent to OSTP by e-mail at *comments@ostp.eop.gov* or by Fax at 202–456–6027.

Background

Section 127(a) of the Act directs the President to establish a KI distribution program as discussed above. Section 127(b) of the Act calls for State and local authorities to submit their KI stockpile plans to the President. Section 127(c) requires the President to issue guidelines for the stockpiling of KI tablets. Section 127(d) requires the Federal government to undertake efforts to make states and localities aware of the availability of KI under 127(a). Section 127(e) requires the President to

submit a progress report to Congress no later than 6 months after the guidelines under (c) are issued, and requires the President to request the National Academies of Science to conduct a study to determine the most effective and safe way to distribute and administer KI on a mass scale.

In Section 127(f), Congress authorized the President to waive the requirements of Sections 127(a) and (d) if there exists ''an alternative and more effective prophylaxis or preventive measures for adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.''

On July 3, 2007, the President delegated the authority to make a determination whether to invoke Section 127(f) to the Director of the Office of Science and Technology Policy, and the authority to implement the remaining subsections of Section 127 to the Nuclear Regulatory Commission (NRC), which established and implements the existing 10 mile KI distribution program.

On July 30, 2007, the OSTP Director requested the FRPCC to provide a technical evaluation of the issues surrounding Section 127(f). The FRPCC is an interagency organization, with membership from 17 Federal agencies, established to coordinate Federal responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies. Member agencies include the NRC, the Federal Emergency Response Agency (FEMA), the Department of Health and Human Services (HHS), the Food and Drug Administration (FDA), the Environmental Protection Agency, and others. The OSTP Director asked the FRPCC to provide him with technical background information only; the FRPCC was not asked to provide any findings or recommendations concerning the invocation of Section 127(f). The FRPCC asked their Potassium Iodide Working Group to conduct the work of drafting this document.

As part of this process, OSTP specifically requested that agencies with expertise in topical subjects in the technical evaluation take the lead on the subjects of their particular expertise—to be responsible for carefully reviewing and approving the information presented. For example, FDA was asked to take the lead on the sections dealing with the effects of Potassium Iodide, HHS was asked to take the lead on the sections dealing with the health effects of radiation including radioiodine, and FEMA was asked to take the lead on the sections dealing with evacuations, etc. In addition, each agency had the opportunity to review and approve the entire document, both at the working group and full FRPCC levels. If irreconcilable disputes existed between the various Federal agencies while drafting the document, OSTP requested that this information, along with the reasons why, be presented to the OSTP Director as well.

The FRPCC transmitted its final technical evaluation paper to the OSTP Director on October 23, 2007.

On January 22, 2008, the OSTP Director executed his decision on the 127(f) delegation. The analysis underlying the decision to invoke the Section 127(f) waiver is presented in a Decision Memorandum. The complete Decision Memorandum, as well as the supporting interagency FRPCC technical information paper, is available on the OSTP Web site at *http://www.ostp.gov/KI*.

To provide additional background on the basis for the decision in this Notice, the ''Decision Summary'' section of the Decision Memorandum is presented in full below:

Decision Summary

On July 3, 2007, the President delegated to me his authority to invoke, if appropriate, the waiver provision in the Potassium Iodide (KI) distribution program enacted through Section 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Act).[1] In that Section of the Act, Congress authorized the President to waive the program if he determines that there exists ''an alternative and more effective prophylaxis or preventive measures for adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.'' Under the Act, the Federal government would provide KI to be distributed by state and local governments to populations living in a zone extending an additional 10 miles beyond the existing 10 mile emergency planning zone near nuclear power plants (NPPs), in which a KI distribution program already exists. The Background section below describes the process I used to make the necessary determination.

After a thorough review of the technical issues, and as explained in detail below, I have decided to invoke the Section 127(f) waiver. I have determined that a more effective preventive measure does exist for the extended zone covered by the Act, namely avoidance of exposure altogether through evacuation of the potentially affected population and interdiction of contaminated food. Analysis of radiological release events that could lead to adverse thyroid conditions beyond the current 10 mile zone shows that such limiting or avoiding exposure to radiation through these mechanisms is practical and much more effective than the administration of KI in the proposed extended zone.

Key facts leading to this conclusion are the existence of Federal support for KI distribution programs within 10 miles of an NPP, the long advance warning available to potentially affected populations given the type of event that could possibly lead to actionable radionuclide concentrations beyond 10 miles, and the existence of tested operational plans for effectively interdicting contaminated agricultural products in this extended zone.

For the types of nuclear reactors in use within the United States, there are very few accident scenarios that produce such effects. These very severe events have been well-analyzed, and none lead to the rapid appearance of thyroid-threatening radioiodines beyond 10 miles. Experience with major evacuations (approximately one every three weeks in the U.S.), and detailed analysis for a typical nuclear power plant (NPP), show that populations in the extended zone likely to be affected by such an event can be evacuated in time to avoid adverse thyroid conditions. Moreover, KI is only effective in decreasing thyroid exposure to radioactive isotopes of iodine, and the events in question would produce health effects from radionuclides other than the isotopes of iodine. Evacuation and interdiction of contaminated food products are the preferred actions to prevent exposures to these other radionuclides, and will have to be taken in response to such an event in any case.

While the Section 127(f) authority delegated to me primarily concerns distribution of KI beyond the current 10 mile Nuclear Regulatory Commission (NRC) program, the review brought to my attention weaknesses in the implementation of existing programs within 10 miles that deserve attention. States distribute KI currently provided by the NRC in diverse programs with disparate characteristics, suggesting that many are not based on best practices for prevention of adverse thyroid conditions. Accordingly, while not a pre-condition of my decision to invoke the Section 127(f) waiver, I strongly recommend that the NRC, in conjunction with the Federal Emergency Management Agency (FEMA), the Department of Health and Human

[1] Pub. L. 107–188, 42 U.S.C. 300hh–12 (Notes).

Services (HHS), State and local health authorities and relevant public and private sector stakeholders develop and promulgate ''best practice'' guidelines for the existing state-level KI distribution programs within the 10 mile emergency planning zones.

Stanley S. Sokul,

Chief of Staff and General Counsel, Office of Science and Technology Policy.

[FR Doc. E8–1769 Filed 1–30–08; 8:45 am]

BILLING CODE 3170–W8–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 17, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 3, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0262.

Title: Section 90.179, Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 42,000 respondents; 42,000 responses.

Estimated Time per Response: .75 hours reporting requirement; .25 hours recordkeeping requirement.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 42,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this information collection to the OMB as an extension during this comment period to obtain the full three-year clearance from them. There is an increase in the number of respondents/responses and burden hours due a recalculation of the burden estimates.

Section 90.179 requires Part 90 licensees that share use of their private land mobile radio (PLMR) facility on a non-profit, cost-shared basis keep a written sharing agreement as part of the station records. The written agreement would set out: (1) The method of sharing, (2) the components of the system which are covered by the sharing arrangements, (3) the method by which costs are to be apportioned, (4) and acknowledgement that all shared transmitter use must be subject to the licensee's control.

These requirements are necessary to identify users of the systems should interference problems develop. This information is used by the Commission to investigate interference complaints and resolve interference and operational complaints that may arise among the users.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1691 Filed 1–30–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 15, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should

submit comments March 31, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), (202) 395–5887, or via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *PRA@fcc.gov*.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0537.

Title: Section 13.217, COLEM Records.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 9 respondents; 9 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 9 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

Section 13.217 states that each Commercial Operator License Examination Manager (COLEM) recovering fees from examinees must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover the period from January 1 to December 31 of the preceding year and must be submitted as direct by the Commission. Each COLEM must retain records for one year and the records must be made available to the FCC upon request.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1693 Filed 1–30–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 25, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 31, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0386.

Title: Section 73.1635, Special Temporary Authorizations (STAs).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 1,550.

Estimated Time per Response: 1–4 hours.

Frequency of Response: On occasion reporting requirement.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Total Annual Burden: 2,000.

Total Annual Costs: $939,950.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 73.1635 allows licensees/permittees of broadcast stations to file for special temporary authority to operate broadcast stations at specified variances from station authorization not to exceed 180 days. Data is used by FCC staff to ensure that such operations will not cause interference to other stations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1771 Filed 1–30–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

January 25, 2008.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the

Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. 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.

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Federal Communications Commission, (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1112.

Title: Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight.

OMB Approval Date: 01/23/2008.

Expiration Date: 01/31/2011.

Form Number(s): N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent; 1 response.

Estimated Time per Response: 1.0 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 1.0 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On August 29, 2007, the FCC released a *Report and Order* (''*R&O*''), Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rule Health Care Support Mechanism; Lifeline and Link-up; and Changes to the Board of Directors for the National Exchange Carrier Association, Inc., WC Docket No. 05–195 *et al.*, FCC 07–150.

In this *R&O*, the FCC has adopted new and revised information collection requirements that include timely filing for Telecommunications Reporting Worksheets, a reminder that USF contributors must file FCC Forms 499–A and 499–Q on a periodic basis, document retention and recordkeeping requirements and administrative limitation periods for the high-cost, low-income, and rural health care universal service programs, and various other performance measures and reporting requirements for the universal service programs and for the Universal Service Fund (''USF'') Administrator. These recordkeeping and reporting requirements are part of the FCC's continuing process to deter misconduct and inappropriate uses of the universal service funds. It is the FCC's intention that these requirements will both safeguard the USF from waste, fraud, and abuse and improve the management, administration, and oversight of the USF. These information collection requirements are as follows:

Timely filing for Worksheets. At present, Universal Service Fund contributors must file FCC Form 499–Q, ''Telecommunications Reporting Worksheet'' (''Worksheet''), on a timely filing basis and must not submit inaccurate or untruthful information. In addition, the *R&O* will require the USF Administrator to add information, *e.g.*, a notification requirement, to the monthly invoice sent to contributors. Each monthly invoice must now also include language pertaining to the Debt Collection Improvement Act (DCIA) of 1996, substantially as follows:

A failure to submit payment may result in sanctions, including, but not limited to, the initiation of proceedings to recover the outstanding debt, together with any applicable administrative charges, penalties, and interest pursuant to the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) and the Debt Collection Improvement Act of 1996, (Pub. L. 104–134) as amended (the ''DCIA''), as set forth below.

The date of payment on the invoice is the due date. If full payment is not received by the date due, the debt is delinquent. Because the unpaid amount is a debt owed to the United States, we are required by the DCIA to impose interest and to inform you what may happen if you do not pay the full outstanding debt. Under the DCIA, the United States will charge interest at the annual rate equal to the U.S. prime rate as of the date of delinquency plus 3.5 percent from the date the contribution was due. This interest rate incorporates administrative charges of collection pursuant to 47 CFR 54.713. If the debt remains unpaid more than 90 days, you will be charged an additional penalty of 6 percent a year for any part of the debt that is more than 90 days past due. If the debt remains unpaid, the full amount of the outstanding debt may be transferred to the United States Department of Treasury (''Treasury'') for debt collection, and you will be required to pay the administrative costs of processing and handling a delinquent claim as set by the Treasury (currently 28 percent of the debt). However, if you pay the full amount of the outstanding debt and associated administrative fees and penalties within 30 days of the due date, the DCIA Interest will be waived. These requirements are set out at 31 U.S.C. Section 3717. In addition to the language in the invoice, the *R&O* has specified that USF Administrator's invoice shall state clearly that the invoiced amount is due on a specific date and that the debt is delinquent if not paid in full by that date. The USF Administrator's invoices and any letters shall also explain the applicable sanction and administrative changes for late payments, *i.e.*, under 31 U.S.C. 3717, a delinquent debt that is not paid in full within 30 days from the date due will incur interest, and if not paid in full within 90 days from the due date, will also incur a penalty of 6 percent per year. In addition, the delinquent contributor will be assessed the administrative costs of collection, pursuant to 47 CFR 54.713 of FCC rules. Finally, an invoice sent after partial payment should show clearly that the payment was applied to outstanding penalties, administrative costs, accrued interest, and then to the oldest outstanding principal (''American Rule'').

Document retention requirements. Having concluded in the *R&O* that document retention and recordkeeping requirements not only prevent waste, fraud, and abuse, but also protect applicants and service providers in the event of vendor disputes, the FCC has adopted or revised several of these requirements that will demonstrate compliance with FCC rules and regulations and be available to the USF Administrator, auditors, and the FCC, as follows:

High-cost program. Recipients of universal service support for high-cost providers must retain all records that they may require to demonstrate to auditors that the support they received was consistent with the Communications Act of 1934, as amended, and FCC rules, assuming that the audits are conducted within five years of disbursement of such support. This *R&O* clarifies that beneficiaries must make available all such documents and records that pertain to them, including those of NECA, contractors, and consultants working on behalf of the beneficiaries to the Commission's Office of Inspector General (''OIG''), to the USF Administrator, and to their auditors. *See* 47 CFR 54.202(e).[1]

[1] 47 CFR 54.202(e): All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These rules should include the following: Data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding.

Low-income program. With respect to the two low-income universal service programs Lifeline and Link-Up, the FCC has concluded that it should maintain the current two-tiered document retention requirements. Participating service providers must retain a record verifying the eligibility of a recipient of the program for as long as the recipient continues to receive supported service and three years more, and to make it available in conjunction with any audit to which it may be relevant. However, the *R&O* removes the clause that waives the requirement to retain documentation of eligibility once an audit is completed. The FCC also clarifies that beneficiaries must make available all documentation and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USF Administrator, and to auditors working on their behalf. *See* 47 CFR 54.417(a).[2]

Rural health care and schools and libraries programs. The FCC maintains the current requirement that rural health care providers and schools and libraries must retain their records, which evidence that the funding they receive was proper, for five years. In addition, this requirement will now also apply to those service providers that receive support for serving rural health care providers. Furthermore, the FCC clarifies that beneficiaries must make available all documents and records that pertain to them, including those of contractors and consultants, working on their behalf, to the Commission's OIG, to the USF Administrator, and to their auditors, as required by 47 CFR 54.516(a)[3] and 47 CFR 54.619(a).[4]

Contributors. The *R&O* also requires contributors to the Universal Service Fund to retain all documents and records, *e.g.*, financial statements and supporting documentation, *etc.*, that they may require to demonstrate to auditors that their contributions were made in compliance with the program rules, assuming that audits are conducted within five years. The FCC clarifies that contributors must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USF Administrator, and to their auditors. *Connectivity.* The FCC will require the USF Administrator to work with the Commission's Wireline Competition Bureau to modify the relevant FCC Forms or to create additional questions for USF program participants to determine more accurately how schools and libraries connect to the Internet and their precise levels of connectivity.

These new and revised information collection requirements, which include document retention and recordkeeping requirements, *etc.*, will affect numerous information collections that the FCC currently maintains. Once OMB approves these requirements, the FCC will begin to update these information collections as required by the rules adopted in this *R&O.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1782 Filed 1–30–08; 8:45 am]

BILLING CODE 6712–01–P

[2] 47 CFR 54.417(a): Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link Up programs for the three full years preceding calendar years and requiring carriers to retain documentation for as long as the customer receives Lifeline service from the ETC or until audited by the Administrator and provide that documentation to the Commission or Administrator upon request * * *.

[3] 47 CFR 54.516(a) *Recordkeeping requirements*—(1) *Schools and libraries.* Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of the service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase.

[4] 47 CFR 54.619(d) *Service providers.* Service providers shall retain documents related to the delivery of discounted telecommunications and other supported services for at least five years after the last day of the delivery of discounted services. Any documentation that demonstrates compliance with the statutory or regulatory requirements for the rural health care mechanism shall be retained as well.

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 25, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 3, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B. Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0057.

Title: Application for Equipment Authorization.

Form No.: FCC Form 731.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 600 respondents; 10,000 responses.

Estimated Time per Response: 25 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 250,000 hours.

Total Annual Cost: $11,017,500.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Minimal exemption from the Freedom of Information Act (FOIA) under 5 U.S.C. 552(b)(4) and FCC rules under 47 CFR 0.457(d) is granted for trade secrets which may be submitted as attachments to the application FCC Form 731. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this information collection to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There is an increase in the number of responses, burden hours and annual costs due recalculations of the burden estimates.

On April 23, 2007, the FCC adopted and released a Second Report and Order, FCC 07–56, ET Docket No. 03–201 that modified Parts 2 and 15 of the Commission's rules for equipment approval and unlicensed devices. The amended rules provide for more efficient equipment authorization of both existing modular transmitter devices and emerging partitioned (or ''split'') modular transmitter devices. These rule changes will benefit manufacturers by allowing greater flexibility in certifying equipment and providing relief from the need to obtain a new equipment authorization each time the same transmitter is installed in a different final product. The rule changes will also enable manufacturers to develop more flexible and more advanced unlicensed transmitter technologies.

To effectively implement the provisions of the new rules, various modifications to the existing FCC Form 731 are required. The changes are intended to simplify the filing process, however, there is no anticipated change in the per application burden for FCC Form 731 submittal. The following specific changes are proposed on the FCC Form 731 to accommodate modifications (revisions) and simplify filing processes:

(1) Modular Type field addition—a new required field will be added to Section 1 of the form entitled ''Modular Type''.

(2) Equipment Authorization Waiver—a new field set requesting information on equipment authorization waivers will be added. The first question ''Is there an equipment authorization waiver associated with this application?'' will have a default value set to ''No''. If the user answers ''Yes'', a second question ''* * * has the associated waiver been approved and all information uploaded?'' requires a positive response.

(3) FCC ID Related Fields—additional instances of the ''Related FCC ID'' field will be added, to allow the user to inform the FCC of more than one application associated with the current application.

(4) Short-Term Confidentiality Modifications—Short Term Confidentiality questions will be modified to allow the applicant to request Short-Term Confidentiality on the FCC Form 731, and to request a Short-Term confidentiality date no greater than 180 days from the date of Grant.

(5) Knowledge Data Base (KDB) Associated Question—a new field group will be added to the form that captures KDB inquiry information related to the FCC Form 731 application filing. The applicant will be asked ''Is there a KDB inquiry associated with this application?'' The default response is ''No'', and if the applicant responds ''Yes'', the user will be required to enter a valid KDB inquiry tracking number.

In addition to the changes to the FCC Form 731 which are necessary to implement the requirements of the new rules, an increase in the burden hours is requested in anticipation of a continuing increase of the greater than 10% annually in the number of applications requiring equipment authorization. This 10% increase is reflected in application submittals directly to the FCC, and to Telecommunications Certification Bodies (TCBs) that act on behalf of the FCC to review application submittals and issue equipment authorization grants.

The Commission will use the information gathered on the FCC Form 731 to determine compliance of the proposed equipment with the Commission's rules. Following authorization of the equipment for marketing by either the FCC or the TCB on behalf of the FCC, the information may also be used to determine:

(a) Whether the operation of the equipment is consistent with the information supplied at the time of authorization, and

(b) whether the equipment marketed complies with the terms of the equipment authorization.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1791 Filed 1–30–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

[File No. 051 0094]

Negotiated Data Solutions LLC; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 22, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Negotiated Data Solutions, File No. 051 0094,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135-H (Annex D), Pennsylvania Avenue, NW, Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form by following the instructions on the web-based form at *http://secure.commentworks.com/ftc-NegotiatedDataSolutions*. To ensure that the Commission considers an electronic comment, you must file it on that web-based form.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Kent E. Cox (202) 326-2058, Bureau of Competition, Room NJ-6213, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 23, 2008), on the World Wide Web, at *http://www.ftc.gov/os/2008/01/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Agreement'') with Negotiated Data Solutions LLC (''N-Data''), a limited liability company whose sole activity is to collect royalties in connection with a number of patents. The Agreement settles allegations that N-Data has violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by engaging in unfair methods of competition and unfair acts or practices relating to the Ethernet standard for local area networks. Pursuant to the Agreement, N-Data has agreed to be bound by a proposed consent order (''Proposed Consent Order'').

The Proposed Consent Order has been placed on the public record for thirty (30) days for comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's Proposed Consent Order.

The purpose of this analysis is to facilitate comment on the Proposed Consent Order. This analysis does not constitute an official interpretation of the Proposed Consent Order, and does not modify its terms in any way. The Agreement has been entered into for settlement purposes only, and does not constitute an admission by N-Data that the law has been violated as alleged or that the facts alleged, other than jurisdictional facts, are true.

Background

The Institute of Electrical and Electronics Engineers (''IEEE'') is a standard-setting organization active in a number of different industries. IEEE standards often enhance the interoperability of communications products. One important example, which is at issue here, is the 802 series of networking standards. Many of the standards in the 802 series allow users to reliably access and share information over communications systems by interconnecting many compatible products manufactured by different producers.

The IEEE 802.3 standard, first published in 1983, and commonly referred to as ''Ethernet,'' applies to local area networks (''LANs'') built on copper, and more recently fiber optic, cables. That standard initially accommodated a maximum data transmission rate of 10 megabits per second (10 Mbps) between networked devices. By 1994, the 802.3 Working Group was developing a new 802.3 standard for ''Fast Ethernet,'' which would transmit data across a copper wire at 100 Mbps. The Working Group determined that it would be desirable for Fast Ethernet equipment to be compatible, to the extent possible, with existing LAN equipment and with future generations of equipment. A technology, variously known as ''autodetection'' and ''autonegotiation,'' was developed that would permit such compatibility.

Employees of National Semiconductor Corporation (''National'') were members and active participants in the 802.3 Working Group. In 1994, National proposed that the 802.3 Working Group adopt its autonegotiation technology, referred to as ''NWay,'' into the Fast Ethernet standard. At the time, National disclosed to the Working Group that it had already filed for patent protection for the technology. Several other participants also had developed competing technologies and the Working Group considered several alternatives, each having advantages and disadvantages compared to NWay. The 802.3 Working Group also considered adopting the Fast Ethernet standard without any autonegotiation feature.

At IEEE meetings to determine which autonegotiation technology to include in 802.3, one or more representatives of National publicly announced that if NWay technology were chosen, National would license NWay to any requesting party for a one-time fee of $1,000. In a subsequent letter dated June 7, 1994, and addressed to the Chair of the 802.3 Working Group of IEEE, National wrote:

In the event that the IEEE adopts an autodetection standard based upon National's NWay technology, National will offer to license its NWay technology to any requesting party for the purpose of making and selling products which implement the IEEE standard. Such a license will be made available on a nondiscriminatory basis and will be paid-up and royalty-free after payment of a one-time fee of one thousand dollars ($1,000).

Based on National's licensing assurance, and following its normal balloting and voting procedures, IEEE incorporated NWay technology into the Fast Ethernet standard, which IEEE published in final form in July 1995. To maintain compatibility with the installed base of Ethernet and Fast Ethernet equipment, subsequent revisions of the 802.3 standard also have

incorporated NWay autonegotiation technology. The ''Fast Ethernet'' standard became the dominant standard for LANs, and users are now locked in to using NWay technology due to network effects and high switching costs. Therefore, today, autonegotiation technologies other than NWay are not attractive alternatives to NWay for manufacturers who want to include inter-generational compatibility in their Ethernet products.

NWay contributed to the success of Fast Ethernet technology in the marketplace. An installed base of millions of Ethernet ports operating at 10 Mbps already existed when IEEE published the Fast Ethernet standard. The autonegotiation technology in the Fast Ethernet standard allowed owners of existing Ethernet-based LANs to purchase and install multi-speed, Fast Ethernet-capable equipment on a piecemeal basis without having to upgrade the entire LAN at once or buy extra equipment to ensure compatibility.

National benefitted financially from its licensing assurance. The assurance accelerated sales of National products that conformed to the Fast Ethernet standard by first, allaying concerns about the future costs of autonegotiation, and so speeding completion of the standard, and second, making Fast Ethernet-compatible products backward compatible with Ethernet equipment already installed on existing LANs, increasing the demand for Fast Ethernet products by those with existing systems.

In 1997, the United States Patent and Trademark Office issued U.S. Patent Nos. 5,617,418 and 5,687,174 (the '418 and '174 Patents) to National. Both patents arose from the patent application that National disclosed to the IEEE in 1994. National later received equivalent patents in other countries.

In 1998, National assigned a number of patents, including the '418 and the '174 Patents, to Vertical Networks (''Vertical''), a telecommunications start-up company founded by former National employees. Before the assignment, National gave Vertical a copy of the June 7, 1994 letter to the 802.3 Working Group. Vertical's outside patent counsel, Mr. Alan Loudermilk, acknowledged in writing that National had informed him ''that several of the patents may be 'encumbered''' by actions National had taken with respect to the IEEE standards. The final agreement between Vertical and National stated that the assignment was ''subject to any existing licenses that [National] may have granted.'' It further provided, ''Existing licenses shall include . . . [p]atents that may be encumbered under standards such as an IEEE standard ... ''

In 2001, Vertical turned to its intellectual property portfolio in an effort to generate new revenues by licensing its technology to third parties. One aspect of this strategy was Vertical's effort to repudiate the $1,000 licensing term contained in National's 1994 letter of assurance to the IEEE. On March 27, 2002, Vertical sent a letter to the IEEE that purported to ''supersede'' any previous licensing assurances provided by National. Vertical identified nine U.S. patents assigned to it by National, including the '174 and '418 patents, and promised to make available to any party a non-exclusive license ''on a non-discriminatory basis and on reasonable terms and conditions including its then current royalty rates.''

In the Spring of 2002, Vertical developed a list of ''target companies'' that practiced the IEEE 802.3 standard and which it believed infringed on the '174 and '418 patents. Vertical sought to enforce the new licensing terms on these companies. These companies, which included many large computer hardware manufacturers, represented a substantial majority of all producers of 802.3 ports. Vertical's patent counsel, Mr. Loudermilk, sent letters to most of these companies between 2002 and 2004 offering a license for patents covering aspects of ''the auto-negotiation functionality'' in networking products, including products compliant with IEEE 802.3. Vertical also filed suit against a number of companies alleging that ''switches, hubs, routers, print servers, network adapters and networking kits'' having autonegotiating compatibility, infringed its '174 and '418 patents. Vertical entered into several licensing agreements producing licensing fees far in excess of $1,000 from each licensed company.

In late 2003, Vertical assigned some of its patent portfolio, including the '174 and '418 patents, to N-Data, a company owned and operated by Mr. Loudermilk.[2] N-Data was aware of National's June 7, 1994 letter of assurance to the IEEE when Vertical assigned those patents to N-Data. Yet it rejected requests from companies to license NWay technology for a one-time fee of $1,000. Instead, N-Data threatened to initiate, and in some cases prosecuted, legal actions against companies refusing to pay its royalty demands, which are far in excess of that amount.

[2] Vertical subsequently sold its remaining business assets and ceased operations.

The Proposed Complaint

Vertical and N-Data sought to exploit the fact that NWay had been incorporated into the 802.3 standard, and had been adopted by the industry for a number of years, by reneging on a known commitment made by their predecessor in interest. Even if their actions do not constitute a violation of the Sherman Act, they threatened to raise prices for an entire industry and to subvert the IEEE decisional process in a manner that could cast doubt on the viability of developing standards at the IEEE and elsewhere. The threatened or actual effects of N-Data's conduct have been to increase the cost of practicing the IEEE standards, and potentially to reduce output of products incorporating the standards.[3] N-Data's conduct also threatens to reduce the incentive for firms to participate in IEEE and in other standard-setting activities, and to rely on standards established by standard-setting organizations.

The Proposed Complaint alleges that this conduct violates Section 5 of the FTC Act in two ways: first, N-Data engaged in an unfair method of competition; and second, N-Data engaged in an unfair act or practice.

1. Unfair Method of Competition

N-Data's conduct constitutes an unfair method of competition. The Supreme Court in *FTC v. Sperry & Hutchinson Co.* endorsed an expansive reading of the ''unfair method of competition'' prong of Section 5, stating that the Commission is empowered to ''define and proscribe an unfair competitive practice, even though the practice does not infringe either the letter or spirit of the antitrust laws'' and to ''proscribe practices as unfair ... in their effect on competition.''[4] That description of the

[3] The conduct by Vertical and N-Data has led to, or threatened to lead to, increased prices in the markets for autonegotiation technology (1) used in 802.3 compliant products and (2) used in products that implement an IEEE standard enabling autonegotiation with 802.3 compliant products.

[4] *FTC v. Sperry & Hutchinson Co.*, 405 U.S. 233, 239 (1972); *see also FTC v. Ind. Fed'n of Dentists*, 476 U.S. 447, 454 (1986). *See generally* Concurring Opinion of Commissioner Jon Leibowitz, *In re Rambus, Inc.*, Docket No. 9302, *available at http://www.ftc.gov/os/adjpro/d9302/060802 rambusconcurringopinionofcommissioner leibowitz.pdf*; Statement of Commissioner J. Thomas Rosch, ''Perspectives on Three Recent Votes: the Closing of the Adelphia Communications Investigation, the Issuance of the Valassis Complaint & the Weyerhaeuser Amicus Brief,'' before the National Economic Research Associates 2006 Antitrust & Trade Regulation Seminar, Santa Fe, New Mexico (July 6, 2006) at 5-12, *available at http://www.ftc.gov/speeches/rosch/Rosch-NERA-Speech-July6-2006.pdf.*

scope of Section 5 accords with the legislative history of Section 5.[5]

Notwithstanding that broad description, the unfair method of competition prong of Section 5 is subject to limiting principles. The first relates to the nature of the conduct. In *OAG*, the Second Circuit held that such a violation could not be found where the respondent ''does not act coercively.''[6] Similarly, in *Ethyl* the Second Circuit held that ''at least some indicia of oppressiveness must exist ...''[7] This requirement is met here, given N-Data's efforts to exploit the power it enjoys over those practicing the Fast Ethernet standard and lacking any practical alternatives. This form of patent hold-up is inherently ''coercive'' and ''oppressive'' with respect to firms that are, as a practical matter, locked into a standard.

The second limiting principle relates to the effects of the conduct. Although the Supreme Court has made it clear that the respondent's conduct need not violate the letter (or even the spirit) of the antitrust laws to fall under Section 5, that does not mean that conduct can be considered an unfair method of competition if it has no adverse effect at all on competition. That requirement, however, is also satisfied here, given the conduct's adverse impact on prices for autonegotiation technology and the threat that such conduct poses to standard-setting at IEEE and elsewhere.

Respondent's conduct here is particularly appropriate for Section 5 review. IEEE's determination to include National's technology in its standard rested on National's commitment to limit royalties to $1,000. That commitment had substantial competitive significance because it extended not to a single firm, but rather to an industry-wide standard-setting organization. Indeed, in the standard-setting context—with numerous, injured third parties who lack privity with patentees and with the mixed incentives generated when members may be positioned to pass on royalties that raise costs market-wide—contract remedies may prove ineffective, and Section 5 intervention may serve an unusually important role.

N-Data's conduct, if allowed, would reduce the value of standard-setting by raising the possibility of opportunistic lawsuits or threats arising from the incorporation of patented technologies into the standard after a commitment by the patent holder. As a result, firms may be less likely to rely on standards, even standards that already exist. In the creation of new standards, standard-setting organizations may seek to avoid intellectual property entirely, potentially reducing the technical merit of those standards as well as their ultimate value to consumers.

A mere departure from a previous licensing commitment is unlikely to constitute an unfair method of competition under Section 5. The commitment here was in the context of standard-setting. The Supreme Court repeatedly has recognized the procompetitive potential of standard-setting activities. However, because a standard may displace the normal give and take of competition, the Court has not hesitated to impose antitrust liability on conduct that threatens to undermine the standard-setting process or to render it anticompetitive.[8] The conduct of N-Data (and Vertical) at issue here clearly has that potential.[9]

2. Unfair Act or Practice

N-Data's efforts to unilaterally change the terms of the licensing commitment also constitute unfair acts or practices under Section 5 of the FTC Act. The FTC Act states that ''unfair or deceptive acts or practices in or affecting commerce[] are . . . unlawful.'' An unfairness claim under this part of Section 5 must meet the following statutory criteria:

> The Commission shall have no authority . . . to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.[10]

The Commission may consider established public policies as evidence to be considered with all other evidence, though not as a primary basis for a determination of unfairness.[11] As the Eleventh Circuit emphasized in *Orkin Exterminating Co. v. FTC*,[12] the Commission has applied limiting principles requiring a showing that (1) the conduct caused ''substantial consumer injury,'' (2) that injury is ''not . . . outweighed by any countervailing benefits to consumers or competition that the practice produces,'' and (3) it is an injury that ''consumers themselves could not reasonably have avoided.''[13]

This Section 5 claim against the efforts of Vertical and N-Data to unilaterally increase the price for the relevant technology by knowingly reneging on National's commitment meets these statutory criteria, and thus constitutes a violation of Section 5's prohibition of unfair acts and practices. NWay was chosen for the standard on the basis of the assurances made by National to the IEEE 802.3 Working Group. Further, the industry relied, at least indirectly, on National's assurances regarding pricing, and made substantial and potentially irreversible investments premised on those representations. After the standard became successful, and it became difficult, if not impossible, for the industry to switch away from the standard, Vertical and then N-Data took advantage of the investments made by these firms by reneging on National's commitment. Because it is now no longer feasible for the industry to remove the technologies, the value that N-Data was able to extract from market participants was due to the opportunistic nature of its conduct rather than the value of the patents.[14]

Accordingly, an action against this conduct meets the criteria set forth in the statute and in *Orkin*. First, N-Data's reneging on its pricing commitments here involved ''substantial consumer injury.'' The increase in royalties demanded by Vertical Networks and later N-Data could result in millions of dollars in excess payments from those

[5] *See, e.g.,* Cong. Rec. 12,153 (1914) (statement of Sen. Robinson) (''unjust, inequitable or dishonest competition'' proscribed), 51 Cong. Rec. 12,154 (1914) (statement of Sen. Newlands) (conduct that is ''contrary to good morals'' proscribed).

[6] *Official Airline Guides v. FTC*, 630 F.2d 920, 927 (2d Cir. 1980) (''*OAG*'').

[7] *E.I. Du Pont v. de Nemours & Co. v. FTC*, 729 F.2d 128, 139-40 (2d Cir. 1984) (''*Ethyl*'').

[8] *See Standard Sanitary Mfg. Co. v. United States*, 226 U.S. 20, 41 (1912); *Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 500 (1989); *Am. Soc'y of Mech. Engineers, Inc. v. Hydrolevel Corp.*, 456 U.S. 556, 571 (1982).

[9] It is worth noting that, because the proposed complaint alleges stand-alone violations of Section 5 rather than violations of Section 5 that are premised on violations of the Sherman Act, this action is not likely to lead to well-founded treble damage antitrust claims in federal court. *See* Herbert Hovenkamp, Federal Antitrust Policy at 588 (2d ed. 1999).

[10] 15 U.S.C. § 45(n) (1992).

[11] *Id.*

[12] *Orkin Exterminating Co. v. FTC*, 849 F.2d 1354, 1364 (11th Cir. 1988).

[13] *See* Letter from Federal Trade Commission to Senators Ford and Danforth (Dec. 17, 1980), reprinted in H.R. Rep. No. 156, Pt. 1, 98th Cong., 1st Sess. 33-40 (1983) *available at http://www.ftc.gov/bcp/policystmt/ad-unfair.htm*, appended to the Commission's decision in *International Harvester,* 104 F.T.C. at 949, 1061 (1984), and subsequently codified by Congress at 15 U.S.C. § 45(n).

[14] The IEEE designed its rules to avoid just such a result. IEEE's stated purpose for requesting letters of assurance was to avoid giving ''undue preferred status to a company'' and to ensure that the adoption of a technology would not be ''prohibitively costly or noncompetitive to a substantial part of the industry.'' 1994 *IEEE Standards Operations Manual* §6.3.

practicing the standard, not to mention the legal fees those firms might spend defending lawsuits.[15] In addition, often in market-wide standard-setting contexts, the licensees have an incentive to pass along higher costs to the ultimate consumers who purchase the products.[16] Thus, these end consumers who purchase products using N-Data's technology may face increased prices due to the higher royalties. Further, those demands also have no apparent ''countervailing benefit''— to those upon whom demands have been made, ultimate consumers, or to competition—so the second requirement is also met. With respect to the third requirement, both the Commission and the Eleventh Circuit in *Orkin* stated that consumers ''may act to avoid injury before it occurs if they have reason to anticipate the impending harm and the means to avoid it, or they may seek to mitigate the damage afterward if they are aware of potential avenues to that end.''[17] Here, those who created the standard had no way to anticipate the repudiation of the price commitment before it occurred and, apart from expensive litigation, those locked into the standard had no way to avoid the threatened injury posed by the demands that they faced. Thus, those practicing the standard were locked in to even a greater extent than the consumers in *Orkin.* Put simply, this is a form of what has been described as ''patent hold-up.''

The facts alleged in the complaint here are similar to those found in the Commission's decision in *Orkin*, which was affirmed by the Eleventh Circuit.[18] In that case, the respondent signed contracts with consumers to supply lifetime extermination services at a fixed annual renewal fee. Years later, the respondent unilaterally increased these fees. Consumers needing extermination services had no reason to anticipate Orkin's unilateral price increase and there was no evidence that they could contract with Orkin's competitors on terms similar to Orkin's initial terms. The Commission held, and the Eleventh Circuit agreed, that Orkin's unilateral price increase was an unfair act or practice under Section 5. Similarly, National made non-expiring royalty commitments that Vertical and N-Data later repudiated with unilateral increases, which the industry could not have reasonably anticipated before the market wide adoption of the standard and which consumers had no chance of avoiding due to network effects and lock-in.

Clearly, merely breaching a prior commitment is not enough to constitute an unfair act or practice under Section 5. The standard-setting context in which National made its commitment is critical to the legal analysis. As described above, the lock-in effect resulting from adoption of the NWay patent in the standard and its widespread use are important factors in this case. In addition, the established public policy of supporting efficient standard-setting activities is an important consideration in this case.[19] Similarly, it must be stressed that not all breaches of commitments made by owners of intellectual property during a standard-setting process will constitute an unfair act or practice under Section 5. For example, if the commitment were immaterial to the adoption of the standard or if those practicing the standard could exercise countermeasures to avoid injury from the breach, the statutory requirements most likely would not be met. Finally, it needs to be emphasized that not all departures from those commitments will be treated as a breach. The *Orkin* court suggested that there might be a distinction between an open-ended commitment and a contract having a fixed duration.[20] That distinction does not apply here because the context of the commitment made it plain that it was for the duration of National's patents. However, most such commitments, including the one here, are simply to offer the terms specified. Indeed, those principles are reflected in the remedy set forth in the consent decree.

The Proposed Consent Order

The Proposed Consent Order prohibits N-Data from enforcing the Relevant Patents, defined in the order, unless it has first offered to license them on terms specified by the order. The terms of that license follow from those promised by National Semiconductor in its letter of June 7, 1994, to the IEEE. Specifically, N-Data must offer a paid-up, royalty-free license to the Relevant Patents in the Licensed Field of Use in exchange for a one-time fee of $1,000. The form of this license is attached as Appendix C to the order. The Licensed Field of Use is defined in the license as the ''use of NWay Technology to implement an IEEE Standard,'' and this includes ''optimization and enhancement features'' that are consistent with such use. NWay Technology is defined in the license to have the same meaning as it did in the June 7, 1994 letter, and the license gives examples of documents describing the use of NWay Technology.

The Commission recognizes that some firms may inadvertently allow the $1,000 offer from N-Data to languish. Therefore, if an offeree has failed to accept such an offer within 120 days, the Proposed Consent Order allows N-Data to sue to enforce the Relevant Patents. At the time N-Data files suit, however, it must make a second offer. This second offer provides a prospective licensee with an opportunity to accept the patent license specified by the order in return for a payment of thirty-five thousand dollars ($35,000). The requirement that the second offer be delivered in the context of litigation gives N-Data an incentive to pursue patent enforcement only against companies over which it has a reasonable likelihood of prevailing in court. It will also ensure that the second offer will receive the full attention of knowledgeable counsel for the offeree. A $35,000 license fee will offset some of N-Data's costs of litigation, and it will discourage recipients of an initial offer from simply waiting to be sued, and *then* accepting the first offer. The offeree's time to accept the second offer expires with the time to file a responsive pleading to the filing that accompanies the second offer. After that, the amount that N-Data can collect from an accused infringer is not limited by the order.

The Proposed Consent Order requires N-Data to distribute copies of the complaint and the Proposed Consent Order to specified persons. It also prohibits N-Data from transferring any of the Relevant Patents, except to a single person who has agreed to be bound by the Proposed Consent Order and by the patent licenses formed thereunder. The Proposed Consent Order also contains standard reporting, notification and access provisions designed to allow the Commission to monitor compliance. It terminates

[15] The Commission has a ''longstanding position that the statutory prohibition against 'unfair or deceptive acts or practices' includes practices that victimize businesspersons as well as those who purchase products for their own personal or household use,'' given that businesses ''clearly do consume goods and services that may be marketed by means of deception and unfairness.'' Brief of Federal Trade Commission as Amicus Curiae at 3-4, 8-9, *Vermont v. International Collection Service, Inc.*, 594 A.2d 426 (Vt. 1991) (citing cases); *see also, e.g.*, 16 C.F.R. § 436.1 (FTC rule protecting franchisees); *United States Retail Credit Ass'n v. FTC*, 300 F.2d 212 (4th Cir. 1962) (deception involving business clients); *United States Ass'n of Credit Bureaus, Inc. v. FTC*, 299 F.2d 220 (4th Cir. 1962) (same).

[16] Susan A. Creighton, *Cheap Exclusion*, 72 **ANTITRUST** L.J. 975, 994 (2005).

[17] *Orkin,* 849 F.2d at 1365.

[18] *In re Orkin Exterminating Co.*, 108 F.T.C. 263 (1986), *aff'd*, 849 F.2d 1354 (11th Cir. 1988).

[19] *See Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 500-01 (1998) (regarding the potential procompetitive advantages of private associations promulgating safety standards).

[20] *Orkin*, 849 F.2d at 1361.

twenty (20) years after the date it becomes final.

STATEMENT OF THE FEDERAL TRADE COMMISSION

The Federal Trade Commission (''Commission'') has voted to issue a Complaint against Negotiated Data Solutions LLC (''N-Data'') and to accept the proposed consent agreement settling it.[1] The Complaint in this matter alleges that N-Data reneged on a prior licensing commitment to a standard-setting body and thereby was able to increase the price of an Ethernet technology used by almost every American consumer who owns a computer. Based on the facts developed by staff during the investigation, we find reason to believe that this conduct violated Section 5 of the FTC Act.[2]

The impact of Respondent's alleged actions, if not stopped, could be enormously harmful to standard-setting.[3] Standard-setting organization participants have long worried about the impact of firms failing to disclose their intellectual property until after industry lock-in. Many standard-setting organizations have begun to develop policies to deal with that problem. But if N-Data's conduct became the accepted way of doing business, even the most diligent standard-setting organizations would not be able to rely on the good faith assurances of respected companies. The possibility exists that those companies would exit the business, and that their patent portfolios would make their way to others who are less interested in honoring commitments than in exploiting industry lock-in.[4] Congress created the Commission precisely to challenge just this sort of conduct.

To prohibit such unacceptable behavior, the Commission today accepts a proposed consent agreement premised on a Complaint that identifies two separate violations. First, we find that N-Data's alleged conduct is an unfair method of competition. Second, we find that this conduct is also an unfair act or practice.

There is little doubt that N-Data's conduct constitutes an unfair method of competition.[5] The legislative history from the debate regarding the creation of the Commission is replete with references to the types of conduct that Congress intended the Commission to challenge. *See, e.g.,* 51 Cong. Rec. 12,153 (1914) (statement of Sen. Robinson) (''unjust, inequitable or dishonest competition''), 51 Cong. Rec. 12,154 (1914) (statement of Sen. Newlands) (conduct that is ''contrary to good morals''). The Supreme Court apparently agrees as it has found that the standard for ''unfairness'' under the FTC Act is ''by necessity, an elusive one, encompassing not only practices that violate the Sherman Act and the other antitrust laws, but also practices that the Commission determines are against public policy for other reasons.'' *F.T.C. v. Ind. Fed'n of Dentists,* 476 U.S. 477, 454 (1986); *see also F.T.C. v. Sperry & Hutchinson Co.,* 405 U.S. 233, 242 (1972) (FTC has authority to constrain, among other things ''deception, bad faith, fraud or oppression'').

We also have no doubt that the type of behavior engaged in by N-Data harms consumers. The process of establishing a standard displaces competition; therefore, bad faith or deceptive behavior that undermines the process may also undermine competition in an entire industry, raise prices to consumers, and reduce choices.[6] We have previously noted that ''[i]ndustry standards are widely acknowledged to be one of the engines driving the modern economy.''[7] Conduct like N-Data's—which undermines standard-setting—threatens to stall that engine to the detriment of all consumers.

N-Data's conduct is also an unfair act or practice under Section 5(n) of the FTC Act and *Orkin Exterminating Co.,* 108 F.T.C. 263 (1986), aff'd, 849 F.2d 1354 (11th Cir. 1988). This Commission—*unanimously*—has often found an unfair act or practice proscribed by Section 5 in conduct that victimizes businesses (as well as individuals) who are consumers. The dissent would distinguish those cases on the ground that the businesses here are all ''large, sophisticated computer manufacturers'' who are able to protect themselves. There is no basis for that distinction in Section 5. In any event, moreover, there is no basis in the record of this investigation for describing all of the ''locked in'' licensees that way.

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[1] Commissioners Harbour, Leibowitz, and Rosch support the issuance of the Complaint and proposed consent agreement and join in this statement.

[2] Section 5 of the FTC Act prohibits ''unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce.'' 15 USC § 45(a)(1).

[3] One dissent recites a different set of facts than those alleged in the Complaint. We do not agree with that version of the facts. Rather, we believe that staff's investigation, as described in the Analysis to Aid Public Comment, accurately depicts the facts in this case.

[4] *See generally* Fed. Trade Comm'n , *To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy* ch. 2 at 31, n. 220; ch. 3 at 38-41, *available at http://www.ftc.gov/os/2003/10/innovationrpt.pdf* (2003) (conduct by ''non-producing entities''—sometimes referred to as 'patent trolls'—may harm consumers when such firms force manufacturers to agree to licenses after the manufacturers have sunk substantial investments into technologies).

[5] *See, e.g.,* E.I. du Pont de Nemours & Co. v. FTC, 729 F.2d 128 (2d Cir. 1984) (''*Ethyl*''); Official Airline Guides v. FTC, 630 F.2d 920 (2d Cir. 1980). The conduct falls squarely within the parameters of cases like *Ethyl.* One dissent quotes a passage from the *Ethyl* decision; even that excerpt makes clear that a Section 5 violation can be found when there are ''some indicia of oppressiveness'' such as ''coercive...conduct.'' For the reasons stated in the Analysis to Aid Public Comment, we find reason to believe that Respondent engaged in conduct that was both oppressive and coercive when it engaged in efforts to exploit licensees that were locked into a technology by the adoption of a standard. We believe the Analysis to Aid Public comment adequately describes the limiting principles applicable here. *See generally* Statement of Commissioner J. Thomas Rosch, *Perspectives on Three Recent Votes: the Closing of the Adelphia Communications Investigation, the Issuance of the Valassis Complaint & the Weyerhaeuser Amicus Brief,* before the National Economic Research Associates 2006 Antitrust & Trade Regulation Seminar, Santa Fe, New Mexico (July 6, 2006) at 5-12, *available at http://www.ftc.gov/speeches/rosch/Rosch-NERA-Speech-July6-2006.pdf*; Concurring Opinion of Commissioner Jon Leibowitz, *In re Rambus, Inc.,* Docket No. 9302, *available at http://www.ftc.gov/os/adjpro/d9302/060802rambusconcurringopinionofcommissionerleibowitz.pdf.*

One dissent cites the Areeda and Hovenkamp antitrust treatise as well as several other sources to mistakenly suggest that there is a ''scholarly consensus'' that an unfair method of competition cannot be found under Section 5 unless there is liability under the antitrust laws. Most of the sources cited by the dissent, however, actually support the Analysis to Aid Public Comment, which notes that, although Section 5 extends beyond the antitrust laws, there are limitations on its reach. Indeed, Professor Hovenkamp has explicitly acknowledged that there is a *lack* of consensus on the scope and application of Section 5. *See* **HERBERT HOVENKAMP, FEDERAL ANTITRUST POLICY** at 596-97 (3d ed. 2005). Professor Hovenkamp states that ''[t]here are two views about the wisdom of the FTC's use of Section 5'' and goes on to discuss ''[A]n alternative view, perfectly consistent with the proposition that the FTC's antitrust concern should be limited to identifying practices that are economically anticompetitive.'' Under that alternative view, it is appropriate to apply ''the FTC Act to practices that do not violate the other antitrust laws . . . when (1) the practice seems anticompetitive but is not technically covered by the antitrust laws; and (2) the social cost of an error seems to be relatively small.'' The social cost of an error here is small given the nature of the remedy and the low likelihood that a Commission consent order will be followed by a valid antitrust-based class action suit. *See id.* (''Findings of violations of the FTC Act that are not also antitrust violations will not support subsequent private actions for treble damages''). We nevertheless recognize Commissioner Kovacic's concern that FTC ''unfair methods'' cases may support private actions based on state law, and join him in encouraging comment on that issue.

[6] *See* Allied Tube & Conduit Corp. v. Indian Head, Inc., 486 U.S. 492, 500 (1989); Am. Soc'y of Mech. Engineers, Inc. v. Hydrolevel Corp., 456 U.S. 556, 571 (1982); Standard Sanitary Mfg. Co. v. United States, 226 U.S. 20, 41 (1912). *See generally* Broadcom Corp. v. Qualcomm Inc., 501 F.3d 297, 310-314 (3d Cir. 2007).

[7] U.S. Dep't of Justice & Fed. Trade Comm'n, *Antitrust Enforcement And Intellectual Property Rights: Promoting Innovation And Competition* 33, *available at http://www.ftc.gov/reports/innovation/P040101PromotingInnovationandCompetitionrpt0704.pdf* (2007).

Similarly, as discussed in detail in the Analysis to Aid Public Comment, no meaningful distinction can be drawn between the circumstances in *Orkin,* where the respondent sought to exploit consumers who were ''locked into'' long term contracts, and the unique circumstances of this case, where licensees are ''locked into'' the standard containing technology controlled by this Respondent.

We recognize that some may criticize the Commission for broadly (but appropriately) applying our unfairness authority to stop the conduct alleged in this Complaint. But the cost of ignoring this particularly pernicious problem is too high. Using our statutory authority to its fullest extent is not only consistent with the Commission's obligations, but also essential to preserving a free and dynamic marketplace.

By direction of the Commission, Chairman Majoras and Commissioner Kovacic dissenting.

Donald S. Clark

Secretary

DISSENTING STATEMENT OF CHAIRMAN MAJORAS

I respectfully dissent from the decision to lodge a Complaint in this matter and to accept the settlement described in the majority's *Analysis of Proposed Consent Order to Aid Public Comment* (''Analysis''). The facts do not support a determination of antitrust liability. The preconditions for use of stand-alone Section 5 authority to find an ''unfair method of competition'' are not present. And the novel use of our consumer protection authority to protect large corporate members of a standard-setting organization (''SSO'') is insupportable.

This case presents issues that appear on first inspection to resemble those in our line of standard-setting ''hold up'' challenges, including *Unocal*,[1] *Dell*,[2] and *Rambus*.[3] As we and the Justice Department have explained jointly, ''multiple technologies may compete to be incorporated into the standard under consideration''[4] by an SSO. Once a technology has been selected and the standard that incorporates the technology has been specified, however, the standard's adopters often will face significant relative costs in switching to an alternative standard. ''[T]he chosen technology may lack effective substitutes precisely because the SSO chose it as the standard. Thus, . . . the owner of a patented technology necessary to implement the standard may have the power to extract higher royalties or other licensing terms that reflect the absence of competitive alternatives. Consumers of the products using the standard would be harmed if those higher royalties were passed on in the form of higher prices.''[5] In an effort to avoid the hold-up problem, some SSOs take measures to protect their members, such as imposing patent disclosure rules or securing agreement on licensing terms.[6]

This case departs materially from the prior line, however, in that there is no allegation that National engaged in improper or exclusionary conduct to induce IEEE to specify its NWay technology in the 802.3u standard. No one contends that National deceived SSO members at the time of its initial licensing offer in 1994. Further, from the time National submitted its letter of assurance in 1994 and at least until 2002, some patent holders changed or clarified the terms of their letters of assurance—even after the relevant standard was approved. And although a new IEEE bylaw, passed in January 2002, purported to make patent letters irrevocable, it did not address whether it was to apply retroactively. When Vertical submitted its 2002 proposal under which it would offer its entire patent portfolio that originated with National for license on reasonable and nondiscriminatory terms, the IEEE's Patent Administrator did not object to the departure from the $1,000 commitment, even while requesting and securing specific changes to Vertical's proposal. The IEEE then appeared to have accepted the revised proposal by posting Vertical's letter on its web site along with National's June 7, 1994 letter.

There is also a substantial question as to whether N-Data enjoyed measurable market power, even with the adoption of the IEEE standard. Under the terms of the standard, the NWay technology was an optional technique. Although National in 1994 had offered to grant a paid-up, royalty-free license to the technology for $1,000 to anyone seeking to practice the standard, no company had sought to accept the offer until after publication of the 2002 revision on the IEEE web site. And despite ongoing licensing efforts by National's successors, Vertical and N-Data, only one company paid materially more than the originally-quoted $1,000 for rights to the NWay technology.[7] Most users evidently have preferred to infringe, running the risk of presumably minimal patent damages that they might face at the outcome of litigation.

Thus, the facts do not support antitrust liability here.

The majority evidently agrees that respondent's conduct does not amount to improper acquisition or maintenance of monopoly power so as to fall within the ambit of Section 2 of the Sherman Act. Instead, the majority seeks to find liability purely under Section 5 of the FTC Act. This is not advisable as a matter of policy or prosecutorial discretion.

The majority's first theory is that N-Data engaged in an unfair method of competition. Although Section 5 enables the Commission to reach conduct that is not actionable under the Sherman or Clayton Acts, we have largely limited ourselves to matters in which respondents took actions short of a fully consummated Section 1 violation (but with clear potential to harm competition), such as invitations to collude.[8] This limitation is partly self-

[1] *In re Union Oil Company of California*, 2004 FTC LEXIS 115 (FTC 2004) (''Unocal''), *available at http://www.ftc.gov/os/adjpro/d9305/040706commissionopinion.pdf.*

[2] *In re Dell*, 121 F.T.C. 616 (1996).

[3] *In re Rambus*, FTC Dkt. No. 9302 (Liability Opinion, July 31, 2006), *appeal pending*, Docket Nos. 07-1086, 07-1124 (D.C. Cir. 2007).

[4] U.S. Department of Justice and Federal Trade Commission, **ANTITRUST ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS: PROMOTING INNOVATION AND COMPETITION** (April 2007) at 35-36 [hereinafter ''DOJ/FTC Intellectual Property Report''], *available at http://www.ftc.gov/reports/innovation/P040101 PromotingInnovationandCompetitionrpt0704.pdf.*

[5] *Id.* at 36. *See also* Chairman Deborah Platt Majoras, *Recognizing the Procompetitive Potential of Royalty Discussions in Standard Setting*, Remarks before the Stanford University Conference on Standardization and the Law: Developing the Golden Mean for Global Trade (September 2005), *available at http://www.ftc.gov/speeches/majoras/050923stanford.pdf.*

[6] DOJ/FTC Intellectual Property Report, *supra* note 4, at 36.

[7] Paragraph 31 of the Complaint alleges that ''several companies'' entered into license agreements that have produced fees ''far in excess'' of $1,000 per company. In fact, three companies entered into license agreements (with Vertical) for the patents. N-Data has never received royalties or fees from those agreements, nor, as I understand it, has it collected any royalties for the relevant patents on terms inconsistent with those offered in the 1994 letter. N-Data itself has initiated suit against one company, with which it had a dispute involving numerous patents other than those at issue in this case.

[8] *See, e.g., In re Valassis Communications, Inc.*, Docket No. C-4160, FTC File No. 051 008 (Complaint), *available at http://www.ftc.gov/os/caselist/0510008/0510008c4160Valassis Complaint.pdf.* In its *Analysis*, the Commission explained that competition would not be adequately protected if antitrust enforcement were directed only at consummated cartel agreements. The Commission further explicated the several legal (including precedent) and economic justifications that support the imposition of liability upon firms that communicate an invitation to collude where acceptance cannot be proven. Prior to the *Valassis* case, the Commission entered into consent agreements in several cases alleging that an invitation to collude—though unaccepted by the

imposed, reflecting the Commission's recognition of the scholarly consensus that finds the Sherman and Clayton Acts, as currently interpreted, to be sufficiently encompassing to address nearly all matters that properly warrant competition policy enforcement.[9] But the limitation also reflects the insistence of the appellate courts that the Commission's discretion is bounded and must adhere to limiting principles. In *E.I. du Pont de Nemours & Co. v. FTC*, for example, the Second Circuit stated: ''[w]hen a business practice is challenged by the Commission, even though, as here, it does not violate the antitrust or other laws and is not collusive, coercive, predatory or exclusionary in character, standards for determining whether it is 'unfair' within the meaning of § 5 must be formulated to discriminate between normally acceptable business behavior and conduct that is unreasonable or unacceptable.''[10] Writing in the context of a challenge to parallel conduct that did not arise from an agreement but that facilitated oligopolistic coordination, the Second Circuit adopted this test:

> In our view, before business conduct in an oligopolistic industry may be labelled ''unfair'' within the meaning of § 5 a minimum standard demands that, absent a tacit agreement, at least some indicia of oppressiveness must exist such as (1) evidence of anticompetitive intent or purpose on the part of the producer charged, or (2) the absence of an independent legitimate business reason for its conduct. . . . In short, in the absence of proof of a violation of the antitrust laws or evidence of collusive, coercive, predatory, or exclusionary conduct, business practices are not ''unfair'' in violation of § 5 unless those practices either have an anticompetitive purpose or cannot be supported by an independent legitimate reason.[11]

In its *Analysis*, the majority extends the *du Pont* formulation to the monopolization family, asserting that respondent's conduct was ''coercive'' and ''oppressive'' and had an ''adverse impact on prices for autonegotiation technology[.]''[12] These assertions are impossible to prove on the evidence we have. N-Data asserts that its renegotiation of its licensing terms was motivated by nothing other than an independent, business reason—that is, the aim of collecting royalties for a new bundle of intellectual property rights on reasonable and non-discriminatory terms. Even if N-Data were motivated by a desire to strike a better bargain than National made several years earlier, that alone should not be considered a competition-related offense. If the majority's theory is that the evasion of contractual price constraints triggers liability under Section 5 without a concurrent determination that the conduct violates the Sherman Act, then we are headed down a slippery slope, and I take no comfort from the majority's representation to the contrary. Parties often enter into contractual commitments involving asset-specific investments, creating the potential for opportunism. The majority has not identified a meaningful limiting principle that indicates when an action—taken in the standard-setting context or otherwise—will be considered an ''unfair method of competition.''

Pursuing a second theory, the majority invokes consumer protection doctrine to find that respondent has engaged in an ''unfair act or practice'' in violation of Sections 5(a) and (n) of the FTC Act.[13] Section 5(n) provides a clear limitation of the Commission's authority: ''[t]he Commission shall have no authority under this section or section 57a of this title to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.''[14] The evidence simply does not support the requisite findings.

In particular, finding ''substantial consumer injury'' here requires the majority to treat large, sophisticated computer manufacturers as ''consumers.'' I do not agree with such a characterization, and I have serious policy concerns about using our consumer protection authority to intervene in a commercial transaction to protect the alleged ''victims'' here. The *Analysis* accurately states that the FTC has used its authority under Section 5 to protect small businesses against unfair acts and practices. We have taken care to exercise this authority judiciously, however, to protect small businesses, non-profits, churches, and ''mom and pop'' operations[15] that lack

competitor—violated Section 5 of the FTC Act. *MacDermid, Inc.*, Docket No. C-3911, FTC File No. 991 0167 (Decision & Order), *available at http://www.ftc.gov/os/2000/02/macdermid.do.htm*; *Stone Container Corp.*, 125 F.T.C. 853 (1998); *Precision Moulding Co.*, 122 F.T.C. 104 (1996); *YKK (USA) Inc.*, 116 F.T.C. 628 (1993); *A.E. Clevite, Inc.*, 116 F.T.C. 389 (1993); *Quality Trailer Products Corp.*, 115 F.T.C. 944 (1992).

[9] *See, e.g.*, 5 **JULIAN O. VON KALINOSKI, PETER SULLIVAN & MAUREEN MCGUIRL, ANTITRUST LAWS AND TRADE REGULATION**, § 77.02 at 77-3 (2007) (''the prevailing view is that there are limitations on Section 5's applicability to conduct which stretches beyond the letter of [the Sherman or Clayton Acts].''); 2 **PHILIP AREEDA & HERBERT HOVENKAMP, ANTITRUST LAW** ¶ 302(h) (2006) (''Apart from possible historical anachronisms in the application of those statutes, the Sherman and Clayton Acts are broad enough to cover any anti-competitive agreement or monopolistic situation that ought to be attacked whether 'completely full blown or not.'''); Richard A. Posner, *The Federal Trade Commission: A Retrospective*, 72 **ANTITRUST** L.J. 761, 766 (2005) (''It used to be thought that 'unfair methods of competition' swept further than the practices forbidden by the Sherman and Clayton Acts, and you find this point repeated occasionally even today, but it is no longer tenable. The Sherman and Clayton Acts have been interpreted so broadly that they no longer contain gaps that a broad interpretation of Section 5 of the FTC Act might be needed to fill.''); John F. Graybeal, *Unfair Trade Practices, Antitrust And Consumer Welfare In North Carolina*, 80 N.C. L. **REV.** 1927, 1949 (2002) (''Undoubtedly, the FTC today will proceed with great caution under section 5 to claim as an unfair method of competition any conduct that does not violate the Sherman or Clayton Acts.''). *See also* ABA **SECTION OF ANTITRUST LAW, ANTITRUST LAW DEVELOPMENTS** (6th ed. 2007) (''FTC decisions have been overturned despite proof of anticompetitive effect where the courts have concluded that the agency's legal standard did not draw a sound distinction between conduct that should be proscribed and conduct that should not.'').

[10] 729 F.2d 128, 138 (2d Cir. 1984).

[11] *Id.* at 139-140.

[12] *Analysis* at 5.

[13] In *Rambus*, the Commission drew upon its experience with the law regarding deceptive acts or practices, which has been developed largely in consumer protection contexts, to inform our analysis of deception before an SSO as part of an exclusionary course of conduct. *Rambus, supra* note 3, at 29-30. We did so, however, within a framework based on Sherman Act jurisprudence, recognizing, *inter alia*, the need to examine competitive effects. *Id.* at 28-31. The majority's extension of our authority over unfair acts or practices, which Congress has specifically limited in Section 5(n), raises altogether different issues.

[14] 15 U.S.C. § 45(n) (2000). *See also International Harvester Co.*, 104 F.T.C. 949, 1061 (1984).

[15] *See, e.g., FTC v. Websource Media, LLC*, No. H-06-1980 (S.D. Tex. filed June 12, 2006) (unfair practice of ''cramming'' unauthorized charges onto the telephone bills of small businesses); *FTC v. Certified Merchant Services, Ltd.*, No. 4:02CV44 (E.D. Tex. filed February 11, 2002) (unfair practice of unilaterally inserting additional pages that describe substantial, undisclosed charges into credit card processing contracts with small business merchants); *FTC v. IFC Credit Corp.*, No. 07C3155 (N.D. Ill. filed June 6, 2007) (unfair practice of accepting and collecting on invalid, fraudulently induced equipment contracts with small businesses and religious and other nonprofit organizations). The majority cites to the Franchise Rule as another example of the Commission using its Section 5 consumer protection authority to protect small businesses from deceptive practices. While the Franchise Rule, which requires certain disclosures prior to the sale of a franchise, sometimes protects businesses, it typically protects individual consumers that are purchasing franchises rather than sophisticated corporations. In adopting amendments to the Franchise Rule earlier this year, the Commission exempted from the Rule's coverage several categories of sophisticated investors. 16 C.F.R. § 436.8(a).

the resources and, in some cases, the experience or understanding to defend themselves adequately against fraud. Indeed, certain of these small business owners, non-profit volunteers, and clergy had personally guaranteed the contracts at issue. There is a clear qualitative difference between these entities and the computer manufacturers that the majority treats as injured consumers in this matter.[16]

As I stated above, I am not convinced that any party was injured. And certainly the evidence does not support the finding that the alleged injury here was ''not reasonably avoidable'' (assuming, of course, that injury can be made out at all). The membership of IEEE includes computer networking equipment manufacturers and telecommunications companies. IEEE knew that its members sometimes made or attempted to make changes in patent commitment letters, and it could have acted sooner to protect its members from potentially adverse changes to commitment letters. IEEE also could have objected to Vertical's revisions, but instead it accepted and published them without objection. Moreover, any individual company could have entered into a binding agreement with National, but none sought timely to accept the 1994 royalty offer.

In re Orkin Exterminating Co., Inc.,[17] on which the majority relies, is fundamentally different from the instant matter. Orkin unilaterally increased its fees for more than 200,000 consumers, all of whom had signed written contracts that could readily be understood to be binding and that committed to a lifetime fee structure that would not increase.[18] If consumers paid the amount specified in their contracts, Orkin's policy was to return the payments. Thus, unlike the situation here, *Orkin* involved both (a) large numbers of individual consumers, and (b) widespread injury that the consumers could not reasonably avoid.

For all of these reasons, I respectfully dissent.

[16] Some may argue that the Commission has already made the policy decision to treat businesses as consumers, and that there is no rational distinction between the companies we have protected and large corporations. I disagree. Although it is important to draw lines, there is such a vast difference between sophisticated corporations, on the one hand, and storefront shops, on the other, that we do not need to draw a bright line to distinguish this matter from previous cases the Commission has brought to protect small businesses.

[17] 108 F.T.C. 263 (1986), *aff'd*, *FTC v. Orkin*, 849 F.2d 1354 (11th Cir. 1988).

[18] Orkin pamphlets echoed this commitment, promising that the annual fee would ''never increase.'' 108 F.T.C. at 356.

DISSENTING STATEMENT OF COMMISSIONER KOVACIC

I oppose the Commission's decision to accept for comment the settlement described in the Analysis to Aid Public Comment (''Analysis''). Like Chairman Majoras,[1] I would not find that the Respondent engaged in an unfair method of competition or an unfair act or practice within the meaning of Section 5 of the Federal Trade Commission Act. Below I discuss two of the considerations that have influenced my thinking about this matter. These can serve as focal points for public comment before the Commission votes on whether to make the provisional settlement final.

Effect on Private Rights of Action

The Commission concludes that the respondent did not violate the Sherman Act or the Clayton Act. The Commission finds that the respondent violated Section 5 of the Federal Trade Commission Act because its conduct constituted both an unfair method of competition and an unfair act or deceptive practice. One reason the Commission gives for basing liability on Section 5 alone is that, unlike liability theories premised on infringements of the Sherman or Clayton Acts, private parties cannot use FTC intervention premised on Section 5 alone to support claims for treble damages in subsequent federal antitrust suits. The Commission's assumption that a pure Section 5 theory will have no spillover effects seems to be important to the result it reaches. Footnote 8 of the Analysis says:

> It is worth noting that, because the proposed complaint alleges stand-alone violations of Section 5 rather than violations of Section 5 that are premised on violations of the Sherman Act, this action is not likely to lead to well-founded treble damage antitrust claims in federal court.

If the absence of spillover effects in private litigation is important to the Commission's decision, then the proposed settlement must account for the impact of FTC decisions upon the prosecution of claims based on state, as well as federal, causes of action.

The Commission overlooks how the proposed settlement could affect the application of state statutes that are modeled on the FTC Act and prohibit unfair methods of competition (''UMC'') or unfair acts or practices (''UAP''). The federal and state UMC and UAP systems do not operate in watertight compartments. As commentators have documented, the federal and state regimes are interdependent. *See, e.g.,* Dee Pridgen, Consumer Protection and the Law 214-22 (2007 Edition) (discussing use of FTC precedent to interpret state consumer protection statutes); Lawrence Fullerton et al., Reliance on FTC Consumer Protection Law Precedents in Other Legal Forums (American Bar Association, Section of Antitrust Law, Working Paper No. 1, July 1988) (describing how FTC consumer protection actions inform application of state law). By statute or judicial decision, courts in many states interpret the state UMC and UDP laws in light of FTC decisions, including orders. As a consequence, such states might incorporate the theories of liability in the settlement and order proposed here into their own UMC or UAP jurisprudence. A number of states that employ this incorporation principle have authorized private parties to enforce their UMC and UAP statutes in suits that permit the court to impose treble damages for infringements.

If the Commission desires to deny the reasoning of its approach to private treble damage litigants, the proposed settlement does not necessarily do so. If the Commission's assumption of no spillover effects is important to its decision, a rethink of the proposed settlement and order seems unavoidable.

The Basis of Liability

The proposed settlement treats the Respondent's conduct as both an unfair method of competition and an unfair act or practice. When a public agency pleads alternative theories of liability, especially in a settlement with a party that appears to lack the means to threaten credibly to litigate, it should specify the distinctive contributions of each theory to the prosecution of the matter. Suppose that an agency comfortably could premise its allegation of infringement upon theory A. If the agency decides to premise liability upon theory B as well as theory A, it is good practice for the agency to explain what theory B adds to the mix.

The Analysis here does not discuss why the Commission endorses separate UMC and UAP claims. The Analysis does not integrate the two theories of liability. A fuller effort to explain the relationship between the theories of liability in the Analysis would have led the Commission to confront anomalies in its exposition of the decision to prosecute. For example, the framework that the Analysis presents for analyzing the challenged conduct as an unfair act

[1] Dissenting Statement of Chairman Majoras, In the Matter of Negotiated Data Solutions LLC, File No. 0510094.

or practice would appear to encompass all behavior that could be called a UMC or a violation of the Sherman or Clayton Acts. The Commission's discussion of the UAP liability standard accepts the view that all business enterprises—including large companies—fall within the class of consumers whose injury is a worthy subject of unfairness scrutiny. If UAP coverage extends to the full range of business-to-business transactions, it would seem that the three-factor test prescribed for UAP analysis would capture all actionable conduct within the UMC prohibition and the proscriptions of the Sherman and Clayton Acts. Well-conceived antitrust cases (or UMC cases) typically address instances of substantial actual or likely harm to consumers. The FTC ordinarily would not prosecute behavior whose adverse effects could readily be avoided by the potential victims—either business entities or natural persons. And the balancing of harm against legitimate business justifications would encompass the assessment of procompetitive rationales that is a core element of a rule of reason analysis in cases arising under competition law.

The prospect of a settlement can lead one to relax the analytical standards that ordinarily would discipline the decision to prosecute if the litigation of asserted claims was certain or likely. This is particularly the case when, as in this matter, the respondent has indicated during negotiations that, for various reasons, it will not litigate and will accept a settlement. If the Commission had in mind specific analytical grounds for including both theories of liability (for example, because each theory standing alone contained weaknesses as foundations for the settlement), the Analysis omits them. In the logic of the Analysis, the UAP theory subsumes the UMC standard and makes the UMC provision superfluous. If the UAP concept is so broad, it is not evident what reasoning in this case supports the parallel inclusion of the UMC claim. More generally, it seems that the Commission's view of unfairness would permit the FTC in the future to plead all of what would have been seen as competition-related infringements as constituting unfair acts or practices.

[FR Doc. E8–1801 Filed 1–30–08: 8:45 am]

[Billing Code: 6750–01–S]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Organ Transplantation Request for Nominations for Voting Members

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill vacancies on the Advisory Committee on Organ Transplantation (ACOT). The ACOT was established by the Amended Final Rule of the Organ Procurement and Transplantation Network (OPTN) (42 CFR part 121) and, in accordance with Public Law 92–463, was chartered on September 1, 2000.

DATES: The agency must receive nominations on or before March 3, 2008.

ADDRESSES: All nominations should be submitted to the Executive Secretary, Advisory Committee on Organ Transplantation, Healthcare Systems Bureau, HRSA, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857. Federal Express, Airborne, UPS, etc., mail delivery should be addressed to Executive Secretary, Advisory Committee on Organ Transplantation, Healthcare Systems Bureau, HRSA, at the above address.

FOR FURTHER INFORMATION CONTACT: Gregory Fant, Ph.D., Executive Secretary, Advisory Committee on Organ Transplantation, at (301) 443–8728 or e-mail *Gregory.Fant@hrsa.hhs.gov*.

SUPPLEMENTARY INFORMATION: As provided by 42 CFR 121.12 (64 FR 56661), the Secretary established the Advisory Committee on Organ Transplantation. The Committee is governed by the Federal Advisory Committee Act (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

The ACOT advises the Secretary, acting through the Administrator, HRSA, on all aspects of organ procurement, allocation, and transplantation, and on other such matters that the Secretary determines. One of its principal functions is to advise the Secretary on ways to maximize Federal efforts to increase living and deceased organ donation nationally. Other matters that have been reviewed by the ACOT include:

- Concerns about U.S. citizens traveling abroad in order to receive organ transplants (also known as transplant tourism);
- Collection of data on the long-term health status of living donors;
- Organ Procurement and Transplantation Network development and distribution within the transplant community a set of practice guidelines to be followed with respect to public solicitation of organ donors, both living and deceased;
- Standards of coverage for living donors relating to future adverse events; and
- CMS reimbursement of organ procurement organizations for donation after cardiac death.

The ACOT consists of up to 25 members, including the Chair. Members and Chair shall be selected by the Secretary from individuals knowledgeable in such fields as organ donation, health care public policy, transplantation medicine and surgery, critical care medicine and other medical specialties involved in the identification and referral of donors, non-physician transplant professions, nursing, epidemiology, immunology, law and bioethics, behavioral sciences, economics and statistics, as well as representatives of transplant candidates, transplant recipients, organ donors, and family members. To the extent practicable, Committee members should represent the minority, gender and geographic diversity of transplant candidates, transplant recipients, organ donors and family members served by the OPTN. In addition, the Director, Centers for Disease Control and Prevention; the Administrator, Centers for Medicare and Medicaid Services; the Commissioner, Food and Drug Administration; the Director, National Institutes of Health; and the Director, Agency for Healthcare Research and Quality (or the designees of such officials) serve as non-voting ex officio members.

Specifically, HRSA is requesting nominations for voting members of the ACOT representing: Health care public policy; transplantation medicine and surgery, including pediatrics; critical care medicine; nursing; epidemiology and applied statistics; immunology; law and bioethics; behavioral sciences; economics and econometrics; organ procurement organizations; transplant candidates/recipients; transplant/donor family members; and living donors. Nominees will be invited to serve a 4-year term beginning between January and July 2009.

HHS will consider nominations of all qualified individuals with a view to

ensuring that the Advisory Committee includes the areas of subject matter expertise noted above. Individuals may nominate themselves or other individuals, and professional associations and organizations may nominate one or more qualified persons for membership on the ACOT. Nominations shall state that the nominee is willing to serve as a member of the ACOT and appears to have no conflict of interest that would preclude the ACOT membership. Potential candidates will be asked to provide detailed information concerning financial interests, consultancies, research grants, and/or contracts that might be affected by recommendations of the Committee to permit evaluation of possible sources of conflicts of interest.

A nomination package should include the following information for each nominee: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (i.e., what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of ACOT), and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee and a copy of his/her curriculum vitae; and (3) the name, return address, and daytime telephone number at which the nominator can be contacted.

The Department of Health and Human Services has special interest in assuring that women, minority groups, and the physically disabled are adequately represented on advisory committees; and therefore, extends particular encouragement to nominations for appropriately qualified female, minority, or disabled candidates.

Dated: January 22, 2008.

Elizabeth M. Duke,

Administrator.

[FR Doc. E8–1730 Filed 1–30–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Proposed Collection; Comment Request; Formative Research and Pilot Studies for the National Children's Study

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 19, 2007, pages 65047–8, and allowed 60 days for public comment. One comment was received questioning the utility of the proposed data collection. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Formative Research and Pilot Studies for the National Children's Study. *Type of Information Collection Request:* New. *Need and use of information collection:* The NICHD seeks to obtain OMB's generic approval to conduct formative research and pilot studies to be used in the development of instruments, materials, and procedures for the National Children's Study (NCS). The NCS is a long-term cohort study of environmental influences on child health and development authorized under the Children's Health Act of 2000. Further details pertaining to the NCS background and planning, including the NCS Research Plan, can be found at: *http://nationalchildrensstudy.gov.* The proposed data collection program will include community outreach materials, medical provider and participant materials, questionnaires and measures, use of technology such as Interactive Voice Recognition (IVR), and other aspects related to data collection. Activities will include small focused studies to test data collection items and methods on a specific or targeted population, validation of questionnaires for targeted populations, focus groups within the NCS communities to test forms and procedures, cognitive interviews to test data items, and the use of materials on targeted populations such as medical providers and hospitals, and materials translated into other languages. These activities will be conducted over the life of the study to develop procedures and materials for each stage of data collection. The results of these pilot tests will be used to maximize the efficiency of study procedures, materials, and methods for community outreach, engagement of the medical community, for recruiting and retaining study subjects prospectively across study visits and to ensure that data collection methodologies are efficient and valid for all potential participants. Without this information, NCS will be hampered in its efforts to effectively publicize the NCS, gain public and professional support, and effectively recruit and retain respondents and collect data over the life of the Study. *Affected entities:* Individuals. *Types of respondents:* People potentially affected by this action are pregnant women or women of childbearing age, their husbands or partners, health care professionals, and community leaders. The annual reporting burden is as follows: *Estimated Number of Respondents:* 3,150. *Frequency of Response:* On occasion (see Burden table). *The Estimated Number of Responses per Respondent:* 1. *Average Burden Hours Per Response:* Varies with study type. *Estimated Total Annual Burden Hours Requested:* 5,825. The estimated annualized cost to respondents is $114,250 (based on rates listed in the burden table). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents (estimated hourly rate)	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours
Small focused studies ($10)	1,250	1	1.5	1,875
Focus groups with potential participants ($10)	350	1	3.0	1,050
Focus groups with health care professionals ($50)	350	1	3.0	1,050
Focus groups with community leaders ($10)	350	1	3.0	1,050
Medical provider feedback on materials through informal in-person contacts ($50)	700	1	0.5	350

Type of respondents (estimated hourly rate)	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours
Cognitive interviews ($10)	150	1	3.0	450
Total	3,150			5,825

Requests for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: 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: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ruth A. Brenner, MD, MPH, National Institute of Child Health and Human Development, Building 6100, 5C01, 6100 Executive Blvd, Bethesda, Maryland, 20892, or call non-toll free number (301) 594–9147, or e-mail your request, including your address to *ncsinfo@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: January 23, 2008.

Paul Johnson,

NICHD Project Clearance Liaison, National Institutes of Health.

[FR Doc. E8–1688 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development Proposed Collection; Comment Request; Pilot Study for the National Children's Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 19, 2007, pages 65049–65050, and allowed 60 days for public comment. One comment was received questioning the utility of the proposed data collection. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Pilot Study for the National Children's Study, *Type of Information Collection Request:* New, *Affected entities:* Households and individuals. *Types of respondents:* People potentially affected by this action are pregnant women, women age 18–49 years of age, their husbands or partners, and their children who live in selected areas within seven (7) National Children's Study Vanguard sites. A small number of health care professionals, community leaders, and child care personnel are also potential respondents. *Frequency of Response:* On occasion. See burden table for estimated number of annual responses for each respondent. *Need and use of information collection:* The purpose of this Study is to pilot test protocols, policies, and procedures for the National Children's Study (NCS) with the goal of improving the efficiency of study procedures and enhancing the subsequent implementation of the NCS, a long-term cohort study of environmental influences on child health and development authorized under the Children's Health Act of 2000. This data collection will test procedures for population-based sampling and recruitment of pregnant women and women of child-bearing age, test study logistics, and estimates of subject burden, and evaluate data collection strategies including interviews and acquisition of biologic and environmental samples. In addition, participants will also be asked to provide qualitative and quantitative input on their feelings regarding participation in this study. Further details pertaining to the NCS background and planning, including the NCS Research Plan, can be found at: *http://nationalchildrensstudy.gov.* The Pilot Study is intended to begin with household enumeration and enrollment of women, proceed through pregnancy and birth, and continue with follow-up of children for up to 21 years. This application is for the first three years of data collection, which includes data collection through the visits at which some of the children will be 24 months old. Details of data collections beyond this period will be addressed at the time of renewal or in future applications. Women who are pregnant will be eligible for participation if, at the time of household enumeration and screening, they are within the first trimester of pregnancy. Women who are not pregnant will be eligible if, at the time of household enumeration and screening, they are 18–49 years of age, are neither surgically nor medically sterile, and can participate in the consent process. A subset of age-eligible women with a high likelihood of pregnancy (e.g., planning to become pregnant) will be enrolled to enable assessment of peri-conceptional exposures, should they become pregnant. The remainder of the study population will comprise women enrolled early in pregnancy. The seven centers combined will follow approximately 1000 infants born to women enrolled in the first year of this Pilot Study. Home visits before and during pregnancy will include collection of interview data,

environmental specimens such as air and dust samples, maternal and paternal biospecimens such as blood and hair samples, and a brief physical examination including anthropometric measures and blood pressure. During pregnancy, women will receive up to three fetal ultrasounds to assess fetal growth. At birth, cord blood and placental samples will be collected and the infant will receive a brief developmental assessment. During infancy, home visits will include collection of interview data, environmental specimens, biospecimens from the infant and parents, a brief physical examination of the infant, and assessment of infant development and parental-infant interactions. *Burden statement:* The public burden for this study will vary depending on the eligibility and pregnancy status of potential participants at the time of household screening. Women who receive their first home visit during pregnancy will have a lower burden than those who receive their first visit before pregnancy. And, women who are not pregnant at the time of screening will have varying burden depending on their likelihood of pregnancy. The table provides an annualized average burden per person for each stage of the Pilot Study over the three year period of the study.

ESTIMATED AVERAGE ANNUAL BURDEN FOR PILOT STUDY FOR NATIONAL CHILDREN'S STUDY, BASED ON THREE YEAR TOTALS

Types of respondents (estimated hourly rate)	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours
Household activities ($12/hr):				
Household enumeration	76,911	0.33	0.08	2,051
Eligibility screening	45,316	0.33	0.08	1,208
Preconception activities ($12/hr):				
High probability women—with pre-pregnancy visit	380	1.7	0.93	1,730
High probability women—without pre-pregnancy visit	3737	0.67	0.08	199
Moderate prob, women	5,500	1	0.08	458
Low probability women	3,578	0.33	0.08	95
Pregnancy activities—women ($12/hr)	954	7	0.62	4,134
Birth activities—mothers & children ($12/hr)	912	2	0.38	684
Postnatal activities—mothers & children ($12/hr)	893	4	0.81	2,887
Fathers ($12/hr)	954	2	0.72	1,370
Health care providers ($90/hr)	500	0.33	0.05	8
Community leaders ($75/hr)	500	0.33	0.05	8
Child care providers ($25/hr)	364	0.33	1.00	121
Total	*79,229			14,953

*Total number of respondents is less than the sum of the column since the mothers will be identified in the household enumeration and screening.

The estimated annualized cost to respondents is $182,137 based on the differential hourly rate estimates in the above table. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: 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: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Kenneth C. Schoendorf, MD, MPH, National Institute of Child Health and Human Development, Building 6100, 5C01, 6100 Executive Blvd., Bethesda, Maryland 20892, or call the non-toll free number (301) 594–9147, or e-mail your request, including your address to *ncsinfo@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: January 23, 2008.

Paul Johnson,

NICHD Project Clearance Liaison, National Institutes of Health.

[FR Doc. E8–1690 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Molecular and Cellular Endocrinology Study Section.
Date: February 11–12, 2008.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Syed M. Amir. PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6172, MSC 7892, Bethesda, MD 20892, (301) 435–1043, *amirs@csr.nih.gov*.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Obesity.
Date: February 12, 2008.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Abubakar A. Shaikh, PhD, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1042, *shaikha@csr.nih.gov*.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, F07 Immunology Fellowships and Area.
Date: February 21–22, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Paek-Gyu Lee, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, 301–435–1277, *leepg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Discovery for CNS Disorders.
Date: February 27, 2008.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Carol Hamelink, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5040H, MSC 7850, Bethesda, MD 20892, (301) 451–1328, *hamelic@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cognition, Language, and Perception Fellowship Study Section.
Date: March 3, 2008.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Hotel, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Estina E. Thompson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–496–5749, *thompsone@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Topics in Virology.
Date: March 4, 2008.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Inn, 1310 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: John C. Pugh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Topics In Bacterial Pathogenesis.
Date: March 6–7, 2008.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Rolf Menzel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Nature's Solutions.
Date: March 6, 2008.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–4522, *gibson@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychopathology, Developmental Disabilities, Stress and Aging Fellowship Study Section.
Date: March 7, 2008.
Time: 8 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel. 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Estina E. Thompson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–496–5749, *thompsone@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–419 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group, Clinical Trials Review Committee.
Date: February 25–26, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: InterContinental Harbor Court/Baltimore, 550 Light Street, Baltimore, MD 21202.
Contact Person: Patricia A. Haggerty, PhD, Section Chief, Clinical Studies and Training Scientific Review Group, Review Branch, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Room 7194, MSC 7924, Bethesda, MD 20892, 301/435–0288, *haggertp@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–420 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Demonstration and Dissemination Projects (R18's).

Date: February 22, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Holly Patton, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0280, *pattonh@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.828, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

January 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–421 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: February 24–26, 2008.

Closed: February 24, 2008, 7 p.m. to 9:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Closed: February 25, 2008, 8:30 a.m. to 9:30 a.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Executive Conference Room, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: February 25, 2008, 9:30 a.m. to 11:55 a.m.

Agenda: An overview of the organization and research in the Laboratory of Neurobiology and Tenure-Track Review of Dr. Leping Li.

Place: Nat. Inst. of Environmental Health Sciences, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: February 25, 2008, 11:55 a.m. to 12:25 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Executive Conference Room, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: February 25, 2008, 1:30 p.m. to 4:10 p.m.

Agenda: An overview of the organization and research in the Laboratory of Neurobiology, and Tenure-Track Review of Dr. Leping Li.

Place: Nat. Inst. of Environmental Health Sciences, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: February 25, 2008, 4:10 p.m. to 4:40 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: February 25, 2008, 4:40 p.m. to Adjournment.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: February 26, 2008, 9 a.m. to 10:30 a.m.

Agenda: An overview of the organization and research in the Laboratory of Neurobiology and Tenure-Track Review of Dr. Leping Li.

Place: Nat. Inst. of Environmental Health Sciences, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: February 26, 2008, 10:30 a.m. to Adjournment.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Contact Person: Perry J Blackshear, PhD, MD, Acting Scientific Director, Division of Intramural Research, national Inst. of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233. Research Triangle Park, NC 27709, (919) 541–4899, *black009@niehs.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower

Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–418 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such a patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel, NINR Chronic Illness P01 RFA Review.

Date: March 5–6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, PhD, MD, Chief, Office of Review, Division of Extramural Activities, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Ste 710, Bethesda, MD 20892, (310) 451–5152, *yujing_liu@nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter on intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: January 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–422 Filed 1–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary, Office of Policy, Private Sector Office, DHS; Welcome to the United States Survey

AGENCY: Office of Policy, Private Sector Office, DHS.

ACTION: 60-Day Notice and request for comments; Reinstatement without change of a previously approved information collection OMB Control Number 1601–0003.

SUMMARY: The Department of Homeland Security, Office of the Secretary, Office of Policy, Private Sector Office will submit this reinstatement without change for the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The Private Sector Office is soliciting comments concerning the reinstatement without change to a previously approved information collection, Welcome to the United States Survey.

DATES: Comments are encouraged and will be accepted until March 31, 2008. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: 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), Office of the Secretary, Office of Policy, Plans and International Affairs, Attn: Jenny Randall, Room 10360A, Washington, DC 20528. Comments may also be submitted via e-mail at *Jenny.R.Randall@HQ.DHS.GOV.*

FOR FURTHER INFORMATION CONTACT: If additional information is required contact: The Department of Homeland Security (DHS), Private Sector Office, Jenny Randall (202) 282–9801, this is not a toll free number.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), Office of the Secretary, Office of Policy, Private Sector Office, in conjunction with Customs and Border Protection (CBP) and Research Triangle Institute, International, will interview foreign visitors entering the United States at four southern border ports of entry, three northern border ports of entry and four airport ports of entry. This survey will measure how CBP is serving the American public with vigilance and integrity, while providing courteous and helpful treatment to visitors, immigrants and travelers. Additionally, this survey will further the Rice-Chertoff Initiative as has been announced by evaluating the two model airports (Dulles International Airport, Chantilly, VA, and Houston International Airport, Houston, TX) for baseline information as well as how welcomed foreign visitors feel upon entering the United States and interacting with a DHS Customs and Border Protection officer.

The Office of Management and Budget is particularly interested in comments which:

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 submissions of responses.

Analysis

Agency: Department of Homeland Security, Office of the Secretary, Office of Policy, Private Sector Office.

Title: Welcome to the United States Survey.

OMB Number: 1601–0003.

Frequency: One-time collection.

Affected Public: Foreign visitors into the United States.

Number of Respondents: 939 respondents.

Estimated Time per Respondent: 5 minutes per response.

Total Burden Hours: 78.25 annual burden hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintaining): None.

Scott Charbo,

Chief Information Officer.

[FR Doc. E8–1808 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Issuance of Final Determination Concerning Printers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that the Bureau of Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain printers which may be offered to the United States Government under an undesignated government procurement contract. CBP has concluded that the operations performed in each of two scenarios will result in the goods being considered products of the Netherlands.

DATES: The final determination was issued on January 25, 2008. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202–572–8792).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 25, 2008, pursuant to subpart B of part 177, CBP Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain printers which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H013150, was issued at the request of Océ North America under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that the operations performed in each of two scenarios will result in the goods being considered products of the Netherlands.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: January 25, 2008.

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

HQ H013150

January 25, 2008

MAR–2–05 OT:RR:CTF:VS H013150 GOB

Category: Marking

David M. Murphy, Esq. Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP, 399 Park Avenue, 25th Floor, New York, NY 10022–4877

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Printers

Dear Mr. Murphy:

This is in response to your letter dated May 30, 2007, which we received by facsimile transmission on June 19, 2007, requesting a final determination on behalf of Océ North America (''Océ''), pursuant to subpart B of Part 177, Customs and Border Protection (''CBP'') Regulations (19 CFR 177.21 et seq.). We received your revised submission on July 17, 2007. Pursuant to our request for additional information, you submitted correspondence of September 28, 2007, November 2, 2007, and November 26, 2007.

Under the pertinent regulations, which implement Title III of the Trade Agreements Act of 1979 (''TAA''), as amended (19 U.S.C. 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government. You state that Océ will be the importer of the subject merchandise.

This final determination concerns the country of origin of certain ''Cobalt'' printers. We note that Océ is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination.

Facts:

You describe the pertinent facts as follows. The Cobalt printer is a newly-designed wide-format printer, incorporating revolutionary print technology which was developed by Océ Technologies BV in the Netherlands. The printer will be capable of printing wide format color documents using Océ's advanced imaging devices. The subassemblies for this printer are: Imaging devices; upper module; printer cartridges; cut and receiving unit; frame lower unit; power supply unit; controller, including embedded software; and media drawer. Based upon customer needs, customized software options, developed in the Netherlands and France, will be available. Some of the printer subassemblies will be assembled in the Netherlands, some will be assembled in Malaysia. You state that, after the subassemblies are completed, they will undergo a ''substantial configuration'' in either the Netherlands or the United States.

You claim that the imaging devices and the printer cartridges are the most important components of the printer system. The imaging devices are claimed to be the printer's most complex component and are the key to its function and capabilities because this particular printer is designed to create wide format printed sheets. The printer functions by converting a computer image signal into numerous signals and then steering each of the imaging devices, which perform the actual print process. The printing unit is steered by the printed board assembly of the imaging devices, which creates a fixed print onto a sheet of paper. The process allows the movement of the paper under the imaging devices, which require the use of printer ink/toner which is replenished with ink/toner from the cartridges when the ink/toner level lowers. The imaging devices will be produced in Océ Technologies' new manufacturing site in the Netherlands from parts of European origin obtained from European suppliers, including a printed board assembly. Each imaging device is filled with blank ink/toner and tested in the Netherlands. You state that ''Océ Technologies employs trained and highly skilled operators and technicians to manufacture the imaging devices in its high tech manufacturing facility.'' The imaging devices comprise fifty three percent (53%) of the printer's value.

The printer cartridges contain color ink/toner which is used to print the image. The ink/toner cartridge will be produced in Océ Technologies' manufacturing facility in the Netherlands, using plastic parts sourced in China. The cartridges will be filled with ink/toner and an EPROM (chip) inserted in the Netherlands. The chip controls communication with the engine controller.

The following subassemblies will be assembled in Malaysia. The upper module, which is constructed from subunits consisting of various plates, guides, shafts, motors, printed circuit boards, and bundles, moves and guides the imaging devices along in a carriage. The upper module will be assembled in Malaysia from approximately 600 parts in a process primarily involving screwing operations using workers who are ''low trained and low skilled.'' European parts constitute forty percent (40%) of the value of the upper module. The upper module comprises approximately twenty seven percent (27%) of the printer's value.

The controller, developed by Océ Technologies, converts the raw computer signal into specific signals to each imaging device. The keys to the controller are the mainboard, which will be sourced from a European supplier and of European origin, and its software, developed by Océ

Technologies. The controller is assembled in Malaysia.

In Malaysia, the cut and receiving unit, the frame lower unit, the power supply unit, the controller, and the media drawer will be assembled. In the near future, the two customer options—the roll holder and the roll loader—will be assembled in Malaysia. The Malaysian assembly costs are approximately one-half of one percent (0.5%) of the value of the printer. You state that ''[a] 'fool proof assembly design' will be used by the Malaysian manufacturer in its assembly operations. Unskilled workers with minimal training will use simple tools to perform manufacturing operations involving mainly screwing and similarly simple processing.''

After the Malaysian operations, the subassemblies will either be sent to Océ Technologies' configuration center in the Netherlands or to the United States for ''substantial configuration.'' The subassemblies will be unpacked and integrated into a printer. The first steps are the affixing and positioning of the imaging devices to the upper module and the mounting of the upper module on the frame lower unit. The controller unit, power supply unit, media drawers, and cut and receiving unit are added. Blank ink/toner is flushed out of the imaging devices, which are filled with colored ink/toner. The printer is precision adjusted using Océ Technologies' calibration software. After testing and fine-tuning, the printer is packed and transported to the customer. The cost of this operation is approximately three percent (3%) of the value of the printer.

The values of the components relative to the finished printer are as follows: printer cartridge (includes toner and the chip)—one percent (1%); cut and receiving unit—four percent (4%); frame lower unit—three percent (3%); power supply unit—three percent (3%); media drawer—four percent (4%); imaging device—fifty three percent (53%); module upper—twenty seven percent (27%); and controller—five percent (5%).

You request an origin determination that the subject printer is either country of origin United States or country of origin Netherlands under the TAA, *i.e.*, if the ''substantial configuration'' is performed in the United States, you request that the United States is the country of origin and if the ''substantial configuration'' is performed in the Netherlands, you request that the Netherlands is the country of origin.

Issue:

What is the country of origin of the subject printers for the purpose of U.S. Government procurement?

Law and Analysis:

Pursuant to Subpart B of Part 177, 19 CFR 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *United States,* 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See, C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. In C.S.D. 85–25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences (''GSP''), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

The courts and CBP have also considered the essential character of the imported article in making these determinations. *See,* for example, *Uniroyal, Inc.* v. *United States,* 542 F. Supp. 1026, 3 CIT 220, 224–225 (1982) (where it was determined that imported uppers were the essence of a completed shoe) and *National Juice Products Association, et al* v. *United States,* 628 F. Supp. 978, 10 CIT 48, 61 (1986) (where the court addressed each of the factors (name, character, and use) in finding that no substantial transformation occurred in the production of retail juice products from manufacturing concentrate).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

As stated above, there are eight subassemblies which form the completed printer: Imaging devices; upper module; cartridges; cut and receiving unit; frame lower unit; power supply unit; controller; and media drawer. The imaging devices and the cartridges will be assembled in the Netherlands; the other six subassemblies will be assembled in Malaysia.

After certain of the operations are performed in Malaysia, the subassemblies will either be sent to Océ Technologies' configuration center in the Netherlands or to the United States. Under this procedure, the operations performed will be the same whether they are performed in the Netherlands or the United States. You request a determination with respect to each of these scenarios, *i.e.*, the country of origin if the configuration is performed in the Netherlands and the country of origin if the configuration is performed in the United States.

You state that the imaging devices and the cartridges are the most important components of the printer. You state that the imaging devices are the printer's most complex component and are the heart of the printer's function and capabilities. The printer functions by converting a computer image signal into numerous signals and then steering each of the imaging devices, which perform the actual print process. We have stated that the origin of components is a relevant factor in substantial transformation determinations and that the outcome may change depending on where the various components originate and where they are assembled. *See,* for example, HQ 734256, dated July 1, 1992. Based upon the description of the printer, which is designed to create wide format printed sheets, we agree that the essential character of the printer is imparted by the imaging device, which is produced in the Netherlands. Based upon this fact, in connection with the final assembly operations performed in the Netherlands, we find that the country of origin for government procurement purposes is the Netherlands, *i.e.*, the goods which are imported into the Netherlands from Malaysia and combined with the goods already in the Netherlands are substantially transformed in the Netherlands. The cumulative effect of the operations performed in the Netherlands and the fact that the imaging devices and the printer cartridges, both of which will be assembled in the Netherlands, are the most important components of the printer, allow us to conclude that the origin is the Netherlands. The imaging devices, which comprise approximately 53% of the printer's value, are the key to the printer's function and capabilities.

Further, we find that if the above-described operations are performed in the United States, the country of origin for government procurement purposes is the Netherlands, *i.e.*, a substantial transformation does not occur in the United States. We note that none of these subassemblies is produced in the United States. We find that the assembly

operations to be performed in the United States are not of such complexity and meaningfulness that they result in a substantial transformation of any of the subassemblies in the United States and that the origin of the printer will be imparted by the essential character of the printer, the imaging device.

Holdings:

In the situation in which the final assembly of the printer is performed in the Netherlands, the country of origin for government procurement purposes is the Netherlands, the country in which the imaging device and toner cartridge are produced and in which the final assembly is performed.

In the instance in which the final assembly of the printer is performed in the United States, the country of origin for government procurement purposes is the Netherlands, the country in which the imaging device and toner cartridge are produced.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested the final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

[FR Doc. E8–1685 Filed 1–30–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5193–N–03]

Notice of Proposed Information Collection for Public Comment: Housing Counseling Outcome Evaluation

AGENCY: Office of the Policy Development and Research, 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:* March 31, 2008.

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: Reports Liaison Officer, Office of Policy Development & Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Marina L. Myhre, (202) 708–3700, extension 5705 for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit 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 of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Housing Counseling Outcome Evaluation.

Description of the need for the information and proposed use: This request is for the clearance of survey instruments designed to provide statistically accurate information on the outcomes realized by clients of housing counseling agencies seeking assistance to either purchase a home (pre-purchase clients) or to resolve or prevent mortgage delinquency (post-purchase clients). Up to 60 housing counseling agencies will be recruited to voluntarily participate in the study. These agencies will be asked to seek the voluntary participation of all of their pre-purchase, post-purchase, and mortgage foreclosure mitigation and prevention clients over an eight-week period, with the goal of enrolling up to 1,000 pre-purchase clients; up to 1,000 post-purchase clients; and up to 2,000 mortgage foreclosure mitigation and prevention clients. Participating clients will be asked to complete a baseline survey providing demographic and financial information on their household and their reasons for seeking counseling. The participating counseling agencies will be asked to provide information on the characteristics of all counseling services provided to participating clients over a six-month period. Counseling agencies will also be asked to provide information on all of their educators and counselors providing services to these clients, including basic demographics and information on their experience and training as educators and counselors. The purpose of these surveys is to gather information needed to both document the share of clients realizing different outcomes following counseling and to analyze how these outcomes vary with the characteristics of clients and the services they receive.

OMB Approval Number: Pending.

Agency form numbers: None.

Members of Affected Public: Up to 60 housing Counseling Agencies and up to 4,000 counseling clients.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The average time per client for counseling agencies to document the services provided over a six-month period is two hours. The average time for counseling agencies to complete the survey on educator and counselor characteristics is one-quarter of an hour (with an expected average of eight counselors per agency). The average time for clients to complete the baseline survey instrument is one-half hour. Total burden hours are 8,120 for counseling agencies and 2,000 for counseling clients, or 10,120 total burden hours.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 24, 2008.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. E8–1699 Filed 1–30–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–02]

Consolidated Plan and Annual Performance Report for Grantees

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below

has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information is collected from all localities and states participating in any one of CPD's four formula grant programs to determine each jurisdiction's compliance with statutory and regulatory requirements.

DATES: *Comments Due Date:* March 3, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0117) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Consolidated Plan and Annual Performance Report for Grantees.

OMB Approval Number: 2506–0117.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The information is collected from all localities and states participating in any one of CPD's four formula grant programs to determine each jurisdiction's compliance with statutory and regulatory requirements.

Frequency of Submission: Annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	1,150		1.91		256		563,700.

Total Estimated Burden Hours: 563,700.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 25, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–1783 Filed 1–30–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5161–N–03]

Credit Watch Termination Initiative

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice advises of the cause and effect of termination of Origination Approval Agreements taken by HUD's Federal Housing Administration (FHA) against HUD-approved mortgagees through the FHA Credit Watch Termination Initiative. This notice includes a list of mortgagees which have had their Origination Approval Agreements terminated.

FOR FURTHER INFORMATION CONTACT: The Quality Assurance Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000; telephone (202) 708–2830 (this is not a toll free number). Persons with hearing or speech impairments may access that number through TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: HUD has the authority to address deficiencies in the performance of lenders' loans as provided in HUD's mortgagee approval regulations at 24 CFR 202.3. On May 17, 1999 HUD published a notice (64 FR 26769), on its procedures for terminating Origination Approval Agreements with FHA lenders and placement of FHA lenders on Credit Watch status (an evaluation period). In the May 17, 1999 notice, HUD advised that it would publish in the **Federal Register** a list of mortgagees, which have had their Origination Approval Agreements terminated.

Termination of Origination Approval Agreement: Approval of a mortgagee by HUD/FHA to participate in FHA mortgage insurance programs includes an Origination Approval Agreement (Agreement) between HUD and the mortgagee. Under the Agreement, the mortgagee is authorized to originate single-family mortgage loans and submit them to FHA for insurance endorsement. The Agreement may be terminated on the basis of poor performance of FHA-insured mortgage loans originated by the mortgagee. The termination of a mortgagee's Agreement is separate and apart from any action taken by HUD's Mortgagee Review Board under HUD's regulations at 24 CFR part 25.

Cause: HUD's regulations permit HUD to terminate the Agreement with any mortgagee having a default and claim rate for loans endorsed within the preceding 24 months that exceeds 200 percent of the default and claim rate within the geographic area served by a HUD field office, and also exceeds the national default and claim rate. For the 33rd review period, HUD is terminating the Agreement of mortgagees whose default and claim rate exceeds both the national rate and 200 percent of the field office rate.

Effect: Termination of the Agreement precludes that branch(s) of the mortgagee from originating FHA-insured single-family mortgages within the area of the HUD field office(s) listed in this notice. Mortgagees authorized to

purchase, hold, or service FHA insured mortgages may continue to do so.

Loans that closed or were approved before the termination became effective may be submitted for insurance endorsement. Approved loans are (1) those already underwritten and approved by a Direct Endorsement (DE) underwriter employed by an unconditionally approved DE lender and (2) cases covered by a firm commitment issued by HUD. Cases at earlier stages of processing cannot be submitted for insurance by the terminated branch; however, they may be transferred for completion of processing and underwriting to another mortgagee or branch authorized to originate FHA insured mortgages in that area. Mortgagees are obligated to continue to pay existing insurance premiums and meet all other obligations associated with insured mortgages.

A terminated mortgagee may apply for a new Origination Approval Agreement if the mortgagee continues to be an approved mortgagee meeting the requirements of 24 CFR 202.5, 202.6, 202.7, 202.8 or 202.10 and 202.12, if there has been no Origination Approval Agreement for at least six months, and if the Secretary determines that the underlying causes for termination have been remedied. To enable the Secretary to ascertain whether the underlying causes for termination have been remedied, a mortgagee applying for a new Origination Approval Agreement must obtain an independent review of the terminated office's operations as well as its mortgage production, specifically including the FHA-insured mortgages cited in its termination notice. This independent analysis shall identify the underlying cause for the mortgagee's high default and claim rate. The review must be conducted and issued by an independent Certified Public Accountant (CPA) qualified to perform audits under Government Auditing Standards as provided by the Government Accountability Office. The mortgagee must also submit a written corrective action plan to address each of the issues identified in the CPA's report, along with evidence that the plan has been implemented. The application for a new Agreement should be in the form of a letter, accompanied by the CPA's report and corrective action plan. The request should be sent to the Director, Office of Lender Activities and Program Compliance, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000 or by courier to 490 L'Enfant Plaza, East, SW., Suite 3214, Washington, DC 20024–8000.

Action: The following mortgagees have had their Agreements terminated by HUD:

Mortgagee name	Mortgagee branch address	HUD office jurisdictions	Termination effective date	Homeownership centers
Putnam Mortgage & Finance, LLC	305 ½ South Jefferson Ave, Eatonton, GA 31024.	Atlanta	12/5/2007	Atlanta.

Dated: December 21, 2007.

Ronald Y. Spraker,

Deputy Assistant Secretary for Finance and Budget Office of Housing.

[FR Doc. E8–1700 Filed 1–30–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018–0102; Applications for Special Use Permits on National Wildlife Refuges Outside Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. This ICR is scheduled to expire on January 31, 2008. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before March 3, 2008.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395–6566 (fax) or OIRA_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0102.

Title: Applications for Special Use Permits on National Wildlife Refuges Outside Alaska, 50 CFR 25.41, 25.61, 26.36, 27.71, 27.91, 27.97, 29.1, 29.2, 30.11, 31.2, 31.13, 31.14, 31.16, and 32.2(1), and 43 CFR 5.

Service Form Number(s): 3–1383.

Type of Request: Revision of existing collection.

Affected Public: Individuals and households; business and other for-profit organizations; nonprofit institutions; farms; and State, local, or tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Annual Number of Respondents: 14,225.

Estimated Total Annual Responses: 14,225.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 14,225.

Abstract: The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act) and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) govern the administration and uses of national wildlife refuges and wetland management districts. The Administration Act consolidated all of the different refuge areas into a single National Wildlife Refuge System (System). It also authorizes us to permit public accommodations, including commercial visitor services, on lands of the System when we find that the activity is compatible and appropriate with the purpose for which the refuge was established. The Recreation Act allows the use of refuges for public recreation when it is not inconsistent or does not interfere with the primary purpose(s) of the refuge.

In our general refuge regulations, we provide for public entry for specialized purposes, including economic activities such as the operation of guiding and other visitor services on refuges by concessionaires or cooperators under the appropriate legal instrument or special use permits (50 CFR 25.41, 25.61, 26.36, 27.71, 27.91, 27.97, 29.1, 29.2, 30.11, 31.2, 31.13, 31.14, 31.16, and 32.2(1), and 43 CFR 5). These regulations provide the authorities and procedures for allowing permits on refuges outside of Alaska.

We will issue special use permits for a specific period as determined by the type and location of the use or visitor service provided. These permits authorize activities such as:

(1) Farming operations (haying and grazing, 50 CFR 29.2).

(2) Beneficial management tools that we use to provide the best habitat possible on some refuges (50 CFR 30.11, 31.14, and 31.16).

(3) Recreational visitor service operations (50 CFR 25.41 and 25.61).

(4) Commercial filming (50 CFR 27.71) and other commercial activities (50 CFR 29.1).

(5) Research and other noncommercial activities (50 CFR 26.36).

We collect the following information in both form (FWS Form 3–1383) and nonform format:

(1) Identifying data (name, organization, address, and telephone number);

(2) Activity for which the permit is being requested (agriculture, commercial, research/monitoring, commercial visitor services, commercial filming, special event, etc.);

(3) Description of the activity including:

(a) Where it will take place (units, trails, roads);

(b) When (seasons, days, hours);

(c) How (methods, techniques, transportation);

(d) Frequency (one time, daily, occasionally);

(e) Number of people/vehicles/boats;

(f) Special needs/access.

In addition to the above, we may require researchers to provide a copy of their research proposal. This information helps us to:

(1) Determine if requested activities are compatible and appropriate with the purpose for which the refuge was established.

(2) Ensure that the applicant is eligible for the permit.

Comments: On November 28, 2007, we published in the Federal Register (72 FR 67313) a notice of our intent to request that OMB renew this ICR. In that notice, we solicited comments for 60 days, ending on January 28, 2008. We received one comment. The commenter did not address the information collection requirements, but stated that there should be no economic use on national wildlife refuges and requested a list of all permits granted in the past year. As stated in item 1 above, the Administration Act authorizes us to permit public accommodations, including commercial visitor services, on lands of the System when we find that the activity is compatible and appropriate with the purpose for which the refuge was established. We do not maintain a consolidated list of special use permits. We encouraged the commenter to contact individual refuges to obtain the desired information and provided a website that lists contact information. We did not make any changes to our information collection requirements as a result of this comment.

We again invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this 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.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: January 8, 2008

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E8–1669 Filed 1–30–08; 8:45 pm

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final Comprehensive Conservation Plan and Environmental Assessment for Bear Butte National Wildlife Refuge, South Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of our Final Comprehensive Conservation Plan (Plan), Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for Bear Butte National Wildlife Refuge (Refuge). This Final Plan describes how the Service intends to manage the Refuge for the next 15 years.

ADDRESSES: A copy of the Plan may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225; or by download from *http://mountain-prairie.fws.gov/planning*.

FOR FURTHER INFORMATION CONTACT: Michael Spratt, at (303) 236–4366, (303) 236–4792 (fax), or e-mail *Michael_Spratt@fws.gov*.

SUPPLEMENTARY INFORMATION: This Refuge was established as a Limited-interest Refuge in the late 1930s with the acquisition of easements from private landowners, the State of South Dakota (State) and the War Department (now transferred to the Bureau of Land Management at Fort Meade), to maintain an area for ''migratory bird, wildlife conservation, and other purposes.'' The Refuge is 374.20 acres and has no fee title. The easement obtained from the State only applies to lands below the ordinary high-water mark of the lake. A Cooperative Agreement was entered into with the State on July 12, 1967, to administer, operate, and maintain the Refuge pursuant to the rights and interest in real property acquired by the United States, and more particularly described in the easement agreements.

The draft Plan and EA was made available for public review and comment following the announcement in the **Federal Register** on February 8, 2007 (72 FR 5990). The draft Plan and EA identified and evaluated two alternatives for managing the Refuge for the next 15 years. Under the No Action Alternative (Current Management), the Service would continue to manage the Refuge within the parameters of the Cooperative Agreement with South Dakota Game, Fish and Parks. Existing habitat within the easement and all

public programs would continue to be administered and maintained by the State. Current habitat and wildlife management practices would be carried out by State Game, Fish, and Parks personnel and levels of public use would remain the same. The facilities and activities (hiking, picnicking, designated camping, fishing and a horse camp) would remain the same.

Alternative B, the Proposed Action (Relinquish Easement to Current Landowners), would take the Refuge out of the National Wildlife Refuge System and transfer the easements to current landowners. Under this Alternative, the habitat, public use, cultural resources and operations would be managed by the landowners (primarily the State). The Service's easement requirements would no longer exist. The Service would divest its interest in the Refuge. This would be carried out within the 15-year life of the Plan. Once the Plan was approved, the managing station would work with the Division of Realty and the Division of Planning to prepare a proposal to divest this Refuge. The proposal would be submitted to the Migratory Bird Conservation Commission for concurrence and then submitted for Congressional approval.

The Service evaluated whether or not to divest the Refuge. After careful consideration of tribal concerns and issues raised by the public, the Preferred Alternative was changed from Alternative B: Proposed Action (Relinquish Easement to Current Landowners) to Alternative A: No Action (Current Management). A large number of comments were received from tribal governments expressing concern regarding divesting this Limited-interest Refuge. While there was recognition that the Service interests are extremely limited, there was overwhelming support for the Service to continue its presence, particularly in light of the National significance of Bear Butte itself (not part of the Refuge). Therefore, the Refuge will continue to be managed according to its 1967 Cooperative Agreement with the State. According to Refuge Planning Policy (May 25, 2000), the Plan and EA should be revised when significant new information becomes available. This should occur every 15 years or sooner, if necessary. It is important to note, that if conditions change, the Service could reconsider actions approved in the Plan. If revisions were considered, full disclosure through extensive public involvement utilizing the requirements of the National Environmental Policy Act and other compliance procedures would be closely followed.

The Service is furnishing this Notice to advise other agencies and the public of the availability of the final Plan and EA, to provide information on the desired conditions for the Refuge, and to detail how the Service will implement management strategies. Based on the review and evaluation of the information contained in the EA, the Regional Director has determined that implementation of the Final Plan does not constitute a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act. Therefore, an Environmental Impact Statement will not be prepared.

Dated: January 24, 2008.

Gary G. Mowad,

Acting Regional Director.

[FR Doc. E8–1729 Filed 1–30–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–N0008; 80221–1113–0000–F5]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We invite the public to comment on the following applications to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before March 3, 2008.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Endangered Species Program Manager, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist, see **ADDRESSES**, (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The U.S. Fish and Wildlife Service (''we'') solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit No. TE–085026

Applicant: Jeff Steinman, San Juan Capistrano, California

The applicant requests an amendment to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring throughout the range of the species in California, for the purpose of enhancing its survival.

Permit No. TE–172629

Applicant: Kirsten Sellheim, Davis, California

The applicant requests an amendment to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with research and genetic analysis in Lassen, Plumas, Mendocino, Lake Colusa, Sacramento, Napa, Alameda, Merced, Stanislaus, Fresno, Solano, San Luis Obispo, and Santa Barbara Counties, California, and in Jackson County, Oregon, for the purpose of enhancing their survival.

Permit No. TE–035879

Applicant: Wildlands Incorporated, Rocklin, California

The permittee requests an amendment to take (harass by survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with surveys throughout the range of the species in California, for the purpose of enhancing its survival.

Permit No. TE–809232

Applicant: Bio-West, Incorporated, Logan, Utah

The applicant requests an amendment to remove/reduce to possession *Nitrophila mohavensis* (Amargosa nitorphila) from Federal lands in conjunction with research in Nye

County, Nevada, for the purpose of enhancing its survival.

We solicit public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Dated: January 24, 2008.

Michael Fris,

Acting Regional Director, Region 8, Sacramento, California.

≤[FR Doc. E8–1684 Filed 1–30–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Scientific Earthquake Studies Advisory Committee

AGENCY: U.S. Geological Survey.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 106–503, the Scientific Earthquake Studies Advisory Committee (SESAC) will hold its 17th meeting. The meeting location is the U.S. Geological Survey, John Wesley Powell National Center, Room 1B215, 12201 Sunrise Valley Drive, Reston, Virginia 20192. The Committee is comprised of members from academia, industry, and State government. The Committee shall advise the Director of the U.S. Geological Survey (USGS) on matters relating to the USGS's participation in the National Earthquake hazards Reduction Program.

The Committee will receive updates and provide guidance on Earthquake Hazards Program activities and the status of teams supported by the Program.

Meetings of the Scientific Earthquake Studies Advisory Committee are open to the public.

DATES: February 19, 2008, commencing at 8:30 a.m. and adjourning at 5 p.m.

Contact: Dr. David Applegate, U.S. Geological Survey, MS 905, 12201 Sunrise Valley Drive, Reston, Virginia 20192, (703) 648–6714, *applegate@usgs.gov*.

Dated: January 24, 2008.

Peter Lyttle,

Acting Associate Director for Geology.

[FR Doc. 08–425 Filed 1–30–08; 8:45 am]

BILLING CODE 4311–AM–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–747 (Second Review)]

Fresh Tomatoes From Mexico

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review and resumption of antidumping investigation.

SUMMARY: The subject five-year review was instituted on November 1, 2007, to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would be likely to lead to continuation or recurrence of material injury (72 FR 61903, November 1, 2007). On November 26, 2007, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico provided written notice to the Department of Commerce of their withdrawal from the agreement suspending the antidumping investigation on fresh tomatoes from Mexico. Effective January 18, 2008, the Department of Commerce terminated the suspension agreement, terminated the five-year review of the suspended investigation, and resumed the antidumping investigation on fresh tomatoes from Mexico because the suspension agreement no longer covered substantially all imports of fresh tomatoes from Mexico (73 FR 2887, January 16, 2008). Accordingly, the U.S. International Trade Commission gives notice of the termination of its review and the resumption of its antidumping investigation involving imports of fresh tomatoes from Mexico. A schedule for the final phase of the investigation will be established and announced at a later date.

DATES: *Effective Date:* January 18, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

Authority: This review is being terminated and the resumed antidumping investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to sections 207.40 and 207.21 of the Commission's rules (19 CFR 207.40 and 207.21).

Issued: January 28, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–1732 Filed 1–30–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–413 and 731–TA–913–916 and 918 (Review)]

Stainless Steel Bar From France, Germany, Italy, Korea, and The United Kingdom

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the countervailing duty and antidumping duty orders on stainless steel bar from France, Germany, Italy, Korea, and the United Kingdom would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews effective February 1, 2007 (72 FR 4293) and determined on May 7, 2007 that it would conduct full reviews (72 FR 28071, May 18, 2007). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 26, 2007 (72 FR 35066). The hearing was held in Washington, DC, on November 6, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on January 25,

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Charlotte R. Lane dissenting. Commissioner Dean A. Pinkert dissenting as to Germany, Italy, and Korea.

2008. The views of the Commission are contained in USITC Publication 3901 (January 2008), entitled *Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom: Investigation Nos. 701–TA–413 and 731–TA913–916 and 918 (Review).*

Issued: January 28, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–1735 Filed 1–30–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Notice is hereby given that on January 16, 2008, a proposed Consent Decree in *United States* v. *Boston & Maine Corp., et al.* (D. Mass.) No. 1:08–cv–10062–MBB, was lodged with the United States District Court for the District of Massachusetts.

In this action, the United States sought the recovery of response costs pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Recovery Act, as amended (''CERCLA''), 42 U.S.C. 9607(a), and the performance of response actions for Operable Unit 3 of the Iron Horse Park Superfund Site from Defendants Boston & Maine Corp. (''B&M''), BNZ Materials, Inc. (''BNZ''), and the Massachusetts Bay Transportation Authority (''MBTA''). Pursuant to the proposed Consent Decree, B&M, BNZ, and MBTA agree to perform the remedial action for Operable Unit 3 at the Site, estimated to cost a total of $23.53 million, and to pay all of U.S. Environmental Protection Agency's (''EPA's'') future response costs. EPA has agreed to provide $2.5 million in preauthorized mixed funding to reimburse the Settling Defendants for a portion of the response actions to be performed. The proposed Consent decree provides the Settling Defendants with a covenant not to sue pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973. The Commonwealth of Massachusetts is also a party to the Consent Decree, and it resolves the Commonwealth's claims against B&M, BNZ, and MBTA as well.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Boston & Maine, et al.* (D. Mass.) No., D.J. Ref. 90–11–3–90/2. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, 1 Courthouse Way, John Joseph Moakley Courthouse, Boston, MA 02210 and at the U.S. Environmental Protection Agency, Region 1, One Congress Street, Boston, Massachusetts 02114. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Censent Decree Library, please enclose a check in the amount of $104.25 (25 cents per page reproduction cost) payable to the U.S. Treasury, or if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy exclusive of Appendices, please enclose a check in the amount of $14.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–410 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act

Notice is hereby given that on January 8, 2008, a proposed Consent Decree (''Taylor Borough Consent Decree'') in *United States* v. *City of Scranton,* Civil Action No. CV–86–1591 was lodged with the United States District Court for the Middle District of Pennsylvania.

On November 30, 1995, the United States obtained a judgment of $1,838,579.70 plus interest for past costs against the City of Scranton (''Scranton'' or the ''City'') and others pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607 for the City's involvement with The Taylor Borough Superfund Site (''Site'') in Taylor Borough, Pennsylvania. The judgement was reduced to $1,648,000 plus interest after one of the other liable parties paid $190,778 to EPA in settlement. The City of Scranton has agreed to pay $250,000 over 5 years (plus interest) and take over operation and maintenance at the site to resolve the United States' outstanding judgment. Among other things, the City of Scranton's agreement to assume operation and maintenance responsibilities at the Site requires them to maintain the landscape at the Site and conduct periodic backfilling and regrading as necessary.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Taylor Borough Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ess.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *City of Scranton,* D.J. Ref. 90–11–3–43/1.

The Taylor Borough Consent Decree may be examined at the Office of the United State Attorney, 235 N. Washington Ave., Suite 311, Scranton, PA 18503 and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. During the public comment period, the Taylor Borough Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Taylor Borough Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $38.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that

amount to the Consent Decree Library at the stated address. In requesting a copy exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $16.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–409 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree with Mallinckrodt, Inc., in *United States* v. *Mallinckrodt, Inc.; Shell Oil Company and Solutia, Inc.,* Civil Action No. 4:02–1488, was lodged on January 16, 2008 with the United States District Court for the Eastern District of Missouri.

The United States of America (''United States''), on behalf of the Administrator of the EPA, filed a compliant against Mallinckrodt, Inc. (''Mallinckrodt'') in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, seeking recovery of costs incurred and to be incurred in responding to the release or threat of release of hazardous substances at or in connection with the Great Lakes container Corporation Superfund Site at 42 Ferry Street in St. Louis, Missouri (''Site''). The Consent Decree resolves the United States' claims by requiring the defendant, Mallinckrodt, to reimburse the United States for its costs in cleaning up the Site. The Consent Decree will result in the payment of $3,950,000.00 to the Superfund.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Mallinckrodt, Inc.; Shell Oil Company and Solutia, Inc.,* DOJ Ref. #90–11–3–07280. The proposed consent decree may be examined at the office of the United States Attorney, United States Attorney's Office, Eastern District of Missouri, Thomas F. Eagleton Courthouse, 111 South 10th Street, 20th Floor, St. Louis, MO 63102 and at the Region VII Office of the Environmental Protection Agency, 901 North 5th Street, Kansas City, KS 66101. During the public comment period, the proposed consent decree may also be examined on the Department of Justice Web site, at *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (or $4.50, for a copy that omits the exhibits and signature pages) (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert E. Maher, Jr.,

Assistant Section Chief Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–412 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on January 17, 2008, a proposed Consent Decree (''Massey Consent Decree'') in *United States* v. *Massey Energy Company, et al.,* Civil Action No. 2:07–0299 was lodged with the United States District Court for the Southern District of West Virginia.

In this action the United States sought a civil penalty and injunctive relief against Massey Energy Company, et al. for illegal discharges of pollutants into waters of the United States from its coal mines in West Virginia and Kentucky and for violating the terms of their National Pollutant Discharge Elimination System Permits (''NPDES''). The Massey Consent Decree resolves the United States' claims against Massey Energy Company, A.T. Massey Coal Company, Massey Coal Services, Inc., and 25 of their subsidiaries (collectively ''Defendants'') for violations of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. 1311 and 1342. The settlement requires Defendants to pay a $20 million civil penalty and perform injunctive relief at all facilities for five years. This injunctive relief includes the implementation of a Discharge Monitoring Report tracking system, a protocol for responding to any future violations, internal and external audits of all treatment systems and facilities, the appointment of environmental managers responsible for environmental compliance, training on environmental compliance, independent third-party auditors to report annually to EPA on Defendants' compliance with the terms of the Consent Decree, and stipulated penalties for NPDES permit limit violations in the next five years. The settlement also requires Defendants to perform 20 remediation projects on the Little Coal River and execute conservation easements for 200 acres of stream buffer zone as additional injunctive relief.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Massey Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Massey Energy Company, et. al.,* D.J. Ref. 90–5–1–1–08470.

The Massey Consent Decree may be examined at the Office of the United States Attorney, 300 Virginia Street, East, Charleston, WV 25301, at U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103, and at U.S. EPA Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303. During the public comment period, the Massey Consent Decree, may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Massey Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $12.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that

amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–411 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree with Shell Oil Company in *United States* v. *Mallinckrodt, Inc.; Shell Oil Company and Solutia, Inc.*, Civil Action No. 4:02–1488, was lodged on January 16, 2008 with the United States District Court for the Eastern District on Missouri.

The United States of America (''United States''), on behalf of the Administrator of the EPA, filed a complaint against Shell Oil Company (''Shell'') in this matter pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, seeking recovery of costs incurred and to be incurred in responding to the release or threat of release of hazardous substances at or in connection with the Great Lakes Container Corporation Superfund Site at 42 Ferry Street in St. Louis, Missouri (''Site''). The Consent Decree resolves the United States' claims by requiring the defendant, Shell, to reimburse the United States for its costs in cleaning up the Site. The Consent Decree will result in the payment of $215,000.00 to the Superfund.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Mallinckrodt, Inc.*; *Shell Oil Company and Solutia, Inc.*, DOJ Ref. # 90–11–3–07280. The proposed consent decree may be examined at the office of the United States Attorney, United States Attorney's Office, Eastern District of Missouri, Thomas F. Eagleton Courthouse, 111 South 10th Street, 20th Floor, St. Louis, MO 63102, and at the Region VII Office of the Environmental Protection Agency, 901 North 5th Street, Kansas City, KS 66101. During the public comment period, the proposed consent decree may also be examined on the Department of Justice Web site, at *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.75 (or $3.75, for a copy that omits the exhibits and signature pages) (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–413 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Between the United States of America and Tamarack Resort LLC Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on January 24, 2008, a proposed Consent Decree (''Consent Decree'') in the case of *United States* v. *Tamarack Resort LLC*, Civil Action No. 08–40–MHW, was lodged with the United States District Court for the District of Idaho. The Consent Decree resolves the United States' claims alleged in the complaint against the defendant, Tamarack Resort LLC (Tamarack). The claims concern storm water discharged from a ski resort construction site in Donelly, Idaho. Specifically, the complaint alleges that Tamarack violated section 301 of the Clean Water Act, 33 U.S.C. 1311, by discharging pollutants without a permit, and that Tamarack failed to comply with conditions of general permits issued under section 402 of the Clean Water Act, 33 U.S.C. 1342.

The Consent Decree will require Tamarack to pay a civil penalty in the amount of $185,000; to observe limits on winter construction efforts to avoid causing excess runoff; and to abide by the terms of the Construction General Permit.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *United States* v. *Tamarack Resort LLC*, Civil Action No. 08–40–MHW, D.J. Ref. No. 90–5–1–1–08976.

The Consent Decree may be examined at the office of the United States Attorney, District of Idaho, Washington Park Plaza IV, 800 Park Blvd., Suite 600, Boise, Idaho, and at the Region 10 office of the United States Environmental Protection Agency, 1200 Sixth Ave., Seattle, Washington. During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.25 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–1581 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed Information Collection; Comment Requested

ACTION: 30-day notice of information collection under review: New collection; Survey of Law Enforcement's Forensic Backlogs.

The Department of Justice (DOJ) Office of Justice Programs (OJP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for

review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

This proposed information collection was previously published in the **Federal Register** Volume 72, Number 226, page 65985 on November 26, 2007, allowing for a 60-day comment period. The purpose of this notice is to allow for an additional 30 days for public comment until February 25, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the information collection instrument with instructions or additional information, please contact John Paul Jones, Department of Justice, National Institute of Justice, Office of Science and Technology, Investigative and Forensic Sciences Division, Phone: 202–307–5715 Fax: 202–307–9907, E-mail: *john.paul.jones@usdoj.gov*.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Survey of Law Enforcement's Forensic Backlogs.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None; U.S. Department of Justice Office of Justice Programs, National Institute of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* State and local law enforcement officials.

Abstract: The National Institute of Justice will use this survey to determine the size and nature of forensic evidence backlogs in state and local law enforcement agencies. For the purposes of this survey, these forensic backlogs are defined as the number of homicide, rape, and property crime cases that contain forensic evidence but that have not been submitted to forensic crime laboratories for analysis. The 2005 Census of Crime Laboratories conducted by the Bureau of Justice Statistics details the size of forensic evidence backlogs in the nation's crime laboratory system. In order to develop a complete picture of forensic backlogs across the criminal justice system, the Survey of Law Enforcement's Forensic Backlogs will provide much needed information on forensic evidence backlogs in state and local law enforcement agencies.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond is broken down as follows:* An estimated 2,975 respondents with an average burden time of 30 minutes—1,488 *hours total*.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this collection is 1,488 hours.

If additional information is required, contact Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 25, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E8–1714 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Strategic Planning Coordinator, Kansas Evidence Based Practices Implementation Effort

AGENCY: National Institute of Corrections, DOJ.

ACTION: Solicitation for Cooperative Agreement Applications.

SUMMARY: The National Institute of Corrections (NIC) solicits proposals from organizations or individuals for a 12-month cooperative agreement to provide coaching on executive leadership and complex project management to achieve the implementation of evidence based practices (EBP) on offender risk reduction in the Kansas Department of Corrections (KDOC) Community Corrections Act oversight unit and a limited number of local community corrections agencies. The project is jointly supported by NIC and the JEHT Foundation.

This Request for Proposals seeks a successful applicant to facilitate the strategic change process at both the KDOC oversight and selected local community corrections agencies levels. The coaching will include evidence based policy and practice related to decision making by criminal justice officials and stakeholders; organizational development knowledge and strategies; and assessment, case management and behavioral interventions for the State's adult felony probation population. The selected applicant will need to be available for on site facilitation and off site coaching beginning early April, 2008, and continuing for twelve months thereafter. An initial site visit including NIC and JEHT representation will be scheduled upon award of the cooperative agreement.

DATES: Applications must be received by 4 p.m. EST on Friday, February 22, 2008. Selection of the successful applicant; and notification of review results to all applicants: March 31, 2008.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date. Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, call (202) 307–3106, extension 0 for pickup.

Faxed applications will not be accepted. The only electronic applications (preferred) that will be accepted must be submitted through *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC Web site at *http://www.nicic.org*. Hard copies of the announcement can be obtained by calling Pam Davison at 1–800–995–6423

x 3–0484 or E-mail *pdavison@bop.gov. mailto:jevens@bop.gov.*

Questions regarding the solicitation should be directed to Mr. Keiser at *gkeiser@bop.gov.* Questions regarding the Kansas Community Corrections Act authorization, the history and current status of EBP implementation in community corrections act agencies or other relevant Kansas legislative requirements should be directed to Kathleen Graves, Director, Community Corrections, KDOC, at *Kathleeng@kdoc.dc.state.ks.us.*

SUPPLEMENTARY INFORMATION:

Background: The KDOC has initiated a broad effort to implement evidence based policies and practices regarding offender risk reduction throughout the State's corrections system. The KDOC Parole and Institutions staff already are making good progress in implementing evidence based principles in their functional units. The focus of this effort will be the implementation of EBP in the State's community corrections system of locally governed community corrections agencies and the KDOC oversight unit, authority for each established by Community Corrections Act legislation in the early 1980s. In a related effort, Evidence Based Policy and Practice Awareness Development Training Sessions were provided to Community Corrections Act Executive Directors and some key stakeholders at the end of calendar year 2007. The Awareness Development Sessions will be expanded and offered to all Kansas community corrections staff during the first quarter of calendar year 2008. These sessions are funded by the JEHT Foundation and conducted by the Center for Effective Public Policy. The work of the successful applicant must be cognizant of and consistent with this awareness development training.

Goals of the Strategic Planning and Coaching Cooperative Agreement: The first goal is to build the capacity of the KDOC to provide effective oversight and technical guidance to the local based community corrections agencies in order to expand the implementation of EBP in local jurisdictions. The areas of capacity building may include, but are not limited to, total operational management, substantive expertise and coaching (on the content and organizational development principles of EBP), program and financial audits and quality assurance.

The second goal is to facilitate the development/improvement of the operational infrastructure in a limited number of local community corrections agencies so that these agencies may more effectively implement and sustain EBP risk reduction strategies. The term, operational infrastructure, refers to the business practices required to align and manage operational procedures and resources; and the tracking of critical outputs and outcomes with the substantive EBP approaches. These agencies will be learning laboratories for further statewide implementation. The local community corrections agencies will be selected by the KDOC based on clear selection criteria and in close consultation with applicant local agencies. The successful applicant is expected to assist KDOC with the development of selection criteria, analysis of applications and sustained implementation in the local agencies.

Proposal Preparation: Persons interested in providing these facilitation and coaching services should prepare a proposal that outlines a strategic planning approach, including the straightforward delineation of measurable goals and objectives, intermediate benchmarks, assigned action steps, and feedback loops. The plan should be developed for two levels: (1) KDOC oversight; and (2) selected local community corrections agencies and jurisdictions. It should contain sub-sections addressing the need for management information and other data collection systems, multi-level communication, quality assurance, and program evaluation. It should include an approach to project coordination among the KDOC, local community corrections agencies and funders/sponsors.

The successful applicant must demonstrate a logic model for building initially and sustaining over time and the competencies and capacity required by both the state oversight and the local program delivery functions. The applicant should identify the likely measurable outputs that would indicate successful progress toward the changes in EBP implementation infrastructure and process at both State and local governance levels.

Required Expertise: It is highly desirable for the successful applicant to demonstrate experience in managing a statewide or large jurisdiction change effort centered on evidence based practice for offender risk reduction, as well as in coaching executives on successful change leadership. It also will be helpful if the successful applicant's experience includes the phased implementation of other criminal justice system change efforts, training of judges and other stakeholders, and the development of risk assessment and case management procedures. Basic practical knowledge of probation and risk reduction research are critical.

Application Requirements: The application should be concisely written, typed double spaced and reference the ''NIC Application Number'' and Title provided in this announcement. The application package must include: OMB Standard Form 424, Application for Federal Assistance, a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30), a program narrative responding to the requirements in this announcement, a description of the qualifications of the applicant(s), an outline of projected costs, and the following forms: OMB Standard Form 424A, Budget Information-Non Construction Programs, OMB Standard Form 424B, Assurances-Non Construction Programs, DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements. These forms are available from *http://www.nicic.org*, under the ''About Us'' bar, ''Cooperative Agreements.''

Submit an original and three copies of your full proposal (program and budget narrative, application forms and assurances) and limit the program narrative text to 10 double spaced pages, exclusive of resumes and summaries of experience. Please do not submit full curriculum vitae. The original should have the applicant's signature in blue ink.

A telephonic conference will be conducted for persons receiving this solicitation and having a serious intent to respond on Tuesday, February 5, 2008, at 3 p.m. EST. In the conference, representatives of KDOC, NIC, and the JEHT Foundation will respond to questions regarding the solicitation, the expectations of work to be performed, and the current status of EBP work and development efforts in the State. Please notify Mr. Keiser electronically by close of business on February 1, 2008, regarding your interest in participating in the conference, and you will be provided the call-in number and instructions.

Additional Resources: Twelve reference documents for additional information can be found on NIC's Web site. Go to *http://nicic.org.* click on ''Community,'' then scroll to ''Shared Files,'' and finally click on ''Tools for Evidence Based Implementation.''

Authority: Pub. L. 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding delivery

approaches and their related costs for achieving the goals of the solicitation through on-site and off-site assistance. The final budget and award amount will be negotiated between the funders and the successful applicant. Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to a 3 to 5 person NIC and joint funding agency Review Process.

Number of Awards: One.

NIC Application Number: 08C75. This number should appear as a reference line in the cover letter, in box 4a of Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16,603.

E.O. 12372: This program is subject to the provisions of Executive Order 12372.

E.O. 12372 allows states the option of setting up a system for reviewing applications from within their states for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which can be found at *http://www.whitehouse.gov/omb/grants/spoc.html*.

Dated: January 23, 2008.

Morris Thigpen,

Director.

[FR Doc. 08–391 Filed 1–30–08; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request of the ETA–9016, on Alien Claims Activity Report; Comment Request

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice or by accessing: *http://www.doleta.gov/ombcn/ombcontrolnumber.cfm.*

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 31, 2008.

ADDRESSES: Send comments to Nancy Dean, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg. Room S–4231, Washington, DC 20210, telephone number (202) 693–3215 (this is not a toll-free number) or by e-mail: *dean.nancy@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The ETA–9016 Report is used by the Department of Labor to assess whether (and the extent to which) the requirements of the Immigration and Naturalization Service (INS), Systematic Alien Verification for Entitlement (SAVE) system are cost-effective and otherwise appropriate for the Unemployment Insurance (UI) program. In addition, data from the Alien Claims Activity Report is being used to assist the Secretary of Labor in determining whether a State Workforce Agency's (SWA) administrative costs associated with the verification program are reasonable and reimbursable. There is no other report or system available for collecting this required information.

The report allows the Department of Labor to determine the number of aliens filing for UI, the number of benefit issues detected, the denials of benefits to aliens, the extent to which State Agencies use the system, and the overall effectiveness and cost efficiency of the verification system. If SWAs are not required to submit the information on the Alien Claims Activity Report, the Department of Labor would not be able to fulfill its responsibilities to assess the SAVE system.

II. Desired Focus of Comments

Currently, the Employment and Training Administration, Office of Workforce Security is soliciting comments concerning the proposed extension of the collection for the ETA 9016 Report on Alien Claims Activity. Comments are requested to:

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Continued collection of the ETA–9016 data will provide for a comprehensive evaluation of the UI Alien Claims Activities. The data are collected quarterly, and an analysis of the data received is formulated into a report summarizing the Alien Claims Activity by the 53 SWAs.

Type of Review: Extension without change.

Agency: Employment and Training Administration (ETA).

Title: ETA 9016, Alien Claims Activity Report.

OMB Number: 1205–0268.

Agency Number: ETA 9016.

Affected Public: 53 State governments.

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 53 States.

Total Average Time per Response: 1 hour.

Estimated Total Burden Hours: 212 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 24, 2008.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E8–1741 Filed 1–30–08; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL SCIENCE FOUNDATION

The Federal Demonstration Partnership; Phase V Notice

AGENCY: National Science Foundation, National Institutes of Health, Office of Naval Research, Department of Agriculture, Air Force Office of Scientific Research, Army Research Office, Army Medical Research & Materiel Command, National Aeronautics & Space Administration, Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This Notice announces a solicitation for large and small public and private colleges and universities (including predominantly undergraduate institutions and minority serving institutions), non-profit research and education organizations (e.g., science museums and research institutes), and hospitals to participate in Phase V of the Federal Demonstration Partnership (FDP). FDP is a unique forum of federal agencies and recipients committed to testing innovative approaches and streamlining processes and systems for federally supported research and education. It is anticipated that the Government University Industry Research Roundtable of the National Academies will continue to function as a neutral convener for the FDP, as it has since 1988. The full solicitation can be found at *http://www.research.gov.*

DATES: Applications must be submitted by Tuesday, April 1, 2008. A notification of intent to submit should be provided by Friday, March 14, 2008. Evaluation and selection of organizations will be completed on or about May 1, 2008. Phase V organization and execution of agreements will be completed on or about June 30, 2008 with an effective date of October 1, 2008. Phase V participants will be invited to attend the FDP meeting scheduled for May 15–16, 2008 at the National Academy of Science, Washington, DC at which transition planning will be discussed. Phase V concludes September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Visit the FDP Web site *http://www.thefdp.org* or contact *fdp@nas.edu.*

Dated: January 28, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 08–431 Filed 1–30–08; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board, National Science Foundation (NSF).

DATE AND TIME: Wednesday, February 6, 2008, at 8:45 a.m.; and Thursday, February 7, 2008 at 9 a.m.

PLACE: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

STATUS: Some portions open, some portions closed.

Open Sessions

February 6, 2008

8:45 a.m.–9:30 a.m.
9:30 a.m.–10:15 a.m.
10:15 a.m.–11:15 a.m.
11:15 a.m.–12 noon
1:30 p.m.–2:30 p.m.
2:30 p.m.–3:30 p.m.
3:30 p.m.–3:50 p.m.

February 7, 2008

9 a.m.–9:30 a.m.
10:15 a.m.–11:15 a.m.
11:15 a.m.–12 noon
1 p.m.–2 p.m.

Closed Sessions

February 7, 2008

9:30 a.m.–10 a.m.
10 a.m.–10:10 a.m.
10:10 a.m.–10:15 a.m.

AGENCY CONTACT: Dr. Robert E. Webber, *rwebber@nsf.gov,* (703) 292–7000, *http://www.nsf.gov/nsb/.*

MATTERS TO BE DISCUSSED:

Wednesday, February 6, 2007

CSB Task Force on Cost Sharing

Open Session: 8:45 a.m.–9:30 a.m.

- Approval of Minutes.
- Task Force Chairman's Remarks.
- Discussion of Board February 9, 2008 Report to Congress on Cost Sharing Policies at the National Science Foundation.
- Discussion of Next Steps for Task Force Study of Cost Sharing.

CPP Task Force on Sustainable Energy

Open Session: 9:30 a.m.–10:15 a.m.

- Approval of Minutes for December 2007 Meeting.
- Task Force Co-Chairmen's Remarks.
- Discussion of the Task Force Roundtable (February 8, 2008).
- Discussion of ''The Challenge of Sustainable Energy: A Background Paper for the National Science Board Task Force on Sustainable Energy.''
- Discussion of Upcoming Task Force Activities.

CPP Subcommittee on Polar Issues

Open Session: 10:15 a.m.–11:15 a.m.

- Approval of December Minutes.
- SOPI Chairman's Remarks.
- OPP Director's Report.
- Planning Towards a Multinational Polar Infrastructure Network.
- Antarctic Support Contract Re-bid.
- Changing Freshwater Cycle in the Arctic.
- Video of the South Pole Station Dedication.

Committee on Programs and Plans

Open Session: (11:15 a.m.–12 noon)

- Transformative Research and Basic Biology Concepts.

Open Session: (1:30 p.m.–2:30 p.m.)

- Approval of Minutes.
  - December 5, 2007 Meeting.
  - January 10, 2008 Teleconference.
- Committee Chairman's Remarks.
- Status Reports:
  - Subcommittee on Polar Issues.
  - Task Force on Sustainable Energy.
  - Task Force on International Science.
- Approval of Minutes.
  - Task Force on International Science, December 5, 2007 Meeting.
- *Discussion Item:* NSB Report to Congress on Pre-construction Funding and Maintenance and Operations Costs for MREFC projects.
- *Discussion Item:* Board Policy on Competition, Recompetition, and Renewal of NSF Awards.

Committee on Strategy and Budget

Open Session: 2:30 p.m.–3:30 p.m.

- Approval of CSB Minutes, December 6, 2007.
- Committee Chairman's Remarks.
- Status Report: CSB Task Force on Cost Sharing.
- Discussion of Limiting Proposals from a Single Institution.
- Discussion of the NSF FY 2008 Appropriations and FY 2009 Budget Request.
- Discussion of NSF Average Award Size, Duration, and Proposal Success Rate.

Executive Committee

Open Session: 3:30 p.m.–3:50 p.m.

- Approval of Minutes for August 2007.
- Executive Committee Chairman's Remarks.
- Updates or New Business from Committee Members.

Thursday, February 7, 2008

Audit and Oversight Committee

Open Session: 9 a.m.–9:30 a.m.

- Approval of Minutes of the December 5, 2007 Meeting.
- Committee Chairman's Opening Remarks.
- Chief Financial Officer's Update.

Closed Session: 9:30 a.m.–10 a.m.

- Pending Investigations.

Plenary Executive Closed

Closed Session: 10 a.m.–10:10 a.m.

- Approval of December 2007 Minutes.

Plenary Closed

Closed Session: 10:10 a.m.–10:15 a.m.

- Approval of December 2007 Minutes.
- Closed Committee Reports.

EHR Subcommittee on Science & Engineering Indicators

Open Session: 10:15 a.m.–11:15 a.m.

- Approval of December Minutes.
- Chairman's Remarks.
- Report on *S&E Indicators 2008* Rollout.
- Presentation on *Innovation Measurement: Tracking the State of Innovation in the American Economy.*
- *Science and Engineering Indicators 2010.*
- Presentation on Electronic *''Digest.''*
- Chairman's Summary.

Plenary Session

Open Session: 11:15 a.m.–12 noon

- Approval of December 2007 Minutes.
- Resolution to Close March 2008 Meeting.
- Chairman's Report.
- Director's Report.
- Open Committee Reports.

Plenary Session

Open Session: 1 p.m.–2 p.m.

- Outcomes of NSF-Funded Research.

Russell Moy,

Attorney-Advisor.

[FR Doc. E8–1798 Filed 1–30–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Amergen Energy Company, LLC; Notice of Receipt and Availability of Application for Renewal of Three Mile Island Nuclear Station, Unit 1, Facility Operating License No. DPR–50 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated January 8, 2008, from AmerGen Energy Company, LLC, filed pursuant to section 104b of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* part 54 (10 CFR part 54), to renew the operating license for the Three Mile Island Nuclear Station (TMI), Unit 1. Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating license. The current operating license for TMI, Unit 1, (DPR–50), expires on April 19, 2014. TMI, Unit 1, is a Pressurized-Water Reactor designed by Babcock & Wilcox that is located near Middletown, PA. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

Copies of the application are available to the public at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 or through the Internet from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under Accession Number ML080220207. The ADAMS Public Electronic Reading Room is accessible from the NRC web site at *http://www.nrc.gov/reading-rm/adams.html*. In addition, the application is available at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*. Persons who do not have access to the internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR Reference staff at 1–800–397–4209, extension 4737, or by e-mail to *pdr@nrc.gov*.

A copy of the license renewal application for the TMI, Unit 1, is also available to local residents near the site at the Middletown Public Library, 20 North Catherine St., Middletown, PA 17057, and at the Penn State Harrisburg Library, 351 Olmsted Drive, Middletown, PA 17057.

Dated at Rockville, Maryland, this 25th day of January 2008.

For the Nuclear Regulatory Commission.

Samson Lee,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E8–1802 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–016]

Unistar Nuclear; Acceptance for Docketing of a Partial Application for Combined License for Calvert Cliffs Nuclear Power Plant, Unit 3

On July 16, 2007, the U.S. Nuclear Regulatory Commission (NRC, the Commission) received a partial combined license (COL) application from UniStar Nuclear (UniStar), dated July 13, 2007, as supplemented by letters dated July 16, August 2, September 11, October 30, and December 14, 2007, and January 14, 2008. The COL application was filed pursuant to section 103 of the Atomic Energy Act and Subpart C, ''Combined Licenses,'' of Title 10 of the *Code of Federal Regulations* (10 CFR), part 52, ''License Certifications and Approvals for Nuclear Power Plants.'' The site location is in Lusby, Maryland, and is identified as the Calvert Cliffs Nuclear Power Plant, Unit 3 (CCNPP3). The partial application included the environmental report, final safety analysis report information regarding site suitability, as well as other information required by 10 CFR 2.101(a)(5). A notice of receipt and availability of this application was previously published in the **Federal Register** (72 FR 45832) on August 15, 2007.

The NRC staff has determined that UniStar has submitted information in accordance with 10 CFR part 2, ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' specifically 10 CFR 2.101(a)(5) regarding submission of a COL application in two parts, and 10 CFR part 52, and that the partial application is acceptable for docketing. The docket number established for CCNPP3 is 52–016.

The NRC staff will perform a detailed technical review of the partial COL application. Docketing of the partial COL application does not preclude the NRC from requesting additional information from the applicant as the review proceeds, nor does it predict whether the Commission will grant or deny the application. The NRC staff will also perform an acceptance review of

the second and final part of the application when it is tendered. After completion of the acceptance review for the full application, if it is found acceptable for docketing, the Commission will conduct a hearing in accordance with Subpart L, ''Informal Hearing Procedures for NRC Adjudications,'' of 10 CFR part 2 and will receive a report on the COL application from the Advisory Committee on Reactor Safeguards in accordance with 10 CFR 52.87, ''Referral to the Advisory Committee on Reactor Safeguards (ACRS).'' If the Commission finds that the full COL application meets the applicable standards of the Atomic Energy Act and the Commission's regulations, and that required notifications to other agencies and bodies have been made, the Commission will issue a COL, in the form and containing conditions and limitations that the Commission finds appropriate and necessary.

In accordance with 10 CFR Part 51, the Commission will also prepare an environmental impact statement for the proposed action. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the NRC staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice.

Finally, the Commission will announce in a future **Federal Register** notice, the opportunity to petition for leave to intervene in the hearing required for this application by 10 CFR 52.85.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and will be accessible electronically through the Agencywide Documents Access System (ADAMS) Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS, or who encounter problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. The application is also available at *http://www.nrc.gov/reactors/new-licensing/col.html*.

Dated at Rockville, Maryland this 25th day of January 2008.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E8–1806 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Design Information Questionnaire–IAEA–N–71 and associated Forms N–72, N–73, N–74, N–75, N–91, N–92, N–93, N–94.

2. *Current OMB approval number:* 3150–0056.

3. *How often the collection is required:* Approximately 1 time annually.

4. *Who is required or asked to report:* Licensees of facilities on the U.S. eligible list who have been notified in writing by the NRC to submit the form.

5. *The number of annual respondents:* 1.

6. *The number of hours needed annually to complete the requirement or request:* 360 reporting hours (1 respondent × 360 hours per response).

7. *Abstract:* In order for the United States to fulfill its responsibilities as a participant in the US/International Atomic Energy Agency (IAEA) Safeguards Agreement, the NRC must collect information from licensees about their installations and provide it to the IAEA. Licensees of facilities that appear on the U.S. eligible list and have been notified in writing by the NRC are required to complete and submit a Design Information Questionnaire, IAEA Form N–71 (and the appropriate associated IAEA Form) or Form N–91, to provide information concerning their installation for use of the IAEA.

Submit, by March 31, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by e-mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 25th day of January 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–1754 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 81, ''Standard

Specifications for Granting of Patent Licenses.''

2. *Current OMB approval number:* 3150–0121.

3. *How often the collection is required:* Applications for licenses are submitted once. Other reports are submitted annually or as other events require.

4. *Who is required or asked to report:* Applicants for and holders of NRC licenses to NRC inventions.

5. *The number of annual respondents:* 1.

6. *The number of hours needed annually to complete the requirement or request:* 37; however, no applications are anticipated during the next three years.

7. *Abstract:* As specified in 10 CFR part 81, the NRC may grant non-exclusive licenses or limited exclusive licenses to its patented inventions to responsible applicants. Applicants for licenses to NRC inventions are required to provide information which may provide the basis for granting the requested license. In addition, all license holders must submit periodic reports on efforts to bring the invention to a point of practical application and the extent to which they are making the benefits of the invention reasonably accessible to the public. Exclusive license holders must submit additional information if they seek to extend their licenses, issue sublicenses, or transfer the licenses. In addition, if requested, exclusive license holders must promptly supply to the United States Government copies of all pleadings and other papers filed in any patent infringement lawsuit, as well as evidence from proceedings relating to the licensed patent.

Submit, by March 31, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by e-mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 25th day of January 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–1756 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–07–026]

In the Matter of: Mr. Luis Fernandez; Confirmatory Order (Effective Immediately)

I

Mr. Luis Fernandez is the former Security Project Manager for Wackenhut Nuclear Services (Wackenhut) at the Turkey Point Nuclear Plant (Turkey Point) operated by Florida Power and Light Company (FPL). FPL holds License No. DPR–31 and DPR–41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR part 50. The licenses authorize the operation of Turkey Point, Units 3 & 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

II

In approximately October 2004, a firing pin from a contingency response weapon was discovered to be damaged at FPL's Turkey Point facility. Mr. Fernandez participated in an inquiry of the damage and documented the results of that inquiry in Condition Report (CR) 2004–13573. As the Security Project Manager for WNS at Turkey Point during this time, Mr. Fernandez was knowledgeable of the circumstances and assisted in the preparation and/or approval of the documentation contained in Condition Report (CR) 2004–13573.

III

In February 2006, the NRC's Office of Investigations (OI) initiated an investigation into the circumstances surrounding the damaged firing pin, and the NRC was provided a copy of CR 2004–13573. Based on the OI investigation, the NRC reached a preliminary conclusion that Mr. Fernandez' documentation of the circumstances involving the damaged firing pin in CR 2004–13573 was not complete and accurate in all material respects. The NRC also preliminarily concluded that Mr. Fernandez' incomplete or inaccurate documentation of the circumstances was deliberate. As a result, the NRC concluded that Mr. Fernandez was in apparent violation of 10 CFR 50.5, in that his actions caused FPL to be in violation of 10 CFR 50.9.

The results of the NRC's preliminary conclusion were provided to Mr. Fernandez by letter dated May 30, 2007. The NRC's letter informed Mr. Fernandez that the NRC was considering the apparent violation for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered Mr. Fernandez a choice to: (1) Attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, Mr. Fernandez requested ADR to resolve the matter. Mr. Fernandez and the NRC participated in an ADR session in Miami, Florida, on November 9, 2007. Consistent with the purposes of ADR, the parties acknowledged that the session was not for the purposes of reaching any conclusions regarding any facts or circumstances as discussed in the NRC's letter to Mr. Fernandez of May 30, 2007.

As the result of the ADR session, Mr. Fernandez and the NRC reached a settlement agreement. The elements of the Agreement in Principle consisted of the following:

1. Mr. Fernandez elaborated on the circumstances concerning his involvement in the drafting of Condition Reports, in support of his view that his actions did not represent deliberate misconduct. Mr. Fernandez acknowledges that CR 2004–13573 was inartfully worded and subject to misinterpretation. However, Mr. Fernandez also stated that he had no intent to deceive the NRC or FPL with respect to CR 2004–13573. Furthermore, Mr. Fernandez expressed a clear understanding of the importance of preparing documentation at NRC-regulated facilities that is complete and accurate.

2. Mr. Fernandez indicated that since approximately February 2006, he has

not been involved in any activities at any facility that is subject to NRC regulations. Mr. Fernandez also indicated that, as of the date of the ADR meeting, he has no intention of working or seeking employment in any activities or at any facility subject to NRC regulations, and that he will not seek employment requiring his participation in NRC-regulated activities before June 30, 2008.

3. Mr. Fernandez agreed that, should he seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization prior to June 30, 2010, he will provide the NRC with a letter discussing the steps he has taken to assure his understanding of the importance of completeness and accuracy of information at facilities subject to NRC regulation. In addition, Mr. Fernandez agreed to provide any such future employer with a copy of this Confirmatory Order. Mr. Fernandez further agreed he will make himself available to participate in training to discuss lessons learned from this matter and the importance of completeness and accuracy of condition reports and other internal documents.

4. The NRC concluded that Mr. Fernandez's agreement not to seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization until after June 30, 2008, and his agreement, should he seek employment with such an entity prior to June 30, 2010, to provide to the NRC a letter discussing the steps he has taken to assure his understanding of NRC requirements in effect at the time, is sufficient to address all Agency concerns regarding his involvement in the matter discussed in the NRC's letter of May 30, 2007.

5. In consideration of the above, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.

6. The NRC and Mr. Fernandez agreed that the above elements will be incorporated into a Confirmatory Order.

7. Mr. Fernandez agreed to waive the right to request a hearing regarding all or any part of the Confirmatory Order.

IV

Because Mr. Fernandez has agreed to take actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Fernandez's commitments set forth in section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Fernandez's commitments be confirmed by this Order. Based on the above and Mr. Fernandez's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, *It is hereby ordered*, effective immediately, that:

1. Mr. Fernandez will not seek employment requiring his participation in NRC-regulated activities before June 30, 2008.

2. Should Mr. Fernandez seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization before June 30, 2010, he will provide the NRC with a letter discussing the steps he has taken to assure he understands the importance of providing complete and accurate information at facilities subject to NRC regulation.

3. Mr. Fernandez will provide any future employer engaged in NRC-regulated activities with a copy of this Confirmatory Order.

4. Should Mr. Fernandez resume employment in NRC-regulated activities, he will make himself available to participate in training to discuss lessons learned from this matter and the importance of preparing complete and accurate condition reports and other internal documents.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Fernandez of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Luis Fernandez, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street SW., Suite 23T85, Atlanta, GA 30303–8931; and to Mr. Luis Fernandez. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If a person other than Mr. Fernandez requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section V shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 22nd day of January 2008.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Acting Regional Administrator.

[FR Doc. E8–1785 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–07–028]

In the Matter of Mr. William Johns; Confirmatory Order (Effective Immediately)

I

Mr. William Johns is the former Security Manager at the Turkey Point Nuclear Plant (Turkey Point) operated by Florida Power & Light Company (FPL

or Licensee). FPL holds License No. DPR–31 and DPR–41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR part 50. The license authorizes the operation of Turkey Point, Units 3 & 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

II

In August 2005, a broken firing pin from a contingency response weapon was discovered at FPL's Turkey Point facility. FPL conducted an investigation into the circumstances surrounding the broken pin. As the Security Manager at Turkey Point at that time, Mr. Johns was advised of the status and progress of the FPL investigation. Based on his understanding of the circumstances of the matter and his understanding of reporting requirements and guidelines, in approximately September 2005, Mr. Johns ensured or allowed the event to be documented into the plant security log at that time, and concluded that this incident would not be reported to the NRC in accordance with 10 CFR part 73, Appendix G.I.(a)(3).

III

In February 2006, the NRC's Office of Investigations (OI) initiated an investigation into the circumstances surrounding the broken firing pin. Based on the OI investigation, the NRC reached a preliminary conclusion that Mr. Johns deliberately failed to make a one-hour report to the Commission of an event involving the interruption of normal operation of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls, including the security system. In this case, the tampering event involved the breaking of a firing pin for a contingency response weapon. As a result, the NRC concluded that Mr. Johns was in apparent violation of 10 CFR 50.5, in that his actions caused FPL to be in violation of 10 CFR part 73, Appendix G.I.(a)(3).

The results of the NRC's preliminary conclusion were provided to Mr. Johns by letter dated May 30, 2007. The NRC's letter informed Mr. Johns that the NRC was considering the apparent violation for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered Mr. Johns a choice to: (1) Attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, Mr. Johns requested ADR to resolve the matter. Mr. Johns and the NRC participated in an ADR session in Atlanta, Georgia, on September 11, 2007. As the result of the ADR session, Mr. Johns and the NRC reached a settlement agreement. The elements of the Agreement in Principle consisted of the following:

1. Mr. Johns disagreed with certain facts supporting a conclusion that he violated 10 CFR 50.5, and he denied that he engaged in any deliberate misconduct. At the ADR session, Mr. Johns elaborated on the circumstances surrounding his involvement in the apparent violation, in support of his view that his actions did not represent deliberate misconduct. In particular, Mr. Johns stated that his actions in not reporting the incident in accordance with 10 CFR part 73, Appendix G were consistent with his previous practice and experience with reporting such incidents, and the fact that the underlying issue did not appear to be a result of a malevolent intent. Mr. Johns further stated that his decision to enter the event in the plant security log, rather than make a one-hour report to the NRC, was consistent with his understanding of NRC guidance in Generic Letter 91–03, Reporting of Safeguards Events.

2. Mr. Johns indicated that since approximately February 2006, he has not been involved in any activities at any facility that is subject to NRC regulations. Mr. Johns also indicated that, as of the date of the ADR session, he had no intention of working or seeking employment in any activities or at any facility that is subject to NRC regulations, and that he would not seek employment requiring his participation in NRC-regulated activities before July 15, 2008.

3. Prior to seeking future employment in NRC-regulated activities, Mr. Johns will submit to the NRC a letter explaining the steps he has taken to assure he understands the NRC's security reporting requirements in effect at the time.

4. The NRC concluded that Mr. Johns' agreement to not seek employment requiring his participation in NRC-regulated activities until after July 15, 2008, and his agreement to provide the NRC a letter explaining the steps he has taken to ensure he understands the NRC's reporting requirements in effect at the time, is sufficient to address all Agency concerns regarding his involvement in the matter discussed in the NRC's letter dated May 30, 2007.

5. In consideration of the above, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.

6. The NRC and Mr. Johns agreed that the above elements will be incorporated into a Confirmatory Order.

7. Mr. Johns agreed to waive the right to request a hearing regarding all or any part of the Confirmatory Order.

IV

Because Mr. Johns has agreed to take actions to address the NRC's concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Johns' commitments set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Johns' commitments be confirmed by this Order. Based on the above and Mr. Johns' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered,* effective immediately, that:

1. Mr. Johns will not seek employment requiring his participation in NRC-regulated activities before July 15, 2008.

2. Prior to seeking future employment in NRC-regulated activities, Mr. Johns will submit to the NRC a letter explaining the steps he has taken to ensure he understands the NRC's security reporting requirements in effect at the time.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Johns of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. William Johns, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S.

Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW., Suite 23T85, Atlanta, GA 30303–8931; and to Mr. William Johns. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than Mr. Johns requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 22nd day of January 2008.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Acting Regional Administrator.

[FR Doc. E8–1795 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 070–3103]

Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring for Louisiana Energy Services National Enrichment Facility In Lea County, New Mexico, and Conforming Amendment, and Opportunity To Provide Comments and Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of application for approval of an indirect license transfer, and opportunity to request a hearing and provide written comments.

DATES: A request for a hearing must be filed by February 20, 2008.

FOR FURTHER INFORMATION CONTACT: Timothy C. Johnson, Sr. Project Manager, Enrichment and Conversion Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492–3121; Fax number: (301) 492–3359; e-mail: *tcj@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering an application for approval of an indirect transfer of control regarding Special Nuclear Material License No. SNM–2010. This license was issued on June 23, 2006, to Louisiana Energy Services, L.P. (the Licensee), for its National Enrichment Facility (NEF), located in Lea County, New Mexico. The license authorizes the Licensee to construct and operate a gas centrifuge uranium enrichment facility.

The application now being considered is dated October 19, 2007. The Licensee proposes to (1) restructure itself from a Limited Partnership (LP) to a Limited Liability Company (LLC); and (2) reorganize the ownership arrangement of Urenco Deelnemingen BV (UDE), a current limited partner of the Licensee. No physical changes to the NEF or operational changes are being proposed. An NRC administrative review, documented in an e-mail sent to the Licensee on November 7, 2007, found the application acceptable to begin a more detailed technical review. If the application is granted, the license would be amended for administrative purposes to reflect the transfer, by replacing references to Louisiana Energy Services, L.P., in the license with references to Louisiana Energy Services, L.L.C.

Pursuant to Title 10 of the Code of Federal Regulations (CFR), section 70.36, no license granted under 10 CFR part 70, and no right thereunder to use special nuclear material, shall be transferred, assigned, or in any manner disposed of, directly or indirectly, through transfer of control of any license to any person unless the Commission shall, after securing full information, find that the transfer is in accordance with the Atomic Energy Act (AEA), and gives its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed restructuring and reorganization will not affect the qualifications of the Licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

If the October 19 application is granted, the license would be amended to reflect the Licensee's new status as an LLC, and UDE's reorganized ownership. Before such a license amendment is issued, the NRC will have made the findings required by the AEA and NRC's regulations. These findings will be documented in a Safety Evaluation Report. An Environmental Assessment (EA) will not be performed because, pursuant to 10 CFR 51.22(c)(21), license transfer approvals and associated license amendments are categorically excluded from the requirement to perform an EA.

II. Opportunity to Request a Hearing

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected and who desires to participate as a party must file a request for a hearing. The hearing request must include a specification of the contentions that the person seeks to have litigated in the hearing, and must be filed in accordance the NRC E-filing rule, which the NRC promulgated in August 2007 (72 FR 49139; August 28, 2007). The E-Filing rule requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by

calling (301) 415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer(tm) to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer(tm) is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209, or locally (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at: *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)–(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3)), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by February 20, 2008.

In addition to meeting other applicable requirements of 10 CFR 2.309, a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis

report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. *Technical*—primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.
2. *Environmental*—primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
3. *Emergency Planning*—primarily concerns issues relating to matters discussed or referenced in the Emergency Plan as it relates to the proposed action.
4. *Physical Security*—primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.
5. *Miscellaneous*—does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

As indicated below, pursuant to 10 CFR 2.310(g), any hearing would be subject to the procedures set forth in 10 CFR part 2, Subpart M.

III. Opportunity to Provide Written Comments

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

For further details with respect to this license transfer application, see the application dated October 19, 2007, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly-available records will be accessible electronically from the Agency Wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland this 24th day of January, 2008.

For the Nuclear Regulatory Commission.

Brian W. Smith,

Chief, Enrichment and Conversion Branch, Fuel Facility Licensing Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E8–1807 Filed 1–30–08; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28134]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 25, 2008.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January 2008. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 19, 2008, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Zacks Series Trust

[File No. 811–9549]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on November 8, 2007, and amended on January 11, 2008.

Applicant's Address: 100 N. Riverside Plaza, Suite 2200, Chicago, IL 60606.

Van Kampen Income Trust

[File No. 811–5273]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On June 25, 2007, applicant made a final liquidating distribution to its shareholders, based

on net asset value. Expenses of $4,500 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on December 14, 2007.

Applicant's Address: 522 Fifth Ave., New York, NY 10036.

BlackRock S&P 500 (R) Protected Equity Fund, Inc.

[File No. 811–9479]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 21, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $37,425 incurred in connection with the liquidation were paid by BlackRock Advisors, LLC (''BlackRock''), applicant's investment adviser. On November 28, 2007, assets of $257,156, representing an amount due to applicant, and an offsetting liability in the same amount, representing monies advanced to applicant for distribution to shareholders by BlackRock, were transferred to BSP Liquidating Trust, resulting in applicant having no assets or liabilities as of that date.

Filing Date: The application was filed on December 19, 2007.

Applicant's Address: c/o BlackRock Advisors, LLC, 100 Bellevue Parkway, Wilmington, DE 19809.

USAA Mutual Fund, Inc.

[File No. 811–2429]

USAA Tax Exempt Fund, Inc.

[File No. 811–3333]

USAA Investment Trust

[File No. 811–4019]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 2006, each applicant transferred its assets to USAA Mutual Funds Trust, based on net asset value. Expenses of $1,680,029, $272,077 and $650,851, respectively, incurred in connection with the reorganizations were paid by each applicant.

Filing Dates: The applications were filed on December 14, 2007.

Applicants' Address: 9800 Fredericksburg Rd., A–3–W, San Antonio, TX 78288.

Sit Mutual Funds Trust

[File No. 811–21447]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 2007, applicant transferred its assets to Sit Tax-Free Income Fund, a series of Sit Mutual Funds II, Inc., based on net asset value. Expenses of $22,795 incurred in connection with the reorganization were paid by Sit Investment Associates, Inc., applicant's investment adviser.

Filing Dates: The application was filed on November 8, 2007, and amended on January 7, 2008.

Applicant's Address: Sit Mutual Funds, 3300 IDS Center, 80 South 8th St., Minneapolis, MN 55402.

Mezzacappa Long/Short Fund, LLC

[File No. 811–21469]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant is not presently making a public offering of its securities and does not propose to make a public offering. Applicant will continue to engage in its regular business activities and will operate in reliance on section 3(c)(7) of the Act.

Filing Dates: The application was filed on November 21, 2007 and amended on December 21, 2007.

Applicant's Address: 630 Fifth Ave., New York, NY 10111.

MDT Funds

[File No. 811–21141]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 17, 2006 and December 8, 2006, applicant transferred its assets to corresponding series of Federated MDT Series, based on net asset value. Expenses of approximately $1,358,297 incurred in connection with the reorganization were paid by Federated Investors, Inc., the parent of the surviving fund.

Filing Dates: The application was filed on November 13, 2007, and amended on December 21, 2007.

Applicant's Address: Federated Investors Tower, 5800 Corporate Dr., Pittsburgh, PA 15237–7010.

The Jhaveri Trust

[File No. 811–8974]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant is not currently making a public offering of its securities and does not propose to make a public offering. Applicant has fewer than one hundred beneficial owners and will continue to operate as a private investment vehicle in reliance on section 3(c)(1) of the Act.

Filing Dates: The application was filed on December 29, 2006, and amended on March 5, 2007, and January 24, 2008.

Applicant's Address: 27881 Clemens Rd., Westlake, OH 44145.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1687 Filed 1–30–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57199; File No. SR–NASD–2005–114]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, 3 and 4 Relating to the Regulation of Compensation, Fees and Expenses in Public Offerings of Real Estate Investment Trusts and Direct Participation Programs

January 25, 2008.

On September 28, 2005, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] the National Association of Securities Dealers, Inc. (''NASD'') [3] filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') proposed amendments to NASD Rule 2810. On June 12, 2006, NASD filed Amendment No. 1 to the proposed rule change.[4] The proposed rule change was published for comment in the **Federal Register** on July 17, 2006 (''Original Proposal''),[5] and the Commission received six comments, which are discussed below in section II.[6] On April 16, 2007, NASD filed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (Aug. 1, 2007).

[4] Amendment No. 1 replaced and superseded the original rule filing.

[5] *See* Securities Exchange Act Release No. 54118 (July 10, 2006), 71 FR 40569 (July 17, 2006) (SR–NASD–2005–114).

[6] *See* letters from the Committee on Federal Regulation of Securities of the American Bar Association (Keith F. Higgins), dated Aug. 22, 2006 (''ABA Committee''); North American Securities Administrators Association (Patricia D. Struck), dated Aug. 11, 2006 (''NASAA''); Dominion Investor Services, Inc. (Kevin P. Takacs), dated Aug. 7, 2006; Investment Program Association (Rosemarie Thurston), dated Aug. 7, 2006 (''IPA''); the Securities Division of Office of the Secretary of the Commonwealth of Massachusetts (Bryan Lantagne), dated Aug. 4, 2006 (''Massachusetts Securities Division''); and Cambridge Legacy Group (Frank Akridge, Jr.), dated Aug. 4, 2006.

Amendment No. 2.[7] On November 9, 2007, FINRA filed Amendment No. 3.[8] On January 2, 2008, FINRA filed Amendment No. 4 to respond to the comments, and to make revisions to the rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend NASD Rule 2810 to address the regulation of compensation, fees and expenses in public offerings of direct participation programs and real estate investment trusts. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

2810. Direct Participation Programs

(a) No Change.

(b) Requirements.

(1) Application.

No member or person associated with a member shall participate in a public offering of a direct participation program, [or] a limited partnership rollup transaction *or, where expressly provided below, a real estate investment trust as defined in Rule 2340(d)(4) (''REIT''),* except in accordance with this paragraph (b)*, provided however, this paragraph (b) shall not apply to an initial or secondary public offering of or a secondary market transaction in a unit, depositary receipt or other interest in a direct participation program that complies with subparagraph (2)(D).*

(2) No Change.

(3) Disclosure.

(A) Prior to participating in a public offering of a direct participation program *or REIT*, a member or person associated with a member shall have reasonable grounds to believe, based on information made available to him by the sponsor through a prospectus or other materials, that all material facts are adequately and accurately disclosed and provide a basis for evaluating the program.

(B) through (C) No Change.

(D) Prior to executing a purchase transaction in a direct participation program *or a REIT*, a member or person associated with a member shall inform the prospective participant of all pertinent facts relating to the liquidity and marketability of the program *or REIT* during the term of the investment[;]. *Included in the pertinent facts shall be information regarding whether the sponsor has offered prior programs or REITs in which disclosed in the offering materials was a date or time period at which the program or REIT might be liquidated, and whether the prior program(s) or REIT(s) in fact liquidated on or around that date or during the time period.* [provided, however, that paragraph (b) shall not apply to an initial or secondary public offering of a secondary market transaction in a unit, depositary receipt or other interest in a direct participation program which complies with subparagraph (2)(D).]

(4) Organization and Offering Expenses.

(A) No member or person associated with a member shall underwrite or participate in a public offering of a direct participation program *or REIT* if the organization and offering expenses are not fair and reasonable, taking into consideration all relevant factors.

(B) In determining the fairness and reasonableness of organization and offering expenses *that are deemed to be in connection with or related to the distribution of the public offering* for purposes of subparagraph (A) hereof, the arrangements shall be presumed to be unfair and unreasonable if:

(i) Organization and offering expenses, as defined in subparagraph (b)(4)(C), in which a member or an affiliate of a member is a sponsor exceed an amount that equals fifteen percent of the gross proceeds of the offering;

[(i)] *(ii)* The total amount of all items of compensation from whatever source*, including offering proceeds and ''trail commissions''* payable to underwriters, broker/dealers, or affiliates thereof, [which are deemed to be in connection with or related to the distribution of the public offering,] exceeds *an amount that equals ten percent of the gross proceeds of the offering* [currently effective compensation guidelines for direct participation programs published by the Association];[*]

[(ii) Organization and offering expenses paid by a program in which a member or an affiliate of a member is a sponsor exceed currently effective guidelines for such expenses published by the Association;**]

(iii) No Change.

(iv) Commissions or other compensation are to be paid or awarded either directly or indirectly, to any person engaged by a potential investor for investment advice as an inducement to such advisor to advise the purchaser of interests in a particular program *or REIT*, unless such person is a registered broker/dealer or a person associated with such a broker/dealer; [or]

(v) The program *or REIT* provides for compensation of an indeterminate nature to be paid to members or persons associated with members for sales of *the* program [units] *or REIT*, or for services of any kind rendered in connection with or related to the distribution thereof, including, but not necessarily limited to, the following: a percentage of the management fee, a profit sharing arrangement, brokerage commissions, an[d] over-riding royalty interest, a net profits interest, a percentage of revenues, a reversionary interest, a working interest, a security or right to acquire a security having an indeterminate value, or other similar incentive items; [provided however, that an arrangement which provides for continuing compensation to a member or person associated with a member in connection with a public offering shall not be presumed to be unfair and unreasonable if all of the following conditions are satisfied:]

[a. The continuing compensation is to be received only after each investor in the program has received cash distributions from the program aggregating an amount equal to his cash investment plus a six percent cumulative annual return on his adjusted investment;]

[b. The continuing compensation is to be calculated as a percentage of program cash distributions;]

[c. The amount of continuing compensation does not exceed three percent for each one percentage point that the total of all compensation pursuant to subparagraph (B)(i) received at the time of the offering and at the time any installment payment is made fall below nine percent; provided, however, that in no event shall the amount of continuing compensation exceed 12 percent of program cash distributions; and]

[d. If any portion of the continuing compensation is to be derived from the limited partners' interest in the program cash distributions, the percentage of the continuing compensation shall be no greater than the percentage of program cash distributions to which limited partners are entitled at the time of the payment.]

(vi) The program or REIT charges a sales load or commission on securities that are purchased through the reinvestment of dividends, unless the registration statement registering the securities under the Securities Act of 1933 became effective prior to [the

[7] Amendment No. 2 replaced and superseded Amendment No. 1.

[8] Amendment No. 3 replaced and superseded Amendment No. 2.

effective date of this proposed rule change]; or

(vii) The member has received reimbursement for due diligence expenses that are not included in a detailed and itemized invoice, unless the amount of the reimbursement is included in the calculation of underwriting compensation as a non-accountable expense allowance, which when aggregated with all other such non-accountable expenses, does not exceed three percent of offering proceeds.

(C) The organization and offering expenses subject to the limitations in subparagraph (b)(4)(B)(i) above include the following:

(i) Issuer expenses, including overhead expenses that are reimbursed or paid for with offering proceeds, which include, but are not limited to, expenses for:

a. Assembling, printing and mailing offering materials, processing subscription agreements, generating advertising and sales materials;

b. Legal and accounting services provided to the sponsor or issuer;

c. Salaries and non-transaction-based compensation paid to employees or agents of the sponsor or issuer for performing services for the sponsor or issuer;

d. Transfer agents, escrow holders depositories, engineers and other experts, and

e. Registration and qualification of securities under federal and state law, including taxes and fees and NASD fees;

(ii) *Underwriting compensation, which includes but is not limited to items of compensation listed in Rule 2710(c)(3) including payments:*

a. To any wholesaling or retailing firm that is engaged in the solicitation, marketing, distribution or sales of the program or REIT securities;

b. To any registered representative of a member who receives transaction-based compensation in connection with the offering;

c. To any registered representative who is engaged in the solicitation, marketing, distribution or sales of the program or REIT securities, other than one whose functions in connection with the offering are solely and exclusively clerical or ministerial; or

d. For training and education meetings, legal services provided to a member in connection with the offering, advertising and sales material generated by the member and contributions to conferences and meetings held by non-affiliated members for their registered representatives.

(iii) Due diligence expenses incurred when a member affirmatively discharges its responsibilities to ensure that all material facts pertaining to a program or REIT are adequately and accurately disclosed in the offering document.

(D) Notwithstanding subparagraphs (b)(4)(C)(ii)b. and c. above, information may be provided to NASD from which the Corporate Financing Department can readily determine that some portion of a registered representative's non-transaction based compensation should not be deemed to be underwriting compensation if the registered representative is either: a dual employee of a program or REIT with fewer than ten people engaged in wholesaling; or a dual employee who is one of the top ten highest paid executives based on non-transaction based compensation in any program or REIT.

[(C)] *(E)* All items of compensation paid by the program *or REIT* directly or indirectly from whatever source to underwriters, brokers/dealers, or affiliates thereof, including, but not limited to, sales commissions, wholesaling fees, due diligence expenses, other underwriter's expenses, underwriter's counsel's fees, securities or rights to acquire securities, rights of first refusal, consulting fees, finder's fees, investor relations fees, and any other items of compensation for services of any kind or description, which are deemed to be in connection with or related to the public offering, shall be taken into consideration in computing the amount of compensation for purposes of determining compliance with the provisions of subparagraphs (A) and (B).

[(D)] *(F)* The determination of whether compensation paid to underwriters, broker/dealers, or affiliates thereof is in connection with or related to a public offering, for purposes of this subparagraph (4), shall be made on the basis of such factors as the timing of the transaction, the consideration rendered, the investment risk, and the role of the member or affiliate in the organization, management and direction of the enterprise in which the sponsor is involved.

(i) An affiliate of a member which acts or proposes to act as a general partner, associate general partner, or other sponsor of a program *or REIT* shall be presumed to be bearing investment risk for purposes of this paragraph (b) if the affiliate:

a. Through b. No Change.

c. Has a net worth equal to at least five percent of the net proceeds of the public offering or $1.0 million, whichever is less; provided, however, that the computation of the net worth shall not include an interest in the program offered but may include net worth applied to satisfy the requirements of this paragraph (b) with respect to other programs *or REITs;* and

d. Agrees to maintain net worth as required by subparagraph c. above under its control until the earlier of the removal or withdrawal of the affiliate as a general partner, associate general partner, or other sponsor, or the dissolution of the program *or REIT.*

(ii) No Change.

[(E)]*(G)* Subject to the limitations on direct and indirect non-cash compensation provided under subparagraph [(E)]*(C),* no member shall accept any cash compensation unless all of the following conditions are satisfied:

(i) Through (v) No Change.

(5) Valuation for Customer Account Statements.

No member may participate in a public offering of direct participation program *or REIT* securities unless[:]

[(A)] The general partner or sponsor of the program will disclose in each annual report distributed to investors pursuant to Section 13(a) of the Act a per share estimated value of the direct participation program securities, the method by which it was developed, and the date of the data used to develop the estimated value.

(6) No Change.

(c) Non-Cash Compensation.

(1) No Change.

(2) Restriction on Non-Cash Compensation.

In connection with the sale and distribution of direct participation *program or REIT* securities, no member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided in this provision. Non-cash compensation arrangements are limited to the following:

(A) Through (B) No Change.

(C) Payment or reimbursement by offerors in connection with meetings held by an offeror or by a member for the purpose of training or education of associated persons of a member, provided that:

(i) No Change.

(ii) The location is appropriate to the purpose of the meeting, which shall mean *a United States* [an] office of the offeror or the member *holding the meeting,* or a facility located in the vicinity of such office, or a *United States* regional location with respect to *meetings of associated persons who work within that region or, with respect to* [regional] meetings *with direct participation programs or REITs, a United States location at which a*

significant or representative asset of the program or REIT is located;

(iii) Through (iv) No Change.

(D) Through (E) No Change.

(d) No Change.

[* A guideline for underwriting compensation of ten percent of proceeds received, plus a maximum of 0.5% for reimbursement of bona fide diligence expenses was published in Notice to Members 82–51 (October 19, 1982).]

[** A guideline for organization and offering expenses of 15 percent proceeds received was published in Notice to Members 82–51 (October 19, 1982).]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

FINRA is proposing to amend Rule 2810 to address the regulation of compensation, fees and expenses in public offerings of direct participation programs (as defined in Rule 2810(a)(4)) (''DPPs'') and unlisted real estate investment trusts (as defined in Rule 2340(d)(4)) (''REITs'') (collectively ''Investment Programs'').[9] Specifically, the proposed rule change addresses: (1) Compensation limitations and the use and allocation of offering proceeds; (2) disclosure regarding the liquidity of prior programs offered by the same sponsor; (3) sales loads on reinvested dividends; and (4) non-cash compensation provisions regarding the appropriate location for training and education meetings. The proposed rule change also adds REITs to provisions that already apply to DPPs, however, these amendments do not make any substantive changes to these sections.[10]

a. Organization and Offering Expenses

Rule 2810 provides three limitations on compensation and offering expenses (''O & O expenses'') in Investment Programs. In the current rule, as interpreted by NASD compensation guidelines, these expenses are broken down into three categories: ''compensation,'' ''due diligence,'' and ''issuer organization and offering expenses.'' First, compensation payable to underwriters, broker-dealers, or affiliates may not exceed 10 percent of the gross proceeds of the offering, regardless of the source from which it is derived. Second, members or independent due diligence firms may be reimbursed an additional 0.5 percent for bona fide due diligence expenses. And third, total issuer O & O expenses for programs in which the member is affiliated with the program sponsor may not exceed 15 percent of the offering proceeds, including any compensation and due diligence expenses.[11]

For offerings of programs in which the member is affiliated with the sponsor, this allows an additional 4.5 percent for issuer O & O expenses above the 10 percent underwriting compensation and 0.5 percent due diligence expenses.

As discussed below, the proposed rule change would make the Rule more explicit and objective in its treatment of the allocation of certain fees and expenses between issuer O & O expenses and compensation (eliminating the current 0.5 percent limit on due diligence expenses and modifying the limitations pertaining to due diligence expenses).

i. Issuer Expenses

In the Original Proposal, NASD proposed to codify the methodology described in NASD *Notice to Members 04–07*[12] for allocating O & O expenses between compensation, due diligence and issuer O & O expenses. Under the Original Proposal, issuer O & O expenses would have included: (i) Expenses, including overhead expenses, for assembling and mailing offering materials, processing subscription agreements and generating advertising and sales materials; (ii) legal services provided to the sponsor or issuer; and (iii) salaries and non-transaction-based compensation paid to employees or agents of the sponsor or issuer for performing such services. Also included as part of issuer O & O expenses would have been expenses incurred in connection with transfer agents, escrow holders, depositories, engineers and other experts, and registration and qualification of securities under federal and state law, including taxes and fees and NASD fees.[13]

Three commenters addressed the proposed treatment of issuer O & O expenses.[14] Two commenters generally supported the proposal.[15] One commenter suggested revising the proposed rule change to clarify that the calculation of issuer expenses would only include those issuer O & O expenses that are reimbursed or paid for with offering proceeds.[16] This commenter believed that this clarification would be consistent with NASD's longstanding policy to include in the limitations on issuer O & O expenses only those expenses deemed to be in connection with the public offering and reimbursed or paid for with offering proceeds. The commenter also noted that the issuer's ''business overhead'' expenses, such as rent, telephone, insurance and employee benefits are costs generally not related to the public offering of an Investment Program's securities and not paid for from offering proceeds.[17]

In addition, this commenter recommended that, to be consistent with Rule 2710, NASD should clarify that issuer O & O expenses include printing costs and accountants' fees,

[9] The DPPs and REITs that comprise Investment Programs typically are structured so that several affiliated entities make up the program. The affiliated entities include the sponsor, the trust or limited partnership, and a broker-dealer.

[10] Proposed amendments to Rule 2810(b)(3)(A), Rule 2810(b)(4)(A), Rule 2810(b)(4)(B)(v), Rules 2810(b)(4)(D)–(G) and Rule 2810(b)(5). The proposed amendment to Rule 2810(b)(4)(G) also corrects a typographical error by citing to ''subparagraph (C),'' instead of ''subparagraph (E)'' under the existing rule.

[11] *See* current Rule 2810(b)(4)(B)(i) and *Notice to Members 82–51*. This 15 percent limitation on O & O expenses applies only to sponsors that are affiliated with NASD members, while the 10 percent compensation limitation applies to all DPPs.

[12] In *Notice to Members 04–07* (''*Notice*''), NASD requested comment on a proposed rule change and interpretive policies regarding the allocation of fees and expenses between issuers, sponsors and broker-dealers for Investment Programs in which the sponsors and broker-dealers offering such securities are affiliated. The *Notice* also addressed due diligence practices and disclosure in connection with Investment Programs as well as the allocation of underwriter compensation and issuer organization and offering expenses. The *Notice* also proposed prohibiting sales loads on reinvested dividends in Investment Programs and closed-end funds. Finally, the *Notice* requested comment on changes to two non-cash compensation provisions in Rules 2710(i) and 2810(c): (1) A proposal to amend what would constitute an ''appropriate location'' for training and education meetings; and (2) new ''equal weighting'' and ''total production'' limitations for internal sales contests. NASD received 10 comments on *Notice to Members 04–07*. Because the Original Proposal discussed the *Notice* in detail, this proposal only cites to the Notice when necessary.

[13] *See* Original Proposal amendment to Rule 2810(b)(4)(C)(i).

[14] ABA Committee, Massachusetts Securities Division and NASAA.

[15] Massachusetts Securities Division and NASAA.

[16] ABA Committee.

[17] *Id.*

which are typically borne by the issuer.[18]

Finally, the commenter suggested that the term ''issuer O & O expenses'' should be changed to minimize confusion with the O & O expenses for the entire offering, which are capped at an amount that equals fifteen percent of the proceeds of an offering and include: (1) ''Issuer expenses;'' (2) ''items of compensation;'' and (3) ''due diligence expenses.'' [19]

FINRA agrees that it has been longstanding NASD policy to include in the limitations on issuer O & O expenses only those expenses deemed to be in connection with the public offering and reimbursed or paid for with offering proceeds. FINRA is amending the proposed rule change to clarify this position [20] and also to clarify that issuer expenses include expenses related to printing costs and accounting fees.[21]

Finally, FINRA has replaced the term ''issuer O & O expenses'' [22] with ''issuer expenses'' [23] to minimize confusion with the term ''O & O expenses,'' which includes (1) issuer expenses; (2) items of compensation; and (3) due diligence expenses.[24]

With these modifications, FINRA is re-proposing in Amendment No. 3 the same amendments regarding issuer expenses that were the subject of the Original Proposal.

ii. Limits on Compensation

As in the Original Proposal, the rule change would clarify that amounts deducted from the offering proceeds or amounts paid to underwriters, broker-dealers or affiliates as trail commissions over time are to be treated as underwriting compensation.[25] In addition, paragraph (b)(4)(B)(ii) of Rule 2810 would be amended to expressly state that all items of compensation shall not exceed ''ten percent of the gross proceeds of the offering.'' [26]

Accordingly, all items of compensation paid from any source, including offering proceeds, partnership assets or management fees, would be subject to a ''hard cap'' of an amount that equals ten percent of gross offering proceeds.[27]

The proposed rule change also limits total O & O expenses, as defined in paragraph (b)(4)(C), to fifteen percent of gross proceeds in an offering in which a member or an affiliate of a member is a sponsor.[28]

The proposed rule change also would delete paragraphs (b)(4)(B)(v)(a) through (d) of Rule 2810 relating to continuing compensation arrangements. Members have not relied on these provisions since their adoption, and the limitations on continuing compensation are included in paragraph (b)(4)(B)(i) of Rule 2810 as proposed to be amended.

iii. Wholesaling and Dual Employees

The amendments to Rule 2810(b)(4)(C)(ii)(a) in the Original Proposal would have deemed underwriting compensation to include payments to:

> any wholesaler that is engaged in the solicitation, marketing, distribution or sales of the program or REIT securities and any employee of the wholesaler involved in the solicitation, development, maintenance and monitoring of selling agreements and relationships with broker/dealers and accounts and account holders at broker/dealers[.]

Commenters generally supported the proposal with regard to wholesaling firms engaged in solicitation, marketing or distribution of an Investment Program's securities, but believed that the description of wholesaling activities by an employee of a wholesaler was too broad, noting that it included clerical and administrative functions in connection with the offering that traditionally had not been included as underwriting compensation.[29]

The Original Proposal also would have deemed underwriting compensation to include payments to:

> any employee of a member and any dual employee of a member and the sponsor, issuer or other affiliate who receives transaction-based compensation unless information has been provided to NASD, with regard to a program or REIT with fewer than ten people engaged in wholesaling, from which the Corporate Financing Department can readily conclude that the payments are made as consideration for non-broker/dealer services[.] [30]

Two commenters viewed the proposed treatment of payments to dual employees who receive transaction-based compensation as too broad because it failed to take into account situations in which such employees only spend part of their time engaged in marketing, distribution or sales of Investment Program securities.[31]

These commenters suggested an alternative approach of requiring the sponsor to make a good faith allocation for payments to dual employees (*i.e.*, employees of a sponsor of an Investment Program and its affiliated broker-dealer) between underwriting compensation and non-distribution related expenses, so that only the allocable portion of a dual employee's transaction-based compensation would be included in the calculation of underwriting compensation.[32]

These commenters also suggested excluding from the rule's underwriting compensation limits payments to those employees that solely perform clerical, administrative or operational functions that generally do not require such persons to be registered as a representative or principal.[33]

FINRA revised the proposed amendments to Rules 2810(b)(4)(C)(ii)(a)–(b) described above in response to these comments. The proposed rule change clarifies that payments to wholesaling or retailing firms engaged in solicitation, marketing, distribution or sales of Investment Program securities will be included in the underwriting compensation limits.[34]

The Original Proposal would have included payments to employees engaged in wholesaling, regardless of whether they are registered. In general, employees who engage in wholesaling would be required to be registered as representatives under Rule 1031.[35] Accordingly, as described below, FINRA has amended the proposed rule change so that only payments to employees who are registered persons would be included in the underwriting compensation limits.

First, the proposed rule change would include as underwriting compensation

[18] *Id.*

[19] *Id.*

[20] Proposed amendment to Rule 2810(b)(4)(C)(i)–(ii).

[21] Proposed amendment to Rule 2810(b)(4)(C)(i)(a) (printing costs) and Rule 2810(b)(4)(C)(i)(b) (accounting costs).

[22] Original Proposal amendment to Rule 2810(b)(4)(C)(i).

[23] Proposed amendment to Rule 2810(b)(4)(C)(i).

[24] *See generally* proposed amendment to Rule 2810(b)(4)(C).

[25] *See* proposed amendment to Rule 2810(b)(4)(B)(ii). The proposed amendment deletes the requirement that the compensation be ''deemed to be in connection with or related to the distribution of the public offering.'' This provision has been moved to proposed Rule 2810(b)(4)(B).

[26] The ten percent figure currently is FINRA policy and is not in the text of the Rule.

[27] Proposed amendment to Rule 2810(b)(4)(B)(ii).

[28] Proposed amendment to Rule 2810(b)(4)(B)(i).

[29] ABA Committee, IPA and NASAA. The Massachusetts Securities Division and NASAA urged the SEC and NASD to bring greater scrutiny to wholesaling activities, including how sponsors contact brokerage personnel.

[30] Original Proposal amendment to Rule 2810(b)(4)(C)(ii)(b).

[31] ABA Committee and IPA.

[32] *Id.*

[33] *Id.*

[34] Proposed amendment to Rule 2810(b)(4)(C)(ii)(a).

[35] If in the course of reviewing an offering of an Investment Program, the Corporate Financing Department believes that an individual is not properly registered, it will refer such matter to the Member Regulation or Enforcement Departments for further review.

all payments to a registered representative (including a dual employee) that receives transaction-based compensation in connection with the sale or distribution of Investment Program securities, subject to two exceptions for small companies and top executives discussed below.[36]

Second, with regard to payments to registered representatives who do not receive transaction-based compensation in connection with the sale or distribution of Investment Program securities, the proposed rule change would treat as underwriting compensation payments to employees who are engaged in the solicitation, marketing, distribution or sales of the Investment Program securities, except individuals whose functions in connection with the offering are solely and exclusively clerical or ministerial.[37]

While commenters suggested an alternative approach of requiring the sponsor or affiliate to make a good faith allocation of payments to dual-employees between underwriting compensation and issuer expenses, FINRA believes the approach described above would be clearer and easier to administer, and would promote more consistency with the application of the rule among Investment Programs. Investment Programs should easily be able to ascertain whether a registered person's activities involve solicitation, marketing, distribution or sales of the Investment Program securities, and whether those activities are conducted solely and exclusively in a clerical or ministerial capacity. Moreover, this approach should minimize the opportunity for an Investment Program to mischaracterize dual employees' day-to-day activities or to make allocations that are inconsistent with industry standards.[38]

NASD proposed to modify and improve upon the burdensome process involved when its Corporate Financing Department (''Department'') reviews Investment Programs for compliance with the compensation guidelines by analyzing information about job functions, time spent on those functions, and compensation paid to dual employees whose job functions include conducting a securities business. Commenters on *Notice to Members 04–07* urged NASD to continue to utilize the detailed job function analysis in its review of compensation associated with smaller Investment Programs, for which registered representatives are more likely to work in both the securities business and operations and administration. Accordingly, the Original Proposal provided that Investment Programs with fewer than ten people engaged in wholesaling could provide detailed per-employee information to the Department for its review. Based on its review, the Department could conclude that certain salary or other non-transaction-based payments made to the employee will be allocated to issuer expenses, notwithstanding the fact that the employee also received transaction-based compensation or spent allocable portions of time engaged in securities business activities.[39] Commenters supported this approach to smaller Investment Programs[40] and the proposed rule change includes these provisions.

Many Investment Programs' top executives are registered persons who engage in multiple job functions among the program sponsor, wholesaler, property or equipment manager, and portfolio manager. FINRA believes that the Department can conduct an accurate and efficient review of this small group of individuals, whose job functions should be relatively easy to identify and evaluate given their level of prominence within an Investment Program. Accordingly, in response to comments, FINRA also is amending the Original Proposal to include the same job function analysis for any dual employee that is one of the ten highest paid executives in an Investment Program, based on his or her non-transaction-based compensation.[41]

iv. Training and Education Meetings, Legal Services, and Advertising and Sales Materials

The Original Proposal would have allocated to underwriting compensation fees and payments for training and education meetings, legal services provided to a broker-dealer participating in the offering and advertising and sales material generated by a broker-dealer participating in the offering.[42] Two commenters supported these provisions, while another commenter recommended technical changes.[43] FINRA has amended this proposal to include contributions to conferences and meetings held by non-affiliated members for their registered representatives.[44]

v. Due Diligence

The Original Proposal would have eliminated the 0.5 percent limit on due diligence expenses under Rule 2810 and would have required that due diligence expenses combined with issuer expenses not exceed the limits on O & O expenses in Rule 2810(b)(4)(B)(i).[45] The Original Proposal also would have required that a member not accept any payments or reimbursements for due diligence expenses unless they are included in a detailed and itemized invoice that is presented by the member to the program sponsor or other entity that pays or reimburses due diligence expenses.[46]

Two commenters supported the proposed rule change.[47] Two commenters stated that the proposed rule change should allow due diligence expense reimbursements without a detailed and itemized invoice, and permit such expenses to be included in the 10 percent compensation limitation as a non-accountable expense, which is subject to a limit of up to three percent of the offering proceeds pursuant to NASD Rule 2710(f)(2)(B).[48] One commenter also requested clarification that any payments for due diligence

[36] Proposed amendment to Rule 2810(b)(4)(C)(ii)(b). If a dual employee receives compensation for services provided in connection with more than one public offering, or for private placements in addition to offerings of Investment Programs, payments to such employees may be reasonably allocated between the offerings based on the time periods in which the employee was engaged in the offerings, if they are distinct, or based on the relative size of the offerings.

[37] Proposed amendment to Rule 2810(b)(4)(C)(ii)(c). Notwithstanding the exemption in Rule 1060(a)(1) and the proposed amendment to Rules 2810(b)(4)(C)(ii)(b)–(c) discussed above, certain persons whose functions are solely and exclusively clerical or ministerial may choose to be registered as representatives. *See* Rule 1031(a).

[38] Under the alternative approach suggested by the ABA Committee and IPA, an Investment Program that misallocated payments to dual employees to issuer expenses instead of underwriting compensation would, compared to its competitors, have more offering proceeds available under the compensation limits to market and sell its securities.

[39] Original Proposal amendment to Rule 2810(b)(4)(C)(ii)(b).

[40] IPA, Massachusetts Securities Division and NASAA.

[41] Proposed amendment to Rule 2810(b)(4)(D).

[42] Original Proposal amendment to Rule 2810(b)(4)(C)(iii)(c).

[43] The Massachusetts Securities Division and NASAA supported the proposal. The ABA Committee recommended deleting ''legal services'' from the proposal because it would be duplicative of NASD Rule 2710(C)(3)(iii).

[44] Proposed amendment to Rule 2810(b)(4)(C)(ii)(d).

[45] Instead, the maximum amount of O & O expenses would have remained fifteen percent of the gross proceeds of the offering (which amount would include: (1) Issuer expenses; (2) compensation up to the maximum of ten percent of gross proceeds; and (3) due diligence expenses that are supported by a detailed and itemized invoice).

[46] Proposed amendment to Rule 2810(b)(4)(B)(vii).

[47] Massachusetts Securities Division and NASAA.

[48] ABA Committee and IPA.

expenses that are made pursuant to a detailed and itemized invoice will not be included in the 10 percent limit on underwriting compensation.[49]

Rule 2810 currently permits members to receive compensation up to 10 percent of the offering proceeds for services rendered in a distribution. These payments may include un-itemized expense allowances of up to three percent of the offering proceeds. FINRA agrees that it is reasonable to include un-itemized due diligence expenses as part of the underwriting compensation. FINRA, therefore, is amending the proposal to include, as part of underwriting compensation, due diligence reimbursements without a detailed and itemized invoice.[50] However, any member seeking to include due diligence expense as part of issuer expenses must submit an itemized invoice of their actual costs incurred for bona fide due diligence expenses.[51]

FINRA is also re-proposing to eliminate the 0.5 percent limit in due diligence expenses.[52]

b. Liquidity Disclosure

Rule 2810(b)(3)(D) currently provides that prior to executing a purchase transaction in a direct participation program, a member or person associated with a member shall inform the prospective participant of all pertinent facts relating to the liquidity and marketability of the program during the terms of the investment. FINRA is concerned that some investors do not fully appreciate that the liquidation of some sponsors' programs are frequently delayed.

The Original Proposal would have amended Rule 2810(b)(3)(D) to include REITs, and would have required members and their associated persons to inform prospective investors whether the sponsor has offered prior programs for which the prospectus disclosed a date or time period when the program might be liquidated, and whether the prior programs, in fact, liquidated on or around that date or time period. In addition, members selling Investment Programs would be required to disclose to investors whether prior programs offered by the program sponsor were, in fact, liquidated on or during the date or time period disclosed in the prospectuses for those programs. For example, if a sponsor has offered ten prior programs and only two of them liquidated by the date or time period set forth in the prospectus, the member would be required to disclose these facts.

Two commenters supported the proposal.[53] One commenter objected to the proposed liquidity disclosure stating that prospectus disclosure typically includes a warning that the liquidity event or liquidation may be delayed due to market conditions and other factors.[54] In this commenter's view, the liquidity disclosure provision would unfairly characterize all situations in which a liquidity event was delayed as a ''failure'' or ''inappropriate.'' This commenter also stated that the recordkeeping burdens of the proposal and the unwarranted negative implications of such disclosure would outweigh the benefit. The commenter suggested that if a liquidity disclosure requirement were to be imposed, it should be done by an SEC rule rather than an NASD rule. Alternatively, if adopted by NASD, it should only apply to Investment Programs with fixed dates.[55]

FINRA is not persuaded by the commenter's suggestion that additional disclosure regarding historical liquidity practices necessarily creates ''unwarranted negative implications.'' Rather, FINRA believes that the proposed disclosure requirement will help investors make informed investment decisions based on the facts about a sponsor's liquidity track record. FINRA recognizes that delays in liquidity events may be due to market conditions and other factors beyond the sponsor's control, and that, under certain circumstances, investors ultimately may benefit from delays in liquidity events. When these facts are relevant, they can be conveyed in addition to the facts regarding the sponsor's liquidity track record providing investors with a complete picture of liquidity issues.

FINRA also notes that the proposal would not require a member to ''characterize'' a previous delay in liquidation. Rather, the proposed rule change would require members to inform investors whether the sponsor has previously disclosed a date or time period when prior programs may be liquidated, and whether the programs were in fact liquidated on or around that date or time period.

Therefore, FINRA is re-proposing the amendment to Rule 2810(b)(3)(D) as in the Original Proposal.

c. Sales Loads on Reinvested Dividends

The Original Proposal would have amended Rule 2810(b)(4)(B)(vi) to prohibit sales loads on reinvested dividends for Investment Programs after the effective date of the proposed rule change. Two commenters strongly agreed with this proposal.[56]

FINRA is re-proposing this amendment to Rule 2810(b)(4)(B)(vi).

d. Non-Cash Compensation Provisions

i. Location of Training and Education Meetings

The Original Proposal would have amended the current non-cash compensation rule to provide that an ''appropriate location'' for training and education meeting may include a location at which a significant or representative Investment Program asset is located.[57] This provision would recognize that an important part of bona fide training and education meetings for Investment Programs may be inspecting real estate, oil and gas production facilities, and other types of assets that will be held and managed by the program,[58] and would provide that a training and education meeting may include a location at which a ''significant or representative'' asset is located.

Commenters generally supported this aspect of the proposal;[59] however, one commenter suggested that the rule should explicitly state that the non-cash compensation provision applies to public offerings, and not private placements.[60]

Because Rule 2810 by its terms applies only to public offerings, FINRA believes that such additional clarification in this section is

[49] ABA Committee.

[50] Proposed amendment to Rule 2810(b)(4)(B)(vii).

[51] Nothing in the proposed rule change would prohibit the inclusion of a profit margin in the due diligence expense bill of a firm that has conducted due diligence on behalf of a member and that is not a member or an affiliate of a member. *See* NASD *Notice to Members 86–66* (''Due Diligence Expense Reimbursements in Connection with Direct Participation Programs'').

[52] *See* footnote accompanying existing Rule 2810(b)(4)(B)(i).

[53] Massachusetts Securities Division and NASAA.

[54] ABA Committee.

[55] *Id.*

[56] Massachusetts Securities Division and NASAA.

[57] Proposed amendment to Rule 2810(c)(2)(C)(ii).

[58] As discussed above, FINRA proposes to amend Rule 2810 so that the Rule's compensation, disclosure and non-cash compensation provisions expressly govern illiquid REITs (*i.e.*, REITs as defined in Rule 2340(d)(4)). The proposed rule change would not amend the non-cash compensation provisions in Rule 2710, which currently are identical to those in Rule 2810. Accordingly, the non-cash compensation provisions regarding the location of training and education meetings will be different for exchange-traded REITs under Rule 2710 and illiquid REITs under Rule 2810.

[59] IPA, Massachusetts Securities Division and NASAA.

[60] IPA (noting that it understands from conversations with NASD staff that the non-cash compensation rules are not intended to apply to private placements).

unnecessary. FINRA is re-proposing the amendment to Rule 2810(c)(2).

ii. Total Production and Equal Weighting Requirements

In connection with the Original Proposal, NASD stated that it was considering future amendments to Rule 2810 to incorporate the total production and equal weighting conditions for internal sales contests in its Investment Company Rule (Rule 2820) and Variable Contracts Rule (Rule 2830) in the context of a broader non-cash compensation rulemaking initiative.[61]

Two commenters urged NASD to abolish sales contests because they create incentives that are contrary to the obligations broker-dealers have to their customers, such as fair dealing.[62] As noted above, FINRA will consider these issues in future rulemaking.

e. Effective Date of the Proposed Rule Change

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[63] which require, among other things, that FINRA 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. The proposed rule change would codify FINRA's longstanding policy of applying certain regulatory requirements in Rule 2810 to REITs. In context of Investment Programs, FINRA believes that clarifying the standards for determining the fairness and reasonableness of compensation, treating the use and allocation of offering proceeds in a more explicit and objective manner, requiring disclosure regarding the liquidity of prior programs offered by the same sponsor, prohibiting sales loads on reinvested dividends and enabling bona fide training and education meetings to take place at appropriate locations, are measures designed to prevent fraudulent practices, promote just and equitable principles of trade, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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

The Commission published the proposed rule change in the **Federal Register** on July 17, 2006.[64] The comment period closed on August 7, 2006. The Commission received six comments in response to the **Federal Register** publication of the proposal. The comments are summarized in Item II above.

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, 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–NASD–2005–114 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–2005–114. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–2005–114 and should be submitted on or before February 21, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1725 Filed 1–30–08; 8:45 am]

BILLING CODE 8011–01–P

[61] *See Notice to Members 05–40.*

[62] Massachusetts Securities Division and NASAA.

[63] 15 U.S.C. 78o–3(b)(6).

[64] *See* Securities Exchange Act Release No. 54118 (July 10, 2006), 71 FR 40569 (July 17, 2006).

[65] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57198; File No. SR–NASDAQ–2007–094]

Self-Regulatory Organizations; The NASDAQ Stock Market, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Notification Requirements for Issuers Making Distributions to Shareholders

January 24, 2008.

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 30, 2007, The NASDAQ Stock Market, LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Nasdaq. Nasdaq has designated the proposed rule change as constituting a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon receipt of this filing by 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

Nasdaq proposes a rule change to include in the Nasdaq rule manual the notification requirements for issuers making distributions to shareholders.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.[4]

* * * * *

4310. Listing Requirements for Domestic and Canadian Securities

(a)–(b) No Change.

(c)(1)–(24) No Change.

(c)(25) *In the case of any dividend action or action relating to a stock distribution of a listed stock the issuer shall, no later than 10 calendar days prior to the record date of such action:* [[Reserved]]

(i) Notify Nasdaq by filing the appropriate form as designated by Nasdaq; and

(ii) Provide public notice using a Regulation FD compliant method.

Notice to Nasdaq should be given as soon as possible after declaration and, in any event, no later than simultaneously with the public notice.

(c)(26)–(30) No Change.

* * * * *

4320. Listing Requirements for Non-Canadian Foreign Securities and American Depository Receipts

(a)–(d) No Change.

(e)(1)–(20) No Change.

(e)(21) *In the case of any dividend action or action relating to a stock distribution of a listed stock the issuer shall, no later than 10 calendar days prior to the record date of such action:* [[Reserved]]

(i) Notify Nasdaq by filing the appropriate form as designated by Nasdaq; and

(ii) Provide public notice using a Regulation FD compliant method.

Notice to Nasdaq should be given as soon as possible after declaration and, in any event, no later than simultaneously with the public notice.

(e)(22)–(26) No Change.

(f) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

Pursuant to SEC Rule 10b–17,[5] a national securities exchange may establish procedures under which an issuer must provide notice to the exchange no later than 10 calendar days prior to the record date of a dividend or other distribution in cash or in kind, including a dividend or distribution of any security. Nasdaq has implemented this requirement through procedures posted on its Web site at *http://www.nasdaq.com/about/FAQsMarketIntegrity.stm.*

Upon receipt of an issuer's notification information regarding an upcoming distribution to shareholders, and in accordance with Nasdaq Rule 11140, Nasdaq Corporate Data Operations Staff thereafter determines the ''ex'' date for the distribution and announces that information to the marketplace via a Daily List, which is a daily publication of all newly announced dividends. The information on the Daily List includes, among other things, the record date, payment date, payment amount and all new ex date rulings in order to provide the marketplace with the information necessary to adjust the price of the security on the ex date to represent the value of the dividend.

The proposed rule text specifically incorporates the 10 day notice period set forth in SEC Rule 10b–17. Additionally, the proposed rule language requires that an issuer provide such notice through the use of appropriate Nasdaq forms and through the use of a Regulation FD compliant method to help ensure that both Nasdaq and the public are appropriately alerted in a timely manner as to any upcoming distributions to shareholders.

Nasdaq believes that adopting a listing standard in this area, rather than relying on procedures described on a Web site, will provide greater transparency to issuers and investors and reduce the likelihood of untimely notification of dividend declarations. Moreover, we note that both the New York Stock Exchange LLC (''NYSE'') and the American Stock Exchange, LLC (''Amex'') have each already adopted rules that implement SEC Rule 10b–17 as to their listed issuers.[6] Thus, adoption of a Nasdaq listing standard will provide uniformity throughout the markets. Nasdaq's proposed rule is consistent in all respects with the procedures on its Web site.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Untimely notification of dividend declarations may have a negative impact on the marketplace in the form of a late ex date ruling so it is in the best interests of the marketplace that Nasdaq reflect its notification requirements in the Nasdaq manual.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *www.complinet.com/nasdaq.*

[5] 17 CFR 240.10b–17.

[6] *See* NYSE Rule 204.12 and Amex Rule 830.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder[10] because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate.

A proposed rule change filed under Rule 19b–4(f)(6) may not become operative prior to 30 days after the date of filing unless the Commission designates a shorter time if such action is consistent with the protection of investors and the public interest.[11] Nasdaq has requested that the Commission waive the 30-day operative delay, which would make the rule change operative immediately upon filing with the Commission. The Commission believes waiving the 30-day operative date is consistent with the protection of investors and the public interest because the proposed rule change provides greater transparency to issuers and investors and may reduce the likelihood of untimely notification of dividend declarations.[12] For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act,[13] the Commission may summarily abrogate the 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–NASDAQ–2007–094 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–NASDAQ–2007–094. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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–2007–094 and should be submitted on or before February 21, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1731 Filed 1–30–08; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to 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 of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that Nasdaq has satisfied the five-day pre-filing notice requirement.

[12] For purposes only of waiving the 30-day pre-operative period, the Commission has considered the impact of the proposed rule change on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11158 and # 11159]

Massachusetts Disaster # MA–00013

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Massachusetts dated 01/25/2008.

Incident: Fire.

Incident Period: 01/21/2008.

Effective Date: 01/25/2008.

Physical Loan Application Deadline Date: 03/25/2008.

Economic Injury (Eidl) Loan Application Deadline Date: 10/27/2008.

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: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Essex.

Contiguous Counties:

Massachusetts: Middlesex and Suffolk.

New Hampshire: Hillsborough and Rockingham.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.500
Homeowners Without Credit Available Elsewhere	2.750
Businesses With Credit Available Elsewhere	8.000

	Percent
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11158 5 and for economic injury is 11159 0.

The States which received an EIDL Declaration # are Massachusetts and New Hampshire.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: January 25, 2008.

Steven C. Preston,

Administrator.

[FR Doc. E8–1779 Filed 1–30–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IV North Florida District Advisory Council; Public Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app.2, section10(a)(2), notice is hereby given that the U.S. Small Business Administration North Florida District Advisory Council will host a public meeting on Thursday, February 7, 2008 at 12 p.m. EST. The meeting will take place at the Jacksonville Port Authority located at 9810 August Dr., Jacksonville, FL 32226.

The purpose of the meeting is to discuss such matters that may be presented by members, and staff of the U.S. Small Business Administration, or others present. The agenda items will include a presentation by JaxPort Executive Director Rick Ferrin as well as matters of the SBA including loan reports and goals status for FY 2008. Anyone wishing to make an oral presentation to the Board must contact Wilfredo J. Gonzalez, District Director, in writing by letter or fax no later than Monday, February 4, 2008, in order to be placed on the agenda. Wilfredo J. Gonzalez, District Director, U.S. Small Business Administration, 7825 Baymeadows Way; Suite 100B, Jacksonville, FL 32256; Telephone (904) 443–1900 or FAX (904) 443–1980.

Cherylyn Lebon,

Committee Management Officer.

[FR Doc. E8–1767 Filed 1–30–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINSITRATION

Houston District Advisory Council; Public Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(a)(2), notice is hereby given that the U.S. Small Business Administration Houston District Advisory Council will hold a federal public meeting on Friday February 8, 2008, starting at 11 a.m. The meeting will take place at the U.S. Small Business Administration, Houston District Office, located at 8701 S. Gessner, Suite 1200, Houston, TX 77074.

The purpose of the meeting is to discuss the following: Houston District Office Performance for 2007; Houston District Office Goals for 2008; National SBA Initiative; Local Issues from the Advisory Council Members; the Role of the District Offices through Centralization including Marketing, Processing and Legal; Community Express Loans; 504 Loans; 7(a) Loans; Patriot Express Loans; 8(a) Certification; SBA's Resource Partners—SBDC and SCORE; Small Business Week Awards Luncheon; MID America.

For further information, please contact Alfreda Crawford, Business Development Specialist, at the U.S. Small Business Administration, Houston District Office, 8701 S. Gessner, Suite 1200, Houston, TX 77074; e-mail, *Alfreda.Crawford@sba.gov*; telephone (713) 773–6555.

Cherylyn Lebon,

Committee Management Officer.

[FR Doc. E8–1773 Filed 1–30–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Advisory Council; Public Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. APP. 2, section 10(a)(2), notice is hereby given that the U.S. Small Business Administration (SBA) National Advisory Council (NAC) will hold a public meeting on Thursday, January 31, 2008 at 2 p.m. (eastern). The purpose of the meeting is to discuss and outline FY 2008 projects for the NAC.

The meeting will be open to the public. Anyone wishing to participate must contact Mina Wales or Adrienne Abney-Cole by phone or e-mail in order to be added to the agenda. Mina Wales, NAC Designated Federal Officer, 202–205–7180, *Mina.Wales@sba.gov* or Adrienne Abney-Cole, NAC Committee Management Specialist, 202–205–6742, *Adrienne.Abney-Cole@sba.gov.*

The meeting will take place using an audio conferencing system. To participate, please call our toll free conferencing service at 1–866–740–1260 and enter access code 3711001 at the prompt.

For more information about the National Advisory Council, please visit our Web site at *http://www.sba.gov/nac/index.html.*

Cherylyn Lebon,

Committee Management Officer.

[FR Doc. E8–1768 Filed 1–30–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 6087]

30-Day Notice of Proposed Information Collection: Land Border Crosser Survey (Passport Demand Study Phase II), OMB No.1405–0177, SV–2007–0021

ACTION: Notice of request for public comments and submission to OMB of proposed information collection.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Land Border Crosser Survey (Passport Demand Study Phase II)
- *OMB Control Number:* OMB No.1405–0177
- *Type of Request:* Extension of a Currently Approved Collection
- *Originating Office:* Bureau of Consular Affairs, Passport Services Office: CA/PPT
- *Form Number:* SV–2007–0021
- *Respondents:* A nationally representative sample of the United States land border crosser population
- *Estimated Number of Respondents:* 4,000 respondents per survey
- *Estimated Number of Responses:* 8,000 responses per year.
- *Average Hours Per Response:* 10 minutes
- *Total Estimated Burden:* 1,334 hours annually
- *Frequency:* Passport will conduct the land border survey semi-annually (twice per year).
- *Obligation to Respond:* Voluntary.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to March 3, 2008.

ADDRESSES: Direct comments and questions to Katherine Astrich, the

Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached on 202–395–4718. You may submit comments by any of the following methods:

• E-mail: *kastrich@omb.eop.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 Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

• Fax: 202–395–6974

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 Alan J. Swygert, 2100 Pennsylvania Ave., NW., SA–29, Room 3002, Washington, DC 20520, who may be reached on 202–663–2647 or at *swygertaj@state.gov*, or to Christine Grauer, 2100 Pennsylvania Ave., NW., SA–29, Room 3067, Washington, DC 20520, who may be reached on 202–663–2751 or at *grauercl@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:

Section 7209 of the Intelligence Reform and Terrorism Prevention Act (IRTPA), enacted on December 17, 2004, requires the Secretary of Homeland Security (DHS), in consultation with the Secretary of State, to develop expeditiously, and implement a plan to require U.S. citizens and certain other categories of individuals to present a passport or other sufficient documentation of identity and citizenship when entering the U.S. This law has had significant effect on travel to Canada, Mexico, and the Caribbean.

Land border crossings represent the largest number of U.S. Visitor and Immigrant Status Indicator Technology (U.S. VISIT) Customs and Border Protection (CBP) inspections. Early data suggests that this population may have the greatest impact on passport demand. Given these new estimates for passport demand, CA/PPT is working to increase and manage its personnel and capital resources for the next several years. In support of these efforts, CA/PPT plans to conduct semi-annual Land Border Crosser Surveys. This additional gathering of data will provide the opportunity to refine volume and timing estimates of demand, and will help gauge public reaction to policy changes. Failure to prepare for this demand could result in delays in passport issuance and severely affect CA/PPT's ability to meet the public demand for passports.

Methodology:

Passport Services will conduct semi-annual National Land Border Crossers (LBC) Surveys. This will consist of repeat cross-sectional surveys that are nationally representative but focus specifically on land border crossers. Data collection will be conducted via RDD telephone interviews including 2,000 interviews to be completed for likely Canadian land border crossers and 2,000 interviews completed for likely Mexican land border crossers. These completed interviews will include residents of ''high density'' areas, or those within a close proximity to land border crossings, as well as some ''low density'' areas, captured by taking a much smaller sample.

Dated: January 25, 2008.

Betsey Anderson,

Acting Deputy Assistant Secretary, CA/PPT, Department of State.

[FR Doc. E8–1748 Filed 1–30–08; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 6085]

Bureau of Democracy, Human Rights and Labor DRL; Proposal Submission Instructions Open Comment

Notice: The State Department's Bureau of Democracy, Human Rights and Labor (DRL) revised its Proposal Submission Instructions (PSI) for grant awards in June 2007 to provide additional guidance to applicants and to increase formatting uniformity so that all received proposals are fairly reviewed based upon common criteria and definitions of terms.

DRL requests feedback on this revised PSI in an effort to review the effectiveness of these new guidelines. Interested organizations should complete the questionnaire below. All feedback will be reviewed. DRL reserves the right to adjust or adapt the submission instructions accordingly. Solicitation of feedback does not imply endorsement of comments received.

Questionnaires must not exceed four double-spaced pages and must be completed in Times New Roman 12 point font. Organizations are asked to submit only one questionnaire each.

Please submit one response to the questionnaire per organization to DRL no later than 5 p.m. on February 20, 2008. Questionnaires should be sent to DRL via e-mail to *SteinhelferMD@state.gov.*

We thank you for taking the time to provide your feedback to DRL.

The PSI is located on the DRL Web site: *http://state.gov/g/drl/p/c9078.htm.*

Additional Information: Proposal Submission Instructions Questionnaire

Organization Name:

Current DRL Grantee: YES or NO

Have you ever used the PSI before: YES or NO

For each section below, please highlight either Strongly Agree, Agree, Neutral, Disagree, Strongly Disagree, or Not Applicable (N/A)

General Information on Proposal Submission Instructions (PSI):

1. The PSI provides useful guidelines for developing the content and format of a proposal.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

2. The PSI is easy to understand and follow.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

Information on Technical Format Requirements:

3. The technical format requirements provide a sufficient amount of detail on the requested proposal and budget components.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

4. The 6 pages allowed for the budget narrative provides enough space to give detailed budget information.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

5. The 5 pages allowed for attachments are sufficient for providing all necessary supplemental information.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

Please use the space below to provide additional comments or to clarify responses about the Technical Format Requirements section of the PSI.

Information on Standard Forms:

6. The PSI contains adequate instructions for completing the required standard forms.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

Please use the space below to provide additional comments or to clarify responses about the Standard Form section of the PSI.

Information on Cost-Sharing:

7. The cost sharing principles outlined in the PSI are easy to implement.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

Please use the space below to provide additional comments or to clarify responses about the Cost-Sharing section of the PSI.

Information on Program Monitoring and Evaluation:

8. The Monitoring and Evaluation section of the PSI provides clear guidelines for developing a well-designed monitoring and evaluation plan.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

9. The differences between project outputs and outcomes are well-defined.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

Please use the space below to provide additional comments or to clarify responses about the Monitoring and Evaluation section of the PSI.

Information on Budget Guidelines:

10. PSI budget guidelines provide clear instructions on how to develop comprehensive summary and line-item budgets.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

11. The PSI clearly delineates what costs should be included under Administrative versus Program costs.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

12. The budget template is a helpful tool for creating a program budget.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

13. Descriptions of line-item categories are useful for developing the budget and budget narrative.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

14. My organization has a good understanding of which costs are not DRL priorities.

Strongly Agree Agree Neutral Disagree Strongly Disagree N/A

Please use the space below to provide additional comments or to clarify responses about the Budget section of the PSI:

Please use the space below to provide any additional information on the PSI content.

Dated: January 23, 2008.

Jonathan Farrar,

Acting Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State.

[FR Doc. E8–1750 Filed 1–30–08; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF STATE

[Public Notice 6088]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Community College Initiative for Egypt

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/S/U–08–03.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: April 7, 2008.

Executive Summary: The Bureau of Educational and Cultural Affairs (ECA) announces an open competition for one or more assistance awards to administer the Community College Initiative for Egypt, which will support study by Egyptian undergraduate students at accredited U.S. community colleges. The multi-year program will bring a total of 1,000 students to U.S. community colleges from Egypt. The Initiative builds on the Community College Initiative announced at the U.S. University Presidents Summit on International Education, convened by the Secretary of State and the Secretary of Education in January 2006.

The Initiative will provide quality educational programs, professional development, employment skills and a deeper understanding of American society to underserved, non-elite Egyptian students, particularly women and students in their early and mid-twenties who already have some work experience. U.S. consortia of community colleges and other combinations of U.S. community college campuses meeting the provisions described in Internal Revenue Code section 501(c)(3) may submit proposals to cooperate with the Bureau in the administration and implementation of the Fiscal Year 2008 Community College Initiative for Egypt. U.S. consortia and other combinations of U.S. community colleges must identify a lead institution to receive and administer the award. The total amount of funding available for all program and administrative costs will be approximately $15.5 million. Applicants may apply to administer the entire program or a portion thereof. Proposals should indicate the number of participants that can be accommodated at the funding level that is proposed, based on detailed calculations of program and administrative costs. In order to maximize the number of student participants under this program, it is the Bureau's expectation that significant institutional and private sector funding and cost-sharing will be made available by cooperating institutions.

I. Funding Opportunity Description

Authority: Overall grantmaking authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * * to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program is provided through legislation.

Purpose: The Community College Initiative for Egypt will demonstrate the U.S. commitment to providing access to educational opportunities for a broad range of Egyptian undergraduate students. Through community college exchange initiatives, the Bureau hopes to engage the community college sector in the United States to increase the number of international students at U.S. community colleges and to reinforce community college efforts to build international ties. U.S. community colleges can make a unique contribution to international educational exchange by demonstrating the flexibility and relevance of American higher education and the manner in which community colleges provide quality technical and first-level professional education to vital sectors of society that are essential for nations to move forward economically and politically. They can also provide a model of lower-cost community-based higher education that offers wide access to skills development for existing jobs.

Egyptian students selected for academic study at accredited U.S. community colleges under this initiative will receive educational opportunities, professional development, and an exposure to American society that will enable them to return home with unique skills and experiences with which to contribute to the growth and development of Egyptian society. Students are expected to return to Egypt promptly upon completion of their programs. Upon return, it is anticipated that these students will enter the skilled work force and fill important needs in Egypt. Funding will not be provided to support the dependents of participants in this program.

Guidelines: Applicant institutions are requested to submit a narrative outlining a comprehensive strategy for the administration and implementation of the Community College Initiative for Egypt including the following program components: Identification of accredited U.S. community colleges to host students in clusters based on one or more of the fields of study that are listed in the following section; a system for acceptance and placement of students based on the nomination of candidates by the Fulbright Commission in Egypt for final approval by ECA; development and dissemination of pre-departure orientation materials; registration of participants in SEVIS on the Bureau's behalf for which ECA will provide the principal responsible officer; organization of post-arrival orientation programming; placement of students in programs lasting, in most cases, one academic year; enrichment programming; advising, monitoring and supporting participants; evaluation; and follow-up with program alumni. An applicant institution may propose to administer the entire program or a portion thereof based on the applicant's interest and capacity in relevant fields. A proposal should be consistent with the applicant's institutional capacities and the range of fields in which the institutions have expertise.

The multi-year program will bring a total of approximately 1,000 students from Egypt to study at U.S. community colleges. We anticipate that approximately 450 to 475 students from Egypt will participate in the Fiscal Year 2008 Initiative. The budget should provide funding for round-trip travel, tuition, books, and living costs as well as costs for program administration. Cost-sharing is expected from institutions applying to cooperate with the Bureau on this Initiative. Applicant institutions are encouraged to include third-party contributions in their proposals.

For each field of study, students should be clustered at one or more colleges with a strong program of instruction in the field. In most cases, colleges will place students in certificate programs lasting one academic year. Colleges may also offer students two-year programs leading either to a certificate or an Associate Degree, where two academic years are necessary to prepare students for employment. Those proposals that focus resources on more costly two-year programs should demonstrate significant levels of cost-sharing. Proposals should anticipate the placement of students in the following fields:

- Agriculture
- Applied Engineering
- Business Management and Administration
- Health Professions including Nursing
- Information Technology
- Media
- Tourism and Hospitality Management

Pre-departure orientation materials and on-campus arrival orientation programs should be provided. The Bureau will provide support for intensive English language instruction in Egypt to those students who lack adequate English to function effectively in the U.S. classroom as evidenced by standardized test scores; this instruction in Egypt will not be the responsibility of the cooperating organization.

Applicant organizations should describe English as a Second Language programs and services that they are prepared to provide during the U.S. exchange to students needing additional language work.

Beyond the classroom, host campuses should plan to provide practical, community-oriented, and service learning opportunities to participating students. Proposals should explain how students will engage in enrichment activities, and should include creative ideas for exposing students broadly to American institutions, society and culture. For example, these activities may include volunteer work; presentations to college classes, local schools and the community; involvement with local families; and attendance at educational and cultural events with a U.S. focus.

Proposals should demonstrate depth of experience in conducting and administering complex and multi-faceted international education programs. Proposals should exhibit not only programmatic and logistical expertise but also a proven track record (four or more years) of financial management, including a demonstrated ability to manage U.S. government funds. Proposals should provide a plan for continued follow-on activity (without Bureau support), such as tracking and maintaining updated lists of all alumni and facilitating follow-up activities with alumni, including list serves. Proposals should also convey an understanding of Egypt's culture, economy, and society.

Proposal programs must conform with the Bureau requirements and guidelines outlined in the Solicitation Package, which includes the Request for Grant Proposals (RFGP), the Project Objectives, Goals and Implementation (POGI) and the Proposal Submission Instructions (PSI).

In a cooperative agreement, the Bureau is substantially involved in program activities above and beyond routine grant monitoring. Bureau activities and responsibilities for this program include:

(1) Participation in the design and direction of program activities;

(2) Approval of key personnel;

(3) Approval and input on program timelines and agendas;

(4) Guidance in execution of all program components;

(5) Review and approval of all program publicity and other materials;

(6) Approval of host campuses;

(7) Final selection of participating students;

(8) Approval of changes to students' proposed academic field or institution;

(9) Approval of decisions related to special circumstances or problems throughout duration of program;

(10) Oversight of SEVIS-related issues;

(11) Assistance with participant emergencies;

(12) Liaison with the Fulbright Commission in Egypt and desk officers for Egypt at the State Department.

A total of $15.5 million in FY 2007/FY 2008 Economic Support Funds will support one or more awards under this competition. Programs should begin on or about July 1, 2008 and will run through June 30, 2011. Awards will include funds for both the administrative and program portions of the program such as: Selection, placement and monitoring of all students starting academic programs in Fall 2009; the preparation of pre-departure orientation materials and the organization of on-campus orientation programs in the U.S. for students; oversight and monitoring of practical and service learning opportunities for students; evaluation of all aspects of the program; and the design and administration of creative programs of follow-up support and coordination with program alumni.

II. Award Information

Type of Award: Cooperative Agreement.

ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: $15,500,000 in FY 2007/FY 2008 Economic Support Funds (ESF) has been transferred to the Bureau to support this competition.

Approximate Total Funding: $15,500,000.

Approximate Number of Awards: Pending the review and approval of successful proposals, the Bureau intends to make approximately one to four awards under this competition.

Approximate Average Award: The size of the awards will depend on the number and quality of the proposals submitted, and on the distribution of fields on which the recommended proposals focus.

Anticipated Award Date: Pending availability of funds, July 1, 2008.

Anticipated Project Completion Date: June 30, 2011.

Additional Information:

Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to provide up to two additional awards to successful institutions for subsequent cohorts of students in addition to those covered by the initial award.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) including consortia of accredited U.S. community colleges, or other combinations of multiple community college campuses. Consortia must designate a lead institution to receive and administer the award.

III.2. Cost-Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost-sharing and funding in support of its programs. Cost-sharing at a significant level will be required for arrangements that include study for more than one academic year.

When cost-sharing is offered, it is understood and agreed that the applicant must provide the amount of cost-sharing as stipulated in its proposal and later included in an approved cooperative agreement. Cost-sharing may be in the form of allowable direct or indirect costs. For accountability, organizations must maintain written records to support all costs which are claimed as contributions, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110 (Revised), Subpart C.23—Cost-Sharing and Matching. In the event that the minimum amount of cost-sharing as stipulated in the approved budget is not provided, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: Bureau grant and cooperative agreement guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. Due to the scope and complexity of this program, organizations with less than a four-year track record in conducting international exchanges are ineligible to apply under this competition.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact the Office of Global Educational Programs, ECA/A/S/U, Room 349, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; telephone 202–453–8643; fax 202–453–8890; e-mail *GradKX@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/A/S/U–08–03) located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Karene Grad and refer to the Funding Opportunity Number (ECA/A/S/U–08–03) located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa. The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by cooperating organizations and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor

Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. The cooperating organizations will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the cooperating organizations will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable timeframe), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Cooperating organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe in your proposal your plans for: Overall program management, staffing, coordination with ECA and with community colleges enrolling clusters of students, and learning and service opportunities for students. Please provide a staffing plan which outlines the responsibilities of each staff person and explains which staff members will be accountable for each program responsibility.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the complete program or a portion of the program. The total funding available for this program is approximately $15,500,000 for both program and administrative costs.

Applicants may apply to administer total funds of less than $15,500,000, proportionate with the program being proposed. Please indicate clearly the number of students to be funded and the budget total for both administrative and program costs. Applicant institutions must present a summary budget as well

as breakdowns including both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program and additional budget guidance are outlined in detail in the POGI document.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: April 7, 2008.

Reference Number: ECA/A/S/U–08–03.

Methods of Submission: Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) electronically through *http://www.grants.gov*.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission, please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and ten copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/U–08–03, Program Management, ECA/EX/PM, Room 534, 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section at the U.S. embassy in Egypt for its review.

IV.3f.2. Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with *Grants.gov*.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support. Contact Center Phone: 800–518–4726. Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time. E-mail: *support@grants.gov*.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process. The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission as well as the objectives of the Community College Initiative for Egypt. Proposals should demonstrate an understanding of Egypt and of the needs of Egyptian students as related to the program goals. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity for students placed in field-related clusters. The agenda and plan should adhere to the program overview and guidelines described above.

2. Ability to achieve program objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the Community College Initiative for Egypt's objectives and plan and should address each program component.

3. Multiplier effect/impact: Proposals should strengthen long-term mutual understanding, including maximum sharing of information and individual

linkages. The proposed strategy should maximize the Program's potential to maintain community college links with Egyptian alumni.

4. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. Institutional Capacity and Ability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. Proposals should describe the applicant's knowledge of, or prior experience with, students from Egypt, and the applicant's experience in educating students in the targeted subject fields. Proposals should demonstrate an institutional record of successful exchange programs involving the hosting of international students, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants or cooperative agreements. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events. Activities should include tracking and maintaining updated lists of all alumni and facilitating follow-up activities with alumni, including electronic list serves.

7. Project Evaluation: Proposals should include a plan and methodology to evaluate the program's degree of success in meeting program objectives, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded, or quarterly, whichever is less frequent.

8. Cost-effectiveness: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through institutional direct funding contributions and private sector support. Budget estimates should be as accurate as possible over the full period of the cooperative agreement.

VI. Award Administration Information

VI.1a. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant or cooperative agreement proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.

http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one copy of the following reports:

(1) Quarterly financial reports;

(2) Annual program reports for the first and second year of the agreement;

(3) And a final program and financial report no more than 90 days after the expiration of the award.

Cooperating organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information).

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Karene Grad, Office of Global Educational Programs, ECA/A/S/U, Room 349, ECA/A/S/U–08–03, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone 202–453–8643, fax 202–453–8891, e-mail *GradKX@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/U–08–03.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: January 23, 2008.

C. Miller Crouch,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E8–1752 Filed 1–30–08; 8:45 am]

BILLING CODE 4710–05–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 October 29, 2007, vol. 72, no. 208, pages 61198–61199. The DOT/FAA certification program is implemented by Title 14 CFR parts 61 and 67. The parts prescribe minimum airman medical standards, and duration of a medical certificate.

DATES: Please submit comments by March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Medical Standards and Certification.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0034.

Form(s): FAA Forms 8500–7, 8500–8, 8500–14, 8500–20.

Affected Public: An estimated 380,000 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.3 hours per response.

Estimated Annual Burden Hours: An estimated 573,076 hours annually.

Abstract: The DOT/FAA certification program is implemented by Title 14 CFR parts 61 and 67. The parts prescribe minimum airman medical standards, and duration of a medical certificate. Information collected substantiates the applicant's eligibility.

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 January 23, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 08–426 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–M

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 October 29, 2007, vol. 72, no. 208, page 61201. This information enables the FAA to evaluate the validity of the user's request for National Airspace Data (NAS) data from FAA systems and equipment.

DATES: Please submit comments by March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: FAA Form 1200–5, NAS Data Release Request.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0668.

Form(s): FAA Form 1200–5.

Affected Public: An estimated 15 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 12 minutes per response.

Estimated Annual Burden Hours: An estimated 3 hours annually.

Abstract: This information enables the FAA to evaluate the validity of the user's request for National Airspace Data (NAS) data from FAA systems and equipment.

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 January 23, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 08–427 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–M

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 October 29, 2007, vol. 72, no. 208, page 61199–61200. Information collected is used to determine certification eligibility of Flight Engineers and Flight Navigators.

DATES: Please submit comments by March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Flight Engineers and Flight Navigators.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0007.

Form(s): FAA form 8400–3.

Affected Public: An estimated 1,036 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 30 minutes per response.

Estimated Annual Burden Hours: An estimated 505 hours annually.

Abstract: Information collected is used to determine certification eligibility of Flight Engineers and Flight Navigators.

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 January 23, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 08–428 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA–2008–0001]

Notice of Establishment of Emergency Relief Docket for Calendar Year 2008

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: As provided in 49 CFR Part 601, Subpart D (72 FR 910, Jan. 9, 2007), the Federal Transit Administration (FTA) must, by January 31 of each year, establish an Emergency Relief Docket so grantees and subgrantees affected by national or regional emergencies may request relief from administrative requirements set forth in policy statements, circulars, guidance documents and regulations. By this notice, FTA is establishing an Emergency Relief Docket for calendar year 2008.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Graves, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., Room E56–3036, Washington, DC 20590, phone: (202) 366–4011, fax: (202) 366–3809, or e-mail, *Bonnie.Graves@dot.gov.*

SUPPLEMENTARY INFORMATION: The Administrator in his/her sole discretion shall determine the need for opening the Emergency Relief Docket. It may be opened at the request of a grantee or subgrantee, or on the Administrator's own initiative. When the Emergency Relief Docket is opened, FTA will post a notice on its Web site, at *http://www.fta.dot.gov.* In addition, a notice will be posted in the docket.

In the event a grantee or subgrantee believes the Emergency Relief Docket should be opened and it has not been opened, that grantee or subgrantee may submit a petition in duplicate to the Administrator, via U.S. mail, to: Federal Transit Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; via telephone, at: (202) 366–4043; or via fax, at (202) 366–3472, requesting opening of the Docket for that emergency and including the information set forth below.

All petitions for relief from administrative requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly accessible and can be accessed 24 hours a day, seven days a week, via the Internet at *www.regulations.gov.* Petitions may also be submitted by U.S. mail or by hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave., SE., Room W12–140, Washington, DC 20590.

In the event a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office of FTA headquarters and request that FTA staff submit the petition on their behalf.

Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA–2008–0001. Grantees and subgrantees making submissions by mail or hand delivery should submit two copies.

A petition for relief shall:

(a) Identify the grantee or subgrantee and its geographic location;

(b) Specifically address how an FTA requirement in a policy statement, circular, or agency guidance will limit a grantee's or subgrantee's ability to respond to an emergency or disaster;

(c) Identify the policy statement, circular, guidance document and/or rule from which the grantee or subgrantee seeks relief; and

(d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

A petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall notify the grantee or subgrantee if it plans to reconsider a decision. FTA decision letters, either granting or denying a petition, shall be posted in the appropriate Emergency Relief Docket and shall reference the

document number of the petition to which it relates.

James S. Simpson,

FTA Administrator.

[FR Doc. 08–386 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms, and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period was published on November 26, 2007 (72 FR 66026–66028).

DATES: Comments must be submitted on or before March 3, 2008.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: John Siegler at the National Highway Traffic Safety Administration, Office of Research and Technology (NTI–132), 202–366–3976, 1200 New Jersey Ave, SE., W46–474, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Evaluation Surveys for Impaired Driving and Safety Belt Interventions.

OMB Number: 2127–0646.

Type of Request: Revision of the previously approved collection of information.

Abstract: The National Highway Traffic Safety Administration proposes to conduct a series of telephone surveys that will examine the effectiveness of multiple National and State Click It or Ticket mobilizations and impaired driving crackdowns designed to curb impaired driving and/or raise belt use. The National and State telephone surveys would be conducted during the mid 2008-mid 2011 time period. Since Congress has authorized NHTSA to spend millions of dollars annually to conduct National and State mobilizations, NHTSA must account for whether these initiatives were effective. The National telephone surveys will be administered to randomly selected samples of 1,600 persons age 18 and older. State surveys will be administered according to media markets where paid media was purchased and can range from as few as 400 participants per media market surveyed in a State. An essential part of this evaluation effort is to compare baseline and post-intervention measures of attitudes, intervention awareness, and (relevant) self-reported behavior to determine if the interventions were associated with changes on those indices.

Affected Public: Randomly selected members of the general public in telephone households.

Estimated Total Annual Burden: 27,467 hours (164,800 interviews averaging 10 minutes each).

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. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Authority: 44 U.S.C. 3506(c)(2)(A).

Marilena Amoni,

Associate Administrator, Research and Program Development

[FR Doc. E8–1758 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2008–0021]

U.S. DOT 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 March 31, 2008.

ADDRESSES: You may submit comments [identified by DOT Docket No. NHTSA–2008–0021] by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1–800–647–5527.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Complete copies of this request for collection of information may be obtained at no charge from Dennis

Flemons, NHTSA 1200 New Jersey Avenue, SE., Room W53–448 NVS–412, Washington, DC 20590. Mr. Flemons telephone number is (202) 366–5389. 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:* Fatal Accident Reporting System (FARS).

OMB Control Number: 2127–0006.

Affected Public: State, Local, or Tribal Government.

Abstract: Under both the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966, the National Highway Traffic Safety Administration (NHTSA) has the responsibility to collect accident data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and the property damage associated with motor vehicle accidents. The Fatal Accident Reporting System (FARS) is a major system that acquires national fatality information directly from existing State files and documents. Since FARS is an on-going data acquisition system, reviews are conducted yearly to determine whether the data acquired are responsive to the total user population needs. The total user population includes Federal and State agencies and the private sector.

Changes in the forms usually involve clarification adjustments to aid the user population in conducting more precise analyses, to remove ambiguity for the respondents and to differentiate data by data collection year. These changes are annual and do not affect the reporting burden of the respondent (State employees utilize existing State highway safety related files).

Other changes may involve removing outdated data elements introducing new data elements or redesigning data elements to capture higher quality data and to respond more to the needs of the user population. These changes are less frequent and affect burden very gradually. Advances in technology and systems design are incorporated to minimize the burden on the respondents.

Estimated Annual Burden: 82,407 hours.

Number of Respondents: 53.

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.

Joseph S. Carra,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. E8–1766 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket: PHMSA–07–0056]

Request for Public Comments and Office of Management and Budget (OMB) Approval of an Existing Information Collection (2137–0622)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: This notice requests public participation in the OMB approval process for the renewal of an existing Public Awareness Program information collection. PHMSA is requesting OMB approval for renewal of this information collection under the Paperwork Reduction Act of 1995 (PRA). With this notice, as required by the PRA, PHMSA invites the public to submit comments over the next 60 days on whether the existing information collection is necessary for the proper performance of the functions of the Department.

DATES: Submit comments on or before March 31, 2008.

ADDRESSES: Comments may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* DOT Docket Operations Facility (M–30), U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* DOT Docket Operations Facility, U.S. Department of Transportation, West Building, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2007–0056, at the beginning of your comments. If you mail your comments we request that you send two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard.

Note: All comments are electronically posted without changes or edits, including any personal information provided.

Privacy Act Statement

Anyone can search the electronic form of all comments received in response to 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.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: LE Herrick, at 202–366–5523, or by e-mail at *le.herrick@dot.gov.*

SUPPLEMENTARY INFORMATION: The Federal Pipeline Safety Regulations require each operator to develop and

implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate State agency. The operator's program documentation and evaluation results must also be available for periodic review by appropriate regulatory agencies. (49 CFR 192.616 and 195.440).

Pursuant to section 3506(c)(2)(A) of the PRA, PHMSA invites comments on whether the renewal of this information collection is necessary for the proper performance of the functions of the Department. These include (1) whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the proposed information collections; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. As used in this notice, the term ''information collection'' includes all work related to preparing and disseminating information related to this recordkeeping requirement including completing paperwork, gathering information, and conducting telephone calls.

Type of Information Collection Request: Renewal of Existing Collection.

Title of Information Collection: Pipeline Safety: Public Awareness Program.

Respondents: 22,500 (Old).

Estimated Total Annual Burden on Respondents: 517,480 hours. (Old).

Issued in Washington, DC, on January 24, 2008.

Barbara Betsock,

Acting Director, Office of Regulations.

[FR Doc. E8–1761 Filed 1–30–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 461X)]

BNSF Railway Company—Abandonment Exemption—in Marion County, MO

On January 11, 2008, BNSF Railway Company (BNSF) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 0.56-mile line of railroad extending between milepost 13.86 and milepost 14.42, near Palmyra, in Marion County, MO. The line traverses U.S. Postal Service Zip Code 63461, and it includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by April 30, 2008.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,300 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than February 20, 2008. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–6 (Sub-No. 461X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001, and (2) Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007. Replies to BNSF's petition are due on or before February 20, 2008.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245–0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: January 23, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–1475 Filed 1–30–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35087]

Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company; Notice Extending the Public Scoping Period

AGENCY: Surface Transportation Board, Department of Transportation.

ACTION: Notice extending the public scoping period.

SUMMARY: The Surface Transportation Board's Section of Environmental Analysis (SEA) announces the extension of the scoping period for the Environmental Impact Statement (EIS) that is being prepared in connection with an application filed by Canadian National Railroad Company (CN) to acquire certain rail lines of the Elgin, Joliet & Eastern Railroad (EJ&E). SEA is preparing an EIS because the Surface Transportation Board has determined that the proposed acquisition has the potential to result in significant effects upon the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA).

DATES: The scoping period on the EIS is extended through February 15, 2008.

ADDRESSES: If you wish to submit written comments regarding the attached proposed draft scope, please send your comments to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423. Attention: Phillis Johnson-Ball, Environmental Filing, STB Finance Docket No. 35087.

Environmental comments may also be filed electronically on the Board's Web site, *http://www.stb.dot.gov,* by clicking on the ''E_FILING'' link. You do not

need a Login Account to submit Environmental Comments. Simply click on ''Environmental Comments,'' which will take you to the comment screen. Add the Docket number, which is ''FD 35087.'' Select ''Phillis Johnson-Ball'' in the drop down list under ''attention of.'' Then complete the form by adding your name, address, phone and email, then click ''Submit.''

You may also call your comments into SEA's toll-free hotline established for this proceeding. Dial 1–800–347–0689 and leave your comments after the tone. Please refer to STB Finance Docket No. 35087 in all correspondence, including E-filings, addressed to the Board.

Following these directions will help ensure that your comments are considered in the environmental review process for this proposed acquisition. In addition, SEA will add your name to its mailing list for distribution of the final scope of the EIS, the DEIS, and Final EIS (FEIS).

FOR FURTHER INFORMATION CONTACT: Ms. Phillis Johnson-Ball, SEA Project Manager, toll-free at 1–800–347–0689 (TDD for the hearing impaired 1–800–877–8339). The Web site for the Surface Transportation Board is *http://www.stb.dot.gov.* This document is available in English and Spanish by calling the toll-free number at 1–800–347–0689.

SUPPLEMENTARY INFORMATION: On October 30, 2007, Canadian National Railway Corporation (CN) and Grand Trunk Corporation (GTC), a noncarrier holding company through which CN controls its U.S. rail subsidiaries, filed an application with the Surface Transportation Board (Board) seeking the Board's approval of the acquisition of control of EJ&E West Company (EJ&EW), a wholly owned noncarrier subsidiary of Elgin, Joliet and Eastern Railway Company (EJ&E). In this document, the action before the Board will be referred to as the proposal or the proposed acquisition and CN and GTC will be referred to collectively as CN or as Applicants.

CN is one of Canada's two major railroads, extending from Halifax, Nova Scotia, to Vancouver and Prince Rupert, British Columbia. EJ&E is a Class II railroad that currently operates over 198 miles of track in northeastern Illinois and northwestern Indiana, consisting primarily of an arc around Chicago, IL, extending from Waukegan, IL, southwards to Joliet, IL, then eastward to Gary, IN, and then northwest to South Chicago along Lake Michigan. EJ&E provides rail service to approximately 100 customers, including steel mills, coal utilities, plastics and chemical producers, steel processors, distribution centers, and scrap processors.

Applicants' proposed acquisition of the EJ&E would shift rail traffic currently moving over CN's rail lines inside the EJ&E arc in Chicago to the EJ&E, which traverses the suburbs generally to the west and south of Chicago. Rail traffic on CNR lines inside the EJ&E arc would generally decrease. The decreases in rail traffic would be offset by increases in the number of trains operating on the EJ&E rail line outside of Chicago (approximately 15–27 more trains would operate on various segments of the EJ&E). Applicants also proposed to construct six new rail connections and approximately 19 miles of new sidings/double tracking. Applicants give three primary reasons for seeking approval of the proposed acquisition: Improved rail operations in the Chicago area; availability to EJ&E's Kirk Yard in Gary, Indiana, and other smaller facilities in Joliet, Illinois, and Whiting, Indiana; and improved service to companies dealing in steel, chemicals, and petrochemicals, as well as Chicago area utilities.

Because this proposal has the potential to result in significant environmental impacts, the Board has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. To help determine the scope of the EIS, and as required by the Board's regulations at 49 CFR 1105.10(a)(2), SEA published in the **Federal Register** and made available to the public on December 21, 2008, the Notice of Availability of Draft Scope of Study for the EIS, Notice of Scoping Meetings, and Request for Comments. SEA held seven public scoping meetings in the project area between on January 9 and 22, 2008. The scoping comment period originally concluded February 1, 2008, but, in response to requests, SEA is extending the scoping period an additional 14 days, to February 15, 2008.

Decided: January 30, 2008.

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–1859 Filed 1–30–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the President's Advisory Council on Financial Literacy

AGENCY: Office of Financial Education, Treasury.

ACTION: Notice of meeting.

SUMMARY: The President's Advisory Council on Financial Literacy (Council) will convene its first meeting on Wednesday, February 13, 2008, in the Cash Room of the Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC, beginning at 10 a.m. Eastern Time. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, February 13, 2008, at 10 a.m. Eastern Time.

ADDRESSES: The President's Advisory Council on Financial Literacy will convene its first meeting in the Cash Room of the Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC. The public is invited to submit written statements to the Council. Send written statements in triplicate to the address identified below in the **FOR FURTHER INFORMATION CONTACT** section of this notice. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Edwin Bodensiek, Director of Outreach, Department of the Treasury, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220; *ed.bodensiek@do.treas.gov.*

SUPPLEMENTARY INFORMATION: By this notice, the Department of the Treasury is announcing that the President's Advisory Council on Financial Literacy will convene its first meeting on Wednesday, February 13, 2008, in the Cash Room in the Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC, beginning at 10 a.m. Eastern Time. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must contact the Office of Financial Education at 202–622–1783 by 5 p.m. Eastern Time on Monday, February 11, 2008, to inform the Department of their desire to attend the meeting and to provide the information that will be required to facilitate entry into the Main Department Building. To enter the building, attendees should provide their full name, date of birth, social security number, organization, and country of citizenship. The purpose of this meeting is to discuss general organizational matters of the President's Advisory Council on Financial Literacy and begin discussing the issues concerning financial literacy.

The Federal Advisory Committee Act (5 U.S.C. App), and implementing regulations, requires notice in the **Federal Register** 15 days in advance of a committee meeting. An agency may give less than 15 days in exceptional circumstances. This Council was created by Executive Order 13458, which was published in the **Federal Register** on January 24, 2008. The Council wishes to convene as soon as possible so that it can begin its work to educate the American people about matters pertaining to their finances, including mortgage indebtedness issues. To better meet the needs of the public on these timely matters, the Council is holding its first meeting on February 13, 2008. This notice period is being shortened by a few days for this purpose.

Dated: January 28, 2008.

Dan Iannicola, Jr.,

Deputy Assistant Secretary, Office of Financial Education.

[FR Doc. 08–447 Filed 1–29–08; 9:03 am]

BILLING CODE 4811–42–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 of Meeting.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted (via teleconference). 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, March 18, 2008.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: An open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, March 18, 2008, from 9 a.m. to 10 a.m. Eastern Time via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Audrey Y. Jenkins. 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: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1710 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference). 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, March 19, 2008, at 2:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Inez E. DeJesus 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 Wednesday, March 19, 2008, at 2:30 p.m. Eastern Time via a telephone conference call. 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. DeJesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. DeJesus. Ms. DeJesus 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: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1712 Filed 1–30–08; 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 of meeting.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted (via teleconference). 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, March 18, 2008, at 12:30 p.m. Eastern Time.

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, March 18, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. 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. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with 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: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1713 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 18, 2008, at 1 p.m., Central Time.

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 a meeting of the Area 4 Taxpayer Advocacy Panel will be held Tuesday, March 18, 2008, at 1 p.m., Central Time via a telephone conference call. 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, 211 West Wisconsin Avenue, 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 dial-in information.

The agenda will include the following: Various IRS issues.

Dated: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1711 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. 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, March 11, 2008, at 9:30 a.m. Central Time.

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 a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, March 11, 2008, at 9:30 a.m. Central Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, 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 dial-in information.

The agenda will include the following: Various IRS issues.

Dated: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1709 Filed 1–30–08; 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 (via teleconference). 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, March 4, 2008.

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 Taxpayer Advocacy Panel will be held Tuesday, March 4, 2008, from 1 p.m. Pacific Time to 2:30 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. 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. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1720 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). 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 Wednesday, March 19, 2008.

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

Wednesday, March 19, 2008, from 2 p.m. to 3:30 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. 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. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Miss Spinks can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1708 Filed 1–30–08; 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 Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be conducted. 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 Thursday, March 13, 2008.

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 a meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be held Thursday, March 13, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various IRS Issues.

Dated: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1707 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted (via teleconference). 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, March 12, 2008.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 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 Issue Committee will be held Wednesday, March 12, 2008, from 1 to 2 p.m. Eastern Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with 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.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1715 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). 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, March 19, 2008.

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, March 19, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. 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. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with 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: January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1716 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. 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, March 11, 2008.

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 a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, March 11, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY, 11201, or you can contact us at *http://www.improveirs.org*. Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various VITA Issues.

Dated January 17, 2008.

Sandra L. McQuinn,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1717 Filed 1–30–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). 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, March 4, 2008.

FOR FURTHER INFORMATION CONTACT: Inez DeJesus 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 IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be held Tuesday, March 4, 2008, at 2 p.m. Eastern Time via a telephone conference call. 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 DeJesus, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez DeJesus. Ms. DeJesus can be reached at 1–888–912–1227 or 954–423–7977, or you can post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1718 Filed 1–30–08; 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 of Meeting.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). 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 Tuesday, March 25, 2008.

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 Tuesday, March 25, 2008, from 9 a.m. Pacific Time to 10:30 a.m. Pacific Time via a telephone conference call. 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. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *www.improveirs.org*.

The agenda will include the following: Various IRS issues.

Dated January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1719 Filed 1–30–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via conference call. 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, March 5, 2008.

FOR FURTHER INFORMATION CONTACT: Patricia Robb at 1–888–912–1227 or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, March 5, 2008, at 2 p.m. Eastern Time via a conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or (414) 231–2360, or write Patricia Robb, TAP Office, MS–1006–MIL, 211 West Wisconsin Avenue,

Milwaukee, WI 53203–2221, or FAX to (414) 231–2363, or you can contact us at *http://www.improveirs.org*. For information to join the Joint Committee meeting, contact Patricia Robb at the above number.

The agenda will include the following: Discussion of issues and responses brought to the joint committee, office report, and discussion of annual meeting.

Dated January 17, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–1721 Filed 1–30–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Minimum Security Devices and Procedures

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before March 31, 2008.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, and NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Ira L. Mills (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Minimum Security Devices and Procedures.

OMB Number: 1550–0062.

Form Number: N/A.

Description: The requirement that savings associations establish a written security program is necessitated by the Bank Protection Act (12 U.S.C. 1881–1884), which requires the Federal supervisory agencies to promulgate rules establishing minimum standards with which each financial institution must comply with respect to the installation, maintenance, and operation of security devices and procedures to discourage robberies, burglaries, and larcenies, and to assist in the identification and apprehension of persons who commit such acts.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit: Federal Government.

Estimated Number of Respondents: 832.

Estimated Number of Responses: 832.

Estimated Time per Respondent: 2 hours.

Estimated Frequency of Response: Annually.

Estimated Total Burden: 1,664 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: Janurary 28, 2008.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E8–1792 Filed 1–30–08; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0629]

Proposed Information Collection (Application for Extended Care Services); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine eligibility for extended care benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 31, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov.* Please refer to ''OMB Control No. 2900–0629'' 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: Mary Stout (202) 461–5867 or FAX (202) 273–9381.

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, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Extended Care Services, VA Form 10–10EC.

OMB Control Number: 2900–0629.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–10EC is used to gather current income and financial information from nonservice-connected veterans and their spouse when applying for extended care services and to establish a co-payment agreement for such services. VA provides extended care to non-service connected veterans who are unable to defray the necessary expenses of care if their income is not greater than the maximum annual pension rate. VA uses the data collected to establish the veteran's eligibility for extended care services, financial liability, if any, of the veteran to pay if accepted for placement or treatment in extended care services, and to determine the appropriate co-payment.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 9,000 hours.

Estimated Average Burden per Respondent: 90 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,000.

Dated: January 23, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–1673 Filed 1–30–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0086]

Proposed Information Collection (Request for a Certificate of Eligibility for VA Home Loan Benefits); 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 for information needed to determine an applicant's eligibility for loan guaranty benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 31, 2008.

ADDRESSES: Submit written comments on the collection of information through *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 to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0086'' 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) 461–9769 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: Request for a Certificate of Eligibility for VA Home Loan Benefits, VA Form 26–1880.

OMB Control Number: 2900–0086.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 26–1880 is used to determine a claimant's eligibility for home loan guaranty benefits. Claimants also use VA Form 26–1880 to request restoration of entitlement previously used, or a duplicate Certificate of Eligibility due to the original being lost or stolen.

Affected Public: Individuals or households.

Estimated Annual Burden: 62,500 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 250,000

Dated: January 17, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–1675 Filed 1–30–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0704]

Agency Information Collection (VA/DOD Joint Disability Evaluation Board Claim) Under OMB Review

AGENCY: Veterans Benefits Administration, 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 Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information 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 March 3, 2008.

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. 2900–0704'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0704.''

SUPPLEMENTARY INFORMATION:

Title: VA/DOD Joint Disability Evaluation Board Claim, VA Form 21–0819.

OMB Control Number: 2900–0704.

Type of Review: Extension of a currently approved collection.

Abstract: As a result of President Bush's Interagency Task Force on Returning Global War on Terror Heroes, VA and the Department of Defense (DOD) have agreed to develop a joint process in which Global War on Terror (GWOT) service members are evaluated to assign disability ratings, which will be used to determine military retention, level of disability for retirement, and VA disability compensation. VA Form 21–0819 will be used to gather the necessary information to determine the service member's eligibility for participation in a joint DOD/VA Disability Evaluation Board and VA compensation after separation from service.

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 November 6, 2007, at page 62733.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 14,000.

Dated: January 17, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–1676 Filed 1–30–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0663]

Agency Information Collection (Pay Now Enter Info Page) Under OMB Review

AGENCY: Office of Management, 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 Management (OM), Department of Veterans Affairs, will submit the collection of information 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 March 3, 2008.

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. 2900–0663'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0663.''

SUPPLEMENTARY INFORMATION:

Title: Pay Now Enter Info Page.

OMB Control Number: 2900–0663.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants who participated in VA's benefit programs and owe debts to VA can voluntary make online payments through VA's Pay Now Enter Info Page Web site. Data enter on the Pay Now Enter Info Page is redirected to the Department of Treasury's Pay.gov Web site allowing claimants to make payments with credit or debit cards, or directly from their bank account. At the conclusion of the transaction, the claimant will receive a confirmation acknowledging the success or failure of the transaction.

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 November 16, 2007, at pages 64705–64706.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,000 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Daily.

Estimated Number of Respondents: 30,000.

Dated: January 23, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–1677 Filed 1–30–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0028]

Agency Information Collection (Application of Service Representative for Placement on Mailing List) Under OMB Review

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Office of Information and Technology (IT), Department of Veterans Affairs, will submit the collection of information 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 and includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 3, 2008.

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. 2900–0028'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0028.

SUPPLEMENTARY INFORMATION:

Titles:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215.

b. Request for and Consent to Release of Information from Claimant's Records, VA Form 3288.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2.

d. 38 CFR 1.519(A) Lists of Names and Addresses.

OMB Control Number: 2900–0028.

Type of Review: Extension of a currently approved collection.

Abstracts:

a. VA operates an outreach services program to ensure veterans and beneficiaries have information about benefits and services to which they may be entitled. To support the program, VA distributes copies of publications to Veterans Service Organizations' representatives to be used in rendering services and representation of veterans, their spouses and dependents. Service organizations complete VA Form 3215 to request placement on a mailing list for specific VA publications.

b. Veterans or beneficiaries complete VA Form 3288 to provide VA with a written consent to release his or her records or information to third parties such as insurance companies, physicians and other individuals.

c. VA Form Letter 70–2 is used to obtain additional information from a correspondent when the incoming correspondence does not provide sufficient information to identify a veteran. VA personnel use the information to identify the veteran, determine the location of a specific file, and to accomplish the action requested by the correspondent such as processing a benefit claim or file material in the individual's claims folder.

d. Title 38 U.S.C. 5701(f)(1) authorized the disclosure of names or addresses, or both of present or former members of the Armed Forces and/or their beneficiaries to nonprofit organizations (including members of Congress) to notify veterans of Title 38 benefits and to provide assistance to veterans in obtaining these benefits. This release includes VA's Outreach Program for the purpose of advising veterans of non-VA Federal State and local benefits and programs.

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 November 16, 2007, at pages 64706–64707.

Affected Public: Individuals or households, not for profit institutions, and State, local or tribal government.

Estimated Annual Burden:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—25 hours.

b. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—18,875 hours.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—3,750 hours.

d. 38 CFR 1.519(A) Lists of Names and Addresses—50 hours.

Estimated Average Burden per Respondent:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—10 minutes.

b. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—7.5 minutes.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—5 minutes.

d. 38 CFR 1.519(A) Lists of Names and Addresses—60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—150.

b. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—151,000.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—45,000.

d. 38 CFR 1.519(A) Lists of Names and Addresses—50.

Dated: January 23, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–1678 Filed 1–30–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0055]

Agency Information Collection (Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, 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 Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information 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 March 3, 2008.

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. 2900–0055'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0055.''

SUPPLEMENTARY INFORMATION:

Title: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses, VA Form 26–1817.

OMB Control Number: 2900–0055.

Type of Review: Extension of a currently approved collection.

Abstract: Unmarried surviving spouse of a veteran whose death occurred while serving on active duty or was a direct result of service-connected disabilities completes VA Form 26–1817 to request a certificate of eligibility for home loan benefits. VA uses the data collected to verify the veteran's service-connected death and to determine the applicant's eligibility for home loan benefits.

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 November 6, 2007, at pages 62732–62733.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: January 17, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–1689 Filed 1–30–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
January 31, 2008

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Tidewater Goby (Eucyclogobius newberryi); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R8–ES–2008–0010; 92210–1117–0000–B4]

RIN 1018–AU81

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Tidewater Goby (Eucyclogobius newberryi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising the critical habitat designation for the tidewater goby (*Eucyclogobius newberryi*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 10,003 acres (ac) (4,050 hectares (ha)) fall within the boundaries of the final revised critical habitat designation. The 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: This rule becomes effective on March 3, 2008.

ADDRESSES: The final rule, final economic analysis, and map of critical habitat will be available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/ventura.* Supporting documentation we used in preparing this final rule will be available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003; telephone (805) 644–1766; facsimile (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Michael McCrary, Listing and Recovery Coordinator, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, telephone (805) 644–1766 (see **ADDRESSES** section). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

It is our intent to discuss only those topics directly relevant to the revised designation of critical habitat in this final rule. For additional information on the tidewater goby, refer to the final listing rule published in the **Federal Register** on February 4, 1994 (59 FR 5494); the original proposed and final critical habitat rules published in the **Federal Register** on August 3, 1999 (64 FR 42250) and November 20, 2000 (65 FR 69693), respectively; and the proposed revised critical habitat designation published in the **Federal Register** on November 28, 2006 (71 FR 68914).

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, pg 26; Swift *et al.* 1989, pg 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, pg 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, pg 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 tidewater goby's range has not changed much over time, the tidewater 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 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 (65 FR 69693) that designated the 10 critical habitat units for the tidewater goby 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 final revised rules to the **Federal Register** no later than November 15, 2006, and November 15, 2007, respectively. On November 28, 2006, we published the proposed revised critical habitat designation for the tidewater goby in the **Federal Register** (71 FR 68914). An extension of the due date for the final critical habitat rule was approved by the court on November 19, 2007, and the Service is now required to submit the final rule to the **Federal Register** by January 18, 2008.

A draft economic analysis (DEA) for the proposed revised designation was completed on August 23, 2007, and a notice of availability for this DEA was published in the **Federal Register** on September 25, 2007 (72 FR 54411). Publication of the notice of availability opened a public comment period for the DEA as well as the proposed revised designation from September 25, 2007, to October 10, 2007. For a discussion of additional Federal actions that occurred prior to the proposed revised designation of critical habitat for this species, please refer to the Previous Federal Actions section of the proposed revised critical habitat rule for the tidewater goby (71 FR 68914).

On September 28, 2007, we completed a 5-year review for the tidewater goby. In the 5-year review we recommended that the tidewater goby be downlisted to threatened because we believe that it is not in imminent danger of extinction. The main reason for this recommendation is that the number of localities known to be occupied has more than doubled since listing (from 48 to 106). We believe this indicates the tidewater goby is more resilient in the face of severe drought events than believed at the time of listing. Furthermore, we believe threats identified at the time of listing have been reduced or are not as serious as thought. One of the main reasons why the tidewater goby was listed was because of habitat destruction and alteration. Current laws and regulations have largely eliminated the major destruction of habitat that occurred in the past along the coast of California. The 5-year review concluded that tidewater goby populations are highly dynamic and will periodically be extirpated or reach such low numbers that they cannot be detected at some localities. This is a natural occurrence within many species exhibiting a metapopulation dynamic including the tidewater goby. Although the rate of extirpation or reduction to low levels is expected to be higher during drought conditions, during wetter periods, we expect that these localities will again be occupied assuming that suitable habitat still exists.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed revised designation of critical habitat for tidewater goby in the proposed rule (71 FR 68914, November 28, 2006) and in the subsequent notice of availability for the DEA (72 FR 54411, September 25, 2007). We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed revised rule.

During the comment period that opened on November 28, 2006, and closed on January 29, 2007, we received 23 comments directly addressing the proposed revised critical habitat designation: 4 from peer reviewers, 2 from Federal agencies, 1 from the State of California, 2 from local government, and 14 from organizations or individuals. Seventeen commenters generally supported the revised designation of critical habitat for tidewater goby, 4 opposed it, and 2 were neither for nor against it. During the comment period that opened September 25, 2007, and closed on October 10, 2007, we received seven comments addressing the proposed revised critical habitat designation and/or the draft economic analysis: two from local governments and five from organizations or individuals. One commenter supported the revised designation of critical habitat for the tidewater goby, five opposed it and/or the draft economic analysis, and one was neither for nor against it. Comments received were grouped into six general issues and are addressed in the following summary and incorporated into this final rule as appropriate. We did not receive any requests for a public hearing.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from seven knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from four of the peer reviewers. The peer reviewers generally concurred with our methods and conclusions, and provided

additional information, clarifications, and suggestions to improve the final revised critical habitat rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

1. *Comment:* Four peer reviewers stated that more extant populations need to be designated or new populations established in order to potentially increase connectivity and persistence of present tidewater goby distribution and diversity.

Our Response: We have not designated all areas currently occupied by tidewater gobies as critical habitat, nor have we designated any areas that were historically occupied but are now unoccupied by the species. However, we believe the 44 critical habitat units we are designating for the tidewater goby, all of which are currently occupied, are the areas that are necessary for the conservation of the tidewater goby and, therefore, meet the definition of critical habitat in the Act. The goal of the recovery plan for the tidewater goby is to preserve the diversity of habitats that occur within the range of the species, the metapopulation structure of the species (see Criteria Used To Identify Critical Habitat section for a definition and additional details on the recovery plan for the tidewater goby), and genetic diversity (Service 2005). The recovery plan identifies 26 subunits throughout the range of the tidewater goby. We designated critical habitat in all 26 subunits included in the recovery plan, except for those on Vandenberg Air Force Base (Santa Barbara County) and Marine Corps Base, Camp Pendleton (San Diego County), which have Integrated National Resource Management Plans (INRMP) that provide protection for the tidewater goby. These areas have been exempted from this final designation of critical habitat (see Application of Section 4(a)(3) of the Act—Approved Integrated Natural Resource Management Plans section). We believe these 44 critical habitat units, in addition to those subunits covered by INRMPs, are sufficient for the conservation of the species throughout its range, as they adequately represent the variation of both the habitat and genetic composition of the species, and they will support the species' recovery. As such, we did not designate any areas that are not currently occupied (see Summary of Changes from Previously Designated Critical Habitat and 2006 Proposed Rule section for more information).

We also agree with the commenters that the introduction of new populations could potentially benefit the tidewater goby. However, we did not include any unoccupied habitat in this designation because we concluded that the 44 units we are designating are the areas essential for conservation.

2. *Comment:* Several peer reviewers stated that all available evidence suggests that the southern tidewater goby is a distinct taxon of, or equivalent to, species rank and given the critical habitat proposed, is very likely to go extinct.

Our Response: At this time, the tidewater goby is listed as a single species, following the currently accepted taxonomy for the species. If a change in the taxonomy of the tidewater goby is published in a peer-reviewed journal, we will evaluate the listing status of the species at that time. We have not designated any critical habitat in Orange and San Diego Counties because all the areas in these Counties that meet the first part of the definition of critical habitat in section 3(5)(A) of the Act (''the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species * * *'') are located on Camp Pendleton Marine Corps Base (Base). The Base has a completed INRMP that provides a conservation benefit to the tidewater goby. Section 4(a)(3) of the Act prohibits the Secretary from designating critical habitat on any lands owned or controlled by the Department of Defense that are subject to an INRMP if the Secretary has determined that such plan provides a benefit to the species for which critical habitat is being proposed for designation. As such, pursuant to section 4(a)(3) of the Act, we have exempted the Base from this final designation of critical habitat (see Application of Section 4(a)(3)—Marine Corps Base Camp Pendleton section). We also did not designate any areas outside the geographical area occupied by the species as critical habitat for the reasons given in our response to comment 1 above and the Summary of Changes from Previously Designated Critical Habitat and 2006 Proposed Rule section.

3. *Comment:* One peer reviewer stated that our identification of tidewater goby populations serving as source populations for other areas is not supported by available information.

Our Response: We are not aware of any single definition of source population that can be applied to every species. The recovery plan for the tidewater goby defines a source population as a subpopulation of a metapopulation that has an average birth rate that exceeds the average death rate, and therefore produces an excess of juveniles that may disperse to other areas (Service 2005). We do not have information on either tidewater goby population size or productivity for each occupied area. Therefore, for purposes of this rule, we have used the term ''source population'' to describe those areas that are currently occupied and have been consistently occupied for three or more consecutive years based on presence/absence survey data and published reports. We believe these areas are more likely to be capable of maintaining populations over many years and more likely to be capable of providing individuals to recruit into surrounding subpopulations.

4. *Comment:* Two peer reviewers asserted that coastal lagoon restoration plans that establish tidal salt marshes rather than brackish coastal lagoons should be included as an additional new threat.

Our Response: We acknowledge that coastal lagoon restoration projects may be a threat to tidewater goby habitat. Although we have not specifically mentioned this type of project in this rule, we consider this as a coastal development project (see Critical Habitat Designation section and the Special Management Considerations or Protection section below).

5. *Comment:* Two peer reviewers stated that critical habitat units should be related to recovery units because the units designated as they are now do not provide for recovery.

Our Response: We believe that our approach to this designation complies with the definitions in the Act, reflects the intent of the recovery plan for the tidewater goby (Service 2005), and identifies the areas essential to the conservation of the species throughout its range (see our response to comment 1 above). Developing recovery plans and designating critical habitat are not necessarily synonymous under the Act. The Act does not include specific instructions as to the areas that should be included in recovery plans, and often recovery plans include redundant areas. In comparison, critical habitat is defined in section 3(5)(A) of the Act as, ''the specific areas within the geographical area occupied by the species, at the time it is listed * * *'' Critical habitat is further defined in the Act as those specific areas, ''on which are found those physical or biological features (I) essential to the conservation of the

species and (II) which may require special management considerations or protection.'' Under section 3(5)(A)(ii) of the Act, areas outside the geographical area occupied by the species at the time it is listed may only be designated as critical habitat, ''upon a determination by the Secretary that such areas are essential for the conservation of the species.'' Each of these definitions requires us to look at what is essential to the conservation of the species. The word essential means ''absolutely necessary, indispensable.'' We interpret this as Congressional direction to designate only those areas that are indispensable to conservation, not to designate areas that may be desirable or helpful for conservation. Furthermore, section 3(5)(C) of the Act prohibits us from designating the entire geographical area which can be occupied by a species without the approval of the Secretary. Thus, we considered the 26 subunits in the recovery plan and designated critical habitat units accordingly as discussed in more detail in comment 1 above.

6. *Comment:* One peer reviewer questioned why we did not include the Smith River locality in the critical habitat designation and make it a priority for protection because it is the northernmost population and may be divergent genetically.

Our Response: We determined that the survey history shows the species to be consistently rare at this location, and within the past 5 years, surveys in this location have only sporadically located a few individuals. Based on this information, we believe this locality does not serve as a source population and does not provide connectivity between localities (see Criteria Used To Identify Critical Habitat section). We also do not have any information that indicates this locality is occupied by a genetically distinct population. Therefore, we do not consider this locality to have the features that are essential to the conservation of the species.

7. *Comment:* One peer reviewer stated that Scott Creek lagoon in Santa Cruz County should be considered for addition to critical habitat because it is substantially isolated and could be genetically distinct and therefore, may be an important potential stepping stone site.

Our Response: Scott Creek lagoon was not occupied at the time of listing, although it was subsequently colonized (Service 2005). Over the years, survey efforts indicate that occupancy by tidewater gobies at this locality is intermittent and therefore, we do not consider it a source population (Service 2005). We also do not have information that indicates this locality is occupied by a genetically distinct population. Finally, Scott Creek is not likely to provide connectivity between localities because the next locality to the north, Bean Hollow Creek, is 16.1 mi (26 km) from Scott Creek. This distance is well beyond what experts believe to be the dispersal abilities of the tidewater goby (see Background section). Therefore, we do not consider this locality to be essential to the conservation of the species.

8. *Comment:* One peer reviewer stated that Wilder Creek lagoon in Santa Cruz County should be considered for addition to critical habitat because it has a larger late summer population than Baldwin Creek and may be more likely to supply large numbers of dispersing tidewater gobies to other sites in the metapopulation.

Our Response: As described in the recovery plan for the tidewater goby (Service 2005), the subunit that includes Wilder Creek consists of several small, closely spaced localities. Only small numbers of individuals have been found in many of these localities and occupancy is intermittent in most areas; survey efforts indicate that occupancy by tidewater gobies at Wilder Creek is intermittent (Service 2005). Tidewater gobies are only regularly abundant at one locality in this subunit, Baldwin Creek, which we have designated as critical habitat. We consider Baldwin Creek to be the source population for this subunit. For these reasons, we do not consider the Wilder Creek lagoon to contain the features essential to the conservation of the species.

9. *Comment:* One peer reviewer recognized that, while Marine Corps Base, Camp Pendleton (Base) may be providing some protection to those tidewater goby populations on the Base, the protection of these populations is not sufficient to protect the southern population of the species as a whole and that areas outside the Base that were historically occupied should be designated.

Our Response: As discussed in the Marine Corps Base, Camp Pendleton section under Application of Section 4(a)(3), occupied tidewater goby habitat occurs on the Base. We have determined that the conservation efforts for estuarine habitat and species identified in the Base's INRMP provide a benefit to the tidewater goby. Section 4(a)(3) of the Act prohibits the Secretary from designating critical habitat on any lands owned or controlled by the Department of Defense that are subject to an INRMP if the Secretary has determined that such plan provides a benefit to the species for which critical habitat is being proposed for designation. As such, pursuant to section 4(a)(3) of the Act, we have exempted the Base from the designation of critical habitat.

Additionally, none of the historically occupied sites in southern California outside of the Base supported tidewater gobies at the time the species was listed in 1994. In fact, tidewater gobies have not been detected at any of the off-Base southern California sites for several decades. As a result, none of these locations meets the first part of the definition of critical habitat.

As noted above, section 3(5)(A)(ii) requires us to determine whether areas outside the geographical area occupied by the species at the time of listing are essential for the conservation of the species. While our final recovery plan for the tidewater goby identifies these off-Base southern California locations as potential reintroduction sites, it also acknowledges that habitat improvements will be needed before these sites can be recolonized. We acknowledge that some of these sites, if restored, may be helpful contributors to the recovery of the species in southern California. However, we did not designate any areas outside the geographical area occupied by the species as critical habitat for the reasons given in our response to comment 1 above and the Summary of Changes from Previously Designated Critical Habitat and 2006 Proposed Rule section.

Public Comments Regarding Site-Specific Areas

10. *Comment:* One commenter stated that we should have included the area around Lake Earl Lagoon above the 4-foot elevation, and we therefore, underestimated the size of the Lake Earl Lagoon critical habitat unit (see DN–1: Lake Earl/Lake Tolowa section).

Our Response: Lake Earl is artificially breeched, and there are times when water level is well below the 4-foot elevation. We determined that the 4-foot elevation above mean sea level was appropriate for delineating critical habitat for Lake Earl because the portion of Lake Earl below that elevation is wetted during most times of the year, providing consistent habitat for tidewater goby. The area above the 4-foot elevation that is frequently not submerged does not contain the features essential to the conservation of the species.

11. *Comment:* Several commenters wanted additional areas, including unoccupied areas, designated as critical habitat for the tidewater goby.

Our Response: Please see our response to comment 1 above.

12: *Comment:* One commenter believed that Hathaway Creek in Mendocino County should be included in the critical habitat designation because it is good tidewater goby habitat and is occupied by tidewater gobies.

Our Response: We have no record that Hathaway Creek is occupied or has ever been occupied by tidewater gobies, and the commenter did not provide specific information that shows it to be occupied. As per our responses to comment 1 and 2 and as discussed in the Summary of Changes from Previously Designated Critical Habitat and 2006 Proposed Rule section, we have determined that unoccupied habitat is not essential for the conservation of the tidewater goby.

13. *Comment:* Two commenters believed that Arroyo Grande Lagoon in San Luis Obispo County should be considered for addition to critical habitat because: it is likely a source population, it possesses all four primary constituents, and it provides connectivity for the Pismo Creek population with the Santa Maria River population.

Our Response: We agree that Arroyo Grande Lagoon is likely to have some or all of the primary constituent elements (PCEs) for the tidewater goby; however, the mere presence of one or more PCEs does not mean that an area meets the definition of critical habitat. As described in the recovery plan for the tidewater goby (Service 2005), the subunit that includes Arroyo Grande Lagoon consists of five localities, of which four are currently occupied. Tidewater gobies occur only intermittently at San Luis Obispo Creek and Arroyo Grande Lagoon and only in small numbers. Tidewater gobies are only regularly abundant at two localities in this subunit, Pismo Creek and Santa Maria River, which we have designated as critical habitat. We consider Pismo Creek and Santa Maria River to be the source populations for this subunit. Survey efforts indicate that occupancy by tidewater gobies at Arroyo Grande Lagoon is intermittent (Service 2005) and therefore is not likely to be a source population. For these reasons, we do not consider this locality to contain the features essential to the conservation of the species.

14. *Comment:* One commenter expressed concern over the effects of a proposed multi-lane toll road on tidewater gobies in San Mateo Creek and San Onofre Creek on Marine Corps Base Camp Pendleton (Base). The commenter stated that the Base's INRMP does not address potential impacts to the tidewater goby associated with the proposed toll road, and therefore we should designate habitat along San Mateo Creek and San Onofre on the Base as critical habitat.

Our Response: The proposed toll road is not a Marine Corps project and therefore is not directly subject to the Base's INRMP. The toll road is a separate Federal action with the U.S. Department of Transportation, Federal Highway Administration as the lead agency; as such, any adverse effects to federally listed species, including tidewater gobies, will be addressed under section 7 of the Act.

However, as described in the Base's INRMP, the Marine Corps agreed that (among other provisos) an on-Base alignment of the toll road could be evaluated provided ''that any adverse environmental impacts created as a result of siting this route on the Base * * * must be fully and properly mitigated.'' Further, the lower portion of San Mateo Creek and San Onofre Creek is leased to California Department of Parks and Recreation, who is required by the Marine Corps to ''conduct its natural resources management consistent with the philosophies and supportive of the objectives'' of the Camp Pendleton INRMP. Moreover, the Marine Corps is implementing the INRMP, including actions benefiting the tidewater goby, within the San Mateo Creek and San Onofre watersheds. As stated above, pursuant to section 4(a)(3) of the Act we are required to exempt the Base from critical habitat for the tidewater goby, which includes the lower portion of San Mateo Creek and San Onofre Creek.

15. *Comment:* One commenter stated that unlike Stone or Big Lagoons, Lake Earl is artificially managed and consequently, there is no official monitoring or rescue effort for tidewater gobies, no established population baseline, and a consistent failure to reach the appropriate lagoon level during the summer during tidewater goby breeding season (April to August), making this critical habitat unavailable to tidewater gobies.

Our Response: The current 10-year Army Corps permit for the breaching of Lake Earl includes the requirement of a monitoring plan. Currently, there are specific post-breach monitoring requirements that include surveying for tidewater gobies in areas suspected to cause stranding. The current permit to breach Lake Earl includes a restriction on breaching after February 15 which is designed to protect tidewater goby habitat during the breeding season, allowing the lagoon sufficient time to close and fill naturally during the spring and summer months, when breeding is thought to peak.

The commenter is correct that there is not enough information available to precisely estimate population baseline. The Service is addressing this issue by looking into innovative methods of obtaining that information in a practical manner.

We believe that the lake levels during most breeding seasons are adequate for tidewater goby breeding to take place if the permit conditions for the artificial breaching are attained.

16. *Comment:* One commenter stated that the proposed revised rule did not provide an analysis of why each individual area with suitable habitat for tidewater gobies, regardless of occupancy, was or was not designated.

Our Response: To determine which areas to designate as critical habitat for the tidewater goby, we developed a set of rules or criteria (see Criteria Used To Identify Critical Habitat section) specific to tidewater gobies. We believe our criteria identify those areas which meet the definition of critical habitat in the Act and reflect the intent of the recovery plan for the tidewater goby (Service 2005). Based on these criteria, we determined that not all habitat occupied at the time of listing contain the PCEs in the spatial arrangement and quantity essential to the conservation of the species. We also considered localities that we know from surveys, or the lack thereof, were not occupied at the time of listing. We included unoccupied-at-time-of-listing localities in the designation when they met our criteria and were essential to the conservation of the species. See response to Comment 1 for more details.

17. *Comment:* One commenter believed that the proposed critical habitat adjacent to the Mad River Slough Channel should not be designated because they do not include habitat for the tidewater goby.

Our Response: We believe tidewater goby habitat occurs in these areas adjacent to the Mad River Slough, which are included in Unit Hum-3: Humboldt Bay, because these areas are occupied by tidewater gobies (Goldsmith 2007). We have included these areas in this final revised designation because they form part of the hydrologically interconnected system of estuaries and seasonally flooded backwaters that make up the habitat of the tidewater goby along Humboldt Bay, and these areas have the features that are essential to the conservation of gobies.

Comments Related to Threats to the Species

18. *Comment:* Two commenters stated that illegal breaching of sand bars across

lagoons should be included as an additional new threat.

Our Response: Untimely breaching of sandbars may be a threat to tidewater gobies in areas where sandbars play a role in the hydrology of estuaries and lagoons. We have provided a discussion of the effects of artificial breaching of sandbars on tidewater gobies, which would include illegal breaching, in the Primary Constituent Elements and Effects of Critical Habitat Designation sections of this rule. We have also more clearly identified artificial breaching of sandbars as a threat to tidewater goby habitat in the Special Management Considerations or Protection section.

19. *Comment:* One commenter stated that disease, particularly since a new species of microsporidian parasite was found in the tidewater goby population at Big Lagoon, should be included as an additional new threat.

Our Response: The discovery of the parasitic microsporidian referred to by the commenter is a new development. Currently, the parasite has only been identified from Big Lagoon, Humboldt County, with a possible detection from Rodeo Lagoon, Marin County. Surveys evaluating the extent of the parasite, and its role in the decline of the tidewater goby are needed to assess the level of threat to the goby. We have not included this as a threat to the tidewater goby at this time, but will continue to monitor and address new information as it becomes available.

20. *Comment:* One commenter stated we should take in account the potential effects of global warming on tidewater goby habitat and therefore the Service should expand its designation of critical habitat to include unoccupied habitat, particularly upstream of barriers.

Our Response: The average surface temperature of the Earth is widely recognized by scientists throughout the world to be increasing (IPCC 2007, p. 4). Projected changes in climate include changes in precipitation, sea level rise, and increased frequency and intensity in extreme climatic events leading to increased climate variability (IPCC 2002, p. 4). These changes will have a serious impact on the environment on a global scale. However, it is much more difficult to predict how the climate of a local area will change and how that change will affect the local environment. We are required by section 4(b)(1)(A) of the Act to use the best scientific data available in determining the areas to designate as critical habitat for the tidewater goby. We simply do not have good science at this point that provides local predictions. Therefore, we cannot account for such potential but unknown changes in local climate in our critical habitat designation. However, we do believe this designation does address the potential for climate change by inclusion of critical habitat units over a wide range of latitudes.

Comments Related to Criteria and Methodology

21. *Comment:* One commenter stated that our approach to designating critical habitat could be improved or modified through more public outreach, such as providing information about tidewater goby life history or habitat requirements at some of the critical habitat localities.

Our Response: We published the Recovery Plan for the Tidewater Goby in 2005. The recovery plan provides detailed information on the biology of the species, reasons for its decline, habitat requirements, the actions needed for recovery of the species, and additional information for each of the localities designated as critical habitat for the species. The recovery plan is available on the Web at *http://ecos.fws.gov/speciesProfile/SpeciesReport.do?spcode=E071.* For future reference, all recovery plans and other documents relating to a species can be found on our Web site at *http://ecos.fws.gov.*

22. *Comment:* One commenter stated that critical habitat for tidewater gobies should not be limited to only those areas downstream of barriers.

Our Response: We consider a barrier, such as sills, dams, and raised culverts, to be impassable by tidewater gobies. Therefore, we consider the areas above the barriers to not contain the features essential to the conservation of the species.

Comments on Other Critical Habitat Related Issues

23. *Comment:* One commenter's opinion was that designation of critical habitat is of little additional value for the tidewater goby.

Our Response: The process of designating critical habitat as described in the Act requires that the Service identify those lands on which are found the physical or biological features essential to the conservation of the species that may require special management considerations or protection, and the areas outside the current range of the species that are essential for its conservation. In identifying those lands, the Service must consider the recovery needs of the species, such that the habitat that is identified, if managed, could provide for the survival and recovery of the species. Furthermore, once critical habitat has been designated, Federal agencies must consult with the Service under section 7(a)(2) of the Act to ensure that their actions will not adversely modify designated critical habitat or jeopardize the continued existence of the species. As noted in the Ninth Circuit's *Gifford Pinchot* decision, the jeopardy and adverse modification standards are distinct, and adverse modification evaluations require consideration of impacts to the recovery of species. Thus, through the section 7(a)(2) consultation process, critical habitat designations provide recovery benefits to species by ensuring that Federal actions will not destroy or adversely modify designated critical habitat.

Another benefit of including lands in critical habitat is that designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. Although the designation of critical habitat may not, in and of itself, restrict human activities within an area or mandate any specific management or conservation actions, it does help focus Federal, Tribal, State, and private conservation and management efforts in such areas by clearly delineating areas of high conservation value for the tidewater goby. In general, critical habitat designation always has educational benefits; however, in some cases, they may be redundant with other educational effects.

24. *Comment:* One commenter requested clarification regarding the October 9, 2007, press release noticing the completion of the tidewater goby 5-year review and its recommendation to downlist the species throughout its range. More specifically, the commenter wanted to know how a reclassification to threatened would affect the status of designated critical habitat.

Our Response: Critical habitat applies equally to both endangered and threatened species. Therefore, reclassifying the tidewater goby from endangered to threatened would have no affect on the designated critical habitat.

25. *Comment:* One commenter expressed concern that designation of critical habitat for the tidewater goby may conflict with management of Aleutian Canada goose (*Branta Canadensis leucopareia*) habitat (Humboldt Bay and Eel River Delta areas) (grazing benefits the goose by improving its habitat), by restricting grazing in upland areas.

Our Response: The designation of critical habitat does not, in and of itself, restrict human activities within an area or mandate any specific management or conservation actions. However, one of

the benefits of critical habitat is to help focus Federal, Tribal, State, and private conservation and management efforts in such areas. With the knowledge that there is an area that is important to both the Aleutian Canada goose and the tidewater goby, management actions compatible with both species may be undertaken.

Comments Related to Policy Compliance

26. *Comment:* One commenter stated that Federal statutes and regulations require Federal agencies to coordinate their initial planning efforts with local government. Presidential Executive Order 12372 requires Federal agencies to coordinate actions and projects with local governments. To date, the Service has failed to initiate coordination with Del Norte County as required by Federal statute.

Our Response: Executive Order 12372 (47 FR 30959; July 14, 1982), Intergovernmental Review of Federal Programs pertains to Federal Assistance and is not directly pertinent to this designation of critical habitat. However, we do address the issue of Federal-State Coordination below. Please see the Federalism section for additional information.

Comments Related to the Draft Economic Analysis

27. *Comment:* Several commenters requested that we extend the comment period on the draft economic analysis.

Our Response: Due to time constraints associated with the consent decree dated February 27, 2003, we were not able to extend or open an additional public comment period.

28. *Comment:* One commenter stated that the economic analysis does not provide grounds for exclusion of any critical habitat because it does not include benefits.

Our Response: The economic analysis for the tidewater goby did consider economic benefits. Our draft economic analysis predicted an overall net cost savings of $10.2 million to $65.2 million (undiscounted) over the next 20 years.

29. *Comment:* One commenter stated that the economic analysis fails to estimate the benefits of critical habitat designation. This comment includes concerns that the Service: Did not identify the vast majority of benefits from designating critical habitat, including benefits to ecosystem services, wetland protection, and other use and non-use values of habitat; violated the Act by failing to quantify benefits; improperly relied on flawed OMB guidance regarding the estimation of benefits; does not properly qualitatively describe the benefits of designation; improperly establishes the baseline because benefits are not estimated; does not prove the infeasibility of estimating and monetizing benefits in the analysis; could easily quantify the benefits of designating critical habitat; and ignores available information from multiple sources that could have been used to estimate benefits.

Our Response: The economic analysis for the tidewater goby did include benefits. Our draft economic analysis predicted an overall net cost savings of $10.2 million to $65.2 million (undiscounted) over the next 20 years. The only quantifiable benefit of goby conservation identified through the economic analysis is the saving associated with not constructing a sewage bypass system. While the economic analysis acknowledges the potential for other types of economic benefits, data were not available, for example, to identify where and to what extent property values may be affected by tidewater goby conservation efforts. For example, while property valuation studies may provide estimates of the value to property of being near environmentally pristine area, these studies do not address what changes in property values will result from critical habitat designation.

Section 4(b)(2) of the Act requires the Secretary to designate critical habitat based on the best scientific data available after taking into consideration the economic impact, impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. Where data are available, the economic analyses do attempt to measure the net economic impact.

Most of the other benefit categories submitted by the commenter reflect broader social values, which are not the same as economic impacts. While the Secretary must consider economic and other relevant impacts as part of the final decision-making process under section 4(b)(2) of the Act, the Act explicitly states that it is the government's policy to conserve all threatened and endangered species and the ecosystems upon which they depend. Thus, we believe that explicit consideration of broader social values for the subspecies and its habitat, beyond the more traditionally defined economic impacts, is not necessary as Congress has already clarified the social importance.

30. *Comment:* One commenter stated that the baseline is improperly set because it relies on the Tenth Circuit Court of Appeals instead of the Ninth Circuit, and that the baseline should be compared with the incremental impacts of the designation. Similarly, another commenter expressed concern that the economic analysis improperly measures the impacts of designation by including costs that would have been incurred regardless of critical habitat designation. This commenter stated that impacts such as land acquisition and grazing costs are not properly integrated into the baseline and should not be considered as a consequence of designation, and that the economic analysis does not describe the costs attributable solely to designation.

Our Response: Appendix B of the Final Economic Analysis (FEA) estimates the potential incremental impacts of critical habitat designation for the goby. It does so by attempting to isolate those direct and indirect impacts that are expected to be triggered specifically by the critical habitat designation. The incremental conservation efforts and associated impacts included in Appendix B would not be expected to occur absent the designation of critical habitat for the tidewater goby. Total present value potential incremental impacts are estimated to be $206,000 discounted at three percent. All other impacts quantified in the FEA are considered baseline impacts and are not expected to be affected by the critical habitat designation.

31. *Comment:* One commenter requested clarification regarding the 50-meter (m) buffer used in the analysis of the study areas for the economic analysis. The commenter was concerned that the term ''buffer'' indicated that these areas will be barred from use.

Our Response: The study area analyzed in the draft economic analysis included the critical habitat units, which are primarily lagoons, estuaries, and coastal streams, and a 50-meter (m) wide stream buffer that extended 100 m upstream of the critical habitat units. These buffer areas are not included in the critical habitat units. However, for the purposes of the analysis it was assumed that activities conducted in these areas could indirectly affect the critical habitat units. Therefore, the draft economic analysis took into consideration the potential economic costs that could result from conservation efforts for the tidewater goby within the buffer areas. Also, the term ''buffer'' as used in Chapter 3 of the FEA has been clarified to indicate that it is for analytical purposes only.

32. *Comment:* Two commenters stated that the land identified as private land within the grazing study area, which the economic analysis determined as

lacking a Federal nexus compelling consultation, should have been addressed in the economic analysis. The commenter is concerned that some combination of Federal, State, and local laws may affect grazing on those private lands.

Our Response: Review of existing land management documents, section 7 consultations, and State and private grazing practices do not indicate that this private land is likely to be affected. Private grazers have not been affected by goby conservation in the past, there are no known voluntary private grazing restrictions, and, under the Act, the critical habitat designation will not affect grazing on private land absent a Federal nexus. Further, no information is available to suggest that critical habitat designation may trigger additional regulation under other State and local laws concerning grazing. This analysis therefore forecasts that private grazing activity is not likely to be affected by goby conservation.

33. *Comment:* One commenter stated that the draft economic analysis does not address municipal land ownership of grazing land, but counts it as privately-owned land instead. The commenter expressed concern that the economic analysis should predict future conservation efforts on municipal land.

Our Response: Review of existing land management documents, consultations, and State and private grazing practices do not indicate that municipal land is likely to be affected differently than private land. Grazing on municipal land has not been affected by goby conservation in the past, and information gathered in the development of the analysis did not suggest that it was likely to be affected in the future. Under the Act, the critical habitat designation will not affect grazing on municipal land absent a Federal nexus, and there is no information to suggest that State or local regulation may be tightened because of the designation of critical habitat. This analysis therefore forecasts that grazing on municipal lands is unlikely to be affected by goby conservation.

34. *Comment:* One commenter expressed concern about impacts of potential changes in grazing restrictions and management practices on the state lands due to critical habitat.

Our Response: Information received during the comment period concerning the California Department of Fish and Game's (CDFG) grazing management practices on State lands in the study area has prompted changes in Chapter 3 of the economic analysis. The FEA estimates foregone forage values and construction costs as part of the baseline impacts of CDFG management. These ongoing, co-extensive impacts are expected to continue into the future. There are no anticipated changes for grazing practices in the study area that will result from the critical habitat designation. Further, no additional impacts to grazing activities are expected to result from this rulemaking as described in Chapter 3 of the FEA.

35. *Comment:* One commenter stated that there are alternative ways to manage grazing other than exclusion.

Our Response: The commenter is correct; there are alternative ways to manage grazing other than exclusion. However, CDFG currently manages grazing in tidewater goby habitat through exclusion. As noted in Chapter 3 of the FEA, the practice of excluding livestock from tidewater goby habitat is unlikely to change after critical habitat designation as CDFG does not anticipate that there will be any future changes to grazing management practices. Chapter 3 provides post-designation cost estimates for current CDFG management practices that CDFG has validated and indicates are unlikely to change. Total impacts to grazing are estimated to be $1.53 million, undiscounted (20 percent lost grazing value and 80 percent fencing maintenance and construction costs).

36. *Comment:* Two commenters stated that the undiscounted impacts to grazing of $1,430,000 are understated. The commenters pointed out that the number of Animal Unit Months (AUMs) should be multiplied by the number of months grazed.

Our Response: New information received during the comment period from the CDFG has been incorporated into the FEA regarding grazing impacts. As described in Chapter 3, the estimates of foregone grazing values incorporate the number of months in the grazing season. The information received during the comment period provided better data on both grazing and fencing construction and maintenance impacts. The FEA estimates foregone forage values and construction costs as part of the baseline impacts of CDFG management. These ongoing, co-extensive impacts are expected to continue into the future. The draft economic analysis estimated $1.43 million in undiscounted total impacts (4 percent lost grazing value and 95 percent fence construction and maintenance costs). Based upon the information received during the comment period, total impacts to grazing are estimated to be $1.53 million, undiscounted (20 percent lost grazing value and 80 percent fencing maintenance and construction costs).

37. *Comment:* Three commenters stated that potential grazing land should be valued not at its rental rate, but at the opportunity cost in terms of the amount of livestock that could not be produced. These commenters stated that reducing grazing acreage has additional effects beyond the market value of the land.

Our Response: As discussed in Section 3.1.3 of the FEA, the analysis applies a well-accepted method of assigning value to grazing land using the forage value available on that land, expressed in AUMs, as a proxy. The grazing rental rate is the opportunity cost of the forage that is given up. This price is the amount that would have to be paid to purchase an equivalent amount of grazing forage somewhere else.

38. *Comment:* Two commenters stated that some of the land that will be removed from grazing may be organic, which has a higher rental value.

Our Response: While the FEA quantifies ongoing, co-extensive impacts of foregone grazing associated with goby conservation, it does not forecast further limitations on grazing activity as a result of critical habitat designation. While organic grazing rental rates are likely to be higher, consultation with CDFG has indicated that the rental estimates provided in Chapter 3 closely approximate the total impacts of the existing grazing management program.

39. *Comment:* One commenter stated that the economic analysis does not explain the presence of the pre-designation impacts.

Our Response: As discussed in the introduction to Chapter 1 and in Section 1.4.6 of the FEA, pre-designation impacts are provided as context for the ongoing goby conservation efforts in the post-designation period. The continuation of existing policies and practices post-designation is evident when comparing the pre- and post-designation impact exhibits in Chapters 2 through 6.

40. *Comment:* One commenter said that the cost of constructing exclosure fencing would be a huge burden on the ranching community.

Our Response: The question of who is affected by exclosure costs has been clarified in Section 3.1.2 of the FEA. Following conversations with CDFG, the costs of building fencing quantified in the analysis are forecast to be paid by CDFG and not by the ranching community.

41. *Comment:* One commenter stated that the economic analysis did not address potential critical habitat designation impacts on recreation and recreation dependent businesses.

Our Response: Review of management documents and consultations, and interviews with the National Park Service, counties, municipalities, and local park officials did not indicate that goby conservation efforts would be undertaken that may affect recreational activities. A sentence clarifying this point has been added to Section 1.1 of the FEA.

42. *Comment:* One commenter stated that the economic analysis does not consider secondary effects on resource conservation districts that currently sub-contract to provide grazing management services.

Our Response: As described in Chapter 3, the economic analysis does not predict any changes in grazing policy as a result of critical habitat designation.

43. *Comment:* One commenter stated that the economic analysis failed to address what could happen if sandbar breaching at Lake Earl is no longer permitted. The commenter cited excerpts from breaching consultations and says that the consultation appears to favor not breaching, which would cause substantial economic impacts to property.

Our Response: As indicated in Section 2.2 of the FEA, a review of the consultation history and discussions with the Service, CDFG, and the U.S. Army Corps of Engineers, indicate that the cessation of sandbar breaching permitting in Lake Earl is improbable.

Comments From the State

44. *Comment:* The California Department of Fish and Game stated that our critical habitat designations are premature and we should wait until our current data gathering and genetic analyses for Del Norte, Humboldt, and Mendocino Counties are completed and disclosed.

Our Response: As required by section 4(b)(1)(A) of the Act, we used the best scientific data available in determining the areas to designate as critical habitat for the tidewater goby. Further, under a consent decree, we are restricted to a specific deadline for finalizing the critical habitat designation. As such, we must use the best scientific data available to us at this time and cannot delay our designation to allow for possible additional data. Within the area mentioned, the commenter suggests that the presence of tidewater gobies within Humboldt Bay does not indicate that the population sites are persistent. On the contrary, there are several sites where surveys indicate alternating presence and absence of gobies. We believe that the significance of detecting tidewater gobies within Humboldt Bay as a unit should be emphasized, and due to their potential ability to move within the bay, we believe that we designated the area with features essential to the species within Humboldt Bay.

45. *Comment:* The California Department of Fish and Game asserted that we have a lack of understanding regarding the processes that drive and maintain metapopulation dynamics (e.g., hydrology, hydrological connections, source population identification, persistence of sink populations) used in determining the PCEs and identifying whether critical habitat exists at certain locations in the absence of tidewater goby presence.

Our Response: The process we use 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. We also solicited information from knowledgeable biologists that have worked with the tidewater goby. We did not find any locations that are currently unoccupied to be essential to the conservation of the species.

Summary of Changes From Previously Designated Critical Habitat and 2006 Proposed Rule

On November 20, 2000, we designated critical habitat for the tidewater goby at 10 coastal stream segments in Orange and San Diego Counties, California, totaling approximately 1,581 acres (ac) (642 hectares (ha)) (65 FR 69693). We proposed to revise this designation to a total of approximately 10,003 ac (4,050 ha) on November 28, 2006 (71 FR 68914). This is an increase of approximately 8,422 ac (3,408 ha) from the previously designated critical habitat. In this section we present the differences between what was designated in 2000 and what is included in this revised final designation.

The 2000 final critical habitat designation (65 FR 69693, November 20, 2000) consisted of 10 units totaling 1,581 ac (642 ha). In the 2000 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 Service had published a proposed rule on June 24, 1999, 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). Subsequently, the Service determined that the tidewater goby should remain listed as endangered throughout its range and withdrew the June 24, 1999, proposal (67 FR 67803, November 7, 2002). In this revised final critical habitat designation we have designated critical habitat for the tidewater goby throughout its range. We considered but did not include the 10 units that were previously designated in Orange and San Diego Counties. We exempted 8 of the 10 units, all of which are located on U.S. Marine Corps Base, Camp Pendleton (Base), under section 4(a)(3) of the Act because these areas are subject to the Base's INRMP and we determined that the INRMP provides a benefit to the tidewater goby and its habitat (see Application of Section 4(a)(3) of the Act—Approved Integrated Natural Resource Management Plans section). We also considered but did not include the remaining 2 units out of the 10 from the 2000 rule (65 FR 69693), Aliso Creek in Orange County and Agua Hedionda Lagoon in northern San Diego County. For several reasons, we have now determined that these two localities are not essential for the conservation of the species. The 2000 designation found that the eight occupied localities on the Base were not sufficient for the conservation of the species. However, at that time, the Base did not have an approved INRMP and therefore, the future of the tidewater goby on the Base was not assured. Subsequent to the 2000 designation, the Base completed its INRMP, which includes protections for the tidewater goby. 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.

Second, more information is now available on the status of both the tidewater goby throughout its range and on the Base. We now know that there are many more occupied localities than when the species was listed in 1994. In our recently completed 5-year review for the tidewater goby, we found that the number of occupied localities has more than doubled since the species was listed (106 versus 48) and concluded that the species was more resilient to perturbations such as drought than was believed when it was listed. As a result we recommended in the 5-year review that the tidewater goby be downlisted to threatened. We also now have a longer record of the continued occupancy of those localities

on the Base, which supports our view that they make up 1–2 viable metapopulations. Therefore, we have now determined that the occupied habitat in Orange and San Diego Counties is sufficient to support the natural pattern of local extinctions and recolonizations (Swift et al. 1989, Moyle et al. 1995, Lafferty et al. 1999b, Swenson 1999) that characterize the tidewater goby's population biology. Thus, the unoccupied areas designated in 2000 (i.e., Aliso Creek and Agua Hedionda Lagoon) are no longer considered essential for the conservation of the tidewater goby.

We also made changes to our proposed designation in preparing this final critical habitat designation for the tidewater goby. We reviewed and considered comments from the public and peer reviewers on the proposed revised designation of critical habitat published on November 28, 2006 (71 FR 68914). We also received comments from the public on the draft economic analysis published on September 25, 2007 (72 FR 54411). As a result of comments received, we made changes to our proposed designation, as follows:

(1) Based on peer review comments, we further refined our definition of source populations (see response to comment 3). However, this did not result in any change in the designation.

(2) We made minor adjustments to the number of areas historically and currently occupied by tidewater gobies because in some cases we have combined two adjacent areas into one, and a few areas have recently become occupied. However, these changes did not affect the number or acreage of the units proposed for designation.

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(1) 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

(a) Essential to the conservation of the species and

(b) Which may require special management considerations or protection; and

(2) 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 that are necessary to bring any endangered species or threatened species to the point at which the measures provided under the Act are no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) of the Act requires consultation on Federal actions that may affect 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 the government or public access to private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-federal landowners. Where a non-federal landowner seeks or requests federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of Section 7(a)(2) would apply, but even in the event of a destruction or adverse modification finding, the Federal action agency's and the applicant's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

To be included in a critical habitat designation, habitat within the geographical area occupied by the species at the time it was listed must contain features that are essential to the conservation of the species. The Service must identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (areas on which are found the PCEs, as defined at 50 CFR 424.12(b)). The features at issue must also be ones that may require special management considerations or protection.

Under the Act, we can designate areas outside the geographical area occupied by the species at the time it is listed as critical habitat only when we determine that those areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that decisions are based on 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 we are determining which areas may be designated as critical habitat, a primary source of information is generally the information developed during the listing process 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, other unpublished materials, and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, critical habitat designation does not signal that habitat outside the designation is unimportant or may not be required for recovery of the species.

Areas that are important to the conservation of the tidewater goby, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented by Federal agencies under section 7(a)(1) of the Act. Areas that support populations are also subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available scientific information at the time of the agency 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 (HCPs), or other species conservation planning efforts, if information available at the time of these planning efforts calls for a different outcome.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and the regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied at

the time of listing to designate as critical habitat, we consider those physical and biological features that are essential to the conservation of the species to be the primary constituent elements (PCEs) laid out in the appropriate quantity and spatial arrangement for conservation of the species. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, and rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

The specific PCEs required for the tidewater goby are derived from the biological needs of the tidewater goby as described in the final listing rule, the proposed revised critical habitat rule (71 FR 68914), and information contained in this final rule.

Space for Individual and Population Growth and 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 to 12 parts per thousand (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 or human-caused breaches of sand bars.

The goal of the recovery plan for the tidewater goby is to preserve the diversity of habitats that occur within the range of the species, the metapopulation structure of the species, and genetic diversity (Service 2005). The recovery plan identifies 26 subunits throughout the range of the tidewater goby. We designated critical habitat in all 26 subunits included in the recovery plan, except for those on Vandenberg Air Force Base (Santa Barbara County) and Marine Corps Base, Camp Pendleton (San Diego County), which have Integrated National Resource Management Plans (INRMP) that provide protection for the tidewater goby. These areas have been exempted from this final designation of critical habitat (see Application of Section 4(a)(3) of the Act—Approved Integrated Natural Resource Management Plans section). We believe these 44 critical habitat units, in addition to those subunits covered by INRMP's, are the areas essential to the conservation of the species throughout its range, as they adequately represent the variation of both the habitat and genetic composition of the species, and they will support the species' recovery. As such, we did not designate any other areas, including areas outside the geographical area occupied by the species, as critical habitat. For a further discussion of how we determined how much space was essential to the conservation of the species, please see the Criteria Used To Identify Critical Habitat section below.

Water Depth, Velocity, and Temperature

Tidewater gobies are most commonly collected in water less than 6 feet (ft) (2 meters (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 per second (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).

Freshwater Habitat

Tidewater gobies also occur in freshwater streams up gradient 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 miles (mi) (2.6 to 11.7 kilometers (km)) upstream from the ocean environment (Irwin and Soltz 1984, p. 27; Swift *et al.* 1997, p. 20; Chamberlain and Goldsmith 2006, p. 1).

Within a 2-hour period, 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 suggests that freshwater tributaries in some riverine systems provide important habitat 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 to 2.0 mi (2.6 to 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). Other than high stream gradient, the reasons for the variation in upstream movement between one locality and another have not been determined; salinity could be an important factor. Upstream salinity levels may vary with time of year, tidal cycles, storm events, and topography. However, Swift *et al.* (1997, p. 26) indicate that gradient and lack of barriers (e.g., beaver dams, sills) are more important factors than salinity to upstream dispersal.

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 up gradient 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 inches (in) (73 centimeters (cm)) deep water versus 17 in (42 cm) deep water.

Primary Constituents for the Tidewater Goby

Under the Act and its implementing regulations, we are required to identify the known primary constituent elements (PCEs) within the geographical area occupied by the species that in the appropriate spatial arrangement and quantity comprise the physical or biological features essential to the conservation of the species which may require special management considerations or protection.

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have

determined that the tidewater goby's PCEs are:

(1) Persistent, shallow (in the range of about 0.1 to 2 m), still-to-slow-moving, aquatic habitat most commonly ranging in salinity from 0.5 ppt to about 10 to 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*, *Ruppia maritima*, *Typha latifolia*, and *Scirpus* spp. 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.

This designation of critical habitat for the tidewater goby is designed for the conservation of PCEs necessary to support the life history functions of the species comprising the physical or biological features essential to the conservation of the species, and the areas supporting these features. We propose units for designation based on sufficient PCEs being present to support at least one of the species' life history functions. Some units contain all of these PCEs and support multiple life processes, while some units contain only a portion of these PCEs, those necessary to support the species' particular use of that habitat.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas within the geographical area occupied by the species at the time of listing contain the features essential to the conservation of the species 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 that results in reduction of flows and negatively impacts the species' breeding and forging activities; (4) channelization of habitats where the species occurs that removes or reduces quality of habitat; (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,'' along with the addition of artificial breaching of sandbars, into one threat category called ''water diversions, alterations of water flows, artificial sandbar breaching, and groundwater overdrafting 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 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 designating 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 PCEs, which may require special management considerations or protection from known threats within each of the critical habitat units (see Critical Habitat Designation and Table 2 below for a unit-by-unit description).

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we use the best scientific and commercial data available in determining the specific areas within the geographical area occupied by the species at the time of listing that contain features essential to the conservation of species which may require special management considerations or protection. We also use the best scientific and commercial data available when determining if any specific areas outside the geographical area occupied by the species at the time of listing are essential for the conservation of the species. We only designate areas outside the geographical area presently occupied by a species when a designation limited to its present range would be inadequate to ensure the conservation of the species (50 CFR 424.12e). Such data used included 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 (Service 2005); the final rule listing the tidewater goby (59 FR 5494); and regional Geographic Information System (GIS) coverage. We also solicited information from knowledgeable biologists that have worked with the tidewater goby.

The process we use 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. Much of the available information on the tidewater goby is summarized in the Recovery Plan for the Tidewater Goby (Service 2005). The emphasis of the recovery plan is to preserve the diversity of habitats that occur within the range of the tidewater goby, the metapopulation structure of the species, and genetic diversity. The recovery plan identifies 26 subunits (i.e., groups) of tidewater goby localities and describes them as being metapopulations. A metapopulation is generally considered a group of genetically related subpopulations (i.e., localities as used elsewhere in this rule) that are linked by the dispersal of individuals between subpopulations. Some subunits consist of a single occupied locality. Others consist of multiple populations that make up a source-sink type metapopulation where some subpopulations produce such an abundance of young that they are available to disperse to other localities (i.e., source), while others (sinks) may sometimes be extirpated until they are recolonized. These subunits identified

in the recovery plan were based on the most up-to-date scientific information on tidewater goby morphology and genetics available. Based on the goals of the recovery plan and the scientific literature that was used in the preparation of the plan, we developed criteria for identifying critical habitat units (see below). In this rule, we have also attempted to describe, in a more explicit manner, the criteria we use to determine the lateral and upstream extent of the critical habitat unit boundaries.

The criteria for identifying which areas meet the definition of critical habitat include:

(a) Areas 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 the recovery plan (Service 2005) and in two papers on tidewater 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 tidewater goby;

(b) Areas that are currently occupied but were not occupied at the time of listing, which 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 occupied at the time of listing, including those with unique ecological characteristics (e.g., large, open bays in Humboldt County versus 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 conservation of viable metapopulations (as defined in the Background section above) 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.

For the purposes of this designation, we define source populations as those that are currently occupied and have been consistently occupied for three or more consecutive years based on survey data and published reports. Based on the source-sink metapopulation type structure of many tidewater goby localities, we believe these areas are more likely to be capable of maintaining populations over many years and therefore capable of providing individuals to recruit into surrounding subpopulations.

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 versus large habitats that occur in areas with abundant rainfall). Morphological and genetic 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.

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 localities that have the features essential 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).

By applying these criteria to the 26 subunits described in the recovery plan, we identified 44 critical habitat units that we have determined to be essential to the conservation of the tidewater goby. In general, we are designating these 44 units as critical habitat because: (1) They are representative of the distribution of the tidewater goby; (2) some units are occupied by source populations such that they support other habitats with tidewater gobies; (3) some units, although not considered sources, provide connectivity between populations; and, (4) other units reflect the diversity of the species and its currently occupied habitats. Although all 44 units are currently occupied by tidewater gobies, 3 of the units were not occupied at the time of listing (HUM–4, SB–8, and LA–2). We have included these three units because they meet our criterion ''b,'' ''c,'' and ''d'' above and we determined that they are essential for the conservation of the species (please see the Critical Habitat Designation section below for more information). Critical habitat units in this final designation are located in all 26 subunits in the recovery plan, except for those on Vandenberg Air Force Base (Santa Barbara County) and Marine Corps Base, Camp Pendleton (San Diego County), which have completed INRMPs that provide protection for the tidewater goby (see Application of Section 4(a)(3) of the Act—Approved Integrated Natural Resource Management Plans section). In some cases, several critical habitat units are included within a recovery plan subunit. In these instances we believe either that there is likely more than one source population and/or the inclusion of additional localities increases the chance for dispersal of individuals between localities.

Finally, we considered but did not include any currently unoccupied habitat in this designation because we concluded that the 44 units we are designating are sufficient for the conservation of the species. Many changes have occurred to the coastal wetlands of California, including the complete destruction of some. Many of these changes can not be reversed to the point where tidewater gobies are likely to be able to survive in these unoccupied areas. Additionally, our recently completed 5-year review evaluating the status of the species has recommended downlisting the species. This is in part due to an increase in the number of occupied locations since listing, which indicates the threats, or levels thereof, are not as seriously impacting tidewater goby populations as previously believed. Therefore, we believe the designation of the 44 currently occupied units which meet the criteria listed above provides for the conservation of the species, and we are not designating any habitat outside the geographical area presently occupied by the species.

After determining the areas that meet the definition of critical habitat 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 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 PCEs 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 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 up gradient 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 PCEs were still present above it.

When determining critical habitat boundaries, we made every effort to avoid developed areas such as lands covered by buildings, pavement, and other structures because such lands lack PCEs for the tidewater goby. The scale of the critical habitat maps prepared under the parameters for publication within the *Code of Federal Regulations* may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule were excluded in the text of the proposed rule and are excluded in this final rule. Therefore, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification, unless the specific action may affect adjacent critical habitat.

A brief discussion of each area designated as critical habitat is provided in the unit descriptions below. Additional detailed documentation concerning the essential nature of these areas is contained in our supporting record for this rulemaking.

Critical Habitat Designation

We are designating 44 units as critical habitat for the tidewater goby. All areas are currently occupied by the tidewater goby and constitute our best assessment of areas that meet the definition of critical habitat for the species. The 44 areas designated as 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.

Table 1 identifies the geographic areas that meet the definition of critical habitat for tidewater goby but are being exempted from critical habitat pursuant to section 4(a)(3) of the Act. Table 2 shows the approximate area, by unit and landownership, designated as critical habitat for the tidewater goby.

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)	Exempted area (acres/ hectares)	Total
Camp Pendleton Marine Corps Base	838/340	838/340	838/340
Vandenberg Air Force Base	775/314	775/314	775/314

TABLE 2.—CRITICAL HABITAT UNITS DESIGNATED FOR THE TIDEWATER GOBY. AREA ESTIMATES (ACRES/HECTARES) REFLECT ALL LAND WITHIN THE CRITICAL HABITAT UNIT BOUNDARIES. AREA ESTIMATES ARE ROUNDED TO THE NEAREST WHOLE INTEGER THAT IS EQUAL TO OR GREATER THAN 1. UNITS ARE ARRANGED NORTH TO SOUTH

Unit name	Federal	State	Local	Private	Total	Threats requiring special management of PCEs [1]
DN–1: Lake Earl/Lake Tolowa	0/0	2,682/1,085	0/0	0/0	2,682/1,085	1,4
HUM–1: Stone Lagoon	0/0	586/237	0/0	0/0	586/237	4
HUM–2: Big Lagoon	0/0	1,505/609	0/0	0/0	1,505/609	4
HUM–3: Humboldt Bay	879/356	296/120	90/36	213/86	1,478/598	1,3,4,5
HUM–4: Eel River	0/0	32/13	0/0	236/96	268/109	4,5
MEN–1: Ten Mile River	0/0	218/88	0/0	0/0	218/88	4
MEN–2: Virgin Creek	0/0	11/4	0/0	0/0	11/4	1,4
MEN–3: Pudding Creek	0/0	23/9	0/0	0/0	23/9	1,4
MEN–4: Davis Lake and Manchester State Park Ponds	0/0	24/10	0/0	0/0	24/10	4
SON–1: Salmon Creek	0/0	41/17	0/0	59/24	100/41	1,2,4,5
MAR–1: Estero Americano	1/1	6/2	0/0	288/117	295/120	1,4,5
MAR–2: Estero De San Antonio	0/0	60/24	0/0	118/48	178/72	1,2,4,5
MAR–3: Lagunitas (Papermill) Creek	176/71	666/270	0/0	7/3	849/344	1,3,4,5
MAR–4: Rodeo Lagoon	40/16	0/0	0/0	0/0	40/16	1
SM–1: San Gregorio Creek	0/0	39/16	0/0	0/0	39/16	1,3
SM–2: Pescadero-Butano Creek	0/0	218/88	0/0	0/0	218/88	1,3,4
SM–3: Bean Hollow Creek (Arroyo de Los Frijoles)	0/0	3/1	0/0	7/3	10/4	1,2
SC–1: Laguna Creek	0/0	26/11	0/0	0/0	26/11	2,4
SC–2: Baldwin Creek	0/0	17/7	0/0	0/0	17/7	2,4
SC–3: Corcoran Lagoon	0/0	5/2	6/2	21/8	32/12	1,4
SC–4: Aptos Creek	0/0	3/1	0/0	0/0	3/1	1,3,4
SC–5: Pajaro River	0/0	158/64	10/4	8/3	176/71	1,3,4
MN–1: Bennett Slough	0/0	82/33	5/2	68/28	155/63	1,2,3,4
SLO–1: Arroyo del Corral	0/0	5/2	0/0	0/0	5/2	1,5
SLO–2: Oak Knoll Creek (Arroyo Laguna)	0/0	3/1	0/0	0/0	3/1	1,3
SLO–3: Little Pico Creek	0/0	2/1	0/0	0/0	2/1	5
SLO–4: San Simeon Creek	0/0	16/7	0/0	0/0	16/7	2,4,5
SLO–5: Villa Creek	0/0	5/2	0/0	0/0	5/2	1,2,4,5
SLO–6: San Geronimo Creek	0/0	1/1	0/0	0/0	1/1	5
SLO–7: Pismo Creek	0/0	12/5	1/1	5/2	18/8	1,3,4
SB–1: Santa Maria River	0/0	149/60	33/13	286/116	468/189	1,2,4,5
SB–2: Cañada de las Agujas	0/0	0/0	0/0	1/1	1/1	1,4
SB–3: Cañada de Santa Anita	0/0	0/0	0/0	3/1	3/1	4
SB–4: Cañada de Alegria	0/0	0/0	0/0	1/1	1/1	1,2,4,5
SB–5: Cañada de Agua Caliente	0/0	0/0	0/0	1/1	1/1	1,4
SB–6: Gaviota Creek	0/0	8/3	0/0	1/1	9/4	1,3,4,5
SB–7: Winchester/Bell Canyon	0/0	0/0	1/1	5/2	6/3	4
SB–8: Arroyo Burro	0/0	0/0	2/1	0/0	2/1	1,3,4
SB–9: Mission Creek-Laguna Channel	0/0	9/4	5/2	0/0	14/6	1,3,4
VEN–1: Ventura River	0/0	26/10	16/6	9/4	51/20	1,2,3,4
VEN–2: Santa Clara River	0/0	218/88	22/9	110/45	350/142	1,2,3,4
VEN–3: J Street Drain-Ormond Lagoon	0/0	5/2	40/16	0/0	45/18	1,3,4
LA–1: Malibu Lagoon	0/0	58/24	0/0	6/3	64/27	1,2,3,4
LA–2: Topanga Creek	0/0	5/2	0/0	0/0	5/2	1,2,3,4
Total	1,096/444	7,223/2,923	231/93	1,453/593	10,003/4,053	

[1] Codes of known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs are as follows:

1. Coastal development projects that result in the loss or alteration of coastal wetland habitat affecting PCEs 1, 2, 3, and 4.
2. Water diversions, alterations of water flows, artificial breaching of sandbars, and groundwater overdrafting that negatively impact the species' breeding and foraging activities and PCEs 1, 2, 3, and 4.
3. Channelization of habitats where the species occurs, affecting PCEs 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 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.

Below, we present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the tidewater goby. The first two or three letters in the code for each critical habitat unit description reflects the county where the unit occurs: DN = Del Norte, HUM = Humboldt, LA = Los Angeles, MAR = Marin, MEN = Mendocino, MN = 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.

DN–1: Lake Earl/Lake Tolowa

Unit DN–1 consists of 2,682 ac (1,085 ha) located approximately 3 mi (4.8 km) north of the town of Crescent City and approximately 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 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 designated as critical habitat), by 7.3 mi (11.8 km). Because DN–has been consistently occupied over time, it is likely a source population for this region. It likely provides demographic and connectivity 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 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 ft (1.5 meters) deep to more than 10 ft (3 meters) 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 1, 2, and 3 are found throughout DN–1, on a short term but variable time scale in response to the dynamic variability of the habitat itself. This unit and the essential features contained therein are also important to the conservation of the species because the goby population that it supports is considered a source population and will support the recovery of the tidewater goby population along this important coastal range, help conserve genetic diversity within the species, and facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

HUM–1: Stone Lagoon

Unit HUM–1 consists of 586 ac (237 ha) located approximately 11 mi (18 km) north of the city of Trinidad. HUM–1 (Stone Lagoon) is a moderately large, natural, coastal lagoon with a narrows and 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 designated as critical habitat), 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 support the recovery of tidewater goby populations along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

HUM–2: Big Lagoon

Unit HUM–2 consists of 1,505 ac (609 ha) located 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; however, the CDFG currently holds a lease from State lands for all lands to the mean high tide line of the lagoon. Furthermore, the landward areas are managed as Humboldt Lagoons State Park administered by the California Department of Parks and Recreation. 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. Conservation of this unit will support the recovery of tidewater goby populations along this portion of the coast, help conserve diversity within

the species, and facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

HUM–3: Humboldt Bay

Unit HUM–3 consists of 1,478 ac (598 ha) located within an 8 mi (13 km) radius to the north, south, and east of the city of Eureka. This area was 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 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 a 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 areas designated as critical habitat. 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 have been extirpated. Conservation of this unit will support the recovery of tidewater goby populations along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

HUM–4: Eel River

Unit HUM–4 consists of 268 ac (109 ha) 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. Although no tidewater goby surveys are known to have occurred in the Eel River estuary prior to the listing, we considered this area to be unoccupied by the species until the Service discovered a new population of tidewater gobies in the Eel River estuary during surveys in 2004 (Goldsmith 2006b, p. 1). Although not occupied at the time of listing, we consider this locality to be essential to the conservation of the species because this unit possesses ecological characteristics which are 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 support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. 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 and 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 survived the flood and the resulting loss of habitat in the refugia provided in upper channels and swales. 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, an additional reason why this unit is essential to the conservation of the species is because it is at the boundary of a large, natural gap in the geographic range of the species.

MEN–1: Ten Mile River

Unit MEN–1 consists of 218 ac (88 ha) 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 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 is considered a source population, and will support the recovery of the tidewater goby population along this portion of the coast 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 connect populations within Mendocino County. 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MEN–2: Virgin Creek

Unit MEN–2 consists of 11 ac (4 ha) 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 occupied 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 is considered a source population, and it will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. As described above, this unit is one of only three small estuaries occupied by tidewater gobies between MEN–1 and SON–1. It forms an important intermediate locality for movement within Mendocino County. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MEN–3: Pudding Creek

Unit MEN–3 consists of 23 ac (9 ha) located 2.5 mi (4.0 km) north of the town of Fort Bragg. Pudding Creek, 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 connectivity within Mendocino County. Known threats to tidewater goby habitat 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

Unit MEN–4 consists of 24 ac (10 ha) 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

is considered a source population, and it will support the recovery of the tidewater goby population along this portion of the coast 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 tidewater gobies between MEN–1 and SON–1. It forms an important intermediate locality for long-term connectivity within Mendocino County. 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SON–1: Salmon Creek

Unit SON–1 consists of 100 ac (41 ha) 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 will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MAR–1: Estero Americano

Unit MAR–1 consists of 295 ac (120 ha) 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 support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MAR–2: Estero de San Antonio

Unit MAR–2 consists of 178 ac (72 ha) 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 unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MAR–3: Lagunitas (Papermill) Creek

Unit MAR–3 consists of 849 ac (344 ha) 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 bayward 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. This unit was occupied prior to listing and is currently occupied; therefore we consider it to have been occupied at the time of listing. 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. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MAR–4: Rodeo Lagoon

Unit MAR–4 consists of 40 ac (16 ha) 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. Tidewater gobies are 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. 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 support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SM–1: San Gregorio Creek

Unit SM–1 consists of 39 ac (16 ha) 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 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SM–2: Pescadero-Butano Creek

Unit SM–2 consists of 218 ac (88 ha) 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SM–3: Bean Hollow Creek (Arroyo de Los Frijoles)

Unit SM–3 consists of 10 ac (4 ha) 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 designated as critical habitat), by 16.1 mi (26 km). This unit, together with the two units to the north, will support the recovery of the tidewater goby population along this important coastal range, allowing for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SC–1: Laguna Creek

Unit SC–1 consists of 26 ac (11 ha) 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, together with Baldwin Creek (SC–2) to the south, is considered a source population, and will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SC–2: Baldwin Creek

Unit SC–2 consists of 17 ac (7 ha) 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 designated as critical habitat), by 0.7 mi (1.2 km). SC–2, together with Laguna Creek to the north, is considered a source population for this region, and will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SC–3: Corcoran Lagoon

Unit SC–3 consists of 32 ac (12 ha) 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 designated as critical habitat), by 0.7 mi (1.1 km). SC–3 is likely a source population for this region. This will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SC–4: Aptos Creek

Unit SC–4 consists of 3 ac (1 ha) that occur 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 designated as critical habitat), by 4.2 mi (6.75 km). This unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SC–5: Pajaro River

Unit SC–5 consists of 176 ac (71 ha) 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 and is currently occupied; therefore we consider it to be occupied at the time of listing. 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 allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

MN–1: Bennett Slough

Unit MN–1 consists of 155 ac (63 ha) located approximately 3.7 mi (6 km) northwest of the town of Castroville. PCE 4 (a sandbar(s) across the mouth of lagoon or estuary) is not likely to occur within this unit because it has a navigable, dredged channel with a permanent open connection to the ocean maintained on a regular 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 one of two occupied localities 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). The unit is separated from the nearest extant population to the south, Moro Coho Slough (not designated as critical habitat), by 1.3 mi (2.1 km). This unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–1: Arroyo del Corral

Unit SLO–1 consists of 5 ac (2 ha) 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 unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–2: Oak Knoll Creek (Arroyo Laguna)

Unit SLO–2 consists of 3 ac (1 ha) 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 designated as critical habitat), 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–3: Little Pico Creek

Unit SLO–3 consists of 2 ac (1 ha) 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 designated as critical habitat), 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 support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–4: San Simeon Creek

Unit SLO–4 consists of 16 ac (7 ha) 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 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 designated as critical habitat), 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 support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–5: Villa Creek

Unit SLO–5 consists of 5 ac (2 ha) 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 unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–6: San Geronimo Creek

Unit SLO–6 consists of 1 ac (1 ha) 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 designated as critical habitat), by 1.5 mi (2.4 km). This unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SLO–7: Pismo Creek

Unit SLO–7 consists of 18 ac (8 ha) 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, and is currently occupied. SLO–7 is the southernmost of the seven 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 designated as critical habitat), by 2.6 mi (4.2 km). SLO–7 has been consistently occupied over time and is likely a source population for this region. This unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–1: Santa Maria River

Unit SB–1 consists of 468 ac (189 ha) 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 designated as critical habitat), by 8.6 mi (13.9 km). This unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–2: Cañada de las Agujas

Unit SB–2 consists of 1 ac (1 ha) 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 designated as critical habitat), 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 and discussed in the Background and Criteria Used To Identify Critical Habitat sections. 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 9 ac (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, these five units will function together to support the recovery of the tidewater goby along the Gaviota Coast in Santa Barbara County. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–3: Cañada de Santa Anita

Unit SB–3 consists of 3 ac (1 ha) 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 designated as critical habitat), 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 and discussed in the Background and Criteria Used To Identify Critical Habitat sections. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–4: Cañada de Alegria

Unit SB–4 consists of 1 ac (1 ha) 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 and discussed in the Background and Criteria Used To Identify Critical Habitat sections. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–5: Cañada de Agua Caliente

Unit SB–5 consists of 1 ac (1 ha) 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 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 and discussed in the Background and Criteria Used To Identify Critical Habitat sections. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–6: Gaviota Creek

Unit SB–6 consists of 9 ac (4 ha) 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 and 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 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 and discussed in the Background and Criteria Used To Identify Critical Habitat sections. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–7: Winchester/Bell Canyon

Unit SB–7 consists of 6 ac (3 ha) 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 designated as critical habitat), 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

SB–8: Arroyo Burro

Unit SB–8 consists of 2 ac (1 ha) 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. Surveys for tidewater gobies were not conducted at SB–8 prior to listing, although subsequent surveys found them to be present. Because it is isolated from other tidewater goby localities, SB–8 could have been colonized after listing; therefore, we consider it to have been unoccupied at the time of listing. However, 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. 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).

SB–9: Mission Creek-Laguna Channel

Unit SB–9 consists of 14 ac (6 ha) 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 designated as critical habitat), by 1.0 mi (1.5 km). This unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

VEN–1: Ventura River

Unit VEN–1 consists of 51 ac (20 ha) 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 unit will support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

VEN–2: Santa Clara River

Unit VEN–2 consists of 350 ac (142 ha) 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 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 unit will support the recovery of the tidewater goby population along this portion of the coast 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

VEN–3: J Street Drain-Ormond Lagoon

Unit VEN–3 consists of 45 ac (18 ha) 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 to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

LA–1: Malibu Lagoon

Unit LA–1 consists of 64 ac (27 ha) 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 have been designated as critical habitat units. 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 support the recovery of the tidewater goby population along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats to tidewater goby habitat that may require special management considerations or protection of the PCEs in this unit are described in Table 2.

LA–2: Topanga Creek

Unit LA–2 consists of 5 ac (2 ha) 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. Tidewater goby surveys of LA–2 prior to and at the time of listing did not find them to be present. Tidewater gobies were first detected at this locality in 2001 and the unit is currently occupied. We consider this unit to be 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. 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.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our definition of ''destruction or adverse modification'' (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)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional 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, we document compliance with the requirements of section 7(a)(2) through our 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 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. We define ''Reasonable and prudent alternatives'' 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,
- Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,
- Are economically and technologically feasible, and
- Would, in the Director's opinion, avoid jeopardy to the listed species or destruction or adverse modification of critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies may sometimes need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Federal activities that may affect the tidewater goby or its designated critical habitat will require section 7(a)(2) consultation under the Act. Activities on State, Tribal, local or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from us under section 10(a)(1)(B) of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are also subject to the section 7(a)(2) 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(a)(2) consultations.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that appreciably reduces the conservation value of critical habitat for the tidewater goby. Generally, the conservation role of tidewater goby critical habitat units is to support viable metapopulations.

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, 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 designated critical habitat units, or the areas up gradient 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.

With the exception of the Eel River, Arroyo Burro, and Topanga Creek units, all of the critical habitat units were occupied by the species at the time of listing and contain the features essential to the conservation of the tidewater goby. Eel River, Arroyo Burro, and Topanga Creek units were not occupied at the time of listing but are currently occupied. As discussed in the Unit Descriptions section, these units are essential to the conservation of the species.

Application of Section 4(a)(3) of the Act—Approved Integrated Natural Resource Management Plans

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 an Integrated Natural Resource Management Plan (INRMP) by November 17, 2001. 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 consulted with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the critical habitat designation for the tidewater goby to determine if they are exempt under section 4(a)(3) of the Act.

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 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. The approximately 838 ac (340 ha) of essential tidewater goby habitat identified on the Base 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 exempting the approximately 838 ac (340 ha) of essential habitat occurring on this installation from the critical habitat designation for tidewater goby pursuant to section 4(a)(3) of the Act for the reasons described below.

In 2001, the Marine Corps completed and approved 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, and also the Marine Corps regularly consults on any of their actions that fall outside of the programmatic consultation.

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, 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. The approximately 775 ac (314 ha) of essential tidewater goby habitat identified on VAFB are subject to the INRMP. This habitat is located in the following areas: Shuman Canyon, San Antonio Creek, Santa Ynez River, Cañada Honda, and Jalama Creek. Therefore, we are exempting the approximately 775 ac (314 ha) of essential habitat occurring on this installation from the critical habitat designation for tidewater goby pursuant to section 4(a)(3) of the Act for the reasons described below.

VAFB completed and approved an INRMP in 1997, which they are in the process of updating. The VAFB original 1997 INRMP provides conservation measures for the tidewater goby, as well as for the management of important wetland habitats on the base, and therefore provides a benefit to the tidewater goby. The draft update includes the same conservation measures for the tidewater goby, includes the same management of important wetland habitats on the base, and will also provide a benefit to the tidewater goby. VAFB's 1997 INRMP and draft update benefit 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 1997 INRMP and draft update provide 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 1997 INRMP and draft update specify 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, 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.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the essential habitat identified on Marine Corps Base Camp Pendleton and Vandenberg Air Force Base are subject to the INRMPs approved for those installations, and the conservation efforts identified in the INRMPs provide benefits to the tidewater goby. Therefore, the approximately 1,613 ac (654 ha) of identified essential habitat are exempted from the critical habitat designation for the tidewater goby pursuant to section 4(a)(3) of the Act.

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless 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 Congressional legislative history is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

We consider a number of factors in a section 4(b)(2) analysis. For example, we consider (1) whether there are lands owned or managed by the Department of Defense (DOD) where a national security impact might exist; (2) whether landowners have developed any conservation plans for the area; (3) whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat; (4) our government-to-government relationship with tribal entities and whether there are any Tribal issues; and (5) any social impacts that might occur because of the designation. We must also consider the economic impacts. The Service conducted an economic analysis of the impacts of the proposed critical habitat designation and related factors, which was made available for public review and comment on September 25, 2007.

In preparing this final rule, we have determined that designation of critical habitat for the tidewater goby will have no impact to national security, Tribal lands, partnerships, or habitat conservation plans. Further, our economic analysis indicates an overall economic benefit as a result of the designation, and did not identify any particular areas where the designation would result in significant economic impacts. Therefore, we have found no areas for which the benefits of exclusion outweigh the benefits of inclusion, and so have not excluded any areas from this designation of critical habitat for tidewater goby under section 4(b)(2) of the Act.

Economics

Section 4(b)(2) of the Act allows the Secretary to exclude areas from critical habitat for economic reasons if it is determined that the benefits of such exclusion exceed the benefits of designating the area as critical habitat. However, this exclusion cannot occur if it will result in the extinction of the species concerned.

Following the publication of the proposed revised designation of critical habitat, we conducted an economic analysis to estimate the potential economic effect of the designation. This draft analysis was made available for public review on September 25, 2007 (72 FR 54411). We accepted comments on the draft economic analysis until October 10, 2007. A final analysis of the potential economic effects of the proposed revised designation was then developed taking into consideration the public comments and any new information.

The economic analysis considers the potential economic effects of actions relating to the conservation of the tidewater goby, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to the designation of critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the

tidewater goby in areas containing features essential to the conservation of the species. The analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat protection measures (such as lost economic opportunities associated with restrictions on land use).

The economic analysis focuses on the direct and indirect costs of the rule. However, economic impacts to land use activities can exist in the absence of critical habitat. These impacts may result from, for example, local zoning laws, State and natural resource laws, and enforceable management plans and best management practices applied by other State and Federal agencies. Economic impacts that result from these types of protections are not included in the analysis as they are considered to be part of the regulatory and policy baseline.

The analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the analysis looks retrospectively at costs that have been incurred since the date the tidewater goby was listed as endangered (February 4, 1994 (59 FR 5494) and considers those costs that may occur in the 20 years following a designation of critical habitat.

The September 25, 2007 notice (72 FR 54411) provides a detailed economics section for the areas proposed as critical habitat for the tidewater goby. The analysis estimates post-designation costs associated with conservation efforts for the tidewater goby to be approximately $25 million (undiscounted) over the next 20 years (2007 to 2026) as a result of the proposed revised designation of critical habitat. Discounted future costs are estimated to be approximately $22 million ($1.5 million annualized) at a 3 percent discount rate or approximately $20 million ($1.8 million annualized) at a 7 percent discount rate. Potential cost savings in Unit VEN–2 associated with tidewater goby conservation efforts range from approximately $35 million to $90 million (undiscounted dollars). By combining these savings with the estimated costs of conservation efforts, an overall net cost savings of approximately $10 million to $65 million (undiscounted) could be realized over the next 20 years. In present value terms, net cost savings range from approximately $9.8 million to $60 million (assuming a 3 percent discount rate) or approximately $9.1 million to $54.0 million (assuming a 7 percent discount rate).

Appendix B of the final economic analysis estimates the potential incremental impacts of critical habitat designation for the tidewater goby. It does so by attempting to isolate those direct and indirect impacts that are expected to be triggered specifically by the critical habitat designation. The incremental conservation efforts and associated impacts included in Appendix B would not be expected to occur absent the designation of critical habitat for the tidewater goby. Total present value potential incremental impacts are estimated to be $206,000 discounted at three percent. All other impacts quantified in the final economic analysis are considered baseline impacts and are not expected to be affected by the critical habitat designation.

We have evaluated the potential economic impact of the revised designation as identified in the final economic analysis. Based on this evaluation, we believe that there are no disproportionate economic impacts resulting in the benefits of excluding an area outweighing the benefits of including an area.

A copy of the final economic analyses with supporting documents are included in our administrative record and may be obtained by contacting the Ventura Fish and Wildlife Office (see **ADDRESSES**) or on the Internet at *http://www.fws.gov/ventura.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866 (E.O. 12866), we evaluate four parameters in determining whether a rule is significant. If any one of the following four parameters is met, the Office of Management and Budget (OMB) will designate that rule as significant under E.O. 12866:

(a) The rule would have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government;

(b) The rule would create inconsistencies with other Federal agencies' actions;

(c) The rule would materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients; or

(d) The rule would raise novel legal or policy issues.

If OMB requests to informally review a rule designating critical habitat for a species, we consider that rule to raise novel legal and policy issues. Because no other Federal agencies designate critical habitat, the designation of critical habitat will not create inconsistencies with other agencies' actions. We use the economic analysis of the critical habitat designation to evaluate the potential effects related to the other parameters of E.O. 12866 and to make a determination as to whether the regulation may be significant under parameter (a) or (c) listed above.

Based on the economic analysis of the critical habitat designation, we have determined that the designation of critical habitat for tidewater goby will not result in an annual effect on the economy of $100 million or more or affect the economy in a material way. Based on previous critical habitat designations and the economic analysis, we believe this rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. OMB has requested to informally review this rule, and thus this action does raise novel legal or policy issues. In accordance with the provisions of E.O. 12866, this rule is considered significant.

Executive Order 12866 directs Federal agencies issuing regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Under Circular A–4, once an agency determines that the Federal regulatory action is appropriate, the agency must consider alternative regulatory approaches. Because the determination of critical habitat is a statutory requirement under the Act, we must evaluate alternative regulatory approaches, where feasible, when issuing a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts under 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 species. We believe that the evaluation of the inclusion or exclusion of particular areas, or a combination of both, constitutes our regulatory alternative analysis for designations.

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must 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 (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. SBREFA amended 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. In this final rule, we are certifying that the critical habitat designation for tidewater goby will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the rule could significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., grazing, oil and gas production, transportation). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the tidewater goby (see Section 7 Consultation section). Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (see Application of the ''Adverse Modification'' Standard section).

The economic analysis of the revised critical habitat designation examined the potential for goby conservation efforts to affect small business entities. This analysis was based on the estimated impacts associated with the proposed designation of critical habitat, and evaluated the potential for economic impacts related to: Water management, grazing, transportation, natural resource management, and oil and gas pipeline construction and maintenance. Based on the results of the analysis, incremental impacts are associated with additional administrative costs of section 7 consultations in water management, transportation, natural resource management, and oil and gas pipeline construction and maintenance. No additional project modification costs are expected to result from this designation. All impacts quantified in our economic analysis, other than the incremental portion of administrative costs, are forecast to occur regardless of critical habitat designation for the tidewater goby.

Additional administrative costs resulting from this designation are expected to be borne by various public agencies, including the Service, the U.S. Army Corps of Engineers, California State departments, and various California city and county governments; however, none of these qualify as small entities.[1] Del Norte County, which is the only county containing proposed critical habitat that qualifies as a small entity, is not expected to bear any incremental impacts of goby conservation from the critical habitat designation. Therefore, this analysis does not anticipate any impacts to small entities.

In summary, we have considered whether this would result in a significant economic effect on a substantial number of small entities. For the above reasons and based on currently available information, we certify that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.)

Under SBREFA, this rule is not a major rule. Our detailed assessment of the economic effects of this designation is described in the economic analysis. Based on the effects identified in the economic analysis, we believe that this rule will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination. (see **ADDRESSES** for information on obtaining a copy of the final economic analysis).

Executive Order 13211 (Energy Supply, Distribution, or Use)

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. E.O. 13211 requires agencies to prepare Statements

[1] Section 601(5) of the RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000.

of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared without the regulatory action under consideration. The final economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with tidewater goby conservation activities within the final critical habitat designation are not expected. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities 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) As discussed in the draft economic analysis of the proposed revised designation of critical habitat for the tidewater goby, the impacts on water management activities to Del Norte County are estimated to be $4,000 per year. Del Norte County had annual gross revenues of $51 million in 2004. Therefore impacts to Del Norte County for water management are expected to be less than 0.01 percent of yearly gross revenues. Consequently, we do not believe that the designation of critical habitat for the tidewater goby would significantly or uniquely affect any small governmental entities, and the designation of critical habitat imposes no obligations on State or local governments. As such, a Small Government Agency Plan is not required.

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 implication assessment. The takings implications assessment concludes that this final designation of critical habitat for the tidewater goby does not pose significant takings implications for lands within or affected by the designation.

Federalism

In accordance with E.O. 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of Interior and Department of Commerce policy, we requested information from, and coordinated development of, this final critical habitat designation with appropriate State resource agencies and local jurisdictions. We received comments from the CDFG and 2 local governments; those comments and our responses are included in the Summary of Comments and Recommendations section of this final rule. The designation may have some benefit to these governments in that the areas containing the physical and biological features essential to the conservation of the species are more clearly defined, and the PCEs of the habitat essential to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under § 7(a)(2) would be required. 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.

Civil Justice Reform

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Endangered Species Act. This final rule uses standard property descriptions and identifies the PCEs 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 of 1995 (44 U.S.C. 3501 *et seq.*). 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 (NEPA)

It is our position that, outside the jurisdiction of the Circuit Court of the United States for the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld by the Circuit Court of the United States for the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (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), E.O.13175, and the Department of the 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. In accordance with Secretarial Order 3206 of June 5, 1997, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,'' we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We have determined that there are no Tribal lands that meet the definition of critical habitat for the tidewater goby. Therefore, no critical habitat for the tidewater goby has been designated on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Listing and Recovery Coordinator, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary author of this rule is the Ventura Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. In § 17.95(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 newberryi*)

(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 to 2 m), still-to-slow-moving aquatic habitat most commonly ranging in salinity from less than 0.5 ppt to about 10 to 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 man-made 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 PCEs.

(4) *Critical habitat map units.* Boundaries of critical habitat were 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 were digitized directly on imagery from the Department of Agriculture's National Aerial Imagery Program data (NAIP) acquired in 2005. NAIP and NWI data were projected to Universal Transverse Mercator (UTM), zones 10 and 11, on the North American Datum of 1983.

(5) Index to maps of critical habitat for tidewater goby.

(i) *Note:* Map 1 of Index to maps of critical habitat for tidewater goby follows.

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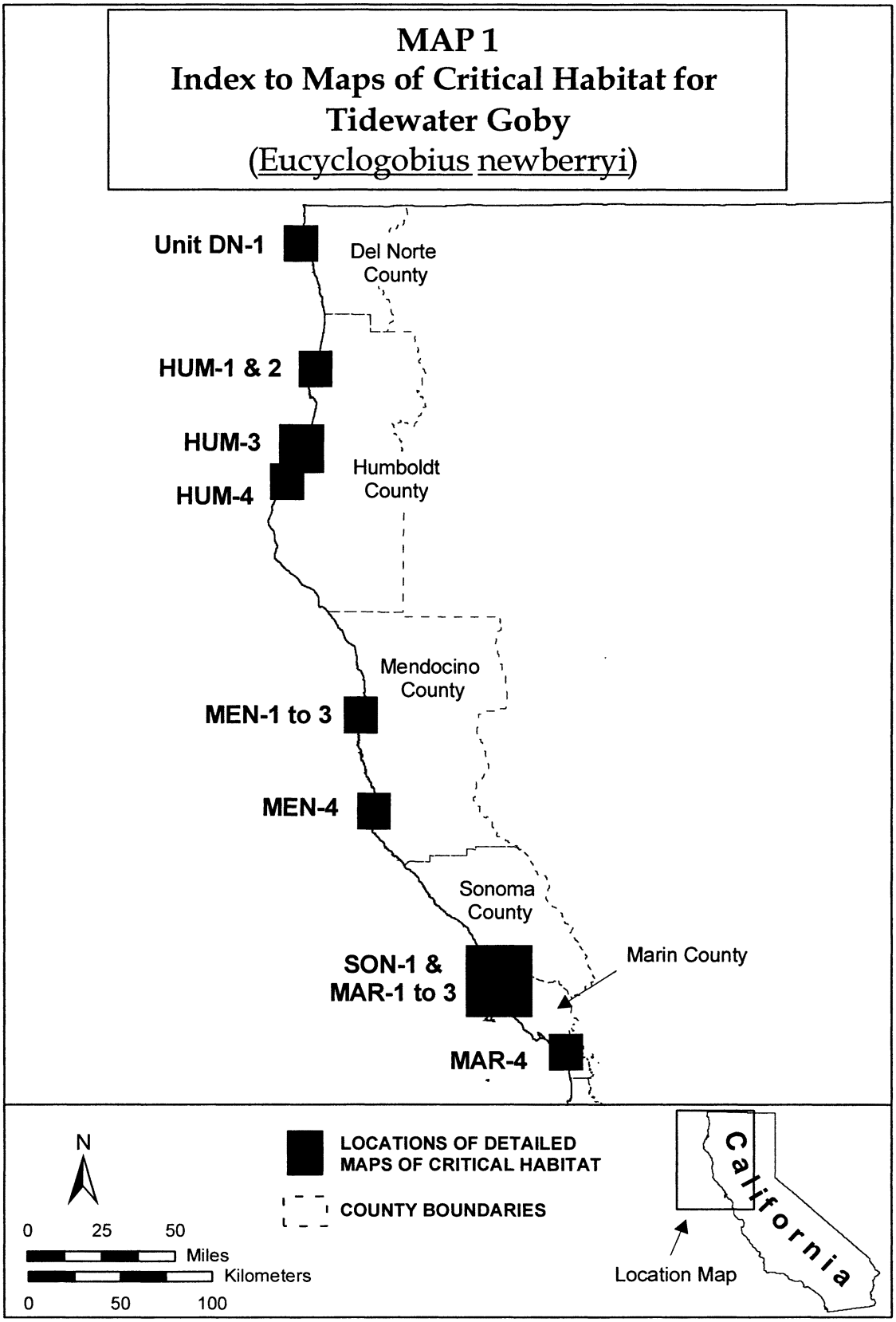
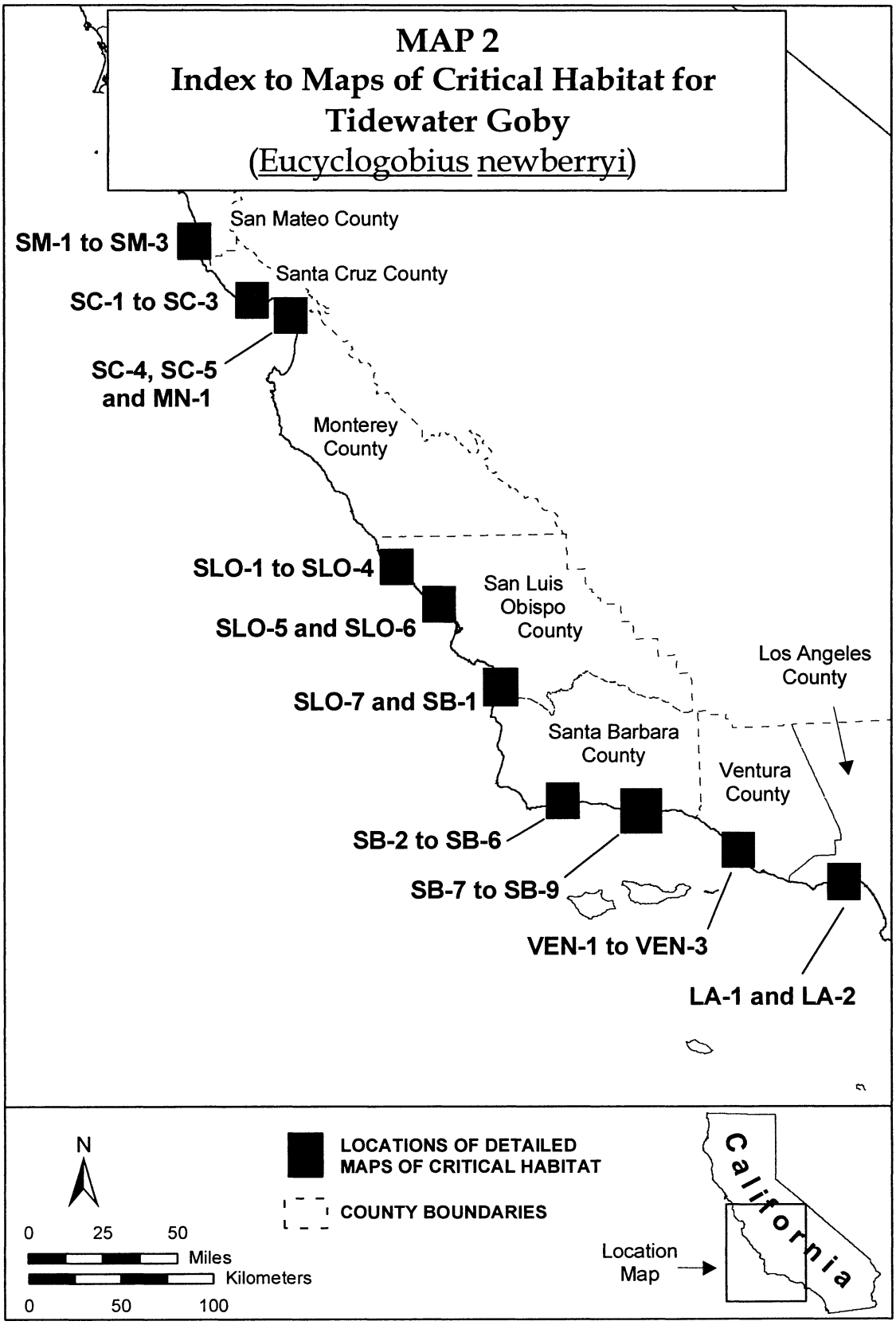

MAP 1
Index to Maps of Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
Unit DN-1
Del Norte County
HUM-1 & 2
HUM-3
HUM-4
Humboldt County
Mendocino County
MEN-1 to 3
MEN-4
Sonoma County
Marin County
SON-1 & MAR-1 to 3
MAR-4
N
LOCATIONS OF DETAILED MAPS OF CRITICAL HABITAT
COUNTY BOUNDARIES
0 25 50
Miles
Kilometers
0 50 100
California
Location Map

(ii) *Note:* Map 2 of Index to maps of critical habitat for tidewater goby follows.



(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; 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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; 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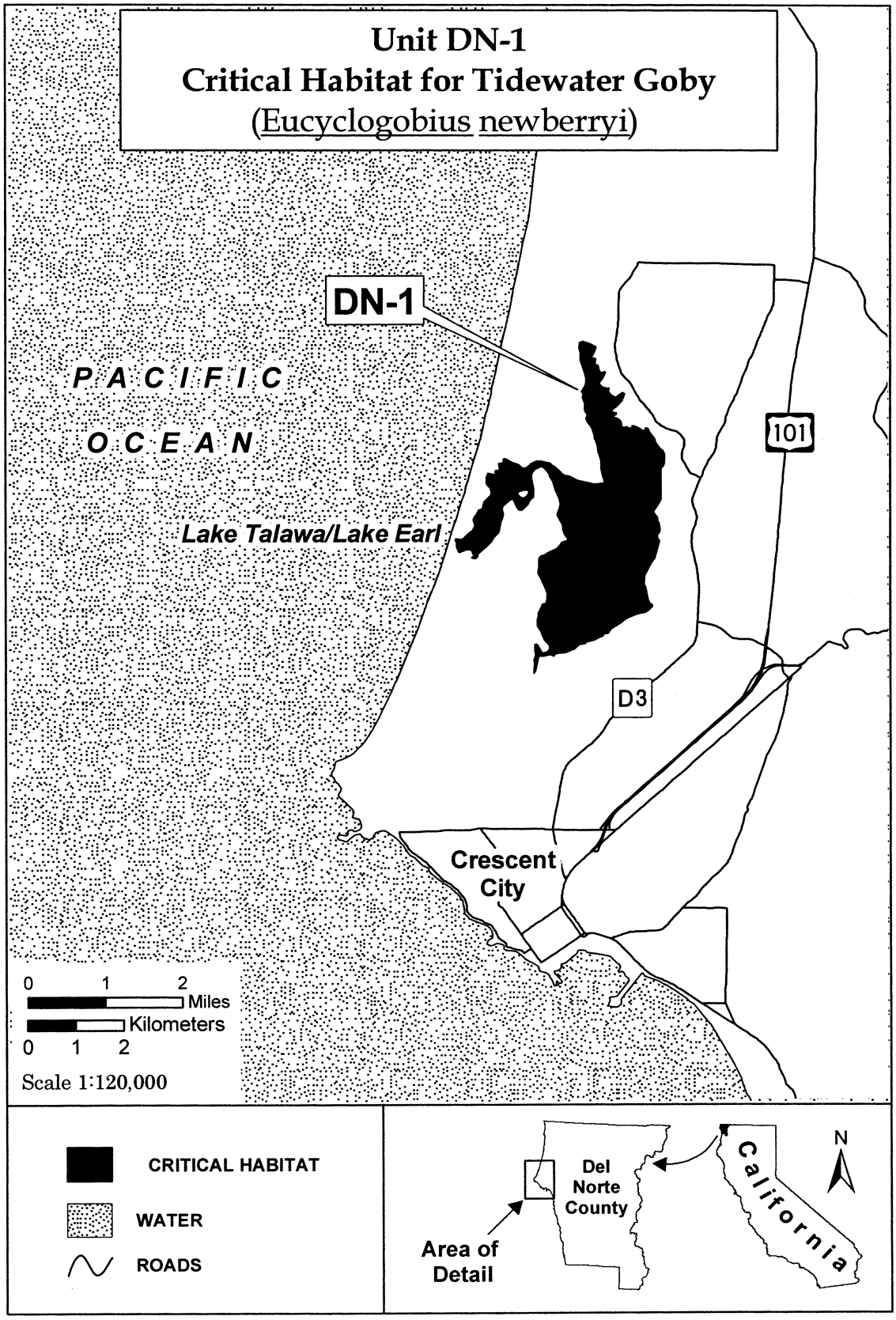
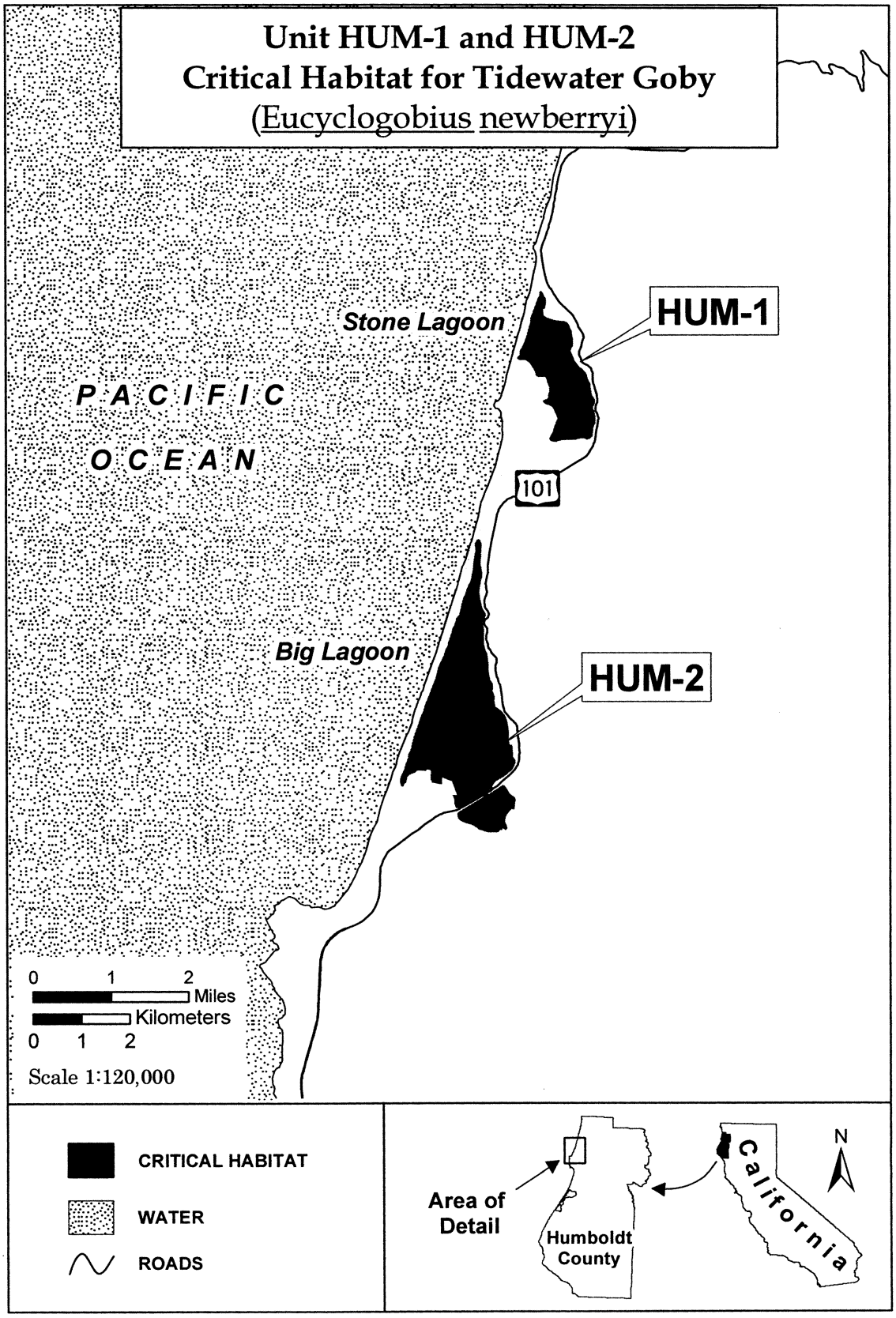
(ii) *Note:* Map of Unit DNT–1 follows.


Unit DN-1
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
DN-1
PACIFIC
OCEAN
Lake Talawa/Lake Earl
101
D3
Crescent City
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Del Norte County
California
Area of Detail
N

(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 Unit HUM–1 follows.



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:* HUM–2 included on map with unit HUM–1.

(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; 405348, 4523623; 405369, 4523641; 405376, 4523663; 405381, 4523685; 405391, 4523700; 405416, 4523723; 405423, 4523745; 405428, 4523785; 405428, 4523806; 405417, 4523823; 405412, 4523847; 405412, 4523867; 405412, 4523886; 405419, 4523906; 405432, 4523932; 405448, 4523944; 405451, 4523966; 405448, 4523985; 405444, 4524004; 405451, 4524020; 405454, 4524037; 405470, 4524053; 405488, 4524054; 405509, 4524054; 405523, 4524062; 405525, 4524076; 405525, 4524092; 405516, 4524097; 405503, 4524085; 405487, 4524084; 405472, 4524087; 405460, 4524092; 405457, 4524081; 405448, 4524060; 405435, 4524042; 405426, 4524042; 405422, 4524060; 405438, 4524075; 405444, 4524095; 405457, 4524116; 405472, 4524116; 405481, 4524106; 405487, 4524107; 405504, 4524116; 405522, 4524116; 405538, 4524107; 405551, 4524107; 405562, 4524117; 405581, 4524126; 405587, 4524137; 405594, 4524135; 405594, 4524116; 405576, 4524098; 405548, 4524081; 405544, 4524050; 405516, 4524035; 405488, 4524031; 405472, 4524019; 405469, 4524000; 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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;

409284, 4522732; 409282, 4522740; 409275, 4522747; 409271, 4522747; 409263, 4522748; 409261, 4522752; 409253, 4522757; 409247, 4522744; 409227, 4522732; 409213, 4522730; 409208, 4522722; 409206, 4522699; 409203, 4522689; 409175, 4522660; 409162, 4522658; 409141, 4522658; 409128, 4522655; 409115, 4522647; 409102, 4522644; 409092, 4522645; 409084, 4522652; 409081, 4522663; 409081, 4522672; 409083, 4522680; 409085, 4522691; 409081, 4522698; 409077, 4522700; 409068, 4522698; 409058, 4522692; 409041, 4522685; 409030, 4522687; 409023, 4522697; 409020, 4522709; 409012, 4522717; 409001, 4522721; 408988, 4522718; 408970, 4522704; 408959, 4522696; 408950, 4522696; 408939, 4522677; 408937, 4522662; 408930, 4522636; 408931, 4522628; 408939, 4522622; 408945, 4522613; 408944, 4522606; 408936, 4522607; 408924, 4522616; 408916, 4522622; 408912, 4522615; 408920, 4522609; 408930, 4522597; 408925, 4522587; 408916, 4522581; 408902, 4522571; 408891, 4522563; 408882, 4522531; 408886, 4522522; 408888, 4522499; 408893, 4522473; 408893, 4522450; 408882, 4522436; 408874, 4522429; 408859, 4522417; 408859, 4522411; 408855, 4522403; 408853, 4522386; 408851, 4522340; 408852, 4522302; 408850, 4522288; 408852, 4522282; 408851, 4522258; 408850, 4522228; 408861, 4522228; 408868, 4522228; 408875, 4522225; 408876, 4522219; 408881, 4522206; 408895, 4522209; 408901, 4522209; 408910, 4522223; 408920, 4522239; 408935, 4522253; 408950, 4522264; 408965, 4522271; 408986, 4522273; 408995, 4522273; 409002, 4522279; 409010, 4522288; 409012, 4522309; 409017, 4522342; 409024, 4522357; 409035, 4522364; 409051, 4522372; 409062, 4522384; 409073, 4522400; 409089, 4522424; 409098, 4522436; 409115, 4522443; 409127, 4522439; 409137, 4522426; 409138, 4522418; 409141, 4522409; 409144, 4522395; 409149, 4522388; 409168, 4522386; 409179, 4522387; 409195, 4522391; 409217, 4522400; 409234, 4522417; 409240, 4522433; 409250, 4522455; 409266, 4522463; 409290, 4522467; 409320, 4522476; 409339, 4522493; 409350, 4522514; 409362, 4522525; 409381, 4522526; 409396, 4522525; 409411, 4522512; 409417, 4522499; 409417, 4522487; 409428, 4522476; 409441, 4522476; 409457, 4522473; 409464, 4522471; 409470, 4522467; 409470, 4522461; 409467, 4522462; 409461, 4522458; 409455, 4522432; 409464, 4522418; 409496, 4522388; 409501, 4522381; 409499, 4522376; 409494, 4522378; 409456, 4522418; 409449, 4522428; 409452, 4522446; 409457, 4522458; 409450, 4522468; 409438, 4522470; 409424, 4522470; 409417, 4522472; 409412, 4522489; 409406, 4522505; 409398, 4522515; 409386, 4522519; 409374, 4522519; 409362, 4522515; 409351, 4522499; 409335, 4522475; 409318, 4522464; 409295, 4522459; 409271, 4522456; 409259, 4522446; 409255, 4522432; 409252, 4522419; 409235, 4522397; 409212, 4522383; 409199, 4522379; 409170, 4522372; 409142, 4522377; 409135, 4522388; 409127, 4522410; 409127, 4522424; 409119, 4522429; 409112, 4522431; 409104, 4522428; 409098, 4522419; 409090, 4522403; 409081, 4522387; 409070, 4522374; 409058, 4522363; 409049, 4522355; 409039, 4522346; 409032, 4522336; 409029, 4522319; 409030, 4522301; 409028, 4522281; 409034, 4522278; 409055, 4522276; 409062, 4522270; 409078, 4522260; 409096, 4522248; 409111, 4522236; 409121, 4522233; 409126, 4522237; 409137, 4522252; 409140, 4522259; 409142, 4522255; 409140, 4522244; 409134, 4522233; 409121, 4522225; 409110, 4522227; 409096, 4522239; 409075, 4522253; 409061, 4522263; 409051, 4522269; 409041, 4522269; 409018, 4522269; 409008, 4522264; 408990, 4522258; 408971, 4522255; 408956, 4522249; 408933, 4522237; 408922, 4522220; 408909, 4522203; 408899, 4522190; 408886, 4522178; 408877, 4522178; 408874, 4522193; 408871, 4522209; 408869, 4522210; 408869, 4522202; 408871, 4522179; 408869, 4522171; 408868, 4522165; 408861, 4522160; 408848, 4522160; 408846, 4522175; 408838, 4522180; 408838, 4522185; 408846, 4522194; 408842, 4522201; 408835, 4522214; 408838, 4522224; 408841, 4522233; 408841, 4522243; 408841, 4522269; 408840, 4522281; 408834, 4522284; 408827, 4522283; 408812, 4522283; returning to 408793, 4522282.

(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;

407753, 4516735; 407729, 4516726; 407682, 4516720; 407634, 4516720; 407585, 4516717; 407551, 4516713; 407522, 4516703; 407494, 4516678; 407476, 4516634; 407471, 4516597; 407469, 4516597; 407459, 4516598; 407458, 4516598; 407459, 4516618; 407473, 4516664; 407489, 4516693; 407512, 4516715; 407551, 4516727; 407614, 4516734; 407646, 4516737; 407705, 4516738; 407729, 4516741; 407743, 4516745; 407749, 4516757; 407745, 4516787; 407729, 4516865; 407725, 4516894; 407723, 4516934; 407725, 4516975; 407729, 4516996; 407713, 4517029; 407681, 4517059; 407645, 4517083; 407601, 4517094; 407531, 4517100; 407450, 4517092; 407441, 4517082; 407418, 4517074; 407395, 4517071; 407363, 4517068; 407345, 4517078; 407336, 4517095; 407328, 4517113; 407319, 4517147; 407317, 4517164; 407304, 4517209; 407290, 4517244; 407283, 4517287; 407272, 4517352; 407264, 4517401; 407241, 4517444; 407219, 4517456; 407197, 4517459; 407178, 4517457; 407167, 4517442; 407164, 4517418; 407162, 4517370; 407152, 4517322; 407135, 4517290; 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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;

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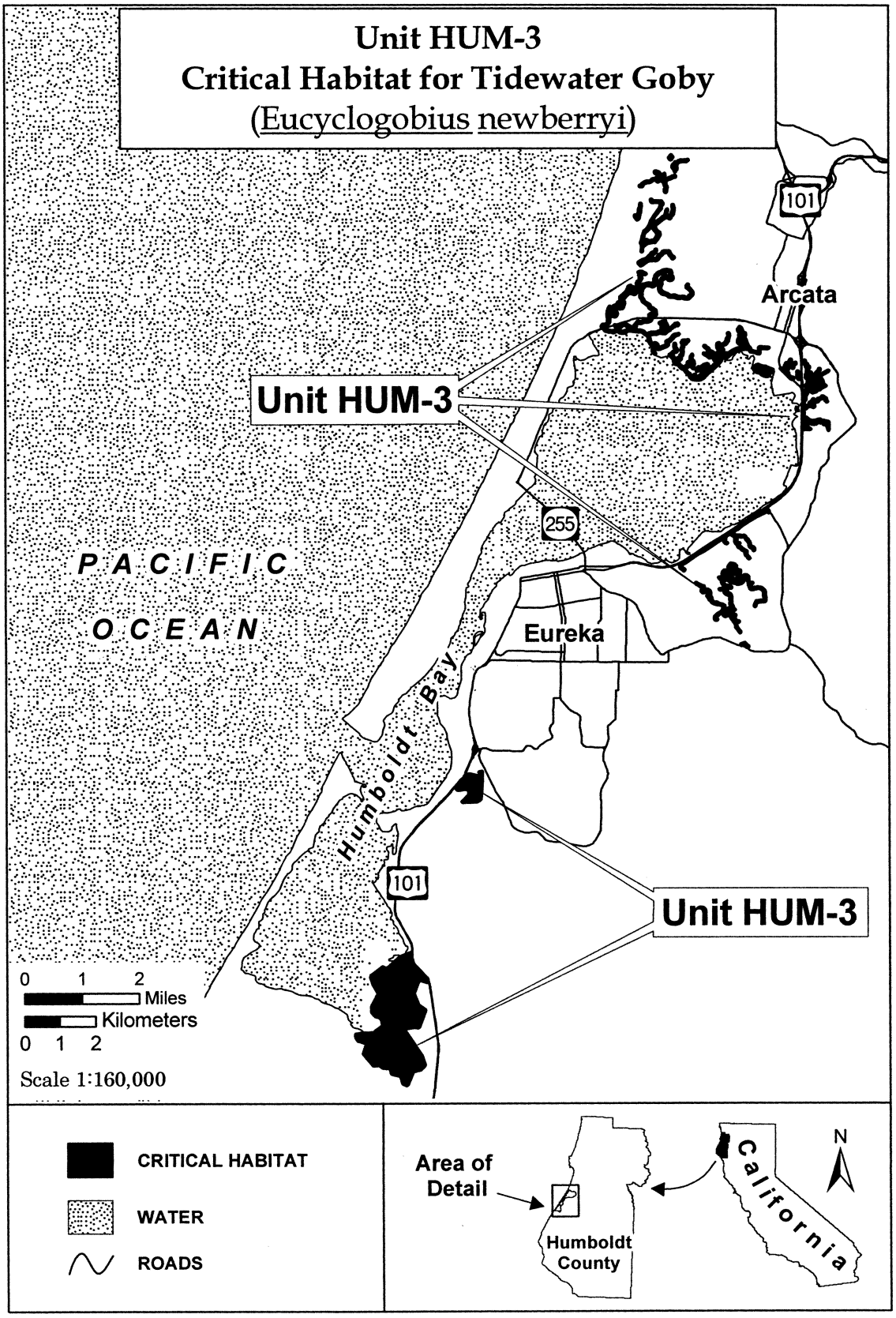
(xxvi) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 407085, 4515505; 407087, 4515512; 407130, 4515530; 407145, 4515540; 407173, 4515552; 407184, 4515539; 407203, 4515520; 407223, 4515509; 407236, 4515491; 407238, 4515481; 407244, 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.

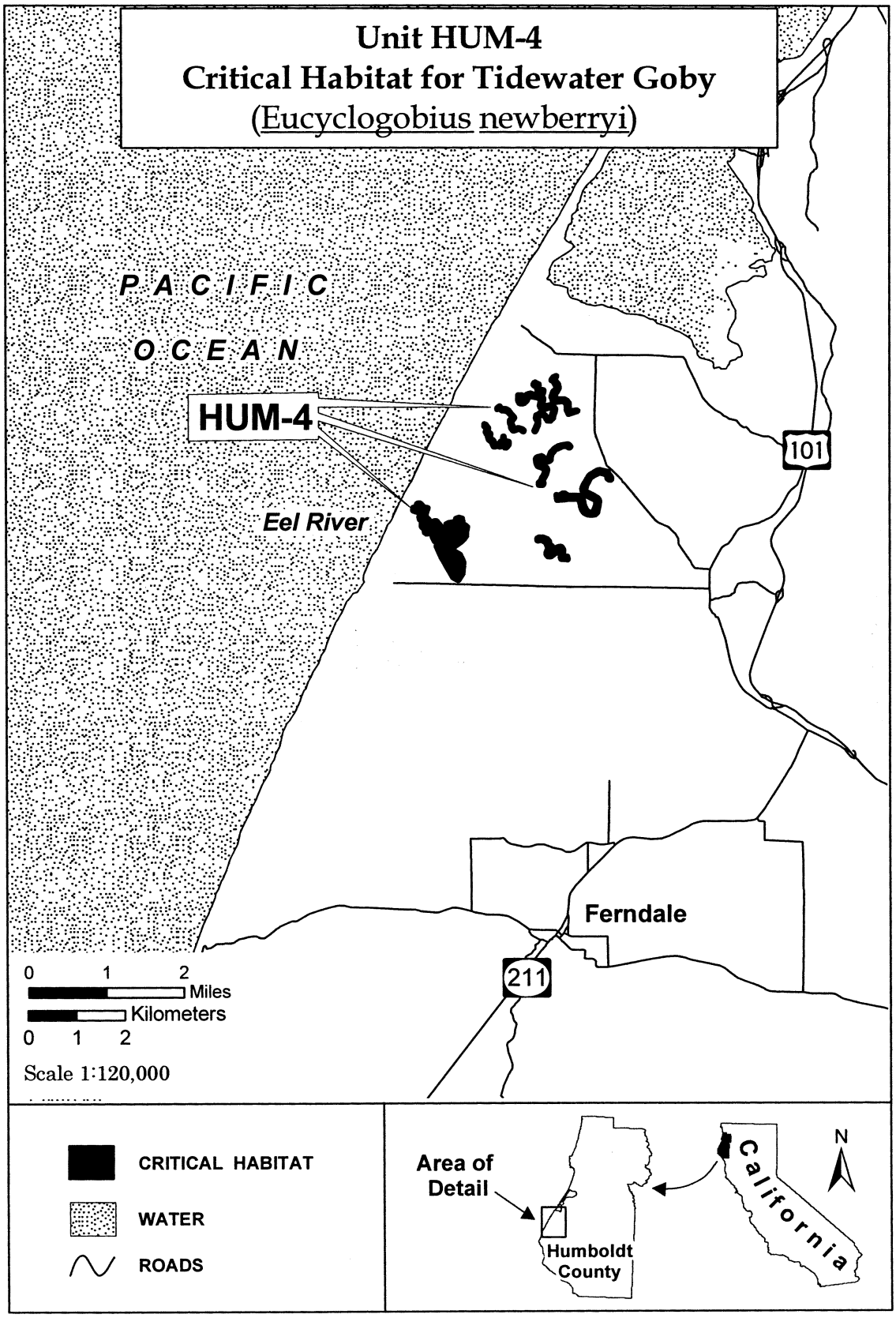
(vii) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 393154, 4501798; 393227, 4501791; 393249, 4501813; 393285, 4501830; 393312, 4501808; 393317, 4501830; 393382, 4501791; 393548, 4501791; 393611, 4501786; 393672, 4501755; 393701, 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.

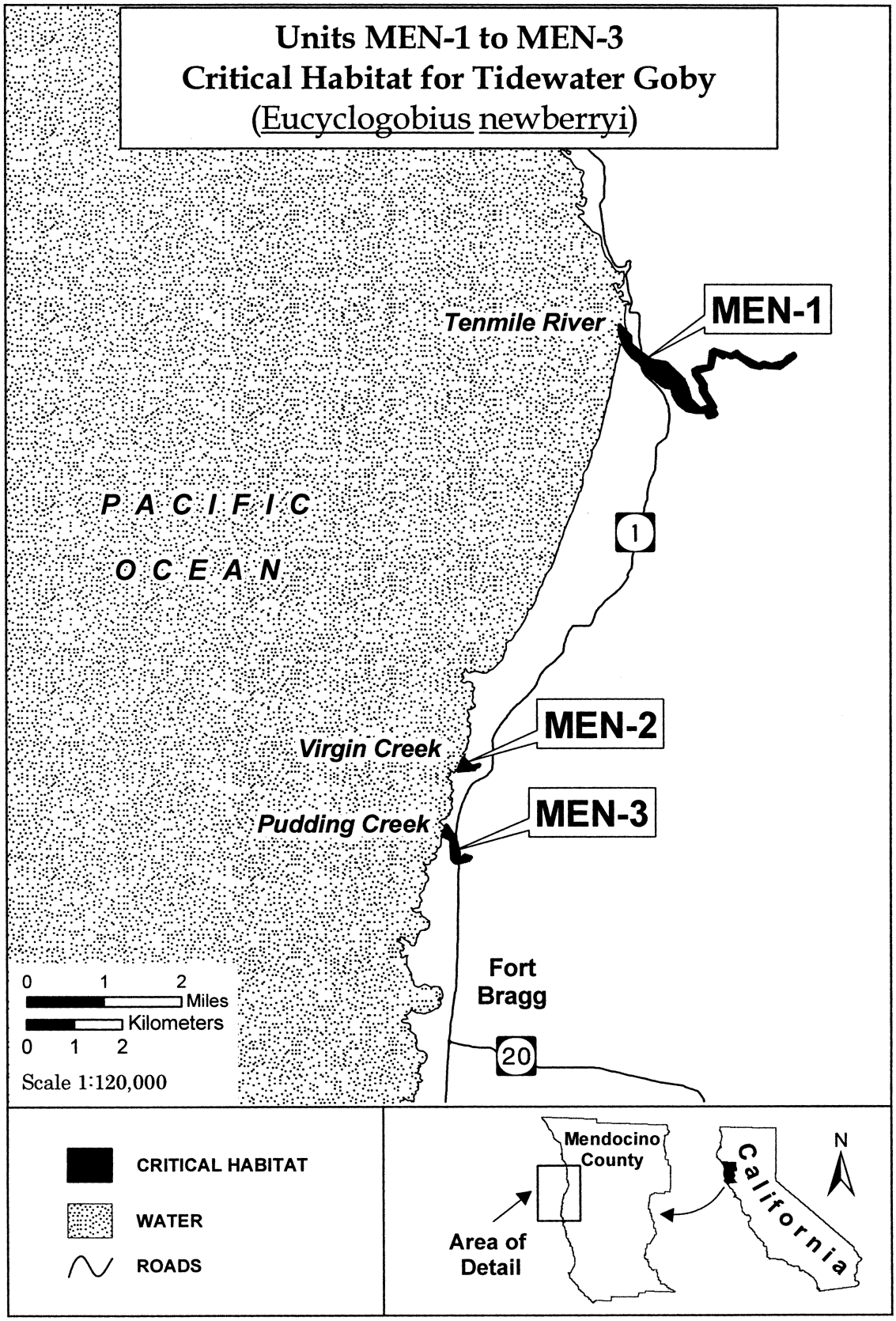
BILLING CODE 4310–55–P


Unit HUM-4
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
PACIFIC
OCEAN
HUM-4
Eel River
101
Ferndale
211
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Area of Detail
Humboldt County
California
N

(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 Unit MEN–1 follows.


Units MEN-1 to MEN-3
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
MEN-1
Tenmile River
PACIFIC
OCEAN
1
MEN-2
Virgin Creek
MEN-3
Pudding Creek
Fort
Bragg
20
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Mendocino
County
Area of
Detail
California
N

(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:* MEN–2 included on map with unit MEN–1.

(13) Unit MEN–3; Mendocino County, California.

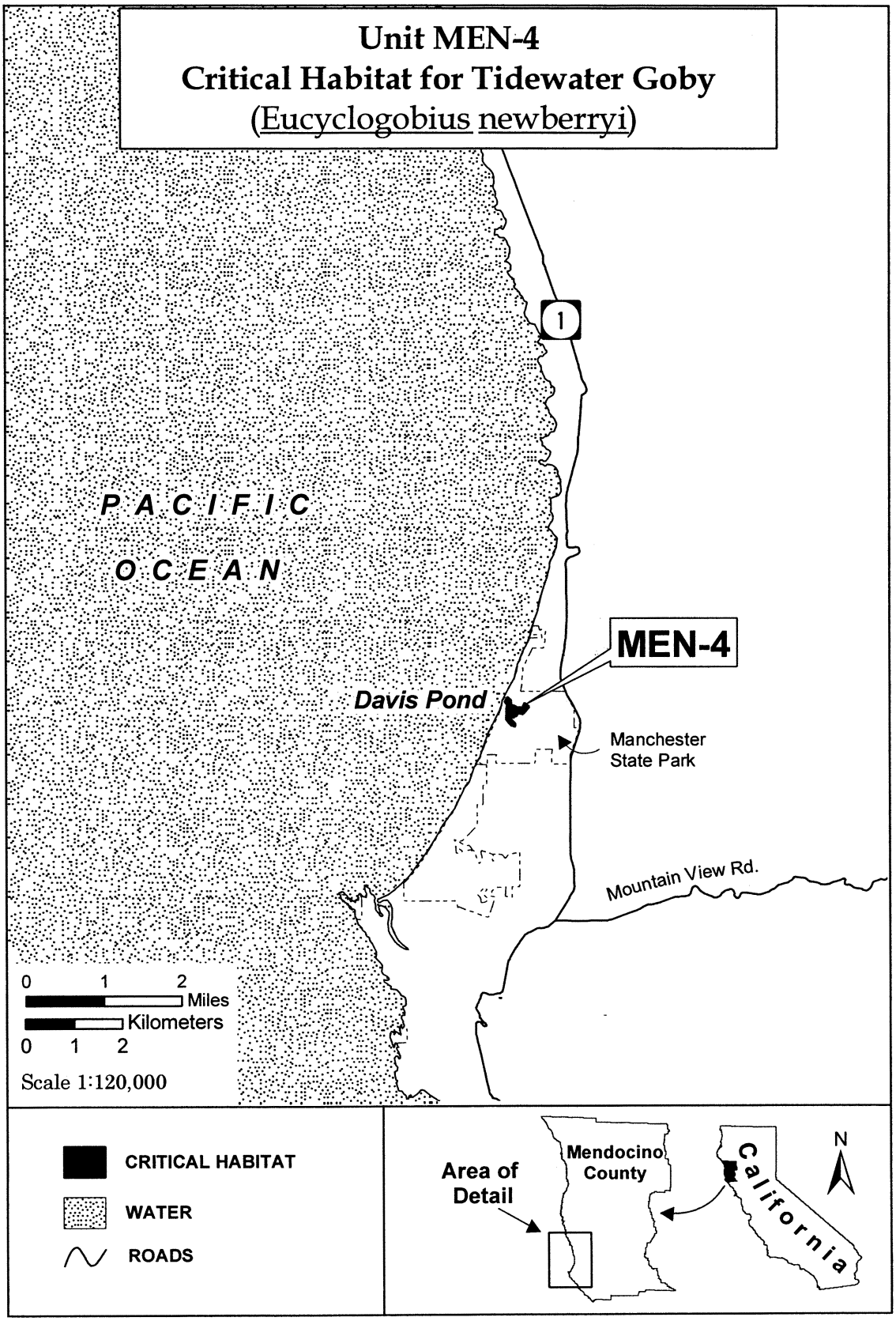
(i) From USGS 1:24,000 scale quadrangle Fort Bragg. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 430347, 4368031; 430419, 4368232; 430587, 4367989;430582, 4367872; 430631, 4367632; 430657, 4367494; 430697, 4367505; 430797, 4367598; 430912, 4367562; 430873, 4367497; 430797, 4367486; 430664, 4367452; 430595, 4367459; 430535, 4367532; 430524, 4367693; 430519, 4367942; returning to 430347, 4368031.

(ii) *Note:* MEN–3 included on map with unit MEN–1.

(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.

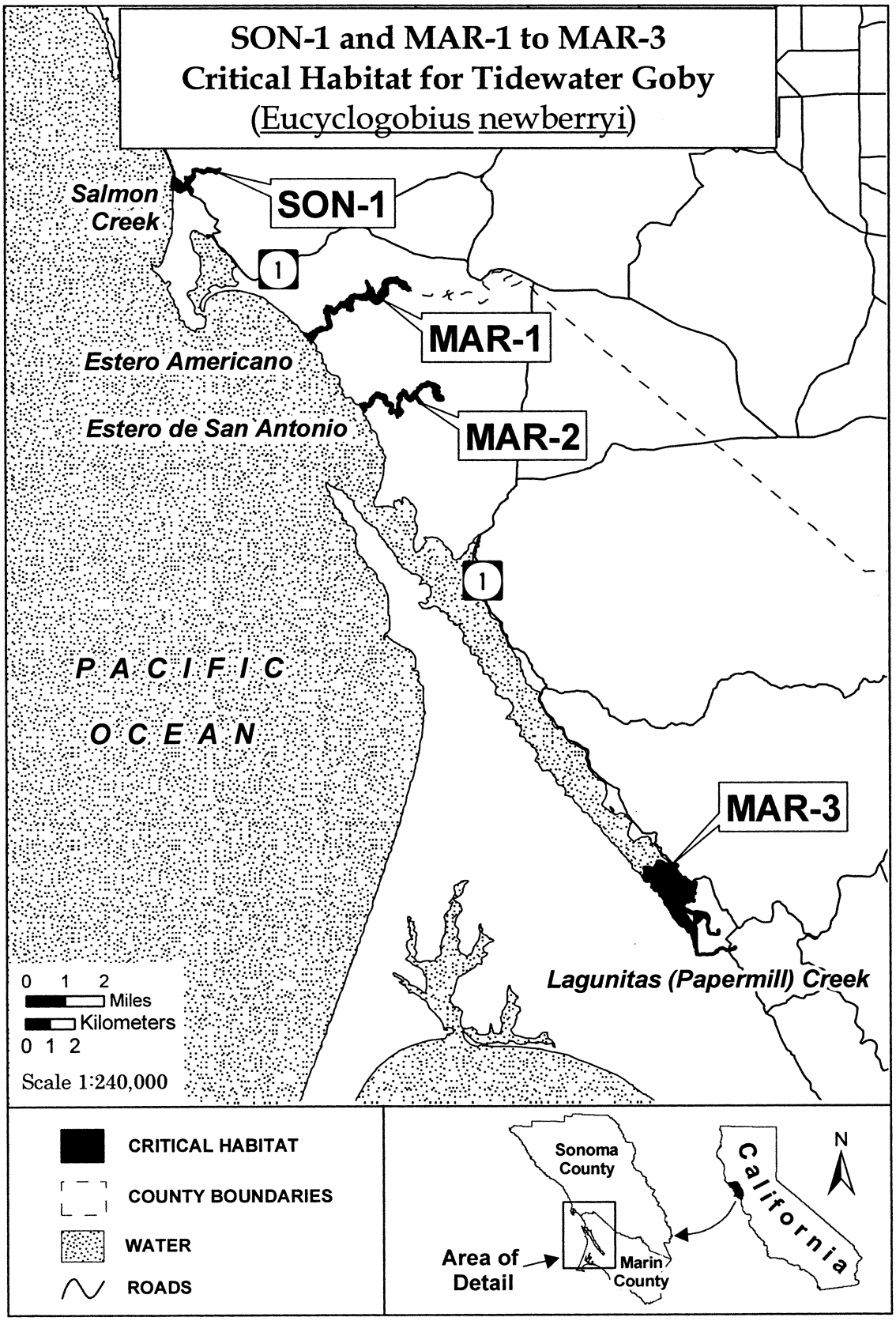
(ii) *Note:* Map of Unit MEN–4 follows.


Unit MEN-4
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
1
PACIFIC
OCEAN
MEN-4
Davis Pond
Manchester
State Park
Mountain View Rd.
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Area of
Detail
Mendocino
County
California
N

(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 Unit SON–1 follows.



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; 500570, 4239933; 500596, 4239933; 500608, 4239929; 500623, 4239921; 500628, 4239914; 500637, 4239890; 500673, 4239876; 500707, 4239844; 500730, 4239829; 500749, 4239824; 500758, 4239816; 500773, 4239811; 500798, 4239818; 500819, 4239834; 500849, 4239869; 500906, 4239912; 500936, 4239957; 500954, 4239973; 500970, 4239994; 500983, 4240021; 500996, 4240042; 501030, 4240066; 501062, 4240083; 501083, 4240087; 501104, 4240080; 501184, 4240091; 501238, 4240117; 501251, 4240132; 501253, 4240151; 501270, 4240163; 501277, 4240172; 501286, 4240190; 501287, 4240205; 501325, 4240204; 501341, 4240219; 501359, 4240245; 501384, 4240271; 501430, 4240315; 501465, 4240370; 501486, 4240380; 501517, 4240388; 501575, 4240419; 501609, 4240427; 501636, 4240412; 501655, 4240406; 501738, 4240407; 501777, 4240401; 501811, 4240400; 501881, 4240411; 501960, 4240413; 502040, 4240423; 502095, 4240446; 502106, 4240461; 502129, 4240476; 502144, 4240499; 502160, 4240550; 502173, 4240630; 502180, 4240746; 502176, 4240765; 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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502929, 4240403; 502891, 4240364; 502871, 4240362; 502855, 4240349; 502840, 4240302; 502819, 4240265; 502790, 4240237; 502768, 4240229; 502751, 4240182; 502735, 4240168; 502708, 4240157; 502680, 4240126; 502668, 4240105; 502656, 4240106; 502633, 4240099; 502615, 4240079; 502587, 4240057; 502546, 4240046; 502506, 4240050; 502469, 4240064; 502368, 4240139; 502323, 4240192; 502289, 4240214; 502257, 4240244; 502227, 4240264; 502205, 4240291; 502195, 4240299; 502180, 4240298; 502165, 4240287; 502136, 4240228; 502114, 4240207; 502103, 4240203; 502083, 4240207; 502049, 4240229; 501943, 4240211; 501923, 4240214; 501862, 4240241; 501805, 4240273; 501697, 4240287; 501618, 4240289; 501585, 4240280; 501564, 4240264; 501552, 4240243; 501547, 4240214; 501547, 4240185; 501553, 4240163; 501554, 4240137; 501549, 4240107; 501528, 4240059; 501501, 4239941; 501502, 4239930; 501510, 4239922; 501526, 4239886; 501540, 4239833; 501544, 4239784; 501530, 4239776; 501472, 4239756; 501450, 4239758; 501427, 4239768; 501398, 4239791; 501386, 4239793; 501365, 4239788; 501343, 4239779; 501329, 4239789; 501320, 4239805; 501313, 4239853; 501323, 4239877; 501301, 4239910; 501160, 4239932; 501112, 4239952; 501083, 4239959; 501064, 4239952; 501020, 4239893; 500941, 4239832; 500923, 4239812; 500907, 4239788; 500882, 4239732; 500853, 4239686; 500819, 4239653; 500803, 4239642; 500779, 4239634; 500746, 4239629; 500732, 4239634; 500695, 4239671; 500631, 4239724; 500592, 4239779; 500583, 4239790; 500563, 4239803; 500548, 4239805; 500519, 4239790; 500512, 4239790; 500512, 4239787; 500487, 4239769; 500481, 4239732; 500484, 4239711; 500498, 4239665; 500510, 4239647; 500534, 4239627; 500555, 4239571; 500568, 4239495; 500569, 4239439; 500588, 4239379; 500606, 4239340; 500613, 4239309; 500628, 4239185; 500629, 4239095; 500623, 4239078; 500620, 4239047; 500608, 4239036; 500519, 4239007; 500496, 4238993; 500476, 4238973; 500456, 4238963; 500416, 4238961; 500331, 4238943; 500280, 4238939; 500261, 4238934; 500243, 4238921; 500189, 4238905; 500107, 4238872; 500056, 4238858; 500052, 4238862; 500051, 4238835; 500054, 4238810; 500019, 4238752; 499983, 4238705; 499974, 4238679; 499937, 4238635; 499925, 4238595; 499913, 4238583; 499903, 4238578; 499888, 4238558; 499870, 4238552; 499844, 4238552; 499852, 4238518; 499804, 4238427; 499803, 4238428; 499795, 4238445; 499785, 4238485; 499775, 4238512; 499746, 4238551; 499704, 4238593; 499689, 4238612; 499666, 4238642; 499664, 4238654; 499620, 4238686; 499608, 4238692; 499558, 4238730; returning to 499504, 4238760.

(ii) Note: MAR–1 included on map with unit SON–1.

(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; 503142, 4235831; 503162, 4235831; 503169, 4235826; 503182, 4235792; 503185, 4235721; 503181, 4235680; 503167, 4235654; 503148, 4235640; 503132, 4235639; 503121, 4235623; 503090, 4235589; 503084, 4235575; 503083, 4235547; 503086, 4235533; 503098, 4235529; 503114, 4235528; 503137, 4235533; 503147, 4235538; 503150, 4235551; 503168, 4235574; 503201, 4235589; 503217, 4235593; 503267, 4235588; 503320, 4235567; 503338, 4235553; 503363, 4235519; 503369, 4235498; 503372, 4235469; 503382, 4235452; 503417, 4235436; 503435, 4235434; 503450, 4235439; 503484, 4235464; 503498, 4235485; 503517, 4235531; 503520, 4235579; 503457, 4235629; 503421, 4235649; 503398, 4235676; 503391, 4235697; 503386, 4235757; 503391, 4235822; 503401, 4235854; 503452, 4235951; 503458, 4235990; 503453, 4236015; 503426, 4236053; 503411, 4236053; 503397, 4236064; 503392, 4236074; 503390, 4236108; 503395, 4236119; 503407, 4236128; 503413, 4236128; 503452, 4236228; 503469, 4236249; 503487, 4236266; 503520, 4236286; 503557, 4236296; 503561, 4236310; 503582, 4236325; 503594, 4236340; 503616, 4236424; 503645, 4236420; 503664, 4236395; 503682, 4236381; 503722, 4236372; 503735, 4236366; 503742, 4236358; 503755, 4236305; 503769, 4236280; 503754, 4236250; 503758, 4236236; 503780, 4236212; 503809, 4236187; 503841, 4236174; 503847, 4236126; 503871, 4236121; 503909, 4236129; 503925, 4236140; 503987, 4236215; 504003, 4236228; 504043, 4236285; 504055, 4236311; 504077, 4236343; 504097, 4236363; 504139, 4236392; 504153, 4236397; 504170, 4236395; 504184, 4236416; 504201, 4236467; 504217, 4236496; 504254, 4236533; 504290, 4236560; 504326, 4236578; 504330, 4236597; 504346, 4236625; 504363, 4236642; 504432, 4236677; 504471, 4236682; 504504, 4236676; 504530, 4236696; 504546, 4236721; 504555, 4236721; 504543, 4236680; 504532, 4236598; 504554, 4236596; 504566, 4236592; 504567, 4236647; 504576, 4236685; 504602, 4236760; 504618, 4236767; 504641, 4236767; 504678, 4236742; 504735, 4236729; 504793, 4236721; 504804, 4236713; 504863, 4236692; 504887, 4236680; 504910, 4236676; 504929, 4236666; 504957, 4236659; 504991, 4236641; 505002, 4236627; 505042, 4236595; 505080, 4236573; 505091, 4236558; 505100, 4236531; 505101, 4236511; 505091, 4236502; 505080, 4236484; 505076, 4236463; 505083, 4236421; 505099, 4236388; 505102, 4236369; 505100, 4236348; 505086, 4236314; 505064, 4236296; 505030, 4236286; 505011, 4236268; 505015, 4236246; 505038, 4236204; 505059, 4236193; 505078, 4236186; 505096, 4236190; 505122, 4236211; 505142, 4236209; 505203, 4236170; 505228, 4236139; 505242, 4236138; 505261, 4236028; 505202, 4236006; 505148, 4236000; 505092, 4236005; 505048, 4236022; 505012, 4236055; 504974, 4236101; 504934, 4236137; 504925, 4236150; 504915, 4236176; 504902, 4236219; 504899, 4236245; 504886, 4236289; 504868, 4236337; 504863, 4236360; 504862, 4236421; 504870, 4236478; 504870, 4236492; 504866, 4236505; 504856, 4236527; 504833, 4236558; 504806, 4236588; 504779, 4236609; 504732, 4236630; 504711, 4236629; 504639, 4236597; 504582, 4236580; 504502, 4236569; 504448, 4236572; 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(ii) *Note:* MAR–2 included on map with unit SON–1.

(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; 515553, 4215809; 515579, 4215809; 515596, 4215817; 515627, 4215839; 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515747, 4214145; 515698, 4214161; 515670, 4214206; 515660, 4214235; 515656, 4214293; 515655, 4214361; 515655, 4214386; 515663, 4214423; 515689, 4214459; 515699, 4214483; 515689, 4214504; 515631, 4214517; 515578, 4214524; 515532, 4214541; 515493, 4214573; 515444, 4214589; 515398, 4214612; 515362, 4214632; 515325, 4214648; 515293, 4214662; 515275, 4214667; 515264, 4214666; 515262, 4214646; 515262, 4214614; 515273, 4214568; 515279, 4214541; 515293, 4214508; 515404, 4214354; 515390, 4214333; 515389, 4214323; 515399, 4214299; 515449, 4214256; 515561, 4214120; 515604, 4214099; 515634, 4214095; 515641, 4214099; 515677, 4214055; 515694, 4214014; 515718, 4213982; 515741, 4213926; 515743, 4213895; 515731, 4213839; 515733, 4213786; 515742, 4213684; 515739, 4213627; 515736, 4213538; 515733, 4213476; 515733, 4213327; 515735, 4213209; 515737, 4213103; 515750, 4212984; 515751, 4212902; 515769, 4212854; 515789, 4212837; 515824, 4212829; 515881, 4212834; 515998, 4212859; 516059, 4212849; 516226, 4212838; 516244, 4212851; 516393, 4212852; 516460, 4212877; 516519, 4212934; 516543, 4212968; 516626, 4213020; 516655, 4213052; 516693, 4213077; 516759, 4213090; 516828, 4213090; 516889, 4213077; 517008, 4213030; 517030, 4213025; 517082, 4213024; 517131, 4213030; 517228, 4213069; 517236, 4213065; 517267, 4213072; 517287, 4213086; 517322, 4213135; 517351, 4213143; 517365, 4213108; 517316, 4213056; 517237, 4213017; 517120, 4212997; 517067, 4212999; 517030, 4213000; 516972, 4213009; 516909, 4213047; 516846, 4213069; 516808, 4213071; 516695, 4213054; 516642, 4213015; 516612, 4212980; 516593, 4212954; 516603, 4212933; 516600, 4212930; 516526, 4212877; 516486, 4212856; 516462, 4212851; 516423, 4212833; 516302, 4212826; 516255, 4212827; 516159, 4212807; 516043, 4212816; 515868, 4212806; 515827, 4212805; 515777, 4212820; 515745, 4212837; 515734, 4212869; 515720, 4212959; 515700, 4213067; 515695, 4213091; 515651, 4213155; 515634, 4213216; 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:* MAR–3 included on map with unit SON–1.

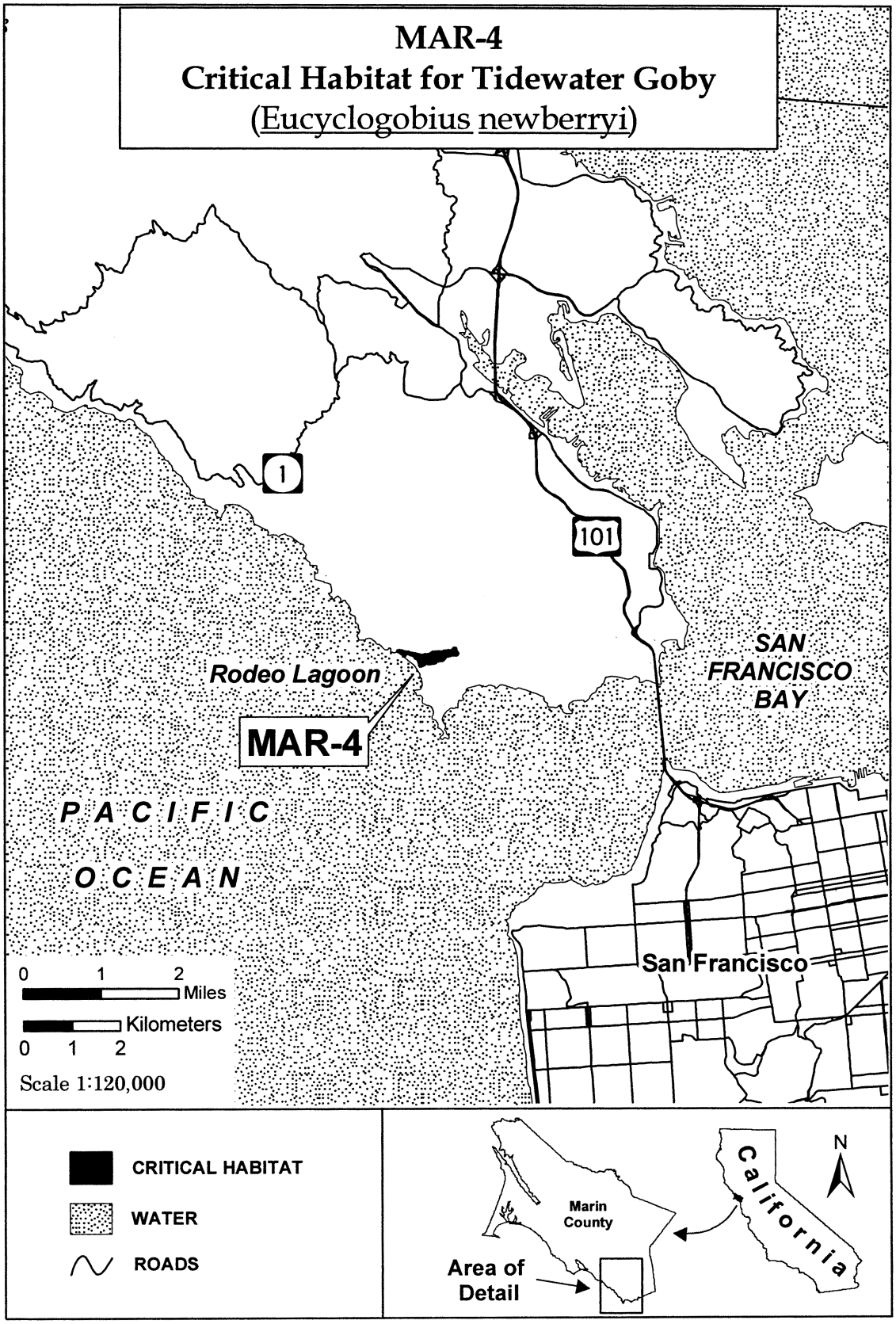
(19) Unit MAR–4; Marin County, California.

(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.

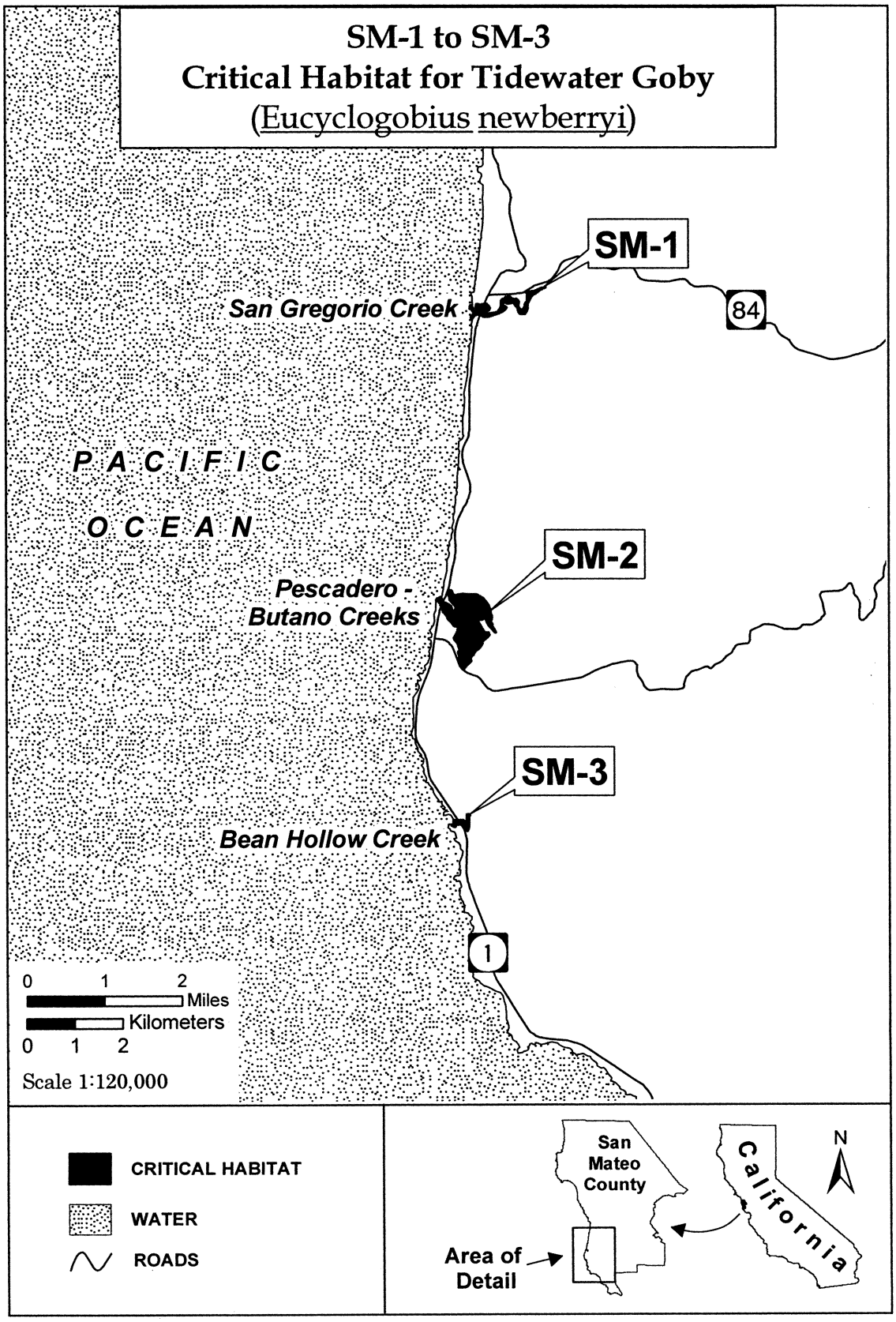
BILLING CODE 4310–55–P


MAR-4
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
1
101
Rodeo Lagoon
MAR-4
SAN FRANCISCO BAY
PACIFIC OCEAN
San Francisco
0 1 2 Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Marin County
Area of Detail
California
N

(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 Unit SM–1 follows.



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:* SM–2 included on map with unit SM–1.

(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:* SM–3 included on map with unit SM–1.

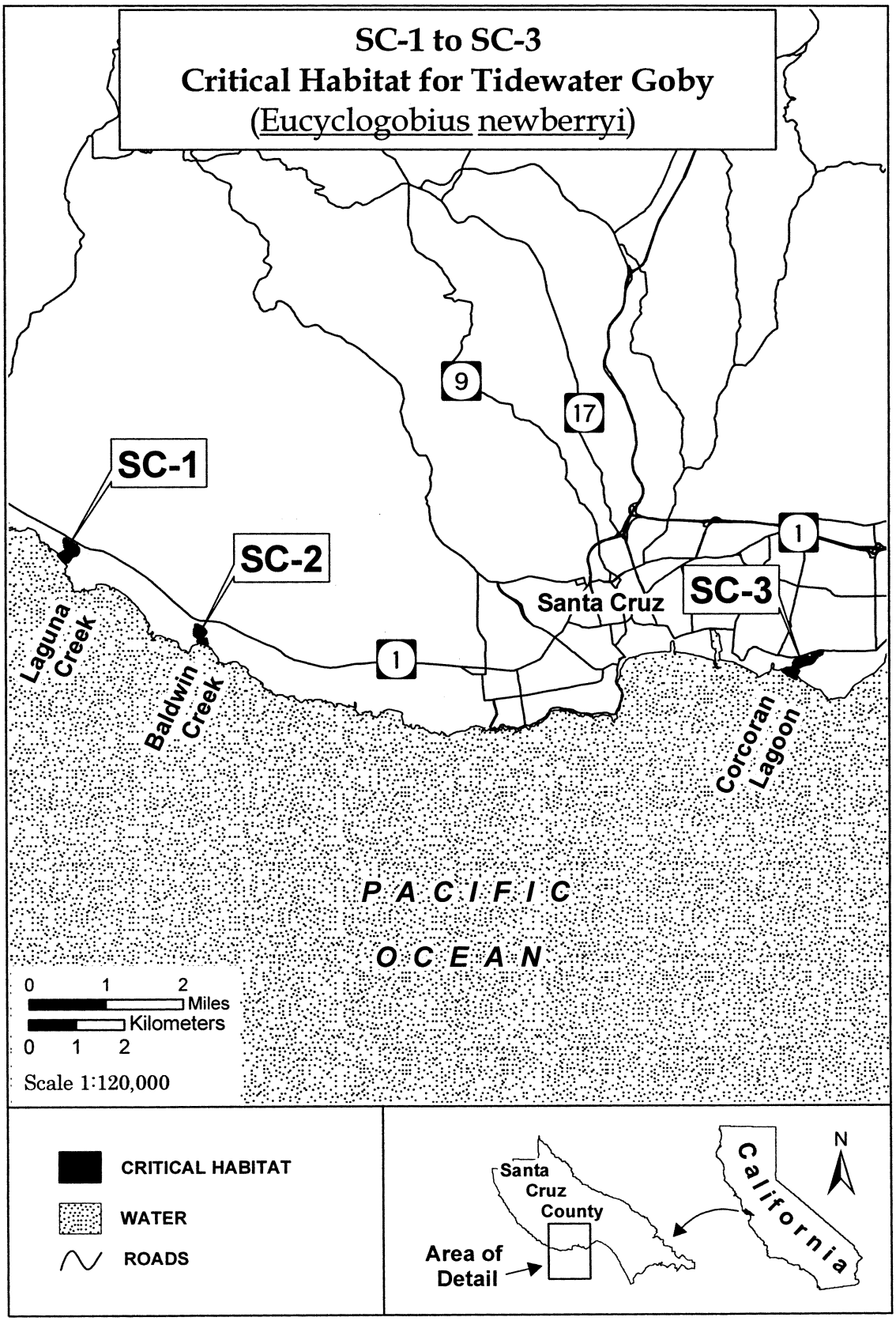
(23) Unit SC–1; Santa Cruz County, California.

(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 Unit SC–1 follows.

[Insert Map of Unit SC–1]

BILLING CODE 4310–55–P


SC-1 to SC-3
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
SC-1
SC-2
SC-3
Santa Cruz
9
17
1
1
Laguna Creek
Baldwin Creek
Corcoran Lagoon
PACIFIC
OCEAN
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Santa Cruz County
Area of Detail
California
N

(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:* SC–2 included on map with unit SC–1.

(25) Unit SC–3; Santa Cruz County, California.

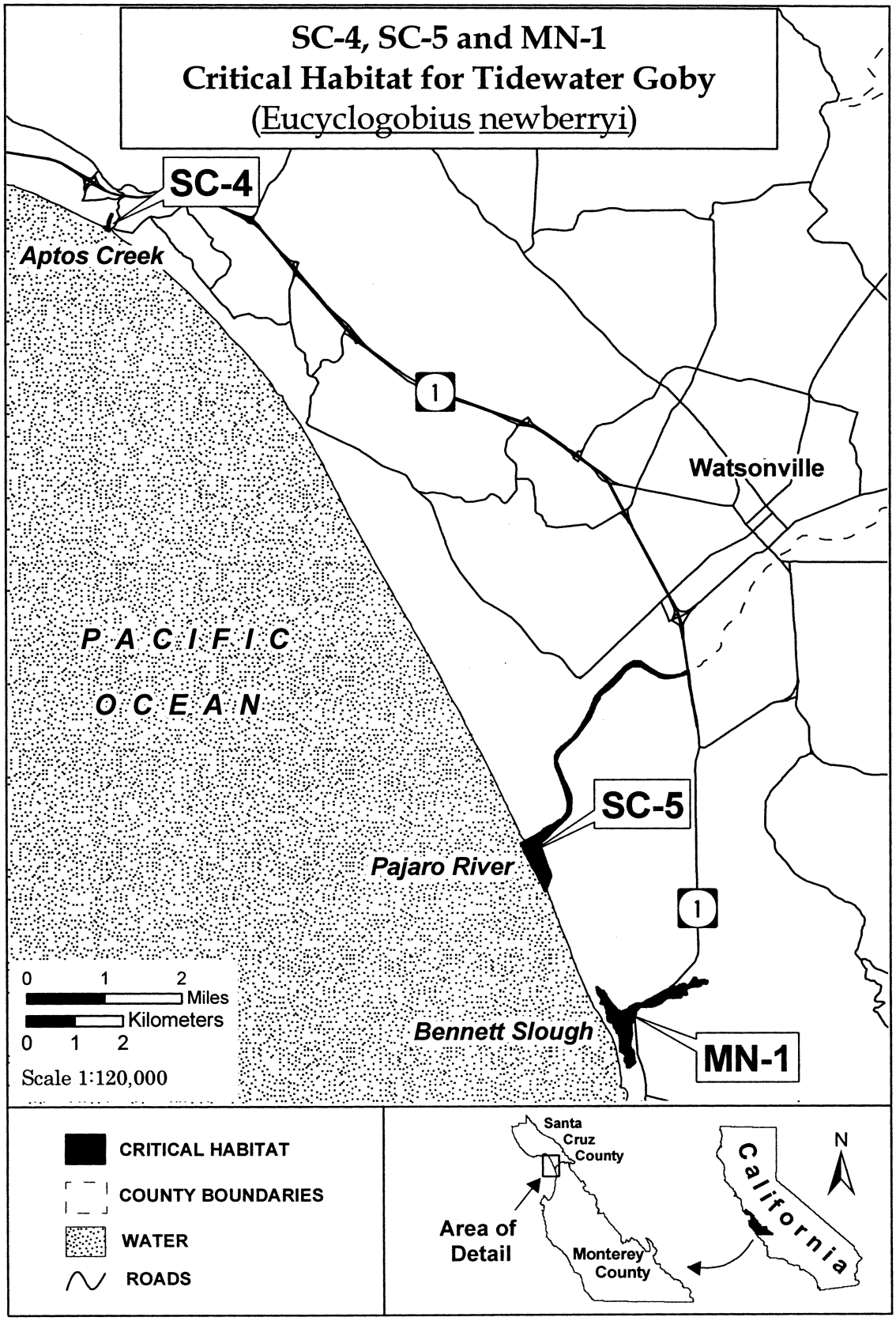
(i) From USGS 1:24,000 scale quadrangle Soquel. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 590179, 4090901; 590236, 4090929; 590236, 4090930; 590282, 4090945; 590313, 4090956; 590335, 4090952; 590350, 4090945; 590362, 4090937; 590375, 4090930; 590378, 4090927; 590380, 4090934; 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:* SC–3 included on map with unit SC–1.

(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 follows.



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:* SC–5 included on map with unit SC–4.

(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.

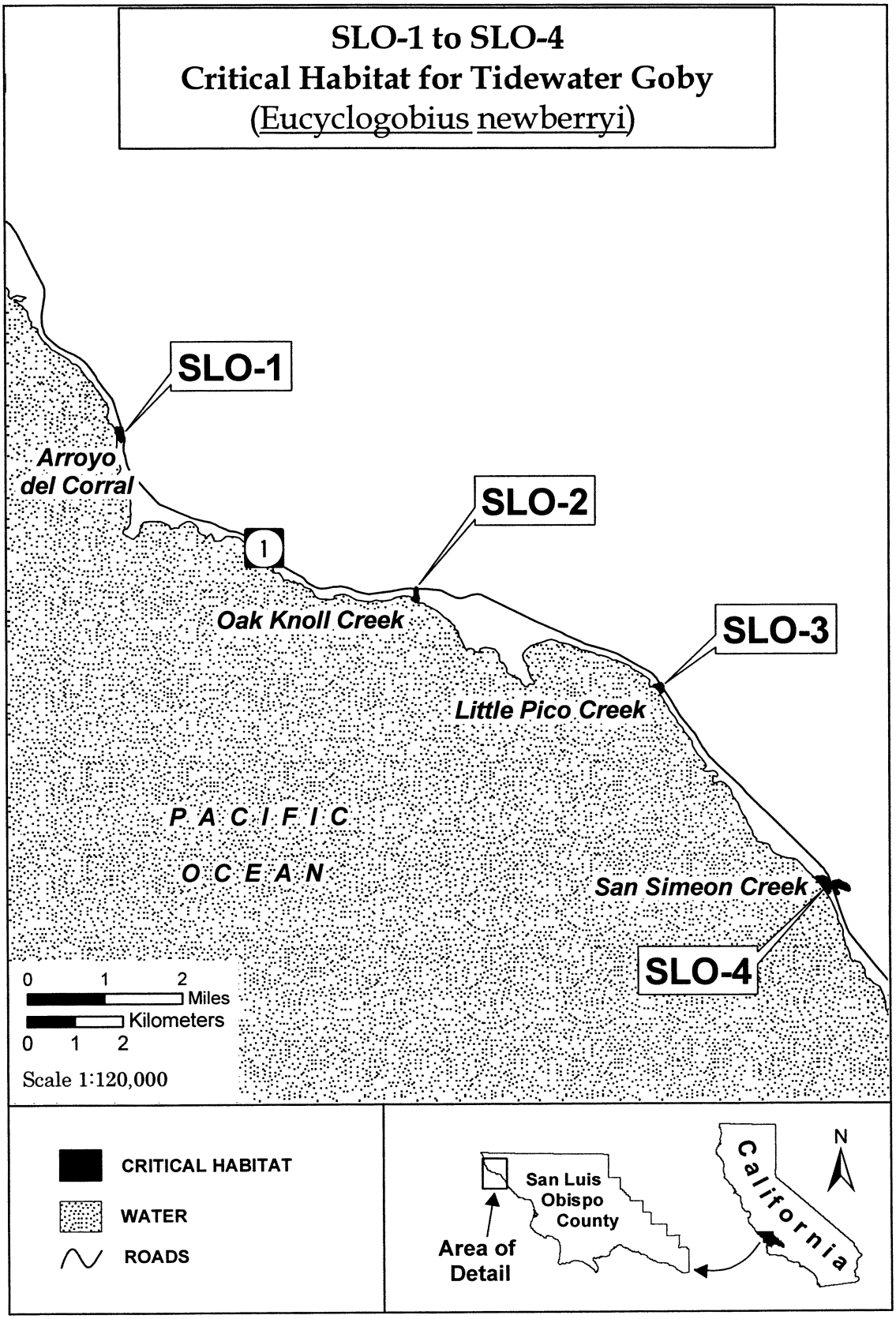
(ii) *Note:* MN–1 included on map with unit SC–4.

(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 Unit SLO–1 follows.

BILLING CODE 4310–55–P


SLO-1 to SLO-4
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
SLO-1
Arroyo del Corral
SLO-2
1
Oak Knoll Creek
SLO-3
Little Pico Creek
PACIFIC
OCEAN
San Simeon Creek
SLO-4
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
San Luis Obispo County
Area of Detail
California
N

(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:* SLO–2 included on map with unit SLO–1.

(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:* SLO–3 included on map with unit SLO–1.

(32) Unit SLO–4; San Luis Obispo County, California.

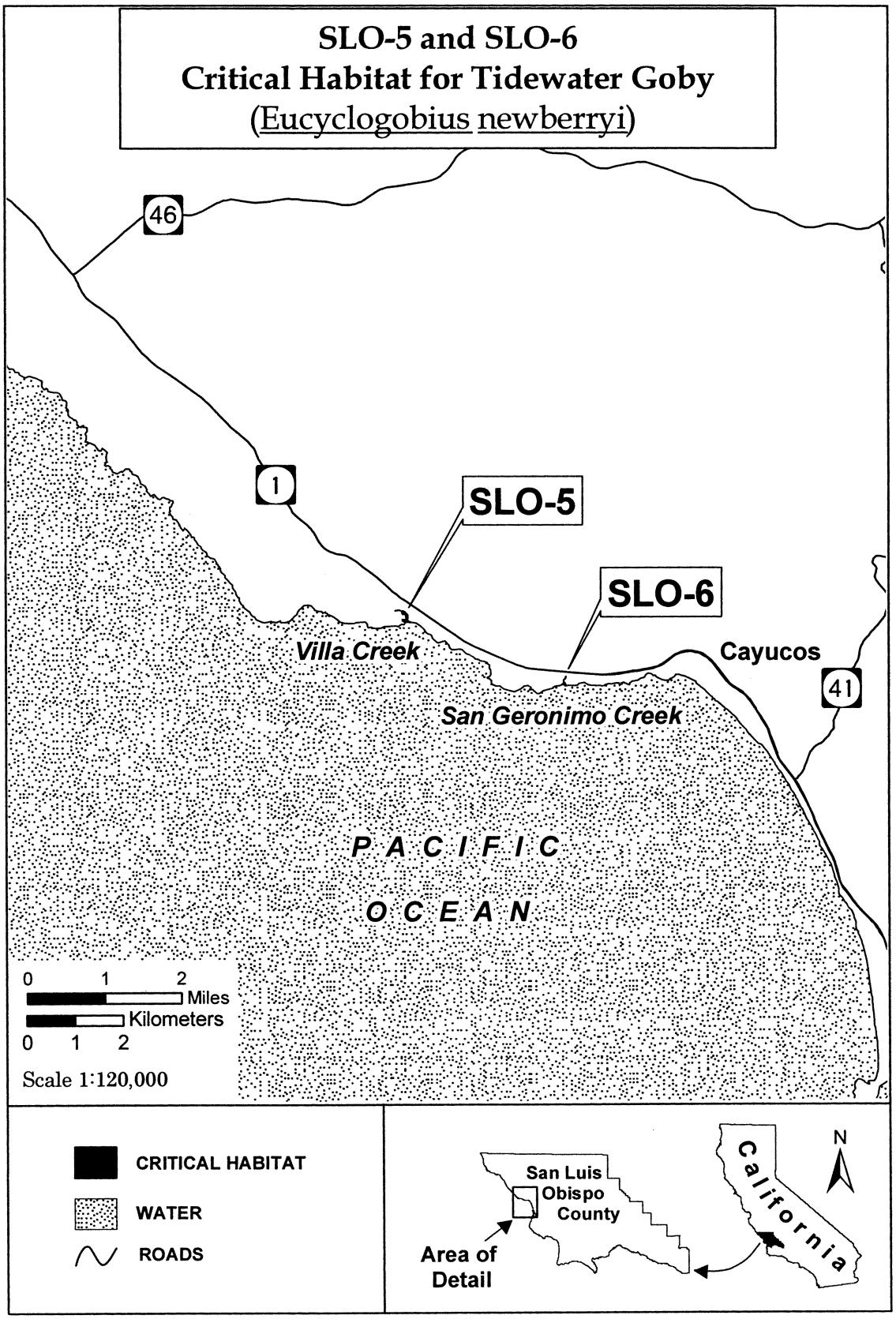
(i) From USGS 1:24,000 scale quadrangles Pico Creek and Cambria. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 669487, 3940858; 669537, 3940865; 669549, 3940860; 669550, 3940860; 669551, 3940861; 669551, 3940862; 669551, 3940863; 669558, 3940865; 669574, 3940868; 669596, 3940871; 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:* SLO–4 included on map with unit SLO–1.

(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 Unit SLO–5 follows.


SLO-5 and SLO-6
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
46
1
SLO-5
SLO-6
Villa Creek
Cayucos
41
San Geronimo Creek
PACIFIC
OCEAN
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
San Luis
Obispo
County
Area of
Detail
California
N

(34) Unit SLO–6; San Luis Obispo County, California.

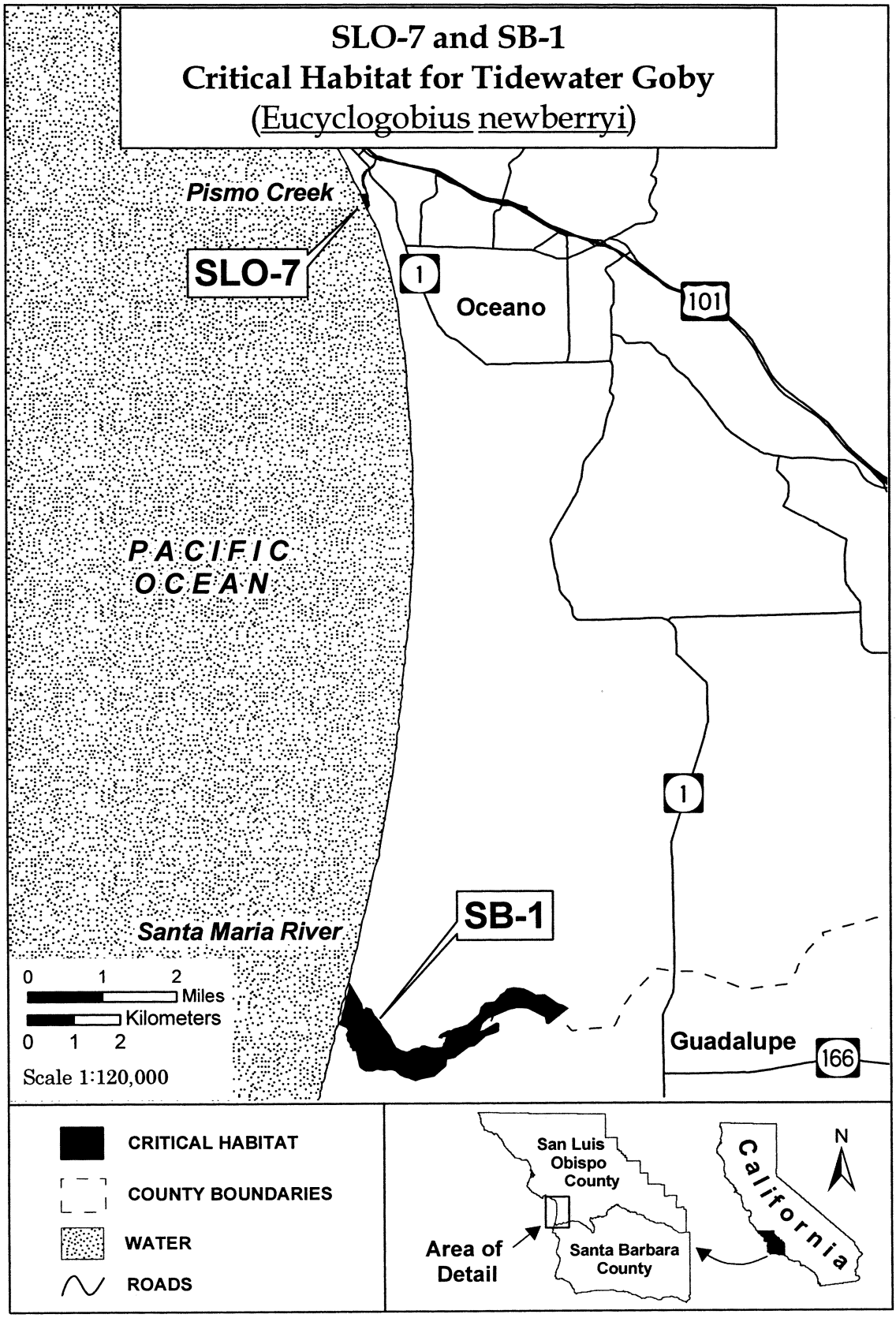
(i) From USGS 1:24,000 scale quadrangle Cayucos. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 687453, 3924653; 687454, 3924656; 687457, 3924661; 687465, 3924675; 687477, 3924685; 687487, 3924688; 687483, 3924691; 687479, 3924691; 687482, 3924700; 687481, 3924701; 687481, 3924702; 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:* SLO–6 included on map with unit SLO–5.

(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 Unit SLO–7 follows.



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.

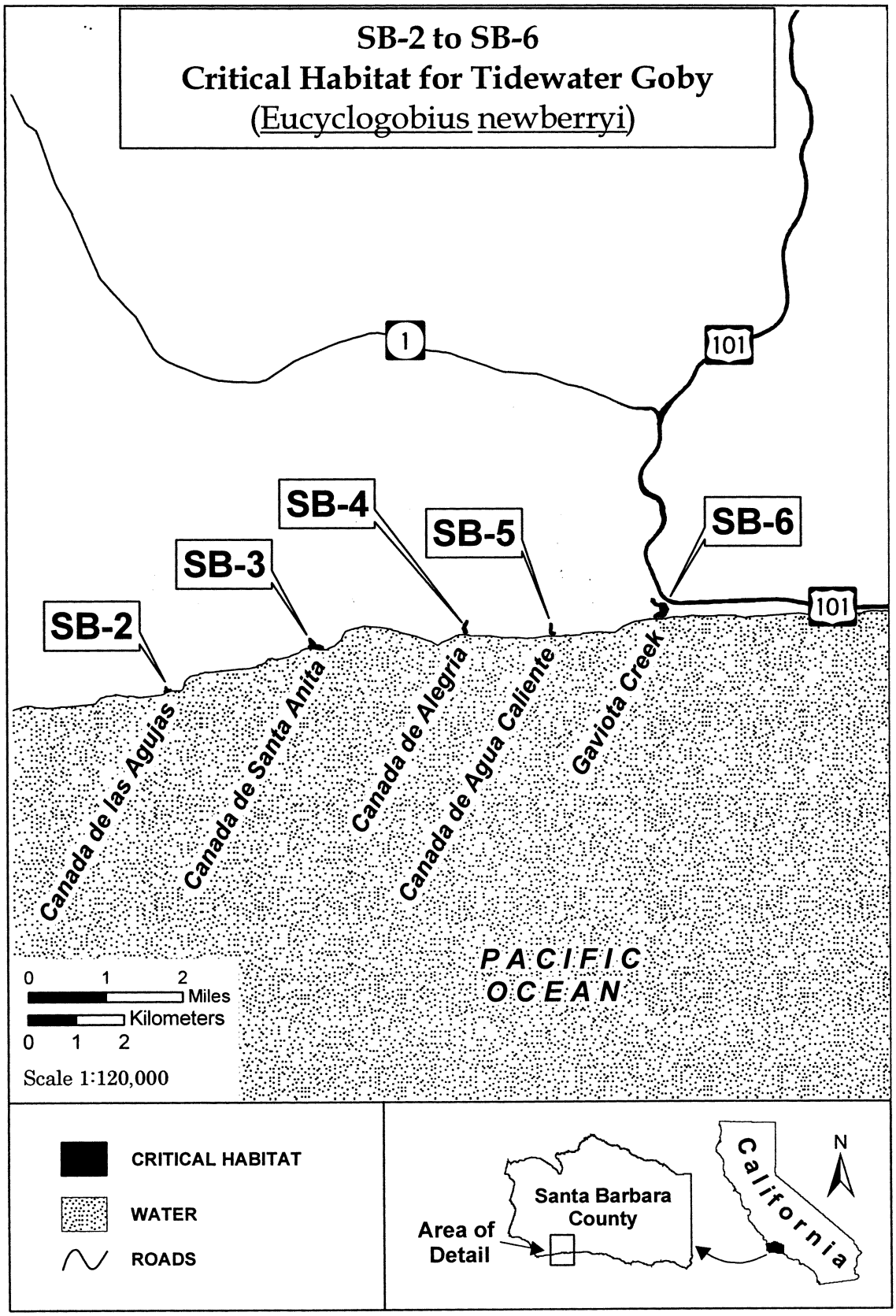
(ii) *Note:* SB–1 included on map with unit SLO–7.

(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 Unit SB–2 follows.

BILLING CODE 4310–55–P


SB-2 to SB-6
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
1
101
101
SB-2
SB-3
SB-4
SB-5
SB-6
Canada de las Agujas
Canada de Santa Anita
Canada de Alegria
Canada de Agua Caliente
Gaviota Creek
PACIFIC OCEAN
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Santa Barbara County
Area of Detail
California
N

(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:* SB–3 included on map with unit SB–2.

(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:* Unit SB–4 included on map with unit SB–2.

(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:* SB–5 included on map with unit SB–2.

(41) Unit SB–6; Santa Barbara County, California.

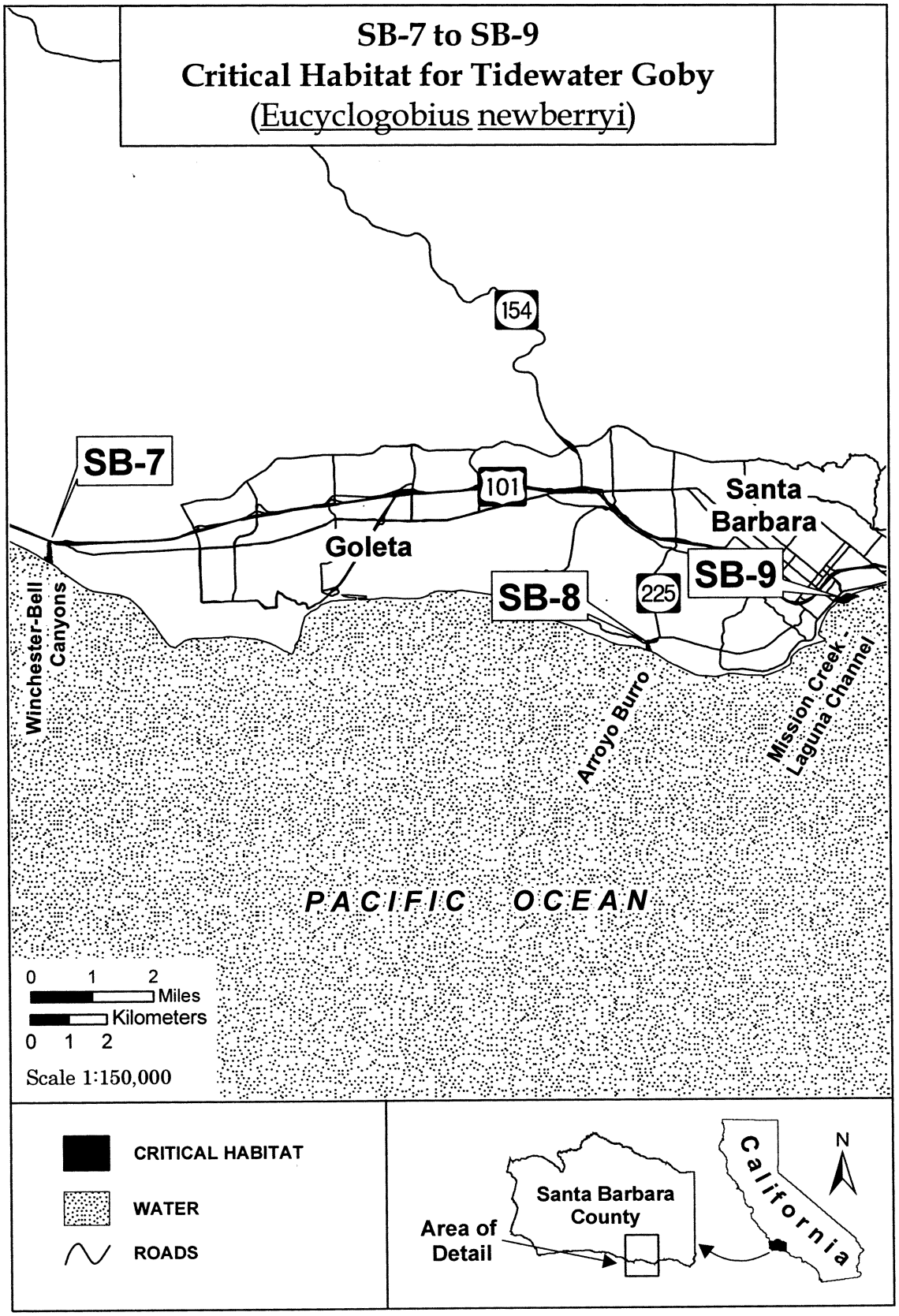
(i) From USGS 1:24,000 scale quadrangle Gaviota. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 754473, 3818173; 754487, 3818216; 754512, 3818201; 754519, 3818189; 754526, 3818145; 754537, 3818130; 754567, 3818121; 754588, 3818106; 754643, 3818104; 754672, 3818114; 754733, 3818115; 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:* Unit SB–6 included on map with unit SB–2.

(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 follows.


SB-7 to SB-9
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
154
SB-7
101
Santa Barbara
Goleta
SB-8
225
SB-9
Winchester-Bell Canyons
Arroyo Burro
Mission Creek - Laguna Channel
PACIFIC OCEAN
0 1 2
Miles
Kilometers
0 1 2
Scale 1:150,000
CRITICAL HABITAT
WATER
ROADS
Santa Barbara County
Area of Detail
California
N

(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:* SB–8 included on map with unit SB–7.

(44) Unit SB–9; Santa Barbara County, California.

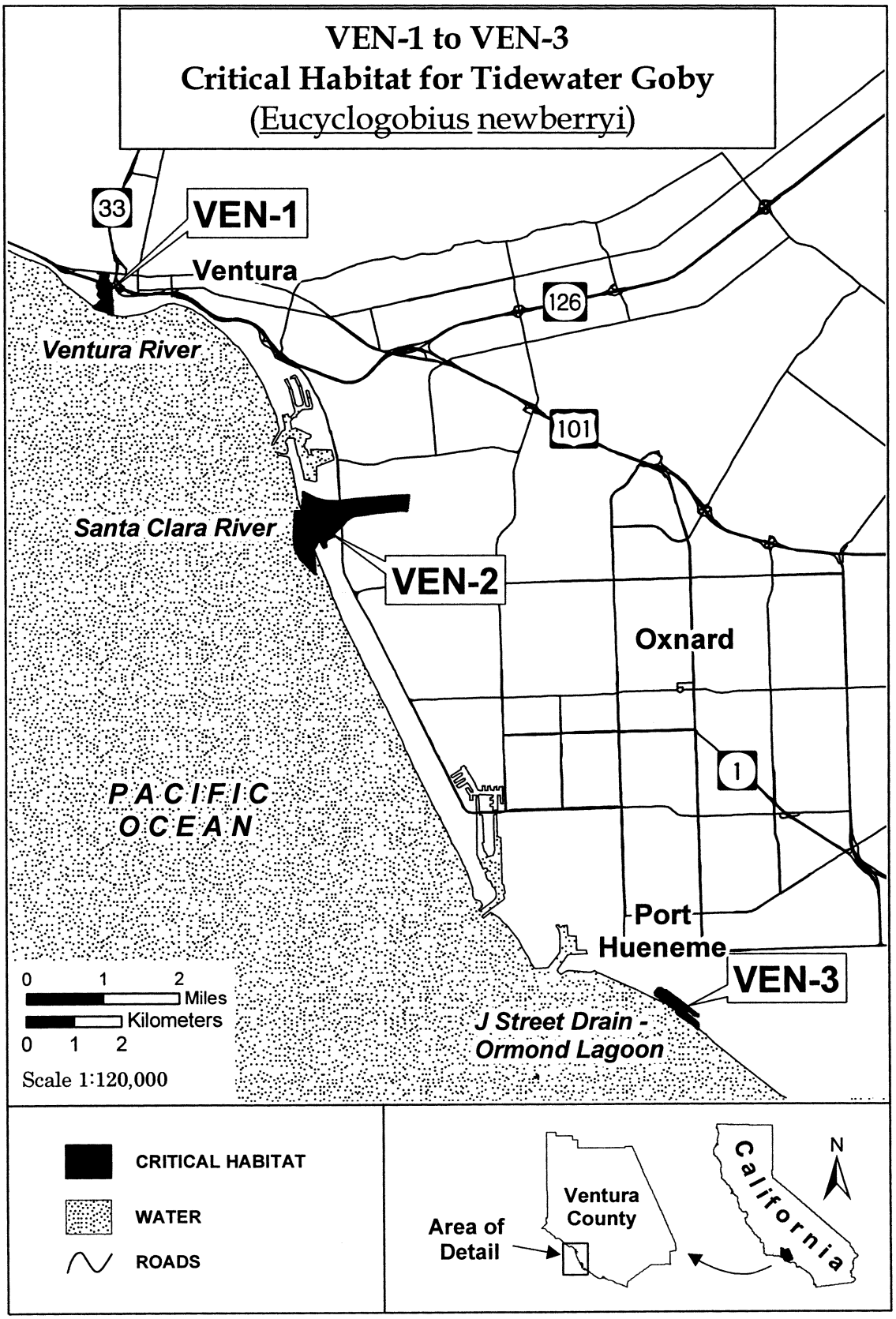
(i) From USGS 1:24,000 scale quadrangle Santa Barbara. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 252846, 3811168; 252864, 3811187; 252923, 3811193; 252975, 3811204; 253049, 3811235; 253166, 3811297; 253182, 3811299; 253183, 3811277; 253187, 3811278; 253202, 3811303; 253199, 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:* Unit SB–9 included on map with unit SB–7.

(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 Unit VEN–1 follows.


VEN-1 to VEN-3
Critical Habitat for Tidewater Goby
(Eucyclogobius newberryi)
33
VEN-1
Ventura
126
Ventura River
101
Santa Clara River
VEN-2
Oxnard
1
PACIFIC
OCEAN
Port
Hueneme
VEN-3
J Street Drain -
Ormond Lagoon
0 1 2
Miles
Kilometers
0 1 2
Scale 1:120,000
CRITICAL HABITAT
WATER
ROADS
Ventura
County
Area of
Detail
California
N

(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:* Unit VEN–2 included on map with unit VEN–1.

(47) Unit VEN–3; Ventura County, California.

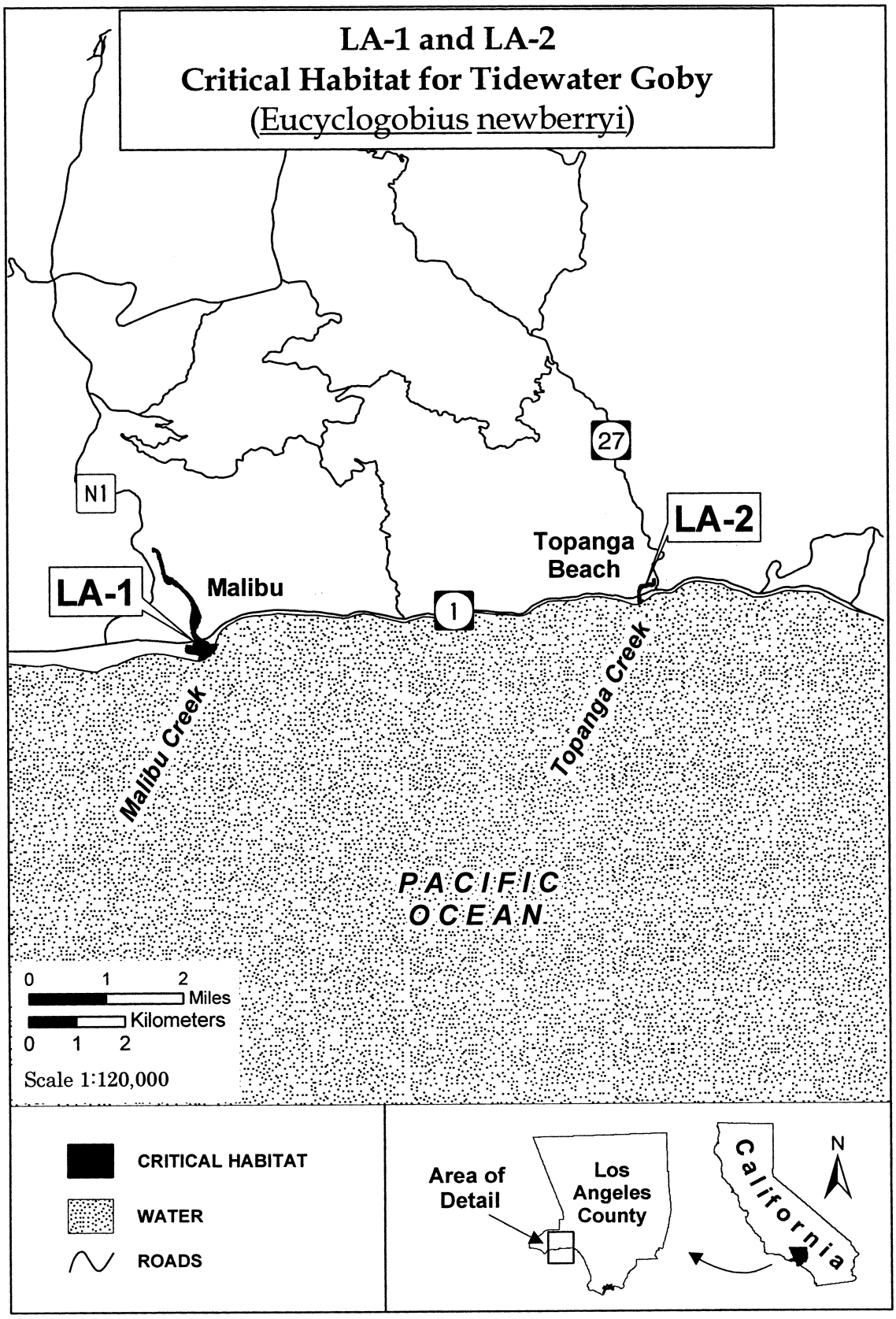
(i) From USGS 1:24,000 scale quadrangle Oxnard. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 298163, 3779838; 298231, 3779920; 298245, 3779905; 298274, 3779893; 298310, 3779870; 298354, 3779843; 298335, 3779822; 298379, 3779795; 298443, 3779754; 298494, 3779730; 298528, 3779695; 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:* Unit VEN–3 included on map with unit VEN–1.

(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 Unit LA–1 follows.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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:* Unit LA–2 included on map with unit LA–1.

* * * * *

Dated: January 17, 2008.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 08–264 Filed 1–30–08; 8:45 am]

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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

A cumulative List of Public Laws for the first session of the 110th Congress will appear in the issue of February 11, 2008.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4986/P.L. 110–181

National Defense Authorization Act for Fiscal Year 2008 (Jan. 28, 2008; 122 Stat. 3)

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