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Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0221; Directorate Identifier 2010–NM–043–AD; Amendment 39–16233; AD 2010–06–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. This AD requires installing new operational program software for the autopilot flight director computers. This AD results from reports of rejected takeoffs at speeds above takeoff decision speed following inadvertent autopilot engagement on the ground, and from the discovery during flight simulations that the climb gradient is less than optimal for obstacle clearance during a performance-limited takeoff situation. We are issuing this AD to prevent inadvertent engagement of the autopilot during takeoff roll, which could result in rejected takeoff at rotation speed, and consequent possible overrun of the runway. We are also issuing this AD to prevent a lower-than-optimal climb gradient during takeoff, and consequent failure to clear obstacles on the ground during a performance-limited takeoff.

DATES: This AD is effective April 1, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 1, 2010.

We must receive comments on this AD by May 3, 2010.

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, *Attention:* Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com*.

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: Frank van Leynseele, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6492; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We have received reports (including two in January 2010) of rejected takeoffs at speeds above takeoff decision speed following inadvertent engagement of the autopilot on the ground. Since 1995, there have been nine reported instances of a rejected takeoff because of higher than normal control column forces at takeoff rotation due to the pilot inadvertently engaging the autopilot in lower-speed takeoff roll. When the flightcrew inadvertently engages the autopilot on ground during the lower-speed phase of the takeoff roll, the control column forces will be higher than normal when the pilot attempts to initiate the takeoff rotation. This condition, if not corrected, could result in rejected takeoff at rotation speed, and consequent possible overrun of the runway.

The Boeing Company has also discovered during flight simulations that the climb gradient is less than optimal for obstacle clearance during a one-engine takeoff (performance-limited) situation. This is caused by an error in the pitch command law of the autopilot flight director computer (AFDC). This condition, if not corrected, could result in a lower-than-optimal climb gradient during takeoff, and consequent failure to clear obstacles on the ground during a performance-limited takeoff.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–22A0024, dated January 22, 2010. The alert service bulletin describes procedures for installing new operational program software for the left, center, and right AFDCs. The new software will disengage the autopilot whenever the flaps are extended and the airplane is on the ground and not in rollout mode. Autopilot engagement is inhibited when the flaps are extended and the airplane is on the ground or below 50 feet above ground level. The new software also maintains the initial engine-out (performance-limited) takeoff pitch target for a longer duration to minimize altitude loss during the takeoff, and targets a velocity to maximize climbout performance.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the relevant information and determined the unsafe conditions described previously are likely to exist or develop in other products of these same type designs. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the AD and the Service Information."

Differences Between the AD and the Service Information

Although Boeing Alert Service Bulletin 777–22A0024, dated January 22, 2010, recommends accomplishing the operational program software installation "within 12 months after the original issue date of this service bulletin," we have determined that this compliance time would not address the identified unsafe conditions in a timely manner. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the operational program software installation. In light of all of these factors, we find a compliance time of 90 days after the effective date of this AD for completing the required actions to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with The Boeing Company.

FAA's Justification and Determination of the Effective Date

A rejected takeoff at rotation speed significantly increases the risk of a runway overrun, and a lower-than-optimal climb gradient during a performance-limited takeoff drastically increases the risk of failure of the airplane to clear obstacles on the ground during the initial climb phase after takeoff. Both of these conditions can result in fatal injury to flightcrew, passengers, and people on the ground, as well as extensive damage to the airplane and property on the ground. Because of our requirement to promote safe flight of civil aircraft and thus the critical need to ensure the proper functioning of the autopilot flight director system, in addition to the two recent reports and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0221; Directorate Identifier 2010–NM–043–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

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.

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, 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:

2010–06–09 The Boeing Company: Amendment 39–16233. Docket No. FAA–2010–0221; Directorate Identifier 2010–NM–043–AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 1, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 777–22A0024, dated January 22, 2010.

Subject

(d) Air Transport Association (ATA) of America Code 22: Auto Flight.

Unsafe Condition

(e) This AD results from reports of rejected takeoffs at speeds above takeoff decision speed following inadvertent autopilot engagement on the ground, and from the discovery during flight simulations that the climb gradient is less than optimal for obstacle clearance during a performance-limited takeoff situation. The Federal Aviation Administration is issuing this AD to prevent inadvertent engagement of the autopilot during takeoff roll, which could result in rejected takeoff at rotation speed, and consequent possible overrun of the runway. We are also issuing this AD to prevent a lower-than-optimal climb gradient during takeoff, and consequent failure to clear obstacles on the ground during a performance-limited takeoff.

Compliance

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

Software Installation for the Autopilot Flight Director Computers

(g) Within 90 days after the effective date of this AD, install new operational program software in the left, center, and right autopilot flight director computers, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–22A0024, dated January 22, 2010.

Special Flight Permit

(h) Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle 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:* Frank van Leynseele, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6492; fax (425) 917–6590. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(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 principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 777–22A0024, dated January 22, 2010, 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 Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference 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 Renton, Washington, on March 3, 2010.

Suzanne Masterson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–5290 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0663; Directorate Identifier 2007–SW–25–AD; Amendment 39–16231; AD 2010–06–07]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332 C, L, L1, and L2; AS 350 B3; AS355 F, F1, F2, and N; SA 365N and N1; AS 365 N2 and N3; SA 366G1; EC 130 B4; and EC 155B and B1 Helicopters

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the specified model helicopters. This AD results from a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI AD states that the AD is issued following a manufacturing nonconformity found on one batch of the servo-control caps. With a defective servo-control, rotation of the distributor might not be stopped mechanically since only friction of inner seals holds the distributor sleeve in its position. The AD actions are intended to address the unsafe condition created by a manufacturing nonconformity found on one batch of servo-control caps. If not corrected this condition could cause untimely movements of servo-controls, which are used on main and anti-torque rotors, and lead to the loss of control of the helicopter.

DATES: This AD becomes effective on April 21, 2010.

The incorporation by reference of certain publications is approved by the Director of the Federal Register as of April 21, 2010.

ADDRESSES: You may examine the AD docket on the Internet at *http://regulations.gov* or in person at the Docket Operations office, U.S. Department of Transportation, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (972) 641–3460, fax (972) 641–3527, or at *http://www.eurocopter.com.*

EXAMINING THE AD DOCKET: The AD docket contains the Notice of proposed rulemaking (NPRM), the economic evaluation, any comments received, and other information. The street address and operating hours for the Docket Operations office (telephone (800) 647–5527) are in the **ADDRESSES** section of this AD. Comments will be available in the AD docket shortly after they are received.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, Regulations and Policy Group, FAA, Rotorcraft Directorate, Fort Worth, Texas 76137, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to the Eurocopter France Model AS 332 C, L, L1, and L2; AS 350 B3; AS355 F, F1, F2, and N; SA 365N and N1; AS 365 N2 and N3; SA 366G1; EC 130 B4; and EC 155B and B1 helicopters on July 14, 2009. That NPRM was published in the **Federal Register** on August 3, 2009 (74 FR 38381). That NPRM proposed to address the unsafe condition created by a manufacturing nonconformity found on one batch of servo-control caps. If not corrected this condition could cause untimely movements of servo-controls, which are used on main and anti-torque rotors, and lead to the loss of control of the helicopter. You may obtain further information by examining the MCAI AD and any related service information in the AD docket.

Comments

By publishing the NPRM, we gave the public an opportunity to participate in developing this AD. However, we received no comment on the NPRM or on our determination of the cost to the public. Therefore, based on our review and evaluation of the available data, we have determined that air safety and the public interest require adopting the AD as proposed.

Relevant Service Information

Eurocopter has issued Alert Service Bulletin (ASB) No. 67.00.37 for Model AS 332 helicopters, ASB No. 67.00.40 for Model AS 350 helicopters, ASB No. 67.00.28 for Model AS 355 helicopters, ASB No. 67.00.13 for Model AS 365 and SA 365 helicopters, ASB No. 67.08 for Model SA 366 helicopters, ASB No. 67A010 for Model EC 130 helicopters, and ASB No. 67A010 for Model EC 155 helicopters, all Revision 0 and all dated February 19, 2007. Two of the ASBs have identical numbers and dates. There is a separate ASB No. 67A010 with the same date for the Model EC130 helicopter and the Model EC 155 helicopter. The actions described in the MCAI AD are intended to correct the same unsafe condition as that identified in the service information.

Differences Between This AD and the MCAI AD

We have reviewed the MCAI AD and related service information and, in general, agree with their substance. However, our AD differs from the MCAI AD in that it:

- Is not applicable to the Model AS 332 C1 helicopters because they are not type certificated in the United States;
- Does not require returning the servo-controls to the manufacturer;
- Does not address servo-control "spares" (parts not installed on a helicopter);
- Uses the term "inspect" rather than "check"; and
- Includes information explaining that there are 2 ASBs with the same number and date—ASB No. 67A010 for the Model EC130 B4 helicopters and ASB No. 67A010 for the Model EC 155B and B1 helicopters.

Costs of Compliance

We estimate that this AD will affect about 318 helicopters with 33 non-conforming control cap assemblies of U.S. registry. Also, we estimate that it would take about 1 work-hour to inspect each helicopter in the fleet and 4 work-hours per helicopter to remove and replace an unairworthy servo-control. The average labor rate is $85 per work-hour. A replacement cap assembly would cost $15,605. Based on these figures, we estimate the cost of the AD on U.S. operators to be $553,215, or $1,740 per helicopter.

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 product(s) 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.

Therefore, 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 an economic 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:

2010–06–07 Eurocopter France: Amendment 39–16231; Docket No. FAA–2009–0663; Directorate Identifier 2007–SW–25–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on April 21, 2010.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Eurocopter France (Eurocopter) Model AS 332 C, L, L1, and L2; AS 350 B3; AS355 F, F1, F2, and N; SA 365N and N1; AS 365 N2 and N3; SA 366G1; EC 130 B4; and EC 155B and B1 helicopters, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) AD states that the AD is issued following a manufacturing nonconformity found on one batch of the servo-control cap, part number (P/N) 800137. With a defective servo-control, rotation of the distributor might not be stopped mechanically since only friction of inner seals holds the distributor sleeve in its position. If not corrected this condition could cause untimely movements of servo-controls, which are used on main and anti-torque rotors, and lead to the loss of control of the helicopter.

Actions and Compliance

(e) Within 2 months after the effective date of this AD, unless already done, do the following actions.

(1) For each servo-control with a P/N and a serial number (S/N) listed in paragraph 1.A.1. of the applicable Eurocopter Alert Service Bulletin (ASB) stated in Table 1 of this AD, determine whether there is a letter "R" marked in the inspection box of the servo-control identification plate.

(2) If there is no letter "R" marked in the inspection box of a servo-control identification plate, on the next removal of the servo-control, or not later than 2 years after the effective date of this AD, whichever occurs first, replace the servo-control with an airworthy servo-control that has an "R" marked in the inspection box of the servo-control identification plate or one with a serial number not listed in paragraph 1.A.1 of the ASB applicable to your model helicopter.

Note 1: The letter "R" marked in the inspection box of the servo-control identification plate indicates that the servo-control cap assembly has been brought into conformity with design data and has been installed properly.

(3) There are 2 identically numbered and dated ASBs. There is an ASB No. 67A010, dated February 19, 2007, that applies to the Model EC130B4 helicopters and an ASB No. 67A010, dated February 19, 2007, that applies to the Model EC 155B and B1 helicopters. You must use the ASB that applies to your model helicopter.

TABLE 1

For helicopter model:	Refer to paragraph 1.A.1 of ASB:
AS 332 C, L, L1, and L2	No. 67.00.37, dated February 19, 2007.
AS 350 B3	No. 67.00.40, dated February 19, 2007.
AS 355 F, F1, F2, and N	No. 67.00.28, dated February 19, 2007.
AS 365 N and N1	No. 67.00.13, dated February 19, 2007.
SA 366 G1	No. 67.08, dated February 19, 2007.
EC 130 B4	No. 67A010, dated February 19, 2007.
EC 155B and B1	No. 67A010, dated February 19, 2007.

Differences Between This AD and the MCAI AD

(f) This AD differs from the MCAI AD in that it:

(1) Is not applicable to the Model AS 332 C1 helicopters because they are not type certificated in the United States;

(2) Does not require returning the servo-controls to the manufacturer;

(3) Does not address servo-control "spares" (parts not installed on a helicopter);

(4) Uses the term "inspect" rather than "check"; and

(5) Includes information explaining that there are 2 ASBs with the same number and date.

Other Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, 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:* Uday Garadi, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, Fort Worth, Texas 76137, telephone (817) 222–5123, fax (817) 222–5961.

Related Information

(h) MCAI EASA Airworthiness Directive 2007–0099, dated April 11, 2007, contains related information.

Joint Aircraft System/Component (JASC) Code

(i) JASC Code 6700: Rotorcraft Flight Control.

Material Incorporated by Reference

(j) You must use the portions of the service information specified in Table 2 to do the actions required.

(1) The Director of the Federal Register approved the incorporation by reference of the service information specified in Table 2 under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (972) 641–3460, fax (972) 641–3527, or at *http://www.eurocopter.com.*

(3) You may review copies at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; 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

Eurocopter Alert Service Bulletin	Date	For helicopter model
No. 67.00.37	February 19, 2007	AS 332 C, L, L1, and L2.
No. 67.00.40	February 19, 2007	AS 350 B3.
No. 67.00.28	February 19, 2007	AS 355 F, F1, F2, and N.
No. 67.00.13	February 19, 2007	AS 365 N and N1.
No. 67.08	February 19, 2007	SA 366 G1.
No. 67A010	February 19, 2007	EC 130 B4.
No. 67A010	February 19, 2007	EC 155B and B1.

Issued in Fort Worth, Texas, on February 18, 2010.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–5288 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0068; Directorate Identifier 2010–NE–05–AD; Amendment 39–16240; AD 2010–06–15]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–45 and CF6–50 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for General Electric Company (GE) CF6–45 and CF6–50 series turbofan engines with certain low-pressure turbine (LPT) stage 3 disks installed. This AD requires fluorescent penetrant inspection (FPI) of the LPT stage 3 disk under certain conditions and removal of the disk from service before further flight if found cracked. This AD also requires initial and repetitive borescope inspections of the high-pressure turbine (HPT) rotor stage 1 and stage 2 blades for wear and damage, including excessive airfoil material loss. This AD results from three reports of uncontained failures of LPT stage 3 disks and eight reports of cracked LPT stage 3 disks found during shop visit inspections. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective April 1, 2010.

We must receive any comments on this AD by May 17, 2010.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Docket Management Facility, Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Christopher J. Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *christopher.j.richards@faa.gov;* telephone (781) 238–7133; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: Since July 2008, we received three reports of uncontained failures of LPT stage 3 rotor disks and eight reports of cracked LPT rotor stage 3 disks found during shop visit inspections. GE reports that these failures were caused by HPT rotor blade airfoil material loss which leads to LPT rotor unbalance, vibration, and LPT disk separation. GE's investigation also revealed that certain part number LPT stage 3 rotor disks could have micro-cracking on the inner diameter surface forward cone body (forward spacer arm) that, when exposed to rotor unbalance and other conditions, would allow crack growth and disk failure. This condition, if not corrected, could result in critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other GE CF6–45 and CF6–50 series turbofan engines of the same type design. For that reason, we are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane. This AD requires FPI of the LPT stage 3 disk under the conditions described previously and permanent removal from service of the disk before further flight if found cracked. This AD also requires an initial borescope inspection of the HPT rotor for evidence of stage 1 and stage 2 blade excessive airfoil material loss, within 50 cycles-in-service (CIS) after the effective date of this AD, and thereafter repetitive borescope inspections within every 175 CIS.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. FAA–2010–0068; Directorate Identifier 2010–NE–05–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

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 the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–06–15 General Electric Company: Amendment 39–16240. Docket No. FAA–2010–0068; Directorate Identifier 2010–NE–05–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 1, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–45A, CF6–45A2, CF6–50A, CF6–50C, CF6–50CA, CF6–50C1, CF6–50C2, CF6–50C2B, CF6–50C2D, CF6–50C2F, CF6–50C2R, CF6–50E, CF6–50E1, and CF6–50E2, series turbofan engines, with any of the following low-pressure turbine (LPT) stage 3 disks installed:

9061M23P06	9061M23P07	9061M23P08	9061M23P09	9224M75P01
9061M23P10	1473M90P01	1473M90P02	1473M90P03	1473M90P04
9061M23P12	9061M23P14	9061M23P15	9061M23P16	1479M75P01
1479M75P02	1479M75P03	1479M75P04	1479M75P05	1479M75P06
1479M75P07	1479M75P08	1479M75P09	1479M75P11	1479M75P13
1479M75P14	N/A	N/A	N/A	N/A

These engines are installed on, but not limited to, Airbus A300 series, Boeing 747 series, McDonnell Douglas DC–10 series, and DC–10–30F (KDC–10) airplanes.

Unsafe Condition

(d) This AD results from three reports of uncontained failures of LPT stage 3 disks and eight reports of cracked LPT stage 3 disks found during shop visit inspections. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

Borescope Inspection of High-Pressure Turbine (HPT) Stage 1 and Stage 2 Rotor Blades

(f) Within 50 cycles-in-service (CIS) after the effective date of this AD, borescope-inspect the HPT stage 1 and stage 2 rotor blades for wear and damage, including excessive airfoil material loss.

(g) Thereafter, within every 175 CIS, repetitively borescope-inspect the HPT stage 1 and stage 2 rotor blades for wear and damage, including excessive airfoil material loss.

Actions Required Whenever the HPT Rotor Blade Cumulative Airfoil Material Loss is 50% of a Blade or More

(h) Whenever the HPT rotor blade cumulative airfoil material loss is 50% of a blade or more, then before further flight, fluorescent penetrant inspect the inner diameter surface forward cone body (forward spacer arm) of the LPT stage 3 disk.

(i) If the LPT stage 3 disk is cracked or if a circumferential band of fluorescence appears, permanently remove the disk from service.

Alternative Methods of Compliance

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

Related Information

(k) Contact Christopher J. Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *christopher.j.richards@faa.gov;* telephone (781) 238–7133; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(l) None.

Issued in Burlington, Massachusetts on March 10, 2010.

Peter A. White,

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

[FR Doc. 2010–5777 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0331; Directorate Identifier 2008–NE–40–AD; Amendment 39–16235; AD 2010–06–11]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TFE731 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Honeywell International Inc. TFE731 series turbofan engines with certain second stage low-pressure compressor rotor (LPCR) discs and/or certain third stage LPCR discs installed. This AD requires removing from service certain second stage LPCR discs and/or certain third stage LPCR discs. This AD results from a report of cracks found during a fluorescent penetrant inspection (FPI) of the disc bore. We are issuing this AD to prevent an uncontained failure of a second stage LPCR disc and/or a third stage LPCR disc due to cracks in the bore, which could result in damage to the airplane.

DATES: This AD becomes effective April 21, 2010. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of April 21, 2010.

ADDRESSES: You can get the service information identified in this AD from Honeywell Engines and Systems Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170, *telephone:* Global Customer Care toll free (800) 601–3099; International callers (602) 365–3099.

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 notice of proposed rulemaking (NPRM) and a supplemental NPRM, to amend 14 CFR part 39 to add an AD, for Honeywell International Inc. TFE731 series turbofan engines with certain second stage LPCR discs and/or certain third stage LPCR discs installed. That NPRM was published in the **Federal Register** on April 13, 2009 (74 FR 16807) and proposed to remove from service certain second stage LPCR discs

and certain third stage LPCR discs. That supplemental NPRM was published in the **Federal Register** on December 11, 2009 (74 FR 65697). The supplemental NPRM proposed to remove from service certain second stage LPCR discs and/or certain third stage LPCR discs. It also revised the proposed AD to correct a P/N error, to clarify the applicability, and to clarify the instructions in the compliance section.

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 developing this AD. We responded to the comments received on the NPRM, in the supplemental NPRM. We received no comments on the supplemental NPRM 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 27 engines installed on airplanes of U.S. registry. We also estimate that it will take about 4 work-hours per engine to perform the actions during scheduled maintenance and 140 work-hours per engine for the actions during unscheduled maintenance. The average labor rate is $80 per work-hour. Required parts will cost about $31,000 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $900,000.

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:

2010–06–11 Honeywell International Inc. (Formerly AlliedSignal Inc., formerly Garrett Turbine Engine Company): Amendment 39–16235. Docket No. FAA–2009–0331; Directorate Identifier 2008–NE–40–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 21, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. TFE731–2, TFE731–2A, TFE731–2C, TFE731–3, TFE731–3A, TFE731–3AR, TFE731–3B, TFE731–3BR, TFE731–3C, TFE731–3CR, TFE731–3D, TFE731–3DR, TFE731–3R, TFE731–4, TFE731–4R, TFE731–5, TFE731–5AR, TFE731–5BR, and TFE731–5R series turbofan engines with certain second stage low-pressure compressor rotor (LPCR) discs, part number (P/N) 3072396–1 or 3075190–1, and/or certain third stage LPCR discs, P/N 3072397–1 or 3075192–1, installed. These engines are installed on, but not limited to, the airplanes listed in Table 1 of this AD.

TABLE 1—INSTALLED ON AIRPLANES BY MANUFACTURER

Manufacturer	Model
Dassault-Aviation or Dassault Aviation	Falcon 10 (Falcon 100) and Mystere-Falcon 20, 50, 900 and MF900 series.
Cessna Aircraft Company	Model 650, Citation III, VI, and VII.
Gulfstream Aerospace LP	1125 Westwind Astra.
Israel Aircraft Industries	1124 and 1124A (Westwind).
Learjet Inc.	31, 31A, 35, 35A, 36, 36A, 55, 55B, 55C, and M31.
Lockheed Martin Corporation (formerly Lockheed-Georgia)	1329–23A, 1329–23D, 1329–23E, and 1329–25.

TABLE 1—INSTALLED ON AIRPLANES BY MANUFACTURER—Continued

Manufacturer	Model
Raytheon Corporate Jets (formerly British Aerospace and Hawker Beechcraft Corporation).	DH.125 Series 1A, 3A, and 3A/RA, HS.125 Series F3B and F3B/RA, BH.125 and DH.125 Series 400A, HS.125 Series 403B, F400B, and F403B, HS.125 Series 600A, BH.125 Series 600A, HS.125 Series F600B, 700A, and 700B, BAe.125 Series 800 and 1000, and Hawker 800 and 850XP series.

Unsafe Condition

(d) This AD results from a report of cracks found during a fluorescent penetrant inspection (FPI) of the disc bore. We are issuing this AD to prevent an uncontained failure of a second stage LPCR disc and/or a third stage LPCR disc due to cracks in the bore, 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.

Removing LPCR Discs From Service

(f) For engines with any of the serial number (S/N) LPCR discs listed in Table 5 of Honeywell International Inc. Alert Service Bulletins (ASBs) TFE731–72–A3748, dated August 21, 2008, and/or Table 5 of TFE731–72–A3749, dated August 21, 2008, remove those LPCR discs from service within 100 cycles-in-service (CIS) after the effective date of this AD.

(g) For engines with any of the S/N LPCR discs listed in Table 6 of Honeywell International Inc. ASBs TFE731–72–A3748, dated August 21, 2008, and/or Table 6 of TFE731–72–A3749, dated August 21, 2008, do the earlier of the following:

(1) Remove the LPCR disc from service within 2,000 CIS after the effective date of this AD, or

(2) Remove the LPCR disc from service the next time the intermediate case is removed from the low-pressure compressor case.

Installation Prohibition

(h) After the effective date of this AD, do not install any of the S/Ns of LPCR discs listed in Table 5 of Honeywell International Inc. ASBs TFE731–72–A3748, dated August 21, 2008, and the discs listed in Table 5 of TFE731–72–A3749, dated August 21, 2008, into any engine. Also, do not install any of the S/Ns of LPCR discs listed in Table 6 of Honeywell International Inc. ASBs TFE731–72–A3748, dated August 21, 2008, and the discs listed in Table 6 of TFE731–72–A3749, dated August 21, 2008, into any engine.

Alternative Methods of Compliance

(i) 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

(j) 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.

Material Incorporated by Reference

(k) You must use the service information specified in the following Table 2 to identify the affected discs requiring removal. The Director of the Federal Register approved the incorporation by reference of the documents listed in the following Table 2 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Honeywell Engines and Systems Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170, *telephone:* Global Customer Care toll free (800) 601–3099; International callers (602) 365–3099, 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.*

TABLE 2—INCORPORATION BY REFERENCE

Honeywell International Inc. Alert Service Bulletin No.	Page	Revision	Date
TFE731–72–A3748; Total Pages: 18	All	Original	August 21, 2008.
TFE731–72–A3749; Total Pages: 14	All	Original	August 21, 2008.

Issued in Burlington, Massachusetts, on March 5, 2010.

Peter A. White,

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

[FR Doc. 2010–5507 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0242; Directorate Identifier 2009–SW–27–AD; Amendment 39–16232; AD 2010–06–08]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Sikorsky Aircraft Corporation (Sikorsky) Model S–76C helicopters. This action requires inspecting the emergency flotation system squib connector (flotation system connector) to determine if a metallic foil shunt is installed. This amendment is prompted by a discovery that a metallic foil shunt meant to prevent inadvertent activation of a flotation system during installation was still installed in the left-hand flotation system connector of a Model S–76C helicopter. The actions specified in this AD are intended to determine if a metallic foil shunt is installed in the flotation system, which could prevent the flotation system from deploying and could prevent the helicopter from staying afloat long enough to enable

emergency evacuation after a water landing.

DATES: Effective April 1, 2010.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 2010.

Comments for inclusion in the Rules Docket must be received on or before May 17, 2010.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *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.

You may get the service information identified in this AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.*

EXAMINING THE DOCKET: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7155, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for the specified Sikorsky Model S–76C helicopters. This action requires a one-time inspection of the flotation system connector to determine if a metallic foil shunt is installed, and if one is found, removing it. This amendment is prompted by a discovery during an inspection that a metallic foil shunt was still installed in the left-hand flotation system squib connector of a Model S–76C helicopter. The metallic foil shunt is intended to prevent inadvertent activation of the flotation system during installation. The actions specified in this AD are intended to determine if a metallic foil shunt is installed in the flotation system, which could prevent the flotation system from deploying and could prevent the helicopter from staying afloat long enough to enable emergency evacuation after a water landing.

We have reviewed Sikorsky Alert Service Bulletin No. 76–32–30, dated April 8, 2009, which describes procedures for a one-time inspection of a flotation system connector, installed by Keystone Helicopter Corporation on Sikorsky Model S–76C helicopters, serial numbers 760501 and 760506 through 760761, to determine if a metallic foil shunt is installed, and if so, removing it.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to require inspecting the flotation system connector to determine if a metallic foil shunt is installed, which could prevent the flotation system from deploying and could prevent the helicopter from staying afloat long enough to enable emergency evacuation after a water landing. This AD requires, before the next flight over water, or on or before 30 days after the effective date of this AD, whichever occurs first, accomplishing the actions by following specified portions of the alert service bulletin described previously.

The short compliance time involved is required because the previously described critical unsafe condition could adversely affect the ability of the helicopter to stay afloat after an emergency water landing. Therefore, inspecting the flotation system connector and removing any metallic foil shunt that is found is required before the next flight over water, or on or before 30 days after the effective date of this AD, whichever occurs first, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

We estimate that this AD will affect 76 helicopters, and inspection and removal, if necessary, will take approximately 1 work hour to accomplish at an average labor rate of $85 per work hour. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $6,460.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0242; Directorate Identifier 2009–SW–27–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light 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 with FAA personnel concerning this AD. Using the search function of our docket web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Regulatory Findings

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

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

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2010–06–08 Sikorsky Aircraft Corporation: Amendment 39–16232. Docket No. FAA–2010–0242; Directorate Identifier 2009–SW–27–AD.

Applicability: Sikorsky Aircraft Corporation Model S–76C helicopters, serial numbers 760501 and 760506 through 760761, with Option Code 88051 Flotation System installed by Keystone Helicopter Corporation, certificated in any category.

Compliance: Before the next flight over water, or within 30 days, whichever occurs first, unless accomplished previously.

To determine if a metallic foil shunt is installed in the flotation system, which could prevent the flotation system from deploying and could prevent the helicopter from staying afloat long enough to enable emergency evacuation after a water landing, accomplish the following:

(a) Inspect the flotation system connector and if a metallic foil shunt is found, remove it in accordance with the Accomplishment Instructions, paragraphs 3.A.(1) through 3.A.(9), in Sikorsky Alert Service Bulletin No. 76–32–30, dated April 8, 2009.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Boston Aircraft Certification Office, FAA, *Attn:* Terry Fahr, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7155, fax (781) 238–7170.

(c) The inspection shall be done in accordance with the specified portions of Sikorsky Alert Service Bulletin No. 76–32–30, dated April 8, 2009. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, *Attn:* Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 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.*

Joint Aircraft System/Component (JASC) Code

(d) *JASC Code 3212:* Emergency Flotation Systems.

(e) This amendment becomes effective on April 1, 2010.

Issued in Fort Worth, Texas, on February 3, 2010.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–5294 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0226; Directorate Identifier 2010–NM–034–AD; Amendment 39–16238; AD 2010–06–13]

RIN 2120–AA64

Airworthiness Directives; Learjet Inc. Model 45 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 45 airplanes. This AD requires a general visual inspection for cracked and missing ballscrew assembly sleeves of the flap actuator, repetitive non-destructive liquid penetrant inspections of each sleeve or flap actuator for cracks, and replacement or modification of the flap actuator if necessary. This AD results from reports of cracked and missing ballscrew assembly sleeves of the flap actuators. We are issuing this AD to detect and correct cracked and missing sleeves, which could cause loss of the load-carrying ball bearings on both actuators on one flap, resulting in flap asymmetry and loss of control of the airplane.

DATES: This AD is effective April 1, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 1, 2010.

We must receive comments on this AD by May 3, 2010.

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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942; telephone 316–946–2000; fax 316–946–2220; e-mail *ac.ict@aero.bombardier.com*; Internet *http://www.bombardier.com.*

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: William Griffith, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-

Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4116; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

We have received reports of cracked and missing ballscrew assembly sleeves of the flap actuators. Three flap actuators were found with the ballnut sleeves corroded and cracked. Three additional airplanes were discovered to contain similar corrosion on the ballnut sleeves. The root cause is galvanic corrosion due to an aluminum sleeve installed on a steel ballnut. This condition, if not corrected, could cause loss of the load-carrying ball bearings on both actuators on one flap, resulting in flap asymmetry and loss of control of the airplane.

Relevant Service Information

We reviewed Bombardier (Learjet) Alert Service Bulletins A45–27–40 (for Model 45 airplanes, serial numbers 45–005 through 45–380), and A40–27–24 (for Model 45 airplanes, serial numbers 45–2001 through 45–2111), both dated January 11, 2010. These service bulletins describe procedures for a general visual inspection for cracked and missing ballscrew assembly sleeves of the flap actuator; a non-destructive liquid penetrant inspection for cracks of each sleeve and flap actuator, depending on the findings; and replacement of the flap actuator and ballscrew actuator sleeve if the sleeve is cracked along its entire length.

We also reviewed Bombardier (Learjet) Optional Service Bulletins 45–27–41 (for Model 45 airplanes, serial numbers 45–005 through 45–380), and 40–27–25 (for Model 45 airplanes, serial numbers 45–2001 through 45–2111), both dated January 11, 2010. These service bulletins describe procedures for modifying the flap actuator if a certain crack length is found and the part does not need to be replaced.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the AD and the Service Information."

Differences Between the AD and the Service Information

Although Bombardier (Learjet) Alert Service Bulletins A45–27–40 and A40–27–24, both dated January 11, 2010, specify a compliance time of 30 days after the publication of those service bulletins, this AD requires a compliance time of 15 days after the effective date of this AD. We have received additional reports of fully cracked sleeves requiring replacement. Therefore, we have determined that the 15-day compliance time is necessary to address the identified unsafe condition. This difference has been coordinated with Learjet.

Although Bombardier (Learjet) Alert Service Bulletins A45–27–40 and A40–27–24, both dated January 11, 2010, do not specify repetitive inspections, this AD requires operators to repeat the non-destructive liquid penetrant inspections at intervals not to exceed 6 months. The repetitive inspections will help determine the extent of the problem in the fleet. This difference has been coordinated with Learjet.

Although Bombardier (Learjet) Alert Service Bulletins A45–27–40 and A40–27–24, both dated January 11, 2010, specify to inspect for missing ballscrew assembly sleeves, these service bulletins do not specify a corrective action if any sleeve is missing. This AD requires replacing the flap actuator if any sleeve is missing. This difference has been coordinated with Learjet.

Bombardier (Learjet) Alert Service Bulletins A45–27–40 and A40–27–24, both dated January 11, 2010, specify modifying or replacing the flap actuator as corrective action for a cracked sleeve, depending on the percentage of the length of the sleeve that is cracked. This AD instead requires replacing the actuator if a sleeve is cracked along its entire length, and modifying the actuator for any cracked sleeve that is not cracked along its entire length. This difference has been coordinated with Learjet.

Interim Action

We consider this AD interim action. Learjet Inc. is currently developing a new modification of the ballscrew assembly of the flap actuator that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

FAA's Justification and Determination of the Effective Date

We have received reports of cracked and missing ballscrew assembly sleeves of the flap actuators. Cracked and missing sleeves could result in the loss of the load-carrying ball bearings from the assembly, resulting in the loss of the flap drive load path for that actuator. Loss of the sleeves on both actuators on one flap could result in flap asymmetry, resulting in loss of control of the airplane. Because of our requirement to promote safe flight of civil aircraft and thus the critical need to ensure structural integrity of the ballscrew assembly sleeves of the flap actuator and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0226; Directorate Identifier 2010–NM–034–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

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.

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, 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:

2010–06–13 Learjet Inc.: Amendment 39–16238. Docket No. FAA–2010–0226; Directorate Identifier 2010–NM–034–AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 1, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Learjet Inc. Model 45 airplanes, certificated in any category, serial numbers 45–005 through 45–380 inclusive and 45–2001 through 45–2111 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Unsafe Condition

(e) This AD results from reports of cracked and missing ballscrew assembly sleeves of the flap actuators. The Federal Aviation Administration is issuing this AD to detect and correct cracked and missing sleeves, which could cause loss of the load-carrying ball bearings on both actuators on one flap, resulting in flap asymmetry and loss of control of the airplane.

Compliance

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

General Visual Inspection

(g) Within 15 days after the effective date of this AD, do a general visual inspection for cracked or missing ballscrew assembly sleeves of the flap actuator, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Alert Service Bulletin A45–27–40 (for Model 45 airplanes, serial numbers 45–005 through 45–380); or Bombardier (Learjet) Alert Service Bulletin A40–27–24 (for Model 45 airplanes, serial numbers 45–2001 through 45–2111); both dated January 11, 2010. Thereafter, do the actions in paragraph (h) or (i), as applicable, of this AD.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Non-Destructive Liquid Penetrant Inspection (Sleeve Is Present and Not Cracked Along Its Entire Length)

(h) During the general visual inspection required by paragraph (g) of this AD, if the sleeve is present and not cracked along its entire length, before further flight after accomplishing the general visual inspection, do a non-destructive liquid penetrant inspection to detect cracking of the flap actuators, in accordance with Accomplishment Instructions of Bombardier (Learjet) Alert Service Bulletin A45–27–40, or Bombardier (Learjet) Alert Service Bulletin A40–27–24, both dated January 11, 2010.

(1) If no crack is found during the non-destructive liquid penetrant inspection, repeat the inspection thereafter at intervals not to exceed 6 months.

(2) If any crack is found during the non-destructive liquid penetrant inspection, before further flight, modify the flap actuator, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Optional Service Bulletin 45–27–41 (for Model 45 airplanes, serial numbers 45–005 through 45–380); or Bombardier (Learjet) Optional Service Bulletin 40–27–25 (for Model 45 airplanes, serial numbers 45–2001 through 45–2111); both dated January 11, 2010. Repeat the non-destructive liquid penetrant inspection of the half (modified) sleeve thereafter at intervals not to exceed 6 months. If any crack is found in any half (modified) sleeve, before further flight, replace the sleeve with a new half sleeve, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Optional Service Bulletin 45–27–41, or Bombardier (Learjet) Optional Service Bulletin 40–27–25, both dated January 11, 2010, and repeat the non-destructive liquid penetrant inspection of the half sleeve thereafter at intervals not to exceed 6 months.

Replacement (Sleeve Is Missing or Cracked Along Its Entire Length)

(i) During the general visual inspection required by paragraph (g) of this AD, if the sleeve is missing or cracked along its entire length, before further flight after accomplishing the general visual inspection, replace the actuator with a new or serviceable actuator, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Alert Service Bulletin A45–27–40, or Bombardier (Learjet) Alert Service Bulletin A40–27–24, both dated January 11, 2010. Within 6 months after any actuator replacement required by paragraph (i) of this AD: Do a non-destructive liquid penetrant inspection to detect cracking of the actuator, in accordance with Accomplishment Instructions of Bombardier (Learjet) Alert Service Bulletin A45–27–40, or Bombardier (Learjet) Alert Service Bulletin A40–27–24, both dated January 11, 2010.

(1) If no crack is found during the non-destructive liquid penetrant inspection, repeat the inspection thereafter at intervals not to exceed 6 months.

(2) If any crack is found during the non-destructive liquid penetrant inspection, but the sleeve is not cracked along its entire length, before further flight, modify the flap actuator, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Optional Service Bulletin 45–27–41, or Bombardier (Learjet) Optional Service Bulletin 40–27–25, both dated January 11, 2010. Repeat the non-destructive liquid penetrant inspection of the half (modified) sleeves thereafter at intervals not to exceed 6 months. If any crack is found in any half (modified) sleeve, before further flight, replace the sleeve with a new half sleeve, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Optional Service Bulletin 45–27–41, or Bombardier (Learjet) Optional Service Bulletin 40–27–25, both dated January 11, 2010. Repeat the non-destructive liquid penetrant inspection of the half sleeve thereafter at intervals not to exceed 6 months.

(3) If the sleeve is cracked along its entire length, before further flight, replace the actuator with a new or serviceable actuator, in accordance with the Accomplishment Instructions of Bombardier (Learjet) Optional

Service Bulletin 45–27–41, or Bombardier (Learjet) Optional Service Bulletin 40–27–25, both dated January 11, 2010, and repeat the non-destructive liquid penetrant inspection of the sleeve thereafter at intervals not to exceed 6 months.

Note 2: Guidance on modification of the flap actuator can be found in Microtecnica Service Bulletin 27–0018, dated November 24, 2009.

Parts Installation

(j) As of the effective date of this AD, no person may install, on any airplane, a ballscrew assembly sleeve of the flap actuator, unless the actuator has been modified according to Bombardier (Learjet) Optional Service Bulletin 45–27–41, or Bombardier (Learjet) Optional Service Bulletin 40–27–25, both dated January 11, 2010.

Reporting Requirement

(k) Submit a one-time report of the findings of the general visual inspection and the initial non-destructive liquid penetrant inspection required by this AD to Chris Broadrick, Bombardier Aerospace, Project Coordinator—Fielding Specialist, Customer Support Engineering, One Learjet Way, P.O. Box 7707, Wichita, Kansas 67209; telephone 316–946–2315; fax 316–946–8908; e-mail *chris.broadrick@aero.bombardier.com;* at the applicable time specified in paragraph (k)(1) or (k)(2) of this AD. The report must include airplane serial number, flap actuator part number, flap actuator serial number, and flap actuator time in service (in hours). 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 on or after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Special Flight Permits

(l) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified, unless cracks are discovered in both an inboard and outboard actuator sleeve for any flap.

Alternative Methods of Compliance (AMOCs)

(m)(1) 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: William Griffith, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita ACO, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4116; fax (316) 946–4107.

(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 principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Material Incorporated by Reference

(n) You must use the service information included in Table 1 of this AD, as applicable, 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942; telephone 316–946–2000; fax 316–946–2220; e-mail *ac.ict@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference 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.*

TABLE 1—MATERIAL INCORPORATED BY REFERENCE

Document	Date
Bombardier (Learjet) Alert Service Bulletin A40–27–24.	January 11, 2010.
Bombardier (Learjet) Alert Service Bulletin A45–27–40.	January 11, 2010.
Bombardier (Learjet) Optional Service Bulletin 40–27–25.	January 11, 2010.
Bombardier (Learjet) Optional Service Bulletin 45–27–41.	January 11, 2010.

Issued in Renton, Washington, on March 9, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–5669 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0642; Directorate Identifier 2009–NM–001–AD; Amendment 39–16241; AD 2010–06–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 767 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 767 series airplanes. This AD requires inspections for scribe lines in the fuselage skin at skin lap joints, the skin at certain external approved repairs, the skin around external features such as antennas, and the skin at decals; and related investigative and corrective actions if necessary. This AD results from reports of scribe lines found at skin lap joints and butt joints, around external repairs 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.

DATES: This AD is effective April 21, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 21, 2010.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

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 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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 767 airplanes. That NPRM was published in the **Federal Register** on July 16, 2009 (74 FR 34513). That NPRM proposed to require inspections for scribe lines in the fuselage skin at skin lap joints, the skin at certain external approved repairs, the skin around external features such as antennas, and the skin at decals; and related investigative and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the commenters.

Support for the NPRM

The Air Transport Association of America (ATA) agrees with the intent of the NPRM.

Request To Remove Requirements for Inspections for Partially Repainted Airplanes

The ATA, on behalf of its member American Airlines (AA), requests that we revise the NPRM to state that the inspections done in accordance with Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, are necessary only in areas that have been previously stripped or repainted.

We agree that clarification is necessary. Note 1 of paragraph (g) of this AD, as well as the notes in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, state the exceptions to the inspection. Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, states that these inspections are not necessary in areas that have not been stripped or repainted. We have not changed the AD in this regard.

Request To Remove Reference to Butt Joints From Paragraph (g) of the NPRM

The ATA, on behalf of its member United Airlines (UAL), and Boeing and Japan Airlines (JAL) request that we remove the term "butt joints" from the requirements of paragraph (g) of the NPRM. Boeing and JAL point out that Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, does not specify any inspections for scribe lines at butt joints.

We agree to remove the reference to "butt joints" from paragraph (g) in this final rule. While Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, does state that some scribe lines were found at butt joint areas of the skin, it does not specifically address scribe lines found at butt joints for Model 767 airplanes. We have removed the term "butt joints" from paragraph (g) of the final rule.

Request To Remove Requirement for Inspections Where Decals Have Been Installed

JAL requests that we remove the requirement for inspections where decals have been installed if procedures were used to ensure that the skin was not damaged. JAL states that it protects the skin before installing decals and inspects the skin to confirm that the area is free of damage after installing decals.

We partially agree. Using tools that do not scribe the skin should be given consideration. However, we disagree that it is necessary to remove the requirement for inspections of any location where decals have been installed. Notes (b) and (d) in Table 1 in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, state the locations that are exempt from the inspections. Under the provisions of paragraph (l) of the final rule, we will consider requests for approval of an alternative method of compliance if data are submitted to substantiate that such request would provide an acceptable level of safety. We have not changed the AD regarding this issue.

Request To Revise Reporting Requirement

All Nippon Airways (ANA), JAL, Boeing, and ATA, on behalf of its member Delta, request that we require reporting for crack findings only rather than require reporting positive and negative findings. ANA requests that we limit reporting to positive findings of cracks equal to or greater than 0.006 inch deep. Delta requests that reporting be mandated only for positive findings (specifically findings over 0.001 inch deep), and requests that we extend the window for reporting from 30 to 180 days. Delta states that a longer time period will allow findings to be batched together for a grouped report and preclude undue compliance issues related to late reporting. The commenters state that to require reporting for all findings, both for positive and negative findings, is burdensome and unnecessary.

We agree to revise the reporting requirement to require reporting only for positive findings. Since Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, specifies that only a repair plan be reported to Boeing, we have revised paragraph (j) of the final rule to require reporting only for scribe lines deeper than 0.001 inch along with a respective repair plan. While airplanes with scribe lines greater than 0.001 inch deep and less than 0.006 inch deep may be eligible for the limited return to service (LRTS) program depending on location, airplanes with scribe lines greater than 0.006 inch in any location are not eligible for the LRTS program.

We disagree with Delta's request to extend the window for reporting from 30 to 180 days. We find that 30 days after a completed inspection is an appropriate amount of time to submit reporting requirements.

Request To Remove Inspection Requirement for Areas Without External Features

JAL requests that we remove the inspection requirement for areas without external features. JAL notes that Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, requires inspections for scribe lines where external features are installed. JAL states that it has airplane configurations with antennas that were not installed. JAL requests that we add "if an antenna is not located in the position described in the identification, no inspection for the skin at that location is required," to the AD.

We partially agree with the commenter. Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, does not provide instructions to address such anomalies in those areas. However, we disagree that adding an exception to the AD is necessary because these anomalies do not affect the majority of the fleet. JAL may address this situation by requesting approval of an alternative method of compliance (AMOC) according to the procedures in paragraph (l) of this AD.

We have not changed the AD in this regard.

Request To Change "Exploratory Detailed Inspection" to "Detailed Inspection"

JAL requests that we change the term "exploratory detailed inspection" to "detailed inspection" because Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, does not define "exploratory detailed inspection."

We agree to change the term for the reason provided by the commenter. We have revised paragraph (g) of the AD to reflect this change.

Request To Remove Requirement to Return Airplanes To a "Serviceable Condition"

The ATA, on behalf of its member AA, requests that we remove the requirement to return airplanes to a "serviceable condition." AA notes that Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, states "put the airplane back into a serviceable condition" multiple times. AA requests that we revise the AD to exclude this requirement because it does not address the unsafe condition. Furthermore, AA states that most operators will accomplish these inspections as part of a heavy maintenance visit, so returning the airplane to a serviceable condition will occur well after the inspections are complete.

We partially agree with the commenter's request. The airplanes may not be in a "serviceable" condition immediately after addressing the scribe line issue. However, we disagree that revising the AD is necessary because the statement is designed to ensure that the airplane is airworthy after all the required tasks have been completed and before the next flight of the airplane. We have not revised the AD in regard to this issue.

Request To Include Alternate Measurement Tools

The ATA, on behalf of its member AA, requests that we include alternate measurement tools. AA notes that paragraph 2.F., "Special Tooling," of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, lists several different optical micrometers and laser measurement devices. AA requests that we revise the AD to include provisions for using alternative equivalent measurement tools rather than allowing only the specific models listed.

We disagree with the commenter's request to revise the AD to include alternative measurement tools. Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, specifies that no special tooling is necessary to accomplish the specified actions, and it lists standard tools that may be needed to measure scribe line depth. We have not changed the AD in this regard.

Request To Change Compliance Time in the Service Bulletin

ANA requests that we change the requirement "after the original issue date of the service bulletin" as it is written in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, to "after the effective date of the AD."

We agree with the commenter that the effective date of the AD should be the date used to determine compliance. Paragraph (h) of this final rule states that where Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, specifies a compliance time after the date on that service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. We have not changed the AD in this regard.

Explanation of Change Made to This AD

Boeing Commercial Airplanes has received an Organization Designation Authorization (ODA), which replaces their previous designation as a Delegation Option Authorization (DOA) holder. We have revised paragraph (l)(3) of this AD to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Boeing Commercial Airplanes ODA.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 367 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspections	340	$80	None	$27,200	367	$9,982,400

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

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.

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, 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:

2010–06–16 The Boeing Company: Amendment 39–16241. Docket No. FAA–2009–0642; Directorate Identifier 2009–NM–001–AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 21, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Unsafe Condition

(e) This AD results from reports of scribe lines found at skin lap joints, butt joints, around external repairs 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

(f) 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

(g) At the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, except as provided in paragraph (h) of this AD, do detailed inspections for scribe lines of skin lap joints around external repairs and antennas, and at locations where external decals might have been cut. Do all applicable related investigative and corrective actions at the times specified in Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, by accomplishing all actions specified in the Accomplishment Instructions of that service bulletin, except as provided by paragraph (i) of this AD.

Note 1: The inspection exemptions noted in paragraph 1.E. of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, apply to this AD.

Exceptions to Service Bulletin Specifications

(h) Where Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, specifies a compliance time after "the original issue date on this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Where Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, 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 (l) of this AD.

Report

(j) At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD: Submit a report of positive findings of scribe lines deeper than 0.001 inch along with a repair plan found during the inspections required by paragraph (g) of this AD. Operators may use the reporting form contained in Appendixes B and C, as applicable, of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009. 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 on or 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.

Credit for Actions Accomplished Previously

(k) Actions accomplished previously in accordance with Boeing Alert Service Bulletin 767–53A0193, dated November 25, 2008, are considered acceptable for compliance with the applicable actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle 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:* Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(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 principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(m) You must use Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, 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 Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com*.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference 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 Renton, Washington, on March 9, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–5670 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0004; Airspace Docket No. 09–ASW–32]

RIN 2120–AA66

Amendment of Jet Routes and VOR Federal Airways in the Vicinity of Gage, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal description of two Jet Routes and seven VHF Omnidirectional Range (VOR) Federal Airways in the vicinity of Gage, OK. The FAA is taking this action because the Gage VHF Omnidirectional Range/Tactical Air Navigation (VORTAC), included as part of the route structure for the airways, is being renamed the Mitbee VORTAC for identity clarification.

DATES: Effective date 0901 UTC, June 3, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the legal description of Jet Routes J–26 and J–98 and VOR Federal Airways V–12, V–17, V–190, V–280, V–390, V–402, and V–507 in the vicinity of Gage, OK. Currently, these airways have the Gage, OK, [VORTAC] included as part of their route structure. The Gage VORTAC and the Gage Airport, both in Gage, OK, share the same name and facility identifier (GAG), but are not co-located and are greater than 5 nautical miles apart. To eliminate the possibility of confusion, and a potential flight safety issue, the Gage VORTAC will be renamed the Mitbee VORTAC and assigned a new facility identifier (MMB). All Jet Routes and VOR Federal Airways with Gage, OK, [VORTAC] included in their legal descriptions will be amended to reflect the name change. The name change of the VORTAC will coincide with the effective date of this rulemaking action.

Since this action merely involves editorial changes in the legal description of Jet Routes and VOR Federal Airways, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public comment under 5 U.S.C. 553(b) are unnecessary.

Jet Routes and Domestic VOR Federal Airways are published in paragraphs 2004 and 6010(a), respectively, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Jet Routes and domestic VOR Federal Airways listed in this document will be published subsequently in the Order.

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. Therefore, this regulation: (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 the 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 the legal description of Jet Routes and VOR Federal Airways in the vicinity of Gage, OK.

Environmental Review

There are no changes to the lateral limits. Therefore, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts, and the National Environmental Policy Act.

List 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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J–26 [Amended]

From Ciudad Juarez, Mexico, via El Paso, TX; INT of El Paso 070° and Chisum, NM, 215° radials; Chisum; Panhandle, TX; Mitbee, OK; Wichita, KS; Kansas City, MO; Kirksville, MO; Bradford, IL; to Joliet, IL. The airspace within Mexico is excluded.

* * * * *

J–98 [Amended]

From Liberal, KS, via Mitbee, OK; Will Rogers, OK; via Tulsa, OK; Springfield, MO; to Farmington, MO.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–12 [Amended]

From Gaviota, CA, via San Marcus, CA; Palmdale, CA; 38 miles, 6 miles wide, Hector, CA; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, CA; 45 miles, 34 miles, 95 MSL, Drake, AZ; Winslow, AZ; 30 miles, 85 MSL, Zuni, NM; Albuquerque, NM; Otto, NM; Anton Chico, NM; Tucumcari, NM; Amarillo, TX; Mitbee, OK; Anthony, KS;

Wichita, KS; Emporia, KS; Johnson County, KS; Napoleon, MO; INT Napoleon 095° and Columbia, MO, 292° radials; Columbia; Foristell, MO; Troy, IL; Bible Grove, IL; Shelbyville, IN; Richmond, IN; Dayton, OH; Appleton, OH, Newcomerstown, OH; Allegheny, PA; Johnstown, PA; Harrisburg, PA; INT Harrisburg 092° and Pottstown, PA, 278° radials; to Pottstown.

* * * * *

V–17 [Amended]

From Brownsville, TX, via Harlingen, TX; McAllen, TX; 29 miles, 12 AGL, 34 miles, 25 MSL, 37 miles, 12 AGL; Laredo, TX; Cotulla, TX; INT Cotulla 046° and San Antonio, TX, 198° radials; San Antonio; Centex, TX; Waco, TX; Glen Rose, TX; Millsap, TX; Bowie, TX; Ardmore, OK; Will Rogers, OK; Mitbee, OK; Garden City, KS; to Goodland, KS.

* * * * *

V–190 [Amended]

From Phoenix, AZ; St. Johns, AZ; Albuquerque, NM; Fort Union, NM, Dalhart, TX; Mitbee, OK; INT Mitbee 059° and Pioneer, OK, 280° radials; Pioneer; INT Pioneer 094° and Bartlesville, OK, 256° radials; Bartlesville; INT Bartlesville 075° and Oswego, KS, 233° radials; Oswego; INT Oswego 085° and Springfield, MO, 261° radials; Springfield; Maples, MO; Farmington, MO; Marion, IL; to Pocket City, IN.

* * * * *

V–280 [Amended]

From Ciudad Juarez, Mexico, via El Paso, TX; INT El Paso 070° and Pinon, NM, 219° radials; Pinon; Chisum, NM; INT Chisum 063° and Texico, NM, 218° radials; Texico; Panhandle, TX; Mitbee, OK; INT Mitbee 025° and Hutchinson, KS, 234° radials; Hutchinson; INT Hutchinson 061° and Topeka, KS, 236° radials; to Topeka. The airspace within Mexico is excluded.

* * * * *

V–390 [Amended]

From Tucumcari, NM, via Borger, TX; INT Borger 061° and Mitbee, OK, 249° radials; to Mitbee.

* * * * *

V–402 [Amended]

From Tucumcari, NM, via INT Tucumcari 101° and Panhandle, TX, 255° radials; Panhandle; INT Panhandle 070° and Mitbee, OK, 215° radials; to Mitbee.

* * * * *

V–507 [Amended]

From Ardmore, OK; Will Rogers, OK, via INT Will Rogers 284° and Mitbee, OK, 152° radials; Mitbee; Liberal, KS; to Garden City, KS.

Issued in Washington, DC, on March 4, 2010.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. 2010–5368 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0006; Airspace Docket No. 09–AGL–30]

RIN 2120–AA66

Amendment of VOR Federal Airway V–422 in the Vicinity of Wolf Lake, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal description of the VHF Omnidirectional Range (VOR) Federal Airway V–422 in the vicinity of Wolf Lake, IN. The FAA is taking this action because the Wolf Lake VOR, included as part of the V–422 route structure, is being renamed the Webster Lake VOR.

DATES: Effective date 0901 UTC, June 3, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the legal description of VOR Federal Airway V–422 in the vicinity of Wolf Lake, IN. Currently, V–422 has Wolf Lake, IN, [VOR] included as part of its route structure. The Wolf Lake VOR and the Wolf Lake Airport share the same name, but are not co-located and are greater than 5 nautical miles apart. To eliminate the possibility of confusion, and a potential flight safety issue, the Wolf Lake VOR will be renamed the Webster Lake VOR, however it will retain the current facility identifier (OLK). Airways with Wolf Lake, IN, [VOR] included in their legal descriptions will be amended to reflect the name change. The name change of the VOR will coincide with the effective date of this rulemaking action.

Since this action merely involves editorial changes in the legal description of a VOR Federal Airway, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public comment under 5 U.S.C. 553(b) are unnecessary.

Domestic VOR Federal Airways are published in paragraph 6010(a) of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The domestic VOR Federal Airway listed in this document will be published subsequently in the Order.

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. Therefore, this regulation: (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 the 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 the legal description of a VOR Federal Airway in the vicinity of Wolf Lake, IN.

Environmental Review

There are no changes to the lateral limits. Therefore, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts, and the National Environmental Policy Act.

List 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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–422 [Amended]

From INT Chicago O'Hare, IL, 127° and Chicago Heights, IL, 358° radials; Chicago Heights; INT Chicago Heights 117° and Knox, IN, 276° radials; Knox; Webster Lake, IN; INT Webster Lake 097° and Findlay, OH, 289° radials; Findlay.

Issued in Washington, DC, on March 4, 2010.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. 2010–5366 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0692; Airspace Docket No. 09–AAL–13]

Establishment of Class E Airspace; Koyukuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Koyukuk, AK, to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs), and one Obstacle Departure Procedure (ODP) at Koyukuk Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Koyukuk Airport.

DATES: Effective 0901 UTC, June 3, 2010. 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.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, December 16, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to establish Class E airspace at Koyukuk, AK (74 FR 66594).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Koyukuk Airport, AK, to accommodate new RNAV SIAPs, and an ODP at Koyukuk Airport. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface, for safety and management of IFR operations at Koyukuk Airport.

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. 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. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Koyukuk Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is amended as follows:

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

* * * * *

AAL AK E5 Koyukuk, AK [New]

Koyukuk Airport, AK
(Lat. 64°52′33″ N., long. 157°43′50″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Koyukuk Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Koyukuk Airport, AK.

* * * * *

Issued in Anchorage, AK, on February 19, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–5282 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0142; Airspace Docket No. 09–AAL–2]

Establishment of Class E Airspace; Shaktoolik, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Shaktoolik, AK, to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs), and one Obstacle Departure Procedure (ODP) at Shaktoolik Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Shaktoolik Airport.

DATES: Effective 0901 UTC, June 3, 2010. 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.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, December 16, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to establish Class E airspace at Shaktoolik, AK (74 FR 66593).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Shaktoolik Airport, AK, to accommodate new RNAV SIAPs, and an ODP at Shaktoolik Airport. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface, for safety and management of IFR operations at Shaktoolik Airport.

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. 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. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Shaktoolik Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is amended as follows:

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

* * * * *

AAL AK E5 Shaktoolik, AK [New]

Shaktoolik Airport, AK

(Lat. 64°22′16″ N., long. 161°13′26″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Shaktoolik Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Shaktoolik Airport, AK.

* * * * *

Issued in Anchorage, AK, on February 19, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–5267 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1055; Airspace Docket No. 09–AAL–16]

Revision of Class E Airspace; Dillingham, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Dillingham, AK, to accommodate amended Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs), conventional SIAPs, and an Obstacle Departure Procedure (ODP) at Dillingham Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Dillingham Airport.

DATES: Effective 0901 UTC, June 3, 2010. 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.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, December 16, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to revise Class E airspace at Dillingham, AK (74 FR 66595).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as surface areas are published in paragraph 6002 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Dillingham Airport, AK, to accommodate amended SIAPs, and an ODP at Dillingham Airport. This Class E airspace will provide adequate controlled airspace upward from the surface, and from 700 and 1,200 feet above the surface, for safety and management of IFR operations at Dillingham Airport.

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. 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. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Dillingham Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Dillingham, AK [Revised]

Dillingham Airport, AK
(Lat. 59°02′41″ N., long. 158°30′20″ W.)
Dillingham VOR/DME
(Lat. 58°59′39″ N., long. 158°33′08″ W.)

Within a 4.4-mile radius of the Dillingham Airport, AK, and within 3.1 miles each side of the 206° radial of the Dillingham VOR/DME, extending from the 4.4-mile radius to 10.4 miles southwest of the Dillingham Airport, AK. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AAL AK E5 Dillingham, AK [Revised]

Dillingham Airport, AK
(Lat. 59°02′41″ N., long. 158°30′20″ W.)
Dillingham VOR/DME
(Lat. 58°59′39″ N., long. 158°33′08″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Dillingham Airport, AK, and within 3.1 miles either side of the 206° radial of the Dillingham VOR/DME, extending from the 7-mile radius to 14.1 miles southwest of the Dillingham Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of the Dillingham Airport, AK.

* * * * *

Issued in Anchorage, AK, on February 19, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–5268 Filed 3–16–10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1036; Airspace Docket No. 09–AAL–17]

Revision of Class E Airspace; Iliamna, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Iliamna, AK, to accommodate amended Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs), conventional SIAPs, and an Obstacle Departure Procedure (ODP) at Iliamna Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Iliamna Airport.

DATES: Effective 0901 UTC, June 3, 2010. 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.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Monday, December 21, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to revise Class E airspace at Iliamna, AK (74 FR 67837).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as surface areas are published in paragraph 6002 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Iliamna Airport, AK, to accommodate amended SIAPs, and an ODP at Iliamna Airport. This Class E airspace will provide adequate controlled airspace upward from the surface, and from 700 and 1,200 feet above the surface, for safety and management of IFR operations at Iliamna Airport.

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. 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. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Iliamna Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Iliamna, AK [Revised]

Iliamna Airport, AK
(Lat. 59°45′20″ N., long. 154°55′04″ W.)
Iliamna NDB
(Lat. 59°44′53″ N., long. 154°54′35″ W.)

Within a 4.9-mile radius of the Iliamna Airport, AK, and within 2.5 miles each side of the 200° bearing of the Iliamna NDB, extending from the 4.9-mile radius to 7 miles south of the Iliamna Airport, AK. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AAL AK E5 Iliamna, AK [Revised]

Iliamna Airport, AK
(Lat. 59°45′20″ N., long. 154°55′04″ W.)
Iliamna NDB
(Lat. 59°44′53″ N., long. 154°54′35″ W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of the Iliamna Airport, AK, and within 4 west and 8 miles east of the 200° bearing of the Iliamna NDB, extending from the 7.2-mile radius to 16 miles south of the Iliamna

Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Iliamna Airport, AK.

* * * * *

Issued in Anchorage, AK, on February 19, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–5262 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1038; Airspace Docket No. 09–AAL–19]

Revision of Class E Airspace; Scammon Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Scammon Bay, AK, to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs) at Scammon Bay Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Scammon Bay Airport.

DATES: Effective 0901 UTC, June 3, 2010. 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.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; *e-mail: gary.ctr.rolf@faa.gov. Internet address: http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, December 16, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to revise Class E airspace at Scammon Bay, AK (74 FR 66597).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Scammon Bay Airport, AK, to accommodate new RNAV SIAPs at Scammon Bay Airport. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface, for safety and management of IFR operations at Scammon Bay Airport.

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. 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. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Scammon Bay Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is amended as follows:

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

* * * * *

AAL AK E5 Scammon Bay, AK [Revised]

Scammon Bay Airport, AK

(Lat. 61°50′40″ N., long. 165°34′25″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Scammon Bay Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Scammon Bay Airport, AK.

* * * * *

Issued in Anchorage, AK, on February 19, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group

[FR Doc. 2010–5263 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA–H054a–2006–0064]

RIN 1218–AC43

Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards

AGENCY: Occupational Safety and Health Administration (OSHA); Department of Labor.

ACTION: Direct final rule.

SUMMARY: On February 28, 2006, OSHA published a final rule for Occupational Exposure to Hexavalent Chromium (Cr(VI). Public Citizen Health Research Group (Public Citizen) and other parties petitioned for review of the standard in the United States Court of Appeals for the Third Circuit. The court denied the petitions for review on all but one issue. The Third Circuit remanded the employee notification requirements in the standard's exposure determination provisions for further consideration. More specifically, the court directed the Agency to either provide an explanation for its decision to limit employee notification requirements to circumstances in which Cr(VI) exposures exceed the permissible exposure limit (PEL) or take other appropriate action with respect to that paragraph of the standard. After reviewing the rulemaking record on this issue, and reconsidering the provision in question, OSHA has decided to revise the notification requirements, by means of this direct final rule, to require employers to notify employees of the results of all exposure determinations.

DATES: This direct final rule will become effective on June 15, 2010 unless significant adverse comment is submitted (transmitted, postmarked, or delivered) by April 16, 2010. Comments to this direct final rule, hearing requests, and other information must be submitted (transmitted, postmarked, or delivered) by April 16, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES: You may submit comments, hearing requests, and other materials, identified by Docket No. OSHA–H054a-2006–0064, by any of the following methods:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: OSHA allows facsimile transmission of comments and hearing requests that are 10 pages or fewer in length (including attachments). You can fax these documents to the OSHA Docket Office at (202) 693–1648; hard copies of these documents are not required. Instead of transmitting facsimile copies of attachments that supplement these documents (*e.g.,* studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, the date, and the Docket No. (OSHA–H054a–2006–0064) so that the Agency can attach them to the appropriate document.

Regular mail, express delivery, hand (courier) delivery, and messenger service: Submit comments and any additional material to the OSHA Docket Office, Docket No. OSHA–H054a–2006–0064 or RIN No. 1218–AC43, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone: (202) 693–2350. (OSHA's TTY number is (877) 889–5627.) Note that security procedures may delay OSHA's receipt of comments and other written materials submitted by regular mail. Please contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, and messenger service. Deliveries (hand, express mail, messenger service) are accepted during the Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (*i.e.,* OSHA Docket No. OSHA–H054a-2006–0064). Comments and other material, including any personal information, will be placed in the public docket without revision, and will be available online at *http://www.regulations.gov*. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries contact Ms. Jennifer Ashley, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. For technical inquiries, contact Maureen Ruskin, Office of Chemical Hazards-Metals, Directorate of Standards and Guidance, Room N–3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1950; fax: (202) 693–1678. Copies of this **Federal Register** notice are available from the OSHA Office of Publications, Room N–3101, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1888. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Web page at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

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I. Request for Comment

OSHA requests comments on all issues related to this action including economic or other regulatory impacts of this action on the regulated community. If OSHA receives no significant adverse comment, OSHA will publish a **Federal Register** document confirming the effective date of this direct final rule and withdrawing the companion proposed rule published in the Proposed Rules section of today's **Federal Register**. Such confirmation may include minor stylistic or technical changes to the document. For the

purpose of judicial review, OSHA views the date of confirmation of the effective date of this direct final rule as the date of promulgation.

II. Direct Final Rulemaking

In direct final rulemaking, an agency publishes a direct final rule in the **Federal Register** with a statement that the rule will go into effect unless significant adverse comment is received within a specified period of time. An identical proposed rule is often published at the same time. If a significant adverse comment is not submitted in response to the direct final rule, the rule goes into effect. If a significant adverse comment is received, the agency withdraws the direct final rule and treats such comment as a response to the proposed rule. Direct final rulemaking is typically used where an agency anticipates that a rule will not be controversial. Examples include minor substantive changes to regulations, direct incorporations of mandates from new legislation, and in this case, minor changes to regulations resulting from a judicial remand.

For purposes of this direct final rule, a significant adverse comment is one that explains why the amendments being made to OSHA's standards would be inappropriate. In determining whether a comment necessitates withdrawal of the direct final rule, the Agency will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. OSHA will not consider a comment recommending an additional amendment to be a significant adverse comment unless the comment states why the direct final rule would be ineffective without the addition. If timely significant adverse comment is received, OSHA will publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule no later than May 17, 2010.

OSHA is publishing a companion proposed rule along with this direct final rule. The comment period for the proposed rule runs concurrently with that of the direct final rule. Comments received on the companion proposed rule will also be treated as comments regarding the direct final rule. Likewise, significant adverse comment submitted to the direct final rule will also be considered as comment to the companion proposed rule.

If OSHA receives a significant adverse comment on this direct final rule, the Agency will publish a timely withdrawal of this direct final rule and proceed with the companion proposed rule that was published in the Proposed Rule's section of today's **Federal Register**. In the event OSHA withdraws the direct final rule because of significant adverse comment, the Agency will consider all comments received when it continues with the proposed rule. OSHA will then decide whether to publish a new final rule.

OSHA determined that the subject of this rulemaking is suitable for direct final rulemaking. This amendment to the standard does not compromise the safety or health of employees. Indeed, OSHA anticipates that employee protection will be enhanced by the amended standard, which will require employers to notify affected employees of all exposure determination results. This amendment to the standard will not alter any other substantive requirements of the exposure determination provisions, *i.e.,* the amendment does not change any of the requirements for when or how employers must determine their employees' Cr(VI) exposures. The amendment made herein simply expands the circumstances in which employers must notify affected employees, either through posting or direct written notice, of the results of required exposure determinations. The burden on the regulated community as a result of this change will not be significant. For these reasons, OSHA does not expect objections from the public.

III. Discussion of Changes

Paragraph (d) of the chromium (VI) standard (29 CFR 1910.1026, 29 CFR 1915.1026, 29 CFR 1926.1126) (71 FR 10100) is titled "Exposure Determination" and requires employers to determine the 8-hour time-weighted-average exposure for each employee exposed to Cr(VI). This can be done through scheduled air monitoring (paragraph (d)(2)) or on the basis of any combination of air monitoring data, historical monitoring data, and/or objective data (paragraph (d)(3)). As originally promulgated, paragraph (d)(4) required the employer to notify affected employees of any exposure determinations indicating exposures in excess of the PEL. The employer could satisfy this requirement either by posting the exposure determination results in an appropriate location accessible to all affected employees or by notifying each affected employee in writing of the results of the exposure determination. Under the general industry standard, notice has to be provided within 15 work days, and in construction and maritime employers have 5 work days to provide the required notice.

The requirement to notify employees of exposures above the exposure limit was consistent with Section 8(c)(3) of the Occupational Safety and Health Act of 1970 (OSH Act), which requires employers "to promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents * * * at levels which exceed those prescribed by an applicable occupational safety and health standard," 29 U.S.C. 657(c)(3). The promulgated notice requirement was more limited than the proposed chromium standard (69 FR 59306, Oct. 4, 2004), however. The proposed standard would have required employers to notify affected employees of all exposure determinations, irrespective of the results. The broader, proposed notice requirement mirrored similar provisions in OSHA's other substance-specific health standards including, but not limited to, lead (29 CFR 1910.1025(d)(8)(i)); arsenic (29 CFR 1910.1018(e)(5)(i)); methylenedianiline (29 CFR 1910.1050(e)(7)(i)); butadiene (29 CFR 1910.1051(d)(7)(i)); and methylene chloride (29 CFR 1910.1052(d)(5)(i)). All of those other standards require employers to notify employees of all exposure monitoring results.

Public Citizen and other parties petitioned for review of the final chromium standard. (*See Public Citizen Health Research Group* v. *Dept. of Labor,* 557 F.3d 165 (3d Cir. 2009)). Part of Public Citizen's petition involved a challenge to paragraph (d)(4). Public Citizen argued that OSHA's decision to depart from the proposed rule and limit the employee notification requirement to exposures above the PEL was arbitrary and unexplained. Although OSHA defended the final notification provision on many grounds, including that it was consistent with Section 8(c)(3) of the OSH Act, the Third Circuit granted Public Citizen's petition for review with regard to the employee notification requirement (while denying all other challenges to the standard). *See* Public Citizen, 557 F.3d at 185–86. The court found that "OSHA failed to provide a statement of reasons for departing from the proposed standard and past practice in other standards," *id.* at 186, and remanded paragraph (d)(4) to the agency "for further consideration and explanation." *Id.* at 191. The court "expect[ed] . OSHA [to] * * * act expeditiously in either providing an explanation for its chosen notification requirements or taking such further action as may be appropriate." *Id.* at 192.

In response to the Third Circuit's decision, OSHA re-examined the record. The Agency did not find any comments or testimony in the record on the narrow issue of whether employees should be notified of all exposure determinations. OSHA also confirmed that all of its other substance-specific health standards have broader notification requirements than the 2006 Cr(VI) standard, *i.e.,* they require employers to notify employees of exposures even below the relevant exposure limits. *See, e.g.,* lead (29 CFR 1910.1025(d)(8)(i)); arsenic (29 CFR 1910.1018(e)(5)(i)); methylenedianiline (29 CFR 1910.1050(e)(7)(i)); butadiene (29 CFR 1910.1051(d)(7)(i)); and methylene chloride (29 CFR 1910.1052(d)(5)(i)).

Upon reconsidering this issue, OSHA has decided to take action, by means of this notice, to amend the notification requirements in the Cr(VI) standards. Consistent with the language in the proposed chromium standard, as well as past practice in OSHA's other substance-specific health standards, the amended provision requires employers to notify affected employees of all exposure determinations, whether above or below the PEL. OSHA is not changing any other requirements in the exposure determination or notification provisions. For example, the number of work days employers have to provide notice to employees will remain unchanged.

In the preamble to the final Cr(VI) standard, OSHA concluded that employees were exposed to significant risk at the previous PEL for Cr(VI) of 52 $\mu g/m^3$ and that lowering the PEL to 5 $\mu g/m^3$ substantially reduced that risk. 71 FR at 10223–25. Feasibility considerations led OSHA to set the PEL at 5 $\mu g/m^3$, even though the Agency recognized that significant risk remained at lower levels. *See id.* at 10333–39. For example, OSHA still expected 2.1–9.1 excess lung cancer deaths per 1000 workers with a lifetime of regular exposure to Cr(VI) at 1 $\mu g/m^3$. *See id.* at 10224 (Table VII–1). OSHA explained in the preamble to the final rule that the ancillary provisions of the standard, *e.g.,* monitoring and medical surveillance requirements, were expected to reduce the residual risk remaining at the final PEL. *Id.* at 10334. OSHA believes that this amendment to the notification requirement will, in addition to the other ancillary requirements, further reduce the risk of health impairment associated with Cr(VI) exposures below 5 $\mu g/m^3$.

Notifying employees of their exposures arms them with knowledge that can permit and encourage them to be more proactive in working safely to control their own exposures through better work practices and by more actively participating in safety programs. As OSHA noted with respect to its Hazard Communication Standard: "Workers provided the necessary hazard information will more fully participate in, and support, the protective measures instituted in their workplaces." 59 FR 6126, 6127 (Feb. 9, 1994). Exposures to Cr(VI) below the PEL may still be hazardous, and making employees aware of such exposures may encourage them to take whatever steps they can, as individuals, to reduce their exposures as much as possible.

This may be of particular significance for welders, who make up almost half of the employees affected by the chromium standard. *See* 71 Fr at 10257–59 (Table VIII–3). Welders have a unique ability to control their own Cr(VI) exposures by making simple changes in their work practices, *e.g.,* changes in technique, posture or in the proper positioning of portable local exhaust ventilation (LEV). *See, e.g.,* Shaw Environmental, Inc., *Cost and Economic Impact Analysis of a Final OSHA Standard for Hexavalent Chromium,* Chapter 2–Welding, Docket No. OSHA–H054a–2006–0064, Document No. 2541, page 2–156 ("Another environmental variable is the variation in welding technique and posture used by different welders. Small differences in the welder's body position in relation to the welding task, the welder's body position in relation to the weld, and any LEV may create large differences in an individual's fume exposure. Welder information and training should reduce the occurrence of this poor work practice.")

IV. Legal Considerations

The purpose of the OSH Act is "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 655(b), 658. A safety or health standard is a standard that "requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment." 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. *See* Industrial Union Department, *AFL–CIO* v. *American Petroleum Inst.,* 448 U.S. 607 (1980) (plurality opinion).

This direct final rule will not diminish the employee protections put into place by the standard being amended. In fact, the amendment is expected to enhance the health benefits of the Cr(VI) standard by providing employees with more information about their exposure levels. Because OSHA previously determined that the Cr(VI) standard substantially reduces a significant risk, 71 FR at 10223–25, it is unnecessary for the Agency to make additional findings on risk for purposes of the minor amendment being made to the exposure determination provisions. *See, e.g., Public Citizen Health Research Group* v. *Tyson,* 796 F.2d 1479, 1502 n.16 (DC Cir. 1986) (rejecting the argument that OSHA must "find that each and every aspect of its standard eliminates a significant risk.")

V. Final Economic Analysis and Regulatory Flexibility Act Certification

This direct final rule is not economically significant within the context of Executive Order ("E.O.") 12866 (58 FR 51735 (Oct. 4, 1993)), nor is it a "major rule" under Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"; 5 U.S.C. 804).

As described previously, this action simply amends the notification requirement in the Cr(VI) rule. As originally promulgated, the standard required employers to notify employees of overexposures. This amendment requires employers to notify employees of all exposure determinations, irrespective of exposure levels.

In OSHA's Final Economic and Regulatory Flexibility Analysis (FEA) for the final standard (Docket No. OSHA–H054a-2006–0064, Document No. 2524), the Agency carried forward the methodology that it used to derive cost estimates for the broader notification requirement in the proposed Cr(VI) standard. That cost methodology is described in detail in the final contractor report supporting OSHA's FEA. *See* (Docket No. OSHA–H054a–2006–0064, Document No. 2577, pages III–5—III–16). There, OSHA's contractor, Shaw Environmental, Inc. (Shaw), conservatively assigned costs assuming that employers would be notifying all affected employees of all exposure determinations, irrespective of exposure level. OSHA included those notification costs in the costs for Exposure Monitoring that were presented in tables in the executive summary and cost chapters of the FEA. *See,* for example, Docket No. OSHA–H054a–2006–0064, Document Nos. 2524

(page ES–48, Table ES–4) and 2528 (page IV–11, Table IV–4).

Among the notification costs included in the FEA are information collection expenditures subject to the Paperwork Reduction Act of 1995 (PRA–95). OSHA's analysis of the paperwork burden of the amended notification provision is presented in the next section and details the incremental expense, in terms of time and labor costs, that employers will likely incur as a result of this revision to the standard. As described in that section, notification costs will increase by $1.5 million and therefore will total approximately $2.1 million, up from $0.5 million as reported in the 2006 Paperwork statement accompanying the final rule.

Because OSHA assigned costs for employers notifying workers whose exposure levels were below the PEL, and who therefore were not actually subject to the notification requirement in the final standard, that methodology originally had the effect of overestimating costs and impacts relative to the actual burden facing employers. With the amendment to the notification requirement, however, the FEA's cost estimates will more accurately represent the costs employers are expected to incur. Because in the original FEA those costs were judged to be economically feasible, OSHA has concluded that this revision, which imposes no additional burden from the standpoint of the economic analysis, is also feasible.

OSHA is not changing any of the monitoring or exposure characterization requirements in the final standard. The amended notification provision, when compared to the standard as originally promulgated, will simply require employers to post more names or send more individual notices after exposure determinations are made. In OSHA's view, these costs are not significant and, as indicated above, are economically feasible. Therefore, OSHA certifies that this action will not have a significant impact on a substantial number of small entities and the Agency will not have to prepare a regulatory flexibility analysis for this rulemaking under SBREFA (5 U.S.C. 601 *et seq.*).

VI. OMB Review Under the Paperwork Reduction Act of 1995

The direct final rule amends a notification requirement that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA–95), 44 U.S.C. 3501 *et seq.,* and OMB's regulations at 5 CFR part 1320. The information collection requirements ("paperwork") currently contained in the Chromium VI (Cr(VI)) standard are approved by OMB (Information Collection Request (ICR), *Chromium (VI) Standards for General Industry (29 CFR 1910.1026), Shipyard Employment (29 CFR 1915.1026), and Construction (29 CFR 1926.1126)*), under OMB Control Number 1218–0252. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number, and the public is not required to respond to a collection of information requirement unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information requirement if the requirement does not display a currently valid OMB control number.

On June 22, 2009, OSHA published a preclearance **Federal Register** Notice, Docket No. OSHA–2009–0015, as specified in PRA–95 (44 U.S.C. 3506(c)(2)(A)), allowing the public 60 days to comment on a proposal to extend OMB's approval of the information collection requirements in the Cr(VI) standard (74 FR 29517). This Notice also served to inform the public that OSHA was considering revising the notification requirements in the exposure determination provision in response to the court-ordered remand. At that point OSHA estimated the new burden hours and costs that would result from this potential amendment to the standard, and the public had sixty days to comment on those estimates in accordance with the PRA, 44 U.S.C. 3506(c)(2). OSHA estimated that a requirement to notify employees of all exposure determination results would result in an increase of 62,575 burden hours and would increase employer cost, in annualized terms, by $1,526,731.

The pre-clearance **Federal Register** comment period closed on August 22, 2009. OSHA did not receive public comments on that notice. On October 30, 2009, DOL published a **Federal Register** notice announcing that the Cr(VI) ICR had been submitted to OMB (74 FR 56216) for review and approval, and that interested parties had until November 30, 2009, to submit comments to OMB on that submission. No comments were received in response to that Notice either.

Now that OSHA is amending the Cr(VI) standard via this direct final rule, the Agency will provide an additional thirty days for the public to comment on the estimated paperwork implications of the revised notification requirements.

Inquiries: You may obtain an electronic copy of the complete Cr(VI) ICR at *http://www.reginfo.gov/public/do/PRAMain*, scroll under "Inventory of Approved Collections, Collections Under Review, Recently Approved/Expired" to "Department of Labor (DOL)" to view all of the DOL's ICRs, including those ICRs submitted for rulemakings. The Department's ICRs are listed by OMB control number. The Cr(VI) OMB Control Number is 1218–0252. To make inquiries, or to request other information, contact Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

Submitting comments: Members of the public who wish to comment on the estimated burden hours and costs attributable to the amendment to the notification provision, as described in the Cr(VI) ICR, may send their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218–AC43), Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503. The Agency encourages commenters to also submit their comments on these paperwork requirements to the rulemaking docket (Docket No. OSHA–H054a-2006–0064). For instructions on submitting these comments to the rulemaking docket, *see* the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES**.

VII. Federalism

OSHA reviewed this direct final rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of State law only with the expressed consent of Congress. Any such preemption is to be limited to the extent possible.

Under Section 18 of the Occupational Safety and Health Act of 1970 ("OSH Act"; 29 U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards; States that obtain Federal approval for such a plan are referred to

as "State Plan States" (29 U.S.C. 667). Occupational safety and health standards developed by State Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State Plan States are free to develop and enforce under State law their own requirements for safety and health standards.

This direct final rule complies with Executive Order 13132. In States without OSHA approved State Plans, any standard developed from this direct final rule would limit State policy options in the same manner as every standard promulgated by OSHA. In States with OSHA approved State Plans, this rulemaking does not significantly limit State policy options.

VIII. State Plan States

When Federal OSHA promulgates a new standard or more stringent amendment to an existing standard, the 27 States and U.S. Territories with their own OSHA approved occupational safety and health plans ("State Plan States") must amend their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, *e.g.,* because an existing State standard covering this area is "at least as effective" as the new Federal standard or amendment. 29 CFR 1953.5(a). The State standard must be at least as effective as the final Federal rule, must be applicable to both the private and public (State and local government employees) sectors, and must be completed within six months of the promulgation date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State Plan States are not required to amend their standards, although the Agency may encourage them to do so. The 27 States and U.S. Territories with OSHA approved occupational safety and health plans are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming; Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA approved State Plans that apply to State and local government employees only.

With regard to this direct final rule, the amended requirement would result in a somewhat more stringent requirement in regulations for Cr(VI) exposure. Therefore, States and Territories with approved State Plans must adopt comparable amendments to their standards for hexavalent chromium within six months of the promulgation date of this amendment unless they demonstrate that such a change is not necessary because their existing standards are already the same as or at least as effective as the amended Cr(VI) standard.

IX. Unfunded Mandates Reform Act

OSHA reviewed this direct final rule according to the Unfunded Mandates Reform Act of 1995 ("UMRA"; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (58 FR 58093). As discussed above in Section V ("Economic Analysis and Regulatory Flexibility Certification") of this preamble, the Agency determined that this direct final rule does not impose significant additional costs on any private-or public-sector entity. Accordingly, this direct final rule does not require significant additional expenditures to either public or private employers.

As noted above under Section VIII ("State-Plan States"), the Agency's standards do not apply to State and local governments except in States that have elected voluntarily to adopt a State Plan approved by the Agency. Consequently, this direct final rule does not meet the definition of a "Federal intergovernmental mandate" (*see* Section 421(5) of the UMRA (2 U.S.C. 658(5))). Therefore, for the purposes of the UMRA, the Agency certifies that this direct final rule does not mandate that State, local, or Tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

List of Subjects

29 CFR Part 1910

Exposure determination, General industry, Health, Hexavalent chromium Cr(VI)), Notification of determination results to employees, Occupational safety and health.

29 CFR Part 1915

Exposure determination, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health, Shipyard employment.

29 CFR Part 1926

Construction, Exposure determination, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health.

Authority and Signature

David Michaels, PhD MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this direct final rule. The Agency is issuing this rule under Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5–2007 (72 FR 31159), and 29 CFR part 1911.

Signed at Washington, DC, on March 11, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

■ For the reasons stated in the preamble, OSHA is amending 29 CFR parts 1910, 1915, and 1926 to read as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS [AMENDED]

Subpart A—General

■ 1. The authority citation for subpart A of part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable.

Sections 1910.7, 1910.8, and 1910.9 also issued under 29 CFR Part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Pub. L. 106–113 (113 Stat. 1501A–222); and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

Subpart Z—Toxic and Hazardous Substances

■ 2. The authority citation for subpart Z of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act of 1970, except those substances that have exposure limits listed in Tables Z–1, Z–2, and Z–3 of 29 CFR 1910.1000. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, Tables Z–1, Z–2, and Z–3 also issued under 5 U.S.C. 553, but not

under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, cotton dust, and chromium (VI) listings.

Section 1910.1001 also issued under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704) and 5 U.S.C. 553.

Section 1910.1002 also issued under 5 U.S.C. 553, but not under 29 U.S.C. 655 or 29 CFR part 1911.

Sections 1910.1018, 1910.1029, and 1910.1200 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under Public Law 106–430, 114 Stat. 1901.

■ 3. Section 1910.1026 is amended by revising paragraph (d)(4)(i), to read as follows:

§ 1910.1026 Chromium (VI)

* * * * *

(d) * * *

(4) * * *

(i) Within 15 work days after making an exposure determination in accordance with paragraph (d)(2) or paragraph (d)(3) of this section, the employer shall individually notify each affected employee in writing of the results of that determination or post the results in an appropriate location accessible to all affected employees.

* * * * *

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT [AMENDED]

Subpart A—General Provisions

■ 4. The authority citation for part 1915 will continue to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160) as applicable; 29 CFR Part 1911.

Subpart Z—Toxic and Hazardous Substances

■ 5. Section 1915.1026, is amended by revising paragraph (d)(4)(i), to read as follows:

§ 1915.1026 Chromium (VI)

* * * * *

(d) * * *

(4) * * *

(i) Within 5 work days after making an exposure determination in accordance with paragraph (d)(2) or paragraph (d)(3) of this section, the employer shall individually notify each affected employee in writing of the results of that determination or post the results in an appropriate location accessible to all affected employees.

* * * * *

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION [AMENDED]

Subpart A—General

■ 6. The authority citation for subpart A of part 1926 is revised to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160) as applicable; and 29 CFR part 1911.

Subpart Z—Toxic and Hazardous Substances

■ 7. The authority citation for subpart Z of part 1926 is revised to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (62 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160) as applicable; and 29 CFR part 11.

Section 1926.1102 of 29 CFR Not Issued Under 29 U.S.C. 655 or 29 CFR Part 1911; Also Issued Under 5 U.S.C. 553

■ 8. Section1926.1126, is amended by revising paragraph (d)(4)(i), to read as follows:

§ 1926.1126 Chromium (VI)

* * * * *

(d) * * *

(4) * * *

(i) Within 5 work days after making an exposure determination in accordance with paragraph (d)(2) or paragraph (d)(3) of this section, the employer shall individually notify each affected employee in writing of the results of that determination or post the results in an appropriate location accessible to all affected employees.

* * * * *

[FR Doc. 2010–5734 Filed 3–16–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0839]

RIN 1625–AA09

Drawbridge Operation Regulation; Bullards Ferry Bridge, Coquille River, Bandon, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulation for the U.S. Highway 101 Bullards Ferry Bridge that crosses over the Coquille River at mile 3.5 near Bandon, Oregon so that the vertical lift span will not need to open for ten months while the bridge is being painted. The rule is necessary to ensure that the painting operation will not be disrupted by bridge openings. The bridge has not had to be opened for a vessel in seven years.

DATES: This temporary final rule is effective from May 1, 2010 until on March 1, 2011.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0839 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0839 in the "Keyword" box, and then clicking "Search." This material is 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: If you have questions on this temporary rule, call or email Austin Pratt, Chief, Bridge Section, Waterways Management Branch, Thirteenth Coast Guard District; telephone 206–220–7282, e-mail *william.a.pratt@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 10, 2009, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Bullards Ferry Bridge, Bandon, OR, in the **Federal Register** (74

FR 65497). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The temporary rule enables the Oregon Department of Transportation to install debris containment on the U.S. Highway 101 Bullards Ferry Bridge that crosses over the Coquille River at mile 3.5 near Bandon, Oregon, including the vertical lift towers, while it is being painted. By keeping the drawspan closed, no part of this containment system would need to be dismantled during the painting operation. This would also affect the design of the containment.

Normally, the Coast Guard does not authorize closures of this duration. However, the vertical lift span of this bridge has not been requested to open for a vessel in more than seven years. The recreational boating traffic that plies the Coquille River is able to pass under the lift span in its closed position. The span provides approximately 28 feet of clearance at high water and 35 feet at low. When open the draw span can provide more than 45 additional feet of clearance.

The operating regulations currently in effect for the bridge are found at 33 CFR 117.875. The regulation requires that at least two hours notice be given for all openings.

Discussion of Comments and Changes

No comments on this temporary rule were received and no changes were made to the rule as proposed in the NPRM.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or excutive orders.

Regulatory Planning and Review

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 has made this finding based on the fact that the rule will have no known impact on the maritime public.

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 proposed rule would not have a significant economic impact on a substantial number of small entities because it will have no known impact on any vessel traffic.

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 an 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 Information and Regulatory Affairs has not designated this 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 Department of Homeland Security Management Directive 023–01, and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ 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. From May 1, 2010 to March 1, 2011, temporarily suspend § 117.875 and temporarily add § 117.876T to read as follows:

§ 117.876T Coquille River.

The draws of the U.S. 101 highway bridge, mile 3.5 at Bandon, Oregon, need not open for the passage of vessels from May 1, 2010 to March 1, 2011.

Dated: March 2, 2010.

G.T. Blore,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 2010–5761 Filed 3–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2010–0084]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Wreck Lead Railroad Bridge across Reynolds Channel, mile 4.4, New York. This deviation allows the bridge to remain in the closed position for six hours to facilitate bridge maintenance. Vessels that can pass under the draw without a bridge opening may do so at all times.

DATES: This deviation is effective from 9 a.m. through 3 p.m. on March 20, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0084 and are available online at *http://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: If you have questions on this rule call Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Wreck Lead Railroad Bridge across Reynolds Channel at mile 4.4, New York, has a vertical clearance in the closed position of 3 feet at mean high water and 7 feet at mean low water. The bridge opens on signal as required by 33 CFR 117.799.

The bridge owner, the Long Island Rail Road (MTA), requested a temporary deviation to replace the motor locks at the bridge. The bridge can not open during the installation of the motor locks.

Under this deviation the Wreck Lead Railroad Bridge may remain closed from 9 a.m. through 3 p.m. on March 20, 2010. Vessels able to pass under the closed draw may do so at all times.

The waterway is used by recreational and commercial vessels. All known waterway users were advised of the requested bridge closure period and offered no objection. In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 2, 2010.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2010–5762 Filed 3–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0120]

RIN 1625–AA00

Safety Zone; Gallants Channel, Beaufort, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Gallants Channel at Beaufort, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance to the Grayden Paul Draw Bridge.

DATES: *Effective Date:* This rule is effective in the CFR from March 17, 2010 through 12 p.m. April 30, 2010. This rule is effective with actual notice for purposes of enforcement beginning 6 a.m. March 1, 2010, through 12 p.m. April 30, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0120 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0120 in the "Keyword" box, and then clicking "Search." 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: If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247–4525, e-mail *Stephen.W.Lyons2@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to provide for safety of life and property on navigable waters and due to the hazards associated with potential falling debris and the use of heavy equipment and machinery in the waterway.

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 public interest, since immediate action is needed to ensure the safety of human life and property from the hazards of falling debris and the use of heavy equipment and machinery in the waterway.

Background and Purpose

The State of North Carolina Department of Transportation awarded a contract to Hames Contracting Inc. of Alpharetta, Georgia, to perform bridge maintenance on the Grayden Paul Draw Bridge at the Gallants Channel crossing to Beaufort, North Carolina. The contract provides for cleaning, painting, steel repair, and grid floor replacement to begin on March 1, 2010, and will be completed by April 30, 2010. The contractor will be utilizing a 110′ deck barge with a 30′ beam as a work platform and equipment staging. Since the bridge repairs present potential hazards to mariners and property from falling debris and the use of heavy equipment and machinery, this safety zone will provide for the safety of the public. The Coast Guard will temporarily restrict access to this section of Gallants Channel during the maintenance period when the deck barge is obstructing the waterway.

Discussion of Rule

The temporary safety zone will encompass the waters of Gallants Channel extending 50 yards in all directions from the main span of the Grayden Paul Draw Bridge located at 34°43′21″ N by 076°40′09″ W. All vessels are prohibited from transiting this section of the waterway while the safety zone is in effect. Entry into the zone will not be permitted except as specifically authorized by the Captain of the Port or a designated representative. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number (252) 247–4570. This zone will be enforced from 6 a.m. March 1, 2010, through 12 p.m. April 30, 2010.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

Although this regulation will restrict access to the 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, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) there are alternate routes to transit safely around the safety zone.

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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of dive, recreational, and fishing vessels intending to transit the specified portion of Gallants Channel from 6 a.m. March 1, 2010, through 12 p.m. April 30, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for a limited duration of time. Although the safety zone will apply to the entire width of Gallants Channel, vessel traffic can use alternate waterways to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This 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 does not create an environmental risk to health or risk to safety that may 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 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.

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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule establishes a temporary safety zone to protect the public from bridge maintenance operations. An environmental analysis checklist and a categorical exclusion determination are 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.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—SAFETY ZONES

■ 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, 3306, 3703; 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. Add temporary § 165.T05–0120 to read as follows:

§ 165.T05–0120 Safety Zone; Gallants Channel, Beaufort, North Carolina.

(a) *Definitions.* For the purposes of this section, "Captain of the Port" means the Commander, Sector North Carolina. "Designated Representative" means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: The waters of Gallants Channel extending 50 yards in all directions from the main span of the Grayden Paul Draw Bridge located at 34°43′21″ N by 076°40′09″ W.

(c) *Regulations.*

(1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(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 a designated 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 by radio on VHF Marine Band Radio, channels 13 and 16.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 6 a.m. March 1, 2010, through 12 p.m. April 30, 2010, unless cancelled earlier by the Captain of the Port.

Dated: February 23, 2010.

A. Popiel,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2010–5855 Filed 3–16–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0325; FRL–8813–7]

Hexythiazox; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation revises the tolerance for combined residues of hexythiazox in or on grape. Gowan Company requested the tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 17, 2010. Objections and requests for hearings must be received on or before May 17, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0325. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Olga Odiott, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9369 e-mail address: *odiott.olga@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0325 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 17, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2009–0325, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of August 19, 2009 (FR 41898) (FRL–8426–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F7556) by Gowan Company, 370 South Main Street; Yuma, AZ 85364. The petition requested that 40 CFR 180.448 be amended by revising the established tolerance for combined residues of the insecticide hexythiazox, (trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide) and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, in or on grape from 0.75 to 1.0 part per million (ppm); plum from 0.10 to 1.0 ppm; and plum, prune, dried from 0.40 to 1.0 ppm. That notice referenced a summary of the petition prepared by Gowan Company, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has determined that there is insufficient residue chemistry data to support the proposed tolerances for the stone fruit use, therefore, this action only addresses the tolerance for grape. The Agency is also revising the tolerance expression for hexythiazox. The reason for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA

determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for hexythiazox including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with hexythiazox follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Hexythiazox has a low order of acute toxicity by the oral, dermal and inhalation routes of exposure. It produces mild eye irritation, is not a dermal irritant, and is negative for dermal sensitization.

The target organs of hexythiazox are the liver and adrenal glands in dogs, rats and mice, with the dog being the most sensitive species. The chronic dog study showed increased liver and adrenal weights, along with associated hypertrophy of the liver and adrenal glands. The subchronic toxicity study in rats showed increased liver and adrenal weights, as well as fatty degeneration of the adrenal zona fasciculate. Effects observed in the chronic feeding/carcinogenicity studies in rats and mice included decreased body weight gain and increased liver weights.

Hexythiazox is not a developmental or reproductive toxicant. The toxicology database for hexythiazox provides no indication of increased susceptibility in rats or rabbits from *in utero* and postnatal exposure to hexythiazox. The database does not show any evidence of treatment-related effects on the nervous system or the immune system.

Hexythiazox is classified as "Likely to be Carcinogenic to Humans" based upon increased incidences of benign and malignant liver tumors in high-dose female mice, and benign mammary gland tumors, observed in high-dose male rats. There was no evidence of carcinogenicity in male mice and female rats. However, EPA determined that a non-quantitative risk assessment approach (i.e., nonlinear, reference dose (RfD) approach) was appropriate for hexythiazox based on the following considerations:

1. The liver tumors in mice are a very common tumor in that species were only observed in high-dose females.

2. The mammary tumors in rats were benign and were only observed in high-dose male rats.

3. Hexythiazox was shown to be non-mutagenic in mammalian somatic cells and germ cells.

Additionally, the chronic no-observed-adverse-effect-level (NOAEL) used for establishing the chronic RfD (2.5 mg/kg/day, from the 1–year toxicity feeding study in the dog), is approximately 65-fold lower than the lowest dose that induced tumors (in female mice at 163 milligrams/kilogram/day (mg/kg/day). Therefore, the chronic RfD of 0.025 mg/kg/day is judged to be protective of all chronic effects including potential carcinogenicity of hexythiazox.

Specific information on the studies received and the nature of the adverse effects caused by hexythiazox as well as the NOAEL and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document "Hexythiazox. Human Health Risk Assessment to Support Amended Use on Grapes Reducing the Preharvest Interval from 28-Days to 7-Days and to Add Uses on Turf, Gardens and Ornamentals," page 27 in docket ID number EPA–HQ–OPP–2009–0325.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which NOAEL and the LOAEL of concern are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level generally referred to as a PAD or a RfD and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for hexythiazox used for human risk assessment can be found at *http://www.regulations.gov* in document "Hexythiazox." "Human Health Risk Assessment to Support Amended Use on Grapes Reducing the Preharvest Interval from 28-Days to 7-Days and to Add Uses on Turf, Gardens and Ornamentals," page 12 in docket ID number EPA–HQ–OPP–2009–0325

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to hexythiazox, EPA considered exposure under the petitioned-for tolerances as well as all existing hexythiazox tolerances in 40 CFR 180.448. EPA assessed dietary exposures from hexythiazox in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified in the toxicological studies for hexythiazox; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Continuing Surveys of Food Intakes by Individuals (CSFII). As to residue levels in food, EPA used tolerance level residues, assumed 100 percent crop treated (PCT), and incorporated default processing factors.

iii. *Cancer*. As discussed in this unit, EPA has determined that the chronic RfD is sufficient to evaluate all chronic

risks for this chemical, including carcinogenic potential. Cancer risk was quantified using the same estimates as discussed in Unit III.C.1.ii., chronic exposure.

iv. *Anticipated residue and PCT information*. EPA did not use anticipated residue and/or PCT information in the dietary assessment for hexythiazox. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for hexythiazox in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of hexythiazox. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) the estimated drinking water concentration (EDWC) of hexythiazox for chronic exposures for non-cancer and cancer assessments is estimated to be 4.1 parts per billion (ppb) for surface water. Since surface water residue values greatly exceed groundwater EDWCs, surface water residues were used in the dietary risk assessment.

The modeled EDWC was directly entered into the dietary exposure model.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Hexythiazox is not currently registered for any specific use patterns that would result in residential exposure. However, the following uses that could result in residential exposures are pending registration in the near future and are included in this risk assessment: Turf, gardens, ornamental landscape plantings, ornamental plants, trees and vines in nurseries, residential fruit trees, nut trees and caneberries, and orchids. Residential handler exposures are expected to be short-term (1 to 30 days) via either the dermal or inhalation routes of exposures. Since a quantitative dermal risk assessment is not required for hexythiazox; MOEs were calculated for the inhalation route of exposure only. Both adults and children may be exposed to hexythiazox residues from contact with treated lawns or treated residential plants. Adult postapplication exposures were not assessed since no quantitative dermal risk assessment is required for hexythiazox and inhalation exposures are typically negligible in outdoor settings. The exposure assessment for children included incidental oral exposure resulting from transfer of residues from the hands or objects to the mouth, and from incidental ingestion of soil. No quantitative dermal risk assessment is required.

Residential handler risks are not of concern as short-term inhalation MOEs range from 40,000,000 to 820,000,000. Postapplication risks for children are not of concern as incidental oral short-term MOEs range from 2,600 to 3,200,000 and intermediate-term MOEs range from 5,600 to 3,200,000 (MOEs which exceed 100 are not of concern). None of the subject uses are expected to result in long-term residential exposures.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found hexythiazox to share a common mechanism of toxicity with any other substances, and hexythiazox does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that hexythiazox does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology data base indicates no increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to hexythiazox.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for hexythiazox is incomplete under the new 40 CFR part 158 data requirements for conventional pesticides, which requires certain generic testing, including acute and subchronic neurotoxicity studies and an immunotoxicity study. However, the toxicology database does not show any evidence of treatment-related effects on the nervous system or the immune system. The overall weight of evidence suggests that this chemical does not directly target either system. Although acute and subchronic neurotoxicity studies and an immunotoxicity study are required as a part of new data requirements in the 40 CFR part 158 for conventional pesticide registrations, the Agency does not believe that conducting these studies will result in a lower POD than any currently used for risk assessment, and therefore, a database uncertainty factor (UF_{DB}) is not needed to account for the lack of these studies.

ii. There is no indication that hexythiazox is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that hexythiazox results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. The dietary risk assessment is highly conservative and not expected to underestimate risk. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to hexythiazox in drinking water. EPA

used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by hexythiazox.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted-dose (aPAD) and chronic population adjusted-dose (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, hexythiazox is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to hexythiazox from food and water will utilize 49% of the cPAD for (children 1 to 2 years old) the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of hexythiazox is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

There are potential short-term exposures from the pending residential uses for hexythiazox. The Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to hexythiazox.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 16,000 for adults and 1,300 for children. Because EPA's level of concern for hexythiazox is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

There are potential intermediate-term exposures from the pending residential uses for hexythiazox. The Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposure to hexythiazox.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 16,000 for adults and 1,700 for children. Because EPA's level of concern for hexythiazox is a MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population*. EPA has classified hexythiazox as "Likely to be Carcinogenic to Humans," but has determined that there is insufficient evidence to quantify risk using a cancer slope factor. As discussed in Unit III.A EPA concluded that regulation based on the chronic RfD will be protective for both chronic and carcinogenic risks. As noted in this unit there are no chronic risks of concern.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to hexythiazox residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography with UV detection (HPLC/UV)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

A Codex MRL is established at 1.0 ppm for grape. The Agency has harmonized the residue level, but notes that it is not possible to harmonize the tolerance expression at this time as the Codex maxium residue limit (MRL) includes parent only. There are no currently established Canadian or Mexican MRLs for residues of hexythiazox in/on grape.

C. Revisions to Petitioned-For Tolerances

The Agency has revised the tolerance expression to clarify 1. that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of hexythiazox not specifically mentioned; and 2. that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression. The Agency determined that there is insufficient residue chemistry data to support the proposed tolerances for the stone fruit use; therefore, this action only addresses the tolerance for grape.

V. Conclusion

Therefore, the tolerance for residues of hexythiazox, in or on grape is revised from 0.75 ppm to 1.0 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power

and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 8, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. § 180.448 revise the introductory text in paragraph (a), and revise the entry "Grape" in the table in paragraph (a), and revise introductory text in paragraphs (b), and (c) to read as follows:

§180.448 Hexythiazox; tolerance for residues.

(a) *General.* Tolerances are established for residues of hexythiazox, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, calculated as the stoichiometric equivalent of hexythiazox.

Commodity	Parts per million
* * * * *	*
Grape	1.0
* * * * *	*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of hexythiazox, including its metabolites and degradates, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. Compliance with the tolerance levels specified below is to be determined by measuring only hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, calculated as the stoichiometric equivalent of hexythiazox. These tolerances will expire and are revoked on the dates specified in the following table:

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registrations as defined by 40CFR 180.1(n), are established for residues of hexythiazox, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, calculated as the stoichiometric equivalent of hexythiazox.

* * * * *

[FR Doc. 2010–5692 Filed 3–16–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0845; FRL–8814–3]

Tetraethoxysilane, Polymer with Hexamethyldisiloxane; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of tetraethoxysilane, polymer with hexamethyldisiloxane, minimum number average molecular weight (in AMU) 2,500 (CAS Reg. No. 104133–09–7) when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. Wacker Chemical Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of tetraethoxysilane, polymer with hexamethyldisiloxane, on food or feed commodities.

DATES: This regulation is effective March 17, 2010. Objections and requests for hearings must be received on or before May 17, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket

identification (ID) number EPA–HQ–OPP–2009–0845. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Deirdre Sunderland, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0851; e-mail address: *sunderland.deirdre@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0845, in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 17, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2009–0845, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of January 6, 2010 (75 FR 864) (FRL–8801–5), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 9E7634) filed by Wacker Chemical Corporation, 3301 Sutton Rd., Adrian, MI 49221–9397. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of tetraethoxysilane, polymer with hexamethyldisiloxane, minimum number average molecular weight (in AMU) 2,500, (CAS No. 104133–09–7). That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . ." and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate

exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Tetraethoxysilane, polymer with hexamethyldisiloxane, conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 2,500 daltons is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, tetraethoxysilane, polymer with hexamethyldisiloxane, meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to tetraethoxysilane, polymer with hexamethyldisiloxane.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that tetraethoxysilane, polymer with hexamethyldisiloxane could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of tetraethoxysilane, polymer with hexamethyldisiloxane is 2,500 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since tetraethoxysilane, polymer with hexamethyldisiloxane conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider "available information" concerning the cumulative effects of a particular chemical's residues and "other substances that have a common mechanism of toxicity." For the purposes of this tolerance action, EPA has not assumed that tetraethoxysilane, polymer with hexamethyldisiloxane has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of tetraethoxysilane, polymer with hexamethyldisiloxane, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of tetraethoxysilane, polymer with hexamethyldisiloxane.

VIII. Other Considerations

A. Endocrine Disruptor

EPA is required under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effects as the Administrator may designate." Following recommendations of its Endocrine Disruptor and Testing Advisory Committee (EDSTAC), EPA determined that there was a scientific basis for including, as part of the program, the androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the Program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP).

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed tetraethoxysilane, polymer with hexamethyldisiloxane

may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for tetraethoxysilane, polymer with hexamethyldisiloxane, nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of tetraethoxysilane, polymer with hexamethyldisiloxane, from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts or local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 8, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In §180.960, in the table, add alphabetically the following polymers to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * *	
Tetraethoxysilane, polymer with hexamethyldisiloxane, minimum number average molecular weight (in AMU) 2,500.	CAS Reg. No. 104133–09–7
* * * * *	

[FR Doc. 2010–5691 Filed 3–16; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 080721862–91321–03]

RIN 0648–AW51

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations

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

ACTION: Final rule; delay of effective date.

SUMMARY: Through this final rule, the National Marine Fisheries Service (NMFS) delays the effective date of new seasonal pinger requirements for the New England component of the Harbor Porpoise Take Reduction Plan (HPTRP). Specifically, NMFS will delay implementation of new seasonal pinger requirements within the Stellwagen Bank and Southern New England Management Areas from March 22, 2010, to September 15, 2010.

DATES: The effective dates of the amendments to 50 CFR 229.33(a)(4) and 50 CFR 229.33(a)(5), published February 19, 2010 (75 FR 7383), are delayed until September 15, 2010.

ADDRESSES: Copies of the final Environmental Assessment (EA) and Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA), along with a supplemental EA, may be obtained from the HPTRP Web site (*http://www.nero.noaa.gov/hptrp*) or by writing to Amanda Johnson, NMFS, Northeast Region, Protected Resources Division, 55 Great Republic Drive, Suite 04–400, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Amanda Johnson, NMFS, Northeast Region, 978–282–8463, *amanda.johnson@noaa.gov*; or Melissa Andersen, NMFS, Office of Protected Resources, 301–713–2322, *melissa.andersen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

In response to increased serious injury and mortality of harbor porpoises from entanglements in commercial gillnet fishing gear, NMFS determined that modifications to the HPTRP were warranted. Subsequently, on February 19, 2010 (75 FR 7383), NMFS finalized an amendment to the HPTRP that implemented a suite of additional measures in both New England and the Mid-Atlantic to reduce harbor porpoise mortality to below the current potential biological removal (PBR) level. For New England, the final rule expands HPTRP management areas and seasons in which pingers are required on gillnets to reduce harbor porpoise injuries and mortalities due to gillnet gear. The management areas and seasons correspond to areas and times of recently observed harbor porpoise interactions with gillnet gear, and include areas that were not regulated under the original HPTRP implemented on December 2, 1998 (63 FR 66464).

Specifically, the February 19 final rule creates two new management areas in New England with seasonal pinger requirements - the Stellwagen Bank and Southern New England Management Areas. Both areas were previously not managed under the HPTRP; as such, gillnet fishermen operating within these areas were not required to use pingers. In the Mid-Atlantic, the rule creates an additional management area within the Waters off New Jersey Management Area, and modifies the large mesh tie-down requirement. Additional technical corrections were incorporated, as well as a scientific research component. According to the February 19, 2010 final rule, the modifications to the HPTRP were to become effective on March 22, 2010.

As a result of the final rule's pinger requirements, NMFS anticipates a potentially large volume of pinger orders resulting from fishermen who, in the past, have not been required to use pingers.

Following the publication of the final rule, members of the gillnet industry expressed concern over the availability of pingers, and about the possibility that new gillnet vessels would be unable to complete their required NMFS pinger authorization training by the March 22, 2010, effective date. These concerns are due to the historic lack of demand for pingers prior to the publication of the final rule, which led pinger manufacturers and gear suppliers to retain small quantities of pingers in stock. Consequently, the present stock level of pingers may be insufficient to fulfill orders for large quantities of pingers in time for delivery by March 22, 2010, and therefore fishermen may not receive or be able to properly install their pingers until after the March 22 effective date has passed.

Moreover, new gillnet vessels that fish within HPTRP Management Areas with seasonal pinger requirements must complete pinger authorization training provided by NMFS prior to conducting gillnet activities in these areas. Due to the anticipated volume of new gillnet fishermen requiring pinger authorizations, fishermen may not receive their pinger authorization training until after the pinger requirements become effective.

Thus, were the pinger requirement to go into effect on March 22, 2010, the result may be a significant number of fishermen being out of compliance with the new rules, but who simultaneously are unable to achieve compliance due to the limited quantity of pingers from the manufacturers.

Delay of New Seasonal Pinger Requirements in New England

Accordingly, NMFS is delaying, until September 15, 2010, the effective date of new seasonal pinger requirements within the Stellwagen Bank and Southern New England Management Areas (50 CFR 229.33(a)(4) and 50 CFR 229.33(a)(5), respectively).

Since publication of the final rule, NMFS has monitored the availability of pingers and progress made on the pinger authorization training. Based on its findings, NMFS has determined that additional time to purchase and incorporate pingers onto gillnet gear, and for gillnet vessel operators to receive the required pinger authorization training, is warranted. This final rule extends the effective date for new seasonal pinger requirements within the Stellwagen Bank and Southern New England Management Areas to September 15, 2010, to provide additional time for fishermen to comply with these conservation measures.

This action is warranted given the lack of availability of pingers for purchase, the present high demand for pinger purchases, and the additional time needed for new gillnet vessels to complete the required NMFS pinger authorization training. NMFS has chosen September 15, 2010, as the revised effective date for the new pinger requirements to coincide with the first full HPTRP management season in New England after publication of the final rule. Therefore, after this date, seasonal pinger requirements will be in effect for all New England HPTRP management areas.

All other HPTRP amendments will become effective on March 22, 2010, as described in the final rule amending the HPTRP (75 FR 7383; February 19, 2010).

Classification

The Regional Administrator (RA), NMFS Northeast Region, has determined that delaying the effective date of the new seasonal pinger requirements for New England gillnet fishermen is necessary to minimize adverse social and economic impacts, and to allow time for new fishermen to become compliant with the modified HPTRP regulations.

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and does not contain a collection of information requirements subject to the Paperwork Reduction Act (PRA).

An Environmental Assessment (EA) describing the impacts to the environment that would result from the implementation of the February 19,

2010, final rule amending the HPTRP (75 FR 7383) was prepared. The EA concluded that the action to amend the HPTRP was anticipated to have no significant effect on the quality of the human environment. A supplement to the EA has been prepared for this action, describing the effects to the environment of delaying the new pinger requirements in New England. The supplement concludes that the delay does not change the determination of the EA.

Pursuant to 5 U.S.C. 553(b)(B), NMFS finds good cause to waive prior notice and opportunity for public comment on this action as notice and comment would be impracticable and contrary to the public interest due to the time constraints in implementing this final rule prior to the original March 22, 2010 effective date. This final rule merely delays the effective date of the seasonal pinger requirements within two new HPTRP management areas in New England; all other new measures will become effective on March 22, 2010.

Delaying the effective date of the pinger requirement for these two areas is necessary in order to allow manufacturers of pingers to obtain stock levels sufficient to meet the new demand for pingers. Additionally, the delay is necessary to provide affected gillnet vessel owners and operators sufficient time to come into compliance with the HPTRP requirements by ordering and purchasing pingers, and receiving NMFS pinger authorization training prior to fishing within a HPTRP management area in which pingers are required. Without this extension, many affected gillnet owners and operators would, due to the unavailability of pingers in the large quantities being requested, be out of compliance with this rule the day after it becomes effective. Moreover, if NMFS allowed for a notice and comment period, the effective date of the original February 19, 2010 rule would come into effect, thereby defeating the purpose of this rule to delay that effective date in order to allow the affected parties to come into compliance with the rule. For these reasons, NMFS believes it is in the public interest to extend the effective date of these management areas until the first full HPTRP management season in New England following the initial February 19, 2010 publication of the final rule modifying the HPTRP. This season begins in the fall of 2010.

Additionally, pursuant to 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the 30–day delay in effective date of this final rule. This delay is necessary because, if this rule's effectiveness were delayed an additional thirty days, the original effective date of the February 19, 2010 final rule would gain effect, affected fishermen would be out of compliance due to the lack of pingers, and the purpose of this rule would be defeated.

This final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

NMFS conducted a section 7 consultation pursuant to the Endangered Species Act (ESA) on the final rule to amend the HPTRP, which was completed on November 19, 2008. The consultation concluded that the action would not have effects on listed species that were not previously considered during the informal consultation conducted on the initial HPTRP (concluded on November 12, 1998); as such, a consultation was not reinitiated. Therefore, delaying the effective date of new pinger requirements in New England through this final rule does not change this conclusion.

This final rule does not change the determination for the February 19, 2010, final rule (75 FR 7383) that the HPTRP will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of the U.S. Atlantic coastal states.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Dated: March 10, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–5701 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XU90

Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Gulf of Mexico Non-Sandbar Large Coastal Shark Fishery

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

ACTION: Fishery closure.

SUMMARY: NMFS is closing the commercial fishery for non-sandbar large coastal sharks (LCS) in the Gulf of Mexico region. This action is necessary because the quota for the 2010 fishing season is projected to have reached at least 80 percent of the available quota.

DATES: The commercial non-sandbar LCS fishery is closed effective 11:30 p.m. local time March 17, 2010, until and if NMFS announces, via publication in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Gu DuBeck, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), shark dealers are required to report to NMFS all sharks landed every two weeks. Dealer reports for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a specific shark quota have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the **Federal Register** a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for that specific quota is closed, even across fishing years.

On January 5, 2010 (75 FR 250), NMFS announced that the non-sandbar LCS fishery for the Gulf of Mexico region for the 2010 fishing year would open on February 4 and the available non-sandbar LCS quota would be 390.5 metric tons (mt) dressed weight (dw) (860,896 lb dw). Dealer reports through the February 28, 2010, reporting period indicate that 216 mt dw or 55 percent of the available quota for non-sandbar LCS has been taken. All dealer reports through that reporting period are not expected to be received by NMFS until March 10, 2010. Dealer reports received

to date indicate that 22 percent of the quota was taken from the opening of the fishery on February 4, 2010, through February 15, 2010, and an additional 33 percent of the quota was taken from February 15, 2010, though February 28, 2010. Based on the rate of fishing effort indicated by these preliminary dealer reports in February, NMFS expects that an additional 34 percent of the quota likely will be taken from March 1 through March 15, 2010. Based on this calculation, the fishery likely will reach 89 percent of the quota, which exceeds the 80–percent limit specified in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LCS fishery in the Gulf of Mexico region as of 11:30 p.m. local time March 17, 2010. All other shark fisheries remain open.

At § 635.27(b)(1)(ii), the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Gulf of Mexico region.

During the closure, retention of non-sandbar LCS sharks in the Gulf of Mexico region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under 50 CFR 635.4, unless the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and "no sale" provisions apply (50 CFR 635.22(a) and (c)), or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard. A shark dealer issued a permit pursuant to § 635.4 may not purchase or receive non-sandbar LCS in the Gulf of Mexico region from a vessel issued an Atlantic Shark Limited Access Permit (LAP), except that a permitted shark dealer or processor may possess non-sandbar LCS that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage. However, a permitted shark dealer or processor may possess non-sandbar LCS that were harvested by a vessel issued a valid shark research fishery permit per § 635.32 with a NMFS-approved observer onboard during the trip the sharks were taken on as long as the non-sandbar shark research fishery remains open. Under this closure, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with state regulations, purchase or receive a non-sandbar LCS in the Gulf of Mexico region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway, and any delay in this action would cause overharvest of the quota and be inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quota is exceeded, the affected public is likely to experience reductions in the available quota and a lack of fishing opportunities in future seasons. Thus, for these reasons, the AA also finds good cause to waive the 30–day delay in effective date pursuant to 5 U.S.C. 553 (d)(3). This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866.

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

Dated: March 11, 2010.

Alan D. Risenhoover,

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

[FR Doc. 2010–5818 Filed 3–12–10; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 75, No. 51
Wednesday, March 17, 2010

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–FV–0069; FV09–930–2 PR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2009–2010 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on the establishment of final free and restricted percentages for the 2009–2010 crop year. The percentages are 32 percent free and 68 percent restricted and will establish the proportion of cherries from the 2009 crop which may be handled in commercial outlets. The percentages are intended to stabilize supplies and prices, and strengthen market conditions. The percentages were recommended by the Cherry Industry Administrative Board (Board), the body that locally administers the marketing order. The marketing order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

DATES: Comments must be received by April 1, 2010.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, MD 20737; telephone: (301) 734–5243, Fax: (301) 734–5275; E-mail *Patricia.Petrella@ams.usda.gov* or *Kenneth.Johnson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and restricted percentages may be established for tart cherries handled by handlers during the crop year. This proposed rule would establish final free and restricted percentages for tart cherries for the 2009–2010 crop year, beginning July 1, 2009, through June 30, 2010.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempt therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order prescribes procedures for computing an optimum supply and preliminary and final percentages that establish the amount of tart cherries that can be marketed throughout the season. The regulations apply to all handlers of tart cherries that are in the regulated districts. Tart cherries in the free percentage category may be shipped immediately to any market, while restricted percentage tart cherries must be held by handlers in a primary or secondary reserve, or be diverted in accordance with § 930.59 of the order and § 930.159 of the regulations, or used for exempt purposes (to obtain diversion credit) under § 930.62 of the order and § 930.162 of the regulations. The regulated Districts for this season are: District one—Northern Michigan; District two—Central Michigan; District three—Southern Michigan; District four—New York; District seven—Utah; and District eight—Washington. Districts five, six and nine (Oregon, Pennsylvania, and Wisconsin, respectively) will not be regulated for the 2009–2010 season.

The order prescribes under § 930.52 that those districts to be regulated shall be those districts in which the average annual production of cherries over the prior three years has exceeded six million pounds. A district not meeting the six million-pound requirement shall not be regulated in such crop year. Because this requirement was not met in the Districts of Oregon, Pennsylvania, and Wisconsin handlers in those districts would not be subject to volume regulation during the 2009–2010 crop year.

Demand for tart cherries at the farm level is derived from the demand for tart cherry products at retail. Demand for tart cherries and tart cherry products

tend to be relatively stable from year to year. The supply of tart cherries, by contrast, varies greatly from crop year to crop year. The magnitude of annual fluctuations in tart cherry supplies is one of the most pronounced for any agricultural commodity in the United States. In addition, since tart cherries are processed either into cans or frozen, they can be stored and carried over from crop year to crop year. This creates substantial coordination and marketing problems. The supply and demand for tart cherries is rarely balanced. The primary purpose of setting free and restricted percentages is to balance supply with demand and reduce large surpluses that may occur.

Section 930.50(a) of the order prescribes procedures for computing an optimum supply for each crop year. The Board must meet on or about July 1 of each crop year, to review sales data, inventory data, current crop forecasts and market conditions. The optimum supply volume shall be calculated as 100 percent of the average sales of the prior three years to which is added a desirable carryout inventory not to exceed 20 million pounds or such other amount as may be established with the approval of the Secretary. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year.

The order also provides that on or about July 1 of each crop year, the Board is required to establish preliminary free and restricted percentages. These percentages are computed by deducting the actual carryin inventory from the optimum supply figure (adjusted to raw product equivalent—the actual weight of cherries handled to process into cherry products) and subtracting that figure from the current year's USDA crop forecast or from an average of such other crop estimates the Board votes to use. If the resulting number is positive, this represents the estimated over-production, which would be the restricted percentage tonnage. The restricted percentage tonnage is then divided by the sum of the crop estimates for the regulated districts to obtain percentages for the regulated districts. The Board is required to establish a preliminary restricted percentage equal to the quotient, rounded to the nearest whole number, with the complement being the preliminary free tonnage percentage. If the tonnage requirements for the year are more than the USDA crop forecast, the Board is required to establish a preliminary free tonnage percentage of 100 percent and a preliminary restricted percentage of zero. The Board is required to announce the preliminary percentages in accordance with paragraph (h) of § 930.50.

The Board met on June 18, 2009, and computed, for the 2009–2010 crop year, an optimum supply of 183 million pounds. The Board recommended that the desirable carryout figure be zero pounds. Desirable carryout is the amount of fruit required to be carried into the succeeding crop year and is set by the Board after considering market circumstances and needs. This figure can range from zero to a maximum of 20 million pounds.

The Board calculated preliminary free and restricted percentages as follows: The USDA estimate of the crop for the entire production area was 284 million pounds; a 31 million pound carryin (based on Board estimates) was subtracted from the optimum supply of 183 million pounds which resulted in the 2009–2010 poundage requirements (adjusted optimum supply) of 152 million pounds. The carryin figure reflects the amount of cherries that handlers actually have in inventory at the beginning of the 2008–2009 crop year. Subtracting the adjusted optimum supply of 152 million pounds from the USDA crop estimate, (284 million pounds) results in a surplus of 131 million pounds of tart cherries. The surplus was divided by the production in the regulated districts (269 million pounds) and resulted in a restricted percentage of 49 percent for the 2009–2010 crop year. The free percentage was 51 percent (100 percent minus 49 percent). The Board established these percentages and announced them to the industry as required by the order.

The preliminary percentages were based on the USDA production estimate and the following supply and demand information available at the June meeting for the 2009–2010 year:

		Millions of pounds
Optimum Supply Formula:		
(1) Average sales of the prior three years		183
(2) Plus desirable carryout		0
(3) Optimum supply calculated by the Board at the June meeting		183
Preliminary Percentages:		
(4) USDA crop estimate		284
(5) Carryin held by handlers as of July 1, 2008		31
(6) Adjusted optimum supply for current crop year		152
(7) Surplus		131
(8) USDA crop estimate for regulated districts		269
	Free	Restricted
(9) Preliminary percentages (item 7 divided by item 8 × 100 equals restricted percentage; 100 minus restricted percentage equals free percentage)	51	49

Between July 1 and September 15 of each crop year, the Board may modify the preliminary free and restricted percentages by announcing interim free and restricted percentages to adjust to the actual pack occurring in the industry. No later than September 15, the Board must recommend final free and restricted percentages to the Secretary.

The Secretary establishes final free and restricted percentages through the informal rulemaking process. These percentages would make available the tart cherries necessary to achieve the optimum supply figure calculated by the Board. The difference between any final free percentage and 100 percent is the final restricted percentage. The Board met on September 10, 2009, to recommend final free and restricted percentages.

The actual production reported by the Board was 355 million pounds, which is a 71 million pound increase from the USDA crop estimate of 284 million pounds. The Board adjusted the optimum supply figure from 183 million pounds calculated for preliminary percentages to 176 million pounds

when calculating the final percentages. This adjustment was made because the sales figure for June 2009, which is used to compute three-year average sales, was estimated for preliminary percentages, but was based on actual numbers for final percentages.

A 52 million pound carryin (based on handler reports) was subtracted from the optimum supply of 176 million pounds which resulted in the 2009–2010 poundage requirements (adjusted optimum supply) of 124 million pounds. Subtracting the adjusted optimum supply of 124 million pounds from the USDA crop estimate (355 million pounds), results in a surplus of 231 million pounds of tart cherries. The surplus was divided by the production in the regulated districts (338 million pounds) and resulted in a restricted percentage of 68 percent for the 2009–2010 crop year. The free percentage was 32 percent (100 percent minus 68 percent).

The final percentages are based on the Board's reported production figures and the following supply and demand information available in September for the 2009–2010 crop year:

	Millions of pounds
Optimum Supply Formula:	
(1) Average sales of the prior three years	176
(2) Plus desirable carryout	0
(3) Optimum supply calculated by the Board	176
Final Percentages:	
(4) Board reported production	355
(5) Plus carryin held by handlers as of July 1, 2009	52
(6) Tonnage available for current crop year	407
(7) Surplus (item 6 minus item 3)	231
(8) Production in regulated districts	338

	Percentages	
	Free	Restricted
(9) Final Percentages (item 7 divided by item 8 × 100 equals restricted percentage; 100 minus restricted percentage equals free percentage)	32	68

The USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal would be met by the establishment of a preliminary percentage which releases 100 percent of the optimum supply and the additional release of tart cherries provided under § 930.50(g). This release of tonnage, equal to 10 percent of the average sales of the prior three years sales, is made available to handlers each season. The Board recommended that such release should be made available to handlers the first week of December and the first week of May. Handlers can decide how much of the 10 percent release they would like to receive on the December and May release dates. Once released, such cherries are released for free use by such handler. Approximately 18 million pounds would be made available to handlers this season in accordance with Department Guidelines. This release would be made available to every handler and released to such handler in proportion to the handler's percentage of the total regulated crop handled. If a handler does not take his/her proportionate amount, such amount remains in the inventory reserve.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. A majority of the producers and handlers are considered small entities under SBA's standards.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 1997/98 through 2008/09, approximately 96 percent of the U.S. tart cherry crop, or 244.4 million pounds, was processed annually. Of the 244.4 million pounds of tart cherries processed, 61 percent was frozen, 27 percent was canned, and 12 percent was utilized for juice and other products.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward. Bearing acreage has declined from a high of 50,050 acres in 1987/88 to 34,650 acres in 2008/09. This represents a 31 percent decrease in total bearing acres. Michigan leads the nation in tart cherry acreage with 70 percent of the total and produces about 75 percent of the U.S. tart cherry crop each year.

The 2009/10 crop is large in size at 355 million pounds. This production level is 71.5 million pounds greater than the 283.6 million pounds estimated by the National Agricultural Statistics Service (NASS) in June. The largest crop occurred in 1995 with production in the regulated districts reaching a record 395.6 million pounds. The price per pound received by tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuations in the tart cherry industry

are national in scope and impact. Growers testified during the order promulgation process that the prices they received often did not come close to covering the costs of production.

The industry demonstrated a need for an order during the promulgation process of the marketing order because large variations in annual tart cherry supplies tend to lead to fluctuations in prices and disorderly marketing. As a result of these fluctuations in supply and price, growers realize less income. The industry chose a volume control marketing order to even out these wide variations in supply and improve returns to growers. During the promulgation process, proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because many such growers and handlers had been going out of business due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between business success and failure because small growers and handlers tend to be less capitalized than larger growers and handlers.

Aggregate demand for tart cherries and tart cherry products tends to be relatively stable from year-to-year. Similarly, prices at the retail level show minimal variation. Consumer prices in grocery stores, and particularly in food service markets, largely do not reflect fluctuations in cherry supplies. Retail demand is assumed to be highly inelastic which indicates that price reductions do not result in large increases in the quantity demanded. Most tart cherries are sold to food service outlets and to consumers as pie filling; frozen cherries are sold as an ingredient to manufacturers of pies and cherry desserts. Juice and dried cherries are expanding market outlets for tart cherries.

Demand for tart cherries at the farm level is derived from the demand for tart cherry products at retail. In general, the farm-level demand for a commodity consists of the demand at retail or food service outlets minus per-unit processing and distribution costs incurred in transforming the raw farm commodity into a product available to consumers. These costs comprise what is known as the "marketing margin."

The supply of tart cherries, by contrast, varies greatly. The magnitude of annual fluctuations in tart cherry supplies is one of the most pronounced for any agricultural commodity in the United States. In addition, since tart cherries are processed either into cans or frozen, they can be stored and carried over from year-to-year. This creates substantial coordination and marketing problems. The supply and demand for tart cherries is rarely in equilibrium. As a result, grower prices fluctuate widely, reflecting the large swings in annual supplies.

In an effort to stabilize prices, the tart cherry industry uses the volume control mechanisms under the authority of the Federal marketing order. This authority allows the industry to set free and restricted percentages. These restricted percentages are only applied to states or districts with a 3-year average of production greater than six million pounds, and to states or districts in which the production is 50 percent or more of the previous 5-year processed production average.

The primary purpose of setting restricted percentages is an attempt to bring supply and demand into balance. If the primary market is over-supplied with cherries, grower prices decline substantially.

The tart cherry sector uses an industry-wide storage program as a supplemental coordinating mechanism under the Federal marketing order. The primary purpose of the storage program is to warehouse supplies in large crop years in order to supplement supplies in short crop years. The storage approach is feasible because the increase in price—when moving from a large crop to a short crop year—more than offsets the costs for storage, interest, and handling of the stored cherries.

The price that growers receive for their crop is largely determined by the total production volume and carryin inventories. The Federal marketing order permits the industry to exercise supply control provisions, which allow for the establishment of free and restricted percentages for the primary market, and a storage program. The establishment of restricted percentages impacts the production to be marketed in the primary market, while the storage program has an impact on the volume of unsold inventories.

The volume control mechanism used by the cherry industry results in decreased shipments to primary markets. Without volume control the primary markets (domestic) would likely be over-supplied, resulting in lower grower prices.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been developed. The econometric model provides a way to see what impacts volume control may have on grower prices. The three districts in Michigan, along with the districts in Utah, New York, and Washington are the restricted areas for this crop year and their combined total production is 338 million pounds. A 68 percent restriction means 108 million pounds is available to be shipped to primary markets from these four states. Production levels of 10.7 million pounds for Wisconsin, 2.7 million pounds for Oregon, and 3.8 million pounds for Pennsylvania (the unregulated areas in 2009/10), result in an additional 17.2 million pounds available for primary market shipments.

In addition, USDA requires a 10 percent release from reserves as a market growth factor. This results in an additional 18 million pounds being available for the primary market. The 108 million pounds from Michigan, Utah, Washington, and New York, the 17.2 million pounds from the other producing states, the 18 million pound release, and the 52 million pound carryin inventory gives a total of 195.2 million pounds being available for the primary markets.

The econometric model is used to estimate the impact of establishing a reserve pool for this year's crop. With the volume controls, grower prices are estimated to be approximately $0.12 per pound higher than without volume controls.

The use of volume controls is estimated to have a positive impact on growers' total revenues. With regulation, growers' total revenue from processed cherries are estimated to be $17.3 million higher than without restrictions. The without-restrictions scenario assumes that all tart cherries produced would be delivered to processors for payments.

It is concluded that the 68 percent volume control would not unduly burden producers, particularly smaller growers. The 68 percent restriction would be applied to the growers in Michigan, New York, Utah, and Washington. The growers in the other three states covered under the marketing order will benefit from this restriction.

Recent grower prices have been as high as $0.44 per pound in 2002–03 when there was a crop failure. Prices in the last two crop years have been $0.268 in 2007–08 and $0.372 per pound in 2008–09. At current production levels, yield is estimated at approximately 10,251 pounds per acre. At this level of yield the cost of production is estimated to be $0.25 per pound (costs were estimated by representatives of Michigan State University with input provided by growers for the current crop). While grower prices have not been established in the 2009–10 crop year, some processors have reported that growers have received an initial

payment of ten cents per pound. Additional payments by processors will be based on the volume of packed crop that can be marketed. These low prices are the result of the large crop for the 2009–10 marketing year. The final grower price will likely be around $0.15 per pound for the combined free and restricted production. Thus, this year's grower price even with regulation is estimated to be below the cost of production. The use of volume controls is believed to have little or no effect on consumer prices and will not result in fewer retail sales or sales to food service outlets.

Without the use of volume controls, the industry could be expected to start to build large amounts of unwanted inventories. These inventories have a depressing effect on grower prices. The econometric model shows for every 1 million-pound increase in carryin inventories, a decrease in grower prices of $0.0036 per pound occurs. The use of volume controls allows the industry to supply the primary markets while avoiding the disastrous results of over-supplying these markets. In addition, through volume control, the industry has an additional supply of cherries that can be used to develop secondary markets such as exports and the development of new products. The use of reserve cherries in the production shortened 2002/03 crop year proved to be very useful and beneficial to growers and packers.

In discussing the possibility of marketing percentages for the 2009–2010 crop year, the Board considered the following factors contained in the marketing policy: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of the factors resulted in the computation and announcement in September 2009 of the free and restricted percentages proposed to be established by this rule (32 percent free and 68 percent restricted).

One alternative to this action would be not to have volume regulation this season. Board members stated that no volume regulation would be detrimental to the tart cherry industry due to the size of the 2009–2010 crop. Returns to growers would not cover their costs of production for this season which might cause some to go out of business.

As mentioned earlier, the Department's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 10, 2009, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

While the benefits resulting from this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements under the tart cherry marketing order have been previously approved by OMB and assigned OMB Number 0581–0177.

Reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule does not change those requirements.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place as soon as possible since handlers are already shipping tart cherries from the 2009–2010 crop. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 930.256 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 930.256 Final free and restricted percentages for the 2009–2010 crop year.

The final percentages for tart cherries handled by handlers during the crop

year beginning on July 1, 2009, which shall be free and restricted, respectively, are designated as follows: Free percentage, 32 percent and restricted percentage, 68 percent.

Dated: March 11, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–5772 Filed 3–16–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1218

[Document Number AMS–FV–09–0022; FV–09–705]

Blueberry Promotion, Research, and Information Order; Increase Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to add two importer members and their alternates to the U.S. Highbush Blueberry Council (Council) to reflect changes in the quantity of highbush blueberry imports in the past three years. The change was proposed by the Council in accordance with the provisions of the Blueberry Promotion, Research, and Information Order (Order) which is authorized by the Commodity Promotion, Research, and Information Act of 1996 (Act). The Order requires that the Council review the geographical distribution of the United States production and the quantity of imports of highbush blueberries at least every five years. As a result of these changes, the total Council membership would increase from 14 to 16 members and their alternates. In addition, this rule proposes to increase the quorum minimum from seven to nine members.

DATES: Comments must be received by April 6, 2010.

ADDRESSES: Interested persons are invited to submit written comments on the Internet at: *http://www.regulations.gov* or to the Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, (Department) Room 0632–S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250–0244; facsimile: (202) 205–2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours or it can be viewed at *http://www.regulations.gov.* All comments received will be posted without change, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue, SW., Room 0632–S, Washington, DC 20250–0244; telephone: (888) 720–9917; facsimile: (202) 205–2800; or electronic mail: *Jeanette.Palmer@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under the Blueberry Promotion, Research, and Information Order [7 CFR part 1218]. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7411–7425].

Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to an order may file a written petition with the Department if they believe that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law. In any petition, the person may request a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

Initial Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601–612], AMS has considered the economic impact of this action on the small producers, first handlers, importers, and exporters that would be affected by this rule. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms as those having annual receipts of no more than $7 million. There are approximately 2,000 producers, 200 first handlers, 50 importers, and 4 exporters of highbush blueberries subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration. Most importers, first handlers, and exporters would not be classified as small businesses. Producers who produce less than 2,000 pounds of highbush blueberries annually are exempt from this program. Importers who import less than 2,000 pounds of fresh and frozen highbush blueberries annually are also exempt from this program.

The Department's National Agricultural Statistics Service (NASS) data for the 2008 crop year shows that about 5,790 pounds of highbush blueberries were produced per acre. The 2008 average grower price for highbush blueberries published by NASS was $1.54 per pound. Thus, the value of highbush blueberry production per acre in 2008 averaged about $8,917 (5,790 pounds multiplied by $1.54). At that average value, a producer would have to farm over 84 acres to receive an annual income from highbush blueberries of $750,000 ($750,000 divided by $8,916 per acre equals 84). Accordingly, as previously noted, a majority of the producers of highbush blueberries would be classified as small businesses.

According to the Council, assessments received in 2008 reached $2.4 million. Of the total, the Council received $830,222 from import assessment collections which is approximately 35 percent of the Council's total budget. The Council has projected import assessment collections at $850,000 for the 2009 budget year.

According to the Council's World Blueberry Acreage and Production Report, highbush blueberry acreage in North America increased from 71,075 acres in 2005 to an estimated 95,607 acres in 2008, a 35 percent increase in just three years. The United States' share of this total increased from 56,665 acres in 2005 to 74,992 acres in 2008, a 32 percent increase. Most of this

acreage growth is coming from the higher yielding western and southern States. Highbush blueberry production volume is expected to increase significantly from these regions in the coming years.

In 2008, the United States exported 13,791 metric tons of fresh highbush blueberries worth over $69 million. Canada is the principal destination for United States exports—accounting for nearly 84 percent of the total in 2008. Other key markets included the United Kingdom at 7 percent and Japan at 6 percent of the total. Most of the remaining 3 percent of the United States exports were to Asian countries.

The United States exports of frozen highbush blueberries totaled 5,785 metric tons in 2008 and were valued at over $17 million. The largest United States export market for frozen highbush blueberries is Canada which accounted for 47 percent of the total quantity exported in 2008. Japan was the second largest United States market accounting for 39 percent. Most of the remaining 14 percent of United States exports were sent to other Asian, United Kingdom, and European countries.

In 2008, the United States imported 45,105 metric tons of fresh highbush blueberries worth over $229 million. The largest imports of highbush blueberries came from Chile which accounted for 61 percent of the total in 2008. Other major suppliers of fresh highbush blueberries were Canada at 19 percent and Argentina at 17 percent of the total. The remaining 3 percent of imported highbush blueberries came from New Zealand and Uruguay.

The United States imports of frozen highbush blueberries totaled 19,152 metric tons in 2008 and were valued at over $64 million. The bulk of the United States frozen highbush blueberries imports came from Canada, which accounted for 78 percent of total in 2008. Other major suppliers of frozen highbush blueberries were Chile with 16 percent of the total, Argentina with 5 percent and the Netherlands with 1 percent.

In the international market, highbush blueberry production has increased in Canada, Mexico, South America, Europe, and Asia. The highbush blueberry acreage worldwide has nearly doubled in the past five years from an estimated 83,299 acres in 2003 to an estimated 163,065 acres in 2008. Based on the data in the Council's 2007–2008 World Acreage and Production Report, North America represented 77 percent of the total worldwide highbush blueberry acreage in 2003 (64,360 acres), but just 59 percent of the estimated total acreage in 2008 (95,607 acres).

Most of the worldwide growth over the past five years has taken place in South America which has increased acreage from an estimated 6,939 acres in 2003 to an estimated 39,703 acres in 2008, a nearly sixfold increase with the largest growth in Chile and Argentina. Most of the growth in European production, which has increased from 8,978 acres in 2003 to 18,038 in 2008, has taken place in Spain, Germany, and Poland. Asian highbush blueberry production has increased during this five-year period from 2,372 acres to 7,870 acres with most of the growth taking place in China and to a lesser extent Japan. Acreage in Australia and New Zealand has not significantly increased during this period.

Given worldwide acreage estimates, projections show that given optimal conditions with no crop losses or disruptions, total worldwide highbush blueberry production has the potential to increase from an estimated 606 million pounds in 2008 to an estimated 1.5 billion pounds by the year 2015, more than two times the current level of production in the next seven years. This total does not include lowbush (wild) blueberry production, which at the current time averages around 200 million pounds per year. These projections are considered optimal forecasts and are based on the potential of what has been planted to date as well as upon assumptions of favorable crop years in all international highbush blueberry growing regions. During this period, North American highbush blueberry production is estimated to increase from 407 million pounds in 2008 to 890 million pounds by the year 2015, more than two times the current level of production.

Section 1218.40(b) of the Order requires that the Council review the geographical distribution of United States production of highbush blueberries and the quantity of imports at least once every five years. Based on this review, the Council makes a recommendation to the Secretary of Agriculture (Secretary) to continue without change or make changes to the representation on the Council to reflect changes in the geographical distribution of the production of highbush blueberries and the quantity of imports. On August 13, 2009, the Council voted by electronic mail (e-mail) to add two importer members and their alternates to the Council. The vote to recommend two additional importers and their alternates was based on a three-year average production and imports data. Nine out of the ten Council members who voted were in support of adding these additional members.

The Council consists of a total of 14 members which includes 10 producers, 1 importer, 1 exporter from a foreign production area, 1 handler, and 1 public member. Each member has an alternate. The 10 producer members are allocated as follows: One producer member from each of the four regions and one producer member from each of the six top producing States. The regions are Western, Midwest, Northeast, and Southern. The top-producing States are Georgia, Michigan, New Jersey, North Carolina, Oregon, and Washington.

In 2006, the Council collected assessments on 360,467 million pounds of highbush blueberries. The domestic production of highbush blueberries in the United States was 268,800 million pounds which was 75 percent of the total assessments collected by the Council. Imports of highbush blueberries came in at 91,667 million pounds which represented 25 percent of the total assessments collected by the Council.

The Council records show that for the years 2003, 2004, and 2005 the United States produced 189,900 million pounds, 209,200 million pounds, and 246,000 million pounds of highbush blueberries respectively. Using this data, the three-year average annual highbush blueberries production for the United States totaled 215,033 million pounds per year (645,100 divided by 3). For this period, domestic production represented approximately 78 percent of the total assessments collected by the Council. For imports for the years 2003, 2004, and 2005, imports were at 63,334 million pounds, 55,000 million pounds, and 66,667 million pounds of highbush blueberries, respectively. Based on this data, the three-year average annual imports for highbush blueberries totaled 61,667 million pounds per year (185,001 divided by 3). Imports represented 22 percent of the total assessments paid to the Council during the period of 2003 through 2005.

The Council reviewed the domestic production of highbush blueberries in the United States. The Council records show that for the years 2006, 2007, and 2008 the United States produced 268,800 million pounds, 281,500 million pounds, and 335,900 million pounds of highbush blueberries respectively. Using this data, the three-year average annual highbush blueberries production for the United States totals 295,400 million pounds per year (886,200 divided by 3). Based on this data, the domestic production represents 72 percent of the total assessments collected by the Council.

Currently 72 percent of the Council's members represent the domestic

production. Therefore, the Council determined that there were no changes required at this time for the domestic member positions.

The Council's assessment records show that for the years 2006, 2007, and 2008 imports came in at 91,667 million pounds, 108,333 million pounds, and 141,667 million pounds of highbush blueberries respectively. Based on this data, the three-year average annual imports for highbush blueberries totals 113,889 million pounds per year (341,667 divided by 3). This represents approximately 28 percent of the total assessments paid to the Council. In contrast in 1997, imports came at 23.7 million pounds or 12 percent of the total of domestic and imports. Accordingly, two importer and alternate seats should be added to the Council. The new Council membership distribution would be 10 producers, 3 importers, 1 exporter, 1 handler, and 1 public member which would bring the percentage of seats for importers and exporters to 28 percent of the total seats on the Council.

Given the adjustment in membership for the Council in 2006 and the proposed changes herein, it is proposed that the minimum quorum at a Council meeting increase from seven to nine members. This would reflect that a majority of the 16 Council members (or their alternates, when appropriate) are present for a quorum.

Nominations and appointments to the Council are conducted pursuant to sections 1218.40, 1218.41, and 1218.42 of the Order. Appointments to the Council are made by the Secretary from a slate of nominated candidates. Pursuant to section 1218.41(d) of the Order, nominations for the importer, exporter, handler, and public member positions will be made by the Council. The nominees for the two importer and alternate positions will be submitted to the Secretary for appointment to the Council.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the background form, which represents the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB number 0505–0001.

The Order requires that two nominees be submitted for each vacant position. With regard to information collection requirements, adding two importers and their alternates to the Council means that eight additional importers will be required to submit background forms to the Department in order to be considered for appointment to the Council. However, serving on the Council is optional, and the burden of submitting the background form would be offset by the benefits of serving on the Council. The estimated annual cost of providing the information by eight importers would be $33 or $4.12 per importer. The additional burden will be included in the existing information collection package under OMB number 0505–0001.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed amendment to the Order on small entities, and we invite comments concerning potential effects of this amendment on small businesses.

Background

The Order became effective on August 16, 2000, and it is authorized under the Act. The Council is composed of 10 producers, 1 importer, 1 exporter from a foreign production area, 1 handler, and 1 public member. Each member has an alternate. The 10 producer members are allocated as follows: One producer member from each of the four regions and one producer member for each of the six top producing States. The regions are Western, Midwest, Northeast, and Southern. The top-producing States that currently have representation on the Council are Georgia, Michigan, New Jersey, North Carolina, Oregon, and Washington. The producer members are nominated by producers or producer groups. The importer, exporter, handler, and public member positions are nominated by the Council.

Under the Order, the Council administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the position of highbush blueberries in the marketplace, and to establish, maintain, and expand markets for highbush blueberries. This program is financed by assessments on producers growing 2,000 pounds or more of highbush blueberries and importers who import 2,000 or more pounds of highbush blueberries per year. The current assessment rate is $12 per ton levied on highbush blueberries produced within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States and on imports of more than 2,000 pounds into the United States. The Order specifies that handlers are responsible for collecting and submitting the producer assessments to the Council and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Council on highbush blueberries imported into the United States through the U.S. Customs Service and Border Protection. Producers who produce less than 2,000 pounds and importers of less than 2,000 pounds of highbush blueberries annually are exempt from this program.

Pursuant to section 515(b)(3)of the Act and section 1218.40(b) of the Order, at least once in each five-year period, the Council shall review the geographical distribution of United States production of highbush blueberries and the quantity of imports and make a recommendation to the Secretary to continue without change or make changes to the representation on the Council to reflect changes in the geographical distribution of the production of highbush blueberries and the quantity of imports.

On August 13, 2009, the Council voted nine to one to increase the membership of the Council by adding two importer and alternate seats. Based on the Council's assessment records for the years 2006, 2007, and 2008, imports came in at 91,667 million pounds, 108,333 million pounds, and 141,667 million pounds of highbush blueberries respectively. Based on this data, the three-year average annual imports for highbush blueberries totals 113,889 million pounds per year (341,667 divided by 3). This represents approximately 28 percent of the total assessments paid to the Council. In contrast in 1997, imports came at 23.7 million pounds or 12 percent of the total of domestic and imports. Accordingly, two importer and alternate seats should be added to the Council. The new Council membership distribution would be 10 producers, 3 importers, 1 exporter, 1 handler, and 1 public member which would bring the percentage of seats for importers and exporters to 28 percent of the total seats on the Council.

This action will add to the Council two importers and two alternates. The Council would be composed of 10 producers, three importers, one exporter from a foreign production area, one handler, and one public member. Each member has an alternate. The addition of two importers and two alternates would allow for more importers representation on the Council's decision making and also potentially provide an opportunity to increase diversity on the Council.

Furthermore, this rule would make amendments to section 1218.40(a) of the

Order to specify that the Council will be composed of 16 members and their alternates rather than 14. Also, this rule would revise section 1218.40(a)(3) of the Order to specify three importers and alternates instead of one importer and alternate. In addition, this rule would revise section 1218.45 (a) of the Order to increase the minimum quorum level at Council meetings from seven to nine members.

Nominations and appointments to the Council are conducted pursuant to sections 1218.40, 1218.41, and 1218.42 of the Order. Appointments to the Council are made by the Secretary from a slate of nominated candidates. Pursuant to section 1218.41(d) of the Order, nominations for the importer, exporter, handler, and public member positions are made by the Council. Nominations are submitted to the Secretary for appointment to the Council.

A 20-day comment period is provided to allow interested persons to respond to this proposal. Twenty days is deemed appropriate so that the proposed amendments, if adopted, may be implemented with the other importer seats up for appointment in spring 2010. All written comments received in response to this rule by the date specified would be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Blueberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1218 is proposed to be amended as follows:

PART 1218—BLUEBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1218 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

2. In § 1218.40, paragraph (a) introductory text and paragraph (a)(3) are revised to read as follows:

§ 1218.40 Establishment and membership.

(a) *Establishment of the U.S. Highbush Blueberry Council.* There is hereby established a U.S. Highbush Blueberry Council, hereinafter called the Council, composed of no more than 16 members and alternates, appointed by the Secretary from nominations as follows:

* * * * *

(3) Three importers and alternates.

* * * * *

3. Section 1218.45 paragraph (a) is revised to read as follows:

§ 1218.45 Procedure.

(a) At a Council meeting, it will be considered a quorum when a minimum of nine members, or their alternates serving in the absence, are present.

* * * * *

Dated: March 11, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–5773 Filed 3–16–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0229; Directorate Identifier 2009–NM–115–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Model DHC–8–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) 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: Certain main landing gear components have experienced premature failure during certification testing. Revision has been made to the DHC–8–400 Maintenance Requirements Manual, Airworthiness Limitation Items, to incorporate the revised safe life limits for the main landing gear lock actuator assembly, retraction actuator assembly rod end and piston, and the upper bearing in the main landing gear shock strut assembly. Failure of these components could adversely affect the structural integrity of the main landing gear. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by May 3, 2010.

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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

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 proposed AD, 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.

FOR FURTHER INFORMATION CONTACT: Craig Yates, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7355; fax (516) 794–5531.

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–2010–0229; Directorate Identifier 2009–NM–115–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 based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2009–17, dated April 22, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Certain main landing gear components have experienced premature failure during certification testing. Revision has been made to the DHC–8–400 Maintenance Requirements Manual, Airworthiness Limitation Items, to incorporate the revised safe life limits for the main landing gear lock actuator assembly, retraction actuator assembly rod end and piston, and the upper bearing in the main landing gear shock strut assembly. Failure of these components could adversely affect the structural integrity of the main landing gear.
>
> This [Canadian] directive is issued to ensure safe operation of the main landing gear during its service life.

The corrective actions include revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness, replacing the upper bearing on certain airplanes, and replacing certain rod ends. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Temporary Revision ALI–82, dated August 15, 2008; and Temporary Revision ALI–89, dated March 27, 2009; to Part 2, Airworthiness Limitation Items, of the Bombardier Dash 8 Q400 Maintenance Requirements Manual, PSM 1–84–7. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an 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 also have proposed 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 proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 62 products of U.S. registry. We also estimate that it would take about 22 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $18,588 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,268,396, or $20,458 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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:

Bombardier, Inc.: Docket No. FAA–2010–0229; Directorate Identifier 2009–NM–115–AD.

Comments Due Date

(a) We must receive comments by May 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, having serial numbers (S/Ns) 4001, 4003, 4004, 4006, and 4008 through 4227 inclusive, certificated in any category.

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 (i) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25.1529–1A.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing gear.

Reason

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

Certain main landing gear components have experienced premature failure during certification testing. Revision has been made to the DHC–8–400 Maintenance Requirements Manual, Airworthiness Limitation Items (ALI), to incorporate the revised safe life limits for the main landing gear lock actuator assembly, retraction actuator assembly rod end and piston, and the upper bearing in the main landing gear shock strut assembly. Failure of these components could adversely affect the structural integrity of the main landing gear.

This [Canadian] directive is issued to ensure safe operation of the main landing gear during its service life.

The corrective actions include revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness, replacing the upper bearing on certain airplanes, and replacing certain rod ends.

Compliance

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

Actions

(g) For Model DHC–8–400, –401, and –402 airplanes having S/Ns 4001, 4003, 4004, 4006, and 4008 through 4210 inclusive: Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Within 60 days after the effective date of this AD: Revise the ALS of the Instructions for Continued Airworthiness by incorporating the revised structural safe life limit for the upper bearing having part number (P/N) 46114–1, as provided in Bombardier Temporary Revision (TR), ALI–82, dated August 15, 2008, to Part 2, Airworthiness Limitation Items, of the Bombardier Dash 8 Q400 Maintenance Requirements Manual (MRM), PSM 1–84–7. The initial compliance time for replacing the upper bearing is specified in paragraph (g)(2) of this AD.

(2) Replace the upper bearing having P/N 46114–1 with a new or serviceable upper bearing, in accordance with Goodrich Dressed Shock Strut Assembly Main Landing Gear Part No. 46100–29/–31/–33/–35/–37/–39/–41/–43/–45/–47/–49/–51/–53 and –55 Component Maintenance Manual with Illustrated Parts List 32–11–03, Revision 11, dated August 22, 2008, at the applicable time specified in paragraphs (g)(2)(i), (g)(2)(ii), and (g)(2)(iii), of this AD.

(i) For airplanes having accumulated fewer than 15,000 total flight cycles as of the effective date of this AD: Replace prior to the accumulation of 15,000 total flight cycles.

(ii) For airplanes having accumulated 15,000 total flight cycles or more, but fewer than 20,000 total flight cycles, as of the effective date of this AD: Replace prior to the accumulation of 20,000 total flight cycles.

(iii) For airplanes having accumulated 20,000 total flight cycles or more as of the effective date of this AD: Replace before further flight.

(h) For Model DHC–8–400, –401, and –402 series airplanes having S/Ns 4001, 4003, 4004, 4006, and 4008 through 4227 inclusive: Do the applicable actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Within 60 days after the effective date of this AD: Revise the ALS of the Instructions for Continued Airworthiness to incorporate the revised safe life limits for the retraction actuator assembly rod end having P/N P3A2750 and P3A2750–1; retraction actuator assembly piston having P/N 46570–5; lock actuator cylinder assembly having P/N 46601–1/–3; and lock actuator assembly having P/N 46600–1/–3/–5/–7; as provided in Bombardier TR ALI–89, dated March 27, 2009, to Part 2, Airworthiness Limitation Items, of the Bombardier Dash 8 Q400 MRM, PSM 1–84–7. The initial compliance time for the replacement is specified in the TR, except as provided by paragraph (h)(2) of this AD.

(2) For airplanes with a main landing gear retraction actuator assembly rod end that has accumulated more than 9,850 total flight cycles as of the effective date of this AD: Within 600 flight cycles after the effective date of this AD, replace any affected rod end having P/Ns P3A2750 and P3A2750–1 with a new or serviceable rod end, in accordance with Goodrich Dressed Shock Strut Assembly Main Landing Gear Part No. 46100–29/–31/–33/–35/–37/–39/–41/–43/–45/–47/–49/–51/–53 and –55 Component Maintenance Manual with Illustrated Parts List 32–11–03, Revision 11, dated August 22, 2008.

(i) After accomplishing the revision specified in paragraph (g)(1) or (h)(1) of this AD, except as provided in paragraph (j) of this AD, no alternative replacement times may be approved for this part.

Note 2: The ALI revisions required by paragraphs (g) and (h) of this AD may be done by inserting a copy of Bombardier TRs ALI–82 and ALI–89 into Part 2, Airworthiness Limitation Items, of the Bombardier Dash 8 Q400 MRM, PSM 1–84–7. When these TRs have been included in the general revision of the MRM, the general revision may be inserted into the MRM, provided the relevant information in the general revision is identical to that in Bombardier TRs ALI–82 and ALI–89.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: The MCAI and service information do not contain replacement procedures for the upper bearings and rod ends. This AD requires replacing the upper bearings and rod ends in accordance with Goodrich Dressed Shock Strut Assembly Main Landing Gear Part No. 46100–29/–31/–33/–35/–37/–39/–41/–43/–45/–47/–49/–51/–53 and –55 Component Maintenance Manual with Illustrated Parts List 32–11–03, Revision 11, dated August 22, 2008.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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:* Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(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.

(4) *Special Flight Permits:* Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are allowed, provided that the actions required in paragraph (h) of this AD have been accomplished.

Related Information

(k) Refer to MCAI Canadian Airworthiness Directive CF–2009–17, dated April 22, 2009;

Bombardier TR ALI–82, dated August 15, 2008, and Bombardier TR ALI–89, dated March 27, 2009, to Part 2, Airworthiness Limitation Items, of the Bombardier Dash 8 Q400 Maintenance Requirements Manual, PSM 1–84–7; and Goodrich Dressed Shock Strut Assembly Main Landing Gear Part No. 46100–29/–31/–33/–35/–37/–39/–41/–43/–45/–47/–49/–51/–53 and –55 Component Maintenance Manual with Illustrated Parts List 32–11–03, Revision 11, dated August 22, 2008; for related information.

Issued in Renton, Washington, on March 9, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–5858 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0272; Directorate Identifier 2010–CE–009–AD]

RIN 2120–AA64

Airworthiness Directives; AVOX Systems and B/E Aerospace Oxygen Cylinders as Installed on Various 14 CFR Part 23 and CAR 3 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain AVOX Systems and B/E Aerospace oxygen cylinders, as installed on various 14 CFR part 23 or CAR 3 airplanes. This proposed AD would require inspecting for and removing substandard oxygen cylinders from the airplane. This proposed AD was prompted by the reported rupture of a high-pressure gaseous oxygen cylinder, which had insufficient strength characteristics due to improper heat treatment. We are proposing this AD to prevent an oxygen cylinder from rupturing, which, depending on the location, could result in structural damage and rapid decompression of the airplane, damage to adjacent essential flight equipment, deprivation of the necessary oxygen supply for the flightcrew, and injury to cabin occupants or other support personnel.

DATES: We must receive comments on this proposed AD by May 3, 2010.

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

- *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 proposed AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, Kansas 66215; telephone: (913) 338–9800; fax: (913) 338–8419; Internet: *http://www.beaerospace.com;* and AVOX Systems, 225 Erie Street, Lancaster, New York 14086–9502; telephone: (716) 683–5100; fax: (716) 681–1089; Internet: *http://www.avoxsys.com,* as applicable.

FOR FURTHER INFORMATION CONTACT: David Hirt, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4050; fax: (816) 329–4090; e-mail: *david.hirt@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, "FAA–2010–0272; Directorate Identifier 2010–CE–009–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Discussion

During routine hydrostatic testing, a United States Department of Transportation Type 3HT–1850 high-pressure gaseous oxygen cylinder ruptured under what would be considered normal operating conditions. Further investigation indicates that the cylinder had insufficient strength characteristics due to improper heat treatment. The improper heat treatment is limited to specific production batches, but the affected oxygen cylinders may be installed on various 14 CFR part 23 or CAR 3 airplanes and aircraft certificated in other categories.

The oxygen cylinders contain gaseous oxygen under high pressure. Rupture of an oxygen cylinder, depending on its location, could result in structural damage and rapid decompression of the airplane, damage to adjacent essential flight equipment, deprivation of the necessary oxygen supply for the flightcrew, and injury to cabin occupants or maintenance or other support personnel.

Relevant Service Information

We have reviewed B/E Aerospace Service Bulletin 176000–35–01, dated November 2, 2009; and Zodiac Aerospace AVOX Systems Inc. Service Bulletin 6084–34–35–01, Revision 1, dated December 9, 2009.

The service information describes procedures for inspecting the oxygen cylinder to determine the serial number and for removing affected oxygen cylinders.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require removing the affected oxygen cylinder from various 14 CFR part 23 or CAR 3 airplanes.

Costs of Compliance

We estimate that this proposed AD would affect 10,000 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators based on all airplanes having the affected oxygen cylinder installed
0.5 work-hour × $85 per hour = $42.50	Not applicable	$42.50	$425,000

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

Labor cost	Parts cost	Total cost per airplane
2 work-hours × $85 per hour = $170	$1,675	$1,845

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://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 Docket Office (telephone (800) 647–5527) is located at the street address stated 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.

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:

AVOX Systems and B/E Aerospace: Docket No. FAA–2010–0272; Directorate Identifier 2010–CE–009–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by May 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to oxygen cylinders with a capacity of 114/115 cubic feet, approved under United States Department of Transportation Regulations for Type 3HT cylinders, identified in Table 1 of this AD. These oxygen cylinders may be installed on various 14 CFR part 23 and CAR 3 airplanes, certificated in any category. The affected oxygen cylinders may be installed as a component of, but not limited to, the AVOX Systems Inc. and B/E Aerospace cylinder assemblies listed in Table 2 of this AD.

TABLE 1—AFFECTED OXYGEN CYLINDER SERIAL NUMBERS (S/N)

Cylinder manufacturer	Affected S/N
AVOX Systems	ST82307 through ST82309. ST82335 through ST82378. ST82385 through ST82506, except ST82498 (out of service). ST82550 through ST82606. ST82617 through ST82626. ST83896 through ST83905. ST84209 through ST84218. ST84224 through ST84236. ST86138, ST86143, ST86145, ST86150, ST86169, ST86172, and ST86177.

TABLE 1—AFFECTED OXYGEN CYLINDER SERIAL NUMBERS (S/N)—Continued

Cylinder manufacturer	Affected S/N
B/E Aerospace	ST86299 through ST86307. K495120 through K495121. K629573 through K629577. K674451 through K674455.

TABLE 2—AFFECTED OXYGEN CYLINDER ASSEMBLY PART NUMBERS (P/N)

Manufacturer	P/Ns
AVOX Systems	*6350A34 series, 800112–03, 800112–10, 800112–13, 801293–03, 801307–00, 801307–01, 801307–02, 801307–03, 801307–07, 801307–09, 801307–23, 801307–24, 801365–04, 801365–14, 801375–00, 801977–05, and *8915 series. (*For example, 6350A34–X–X or 8915XX–XX, where "X" denotes a P/N digit).
B/E Aerospace	176018–115, 176112–115, 176177–115, 176181–115, and 176529–97.

Subject

(d) Air Transport Association of America (ATA) Code 35: Oxygen.

Unsafe Condition

(e) This AD was prompted by the reported rupture of a high-pressure gaseous oxygen cylinder, which had insufficient strength characteristics due to improper heat treatment. We are issuing this AD to prevent an oxygen cylinder from rupturing, which, depending on the location, could result in structural damage and rapid decompression of the airplane, damage to adjacent essential flight equipment, deprivation of the necessary oxygen supply for the flightcrew, and injury to cabin occupants or other support personnel.

Compliance

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

(1) Within 60 days after the effective date of this AD, inspect the oxygen cylinder installed in the airplane to determine the serial number. The serial number is stamped into the steel cylinder near the neck. A review of airplane records is acceptable in lieu of this inspection if the serial number of the oxygen cylinder can be positively determined from that review. For any oxygen cylinder that has a serial number identified in Table 1 of this AD, before further flight, remove it from the airplane and replace it with a serviceable oxygen cylinder. Do the inspection and removal following B/E Aerospace Service Bulletin 176000–35–01, dated November 2, 2009; and Zodiac Aerospace AVOX Systems, Inc. Service Bulletin 6084–34–35–01, Revision 1, dated December 9, 2009, as applicable.

(2) As of the effective date of this AD, do not install on any airplane a United States Department of Transportation Type 3HT oxygen cylinder that has a serial number identified in Table 1 of this AD.

Note: United States Department of Transportation hazardous materials regulations apply to the shipping of oxygen cylinders.

Alternative Methods of Compliance (AMOCs)

(g) 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: David Hirt, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090; e-mail: *david.hirt@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.

Related Information

(h) To get copies of the service information referenced in this AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, Kansas 66215; telephone: (913) 338–9800; fax: (913) 338–8419; Internet: *http://www.beaerospace.com;* and AVOX Systems, 225 Erie Street, Lancaster, New York 14086–9502; telephone: (716) 683–5100; fax: (716) 681–1089; Internet: *http://www.avoxsys.com,* as applicable. 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.*

Issued in Kansas City, Missouri, on March 11, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–5862 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Notice of Intent To Request Public Comments

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its systematic review of all Federal Trade Commission rules and guides, the Commission gives notice that, during 2010, it intends to request public comments on the rules listed below ("Rules"). The Commission will request comments on, among other things, the economic impact of and the continuing need for the Rules; possible conflict between the Rules and state, local, or other federal laws or regulations; and the effect of any technological, economic, or other industry changes on the Rules. Further, the Commission gives notice that, based on its current ongoing review proceedings, it is postponing regulatory review for certain rules previously scheduled for 2010 review. In addition, the Commission announces that it is accelerating its review of the Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule to 2010. No Commission determination on the need for, or the substance of, the Rules should be inferred from the notice of intent to publish requests for comments. Finally, the Commission announces a revised 10-year regulatory review schedule.

DATES: Comments must be submitted on or before April 16, 2010.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the contact person listed for the particular Rule.

SUPPLEMENTARY INFORMATION: The Commission intends to initiate a review of, and solicit public comments on, the following Rules during 2010:

(1) *Retail Food Store Advertising and Marketing Practices Rule,* 16 CFR 424. **Agency Contact:** Janice Podoll Frankle, (202) 326-3022, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600

Pennsylvania Ave., NW, Washington, DC 20580.

(2) *Preservation of Consumers' Claims and Defenses Rule*, 16 CFR 433. **Agency Contact:** Ronald G. Isaac, (202) 326-3231, Federal Trade Commission, Bureau of Consumer Protection, Division of Financial Practices, 600 Pennsylvania Ave., NW, Washington, DC 20580.

(3) *Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule*, 16 CFR 309. **Agency Contact:** Hampton Newsome, (202) 326-2889, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW, Washington, DC 20580.

The Commission is accelerating its review of the Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule, previously scheduled for review in 2014, to ensure that FTC-required vehicle labels are consistent with the Environmental Protection Agency fuel economy labeling requirements. Additionally, because the Commission has ongoing reviews relating to a number of its rules and guides and other rulemaking proceedings, it is postponing review of the following matters previously scheduled for 2010 review: Regulations Under the Fair Packaging and Labeling Act, *et al.*, 16 CFR 500-503; the Credit Practices Rule, 16 CFR 444; the Guides for the Advertising of Warranties and Guarantees, 16 CFR 239; and the Interpretations of the Magnuson-Moss Warranty Act, *et al.*, 16 CFR 700-703.

A copy of the Commission's revised regulatory review schedule for 2011 through 2020 is appended. The Commission, in its discretion, may modify or reorder the schedule in the future to incorporate new rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark,

Secretary.

APPENDIX

REGULATORY REVIEW
MODIFIED TEN-YEAR SCHEDULE

16 CFR PART	TOPIC	YEAR TO REVIEW
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2011
23	Guides for the Jewelry, Precious Metals, and Pewter Industries	2011
239	Guides for the Advertising of Warranties and Guarantees	2011
300	Rules and Regulations under the Wool Products Labeling Act	2011
301	Rules and Regulations under the Fur Products Labeling Act	2011
303	Rules and Regulations under the Textile Fiber Products Identification Act	2011
423	Care Labeling Rule	2011
444	Credit Practices Rule	2011
700	Interpretations of Magnuson-Moss Warranty Act	2011
701	Disclosure of Written Consumer Product Warranty Terms and Conditions	2011
702	Pre-Sale Availability of Written Warranty Terms	2011
703	Informal Dispute Settlement Procedures	2011
20	Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry	2012
233	Guides Against Deceptive Pricing	2012
238	Guides Against Bait Advertising	2012
240	Guides for Advertising Allowances and Other Merchandising Payments and Services	2012
251	Guide Concerning Use of the Word "Free" and Similar Representations	2012
310	Telemarketing Sales Rule	2013
500	Regulations Under Section 4 of the Fair Packaging and Labeling Act (FPLA)	2013
501	Exemptions from Part 500 of the FPLA	2013
502	Regulations Under Section 5(c) of the FPLA	2013
503	Statements of General Policy or Interpretations Under the FPLA	2013
801	Hart-Scott-Rodino Antitrust Improvements Act Coverage Rules	2013
802	Hart-Scott-Rodino Antitrust Improvements Act Exemption Rules	2013

APPENDIX—Continued

REGULATORY REVIEW

MODIFIED TEN-YEAR SCHEDULE

16 CFR PART	TOPIC	YEAR TO REVIEW
803	Hart-Scott-Rodino Antitrust Improvements Act Transmittal Rules	2013
304	Rules and Regulations under the Hobby Protection Act	2014
314	Standards for Safeguarding Customer Information	2014
315	Contact Lens Rule	2015
316	Rules Implementing the CAN-SPAM Act of 2003	2015
456	Ophthalmic Practice Rules	2015
603	Fair Credit Reporting Act (FCRA) Rules - Definitions	2015
610	FCRA Rules - Free Annual File Disclosures	2015
611	FCRA Rules - Prohibition Against Circumventing Treatment as a Nationwide Consumer Reporting Agency	2015
613	FCRA Rules - Duration of Active Duty Alerts	2015
614	FCRA Rules - Appropriate Proof of Identity	2015
698	FCRA Rules - Summaries, Notices, and Forms	2015
460	Labeling and Advertising of Home Insulation	2016
642	FCRA Rules - Prescreen Opt-Out Notice	2016
682	FCRA Rules - Disposal of Consumer Report Information and Records	2016
312	Children's Online Privacy Protection Rule	2017
410	Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets	2017
18	Guides for the Nursery Industry	2018
305	Appliance Labeling Rule	2018
311	Test Procedures and Labeling Standards for Recycled Oil	2018
436	Disclosure Requirements and Prohibitions Concerning Franchising	2018
641	FCRA Rules - Duties of Users of Consumer Reports Regarding Address Discrepancies	2018
680	FCRA Rules - Affiliate Marketing	2018
681	FCRA Rules - Identity Theft Rules	2018
24	Guides for Select Leather and Imitation Leather Products	2019
453	Funeral Industry Practices Rule	2019
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2020
313	Privacy of Consumer Financial Information	2020
317	Prohibition of Energy Market Manipulation Rule	2020
318	Health Breach Notification Rule	2020
901	FDCPA - Procedures for State Application for Exemption From the Provisions of the Act	2020

[FR Doc. 2010–5746 Filed 3–16–10; 8:45 am]
BILLING CODE 6750–01–S

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA–H022K–2006–0062, (formerly OSHA Docket No. H022K]

RIN 1218–AC20

Hazard Communication; Meetings Notice

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; notification of one hearing, and one hearing cancellation.

SUMMARY: On December 29, 2009, OSHA announced that it would hold informal public hearings on its proposal to revise the Hazard Communication Standard in Washington, DC; Pittsburgh, PA; and Los Angeles, CA (74 FR 68756). OSHA will hold the Pittsburgh hearing at the Marriott Pittsburgh City Center on March 31, 2010. OSHA is canceling the Los Angeles, CA, hearing.

DATES: The informal public hearing will begin at 9:30 a.m., local time, on March 31, 2010, in Pittsburgh, PA.

ADDRESSES: Informal public hearing. The Pittsburgh, PA, hearing will be held in the Marriott Pittsburgh City Center, located at 112 Washington Place, Pittsburgh, Pennsylvania 15219.

Docket: To read or download comments, notices of intention to appear, and other material in the docket, go to Docket No. OSHA–H022K–2006–0062 at *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through the Web site. All submissions and other material in the docket are available for public inspection and copying in the OSHA Docket Office. For information on reading or downloading materials in the docket and obtaining materials not available through the Web site, please contact the OSHA Docket Office, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY number (877) 889–5627).

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov*. This notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov*.

FOR FURTHER INFORMATION CONTACT: Press inquiries: Jennifer Ashley, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

Technical information: Maureen Ruskin, OSHA, Office of Chemical Hazards-Metals, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1950.

Hearings: Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647; 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov*.

SUPPLEMENTARY INFORMATION: On September 30, 2009, OSHA published a proposed rule to revise the Hazard Communication Standard (HCS) to conform with the United Nations' (UN) Globally Harmonized System of Classification and Labelling of Chemicals (GHS) (74 FR 50280). OSHA published a correction notice for the Notice of Proposed Rulemaking (NPRM) on November 5, 2009 (74 FR 57278). The deadline for submitting written comments and hearing requests was December 29, 2009. On December 29, 2009, OSHA published a notice announcing that it would hold informal public hearings in Washington, DC; Pittsburgh, PA; and Los Angeles, CA (74 FR 68756). The deadline for filing a notice of intention to appear to present testimony or question witnesses at these hearings was January 18, 2010, and the deadline for requesting more than 10 minutes to present testimony or to submit documentary evidence at the hearing was February 1, 2010.

OSHA received numerous requests to appear at the Washington, DC, hearing and a number for the Pittsburgh, PA hearing. However, OSHA received only a few requests to appear at the Los Angeles location, and has accordingly decided to cancel that hearing. Persons who filed timely notices for the Los Angeles hearing have been given the opportunity to appear at either the Washington, DC, or Pittsburgh locations.

For information about the procedures that will be followed at these hearings, please see the notice of hearing published at 74 FR 68756 and the prehearing guidelines issued by Administrative Law Judge Stephen Purcell, which have been posted in the docket and may be accessed as noted above.

Participants who need projectors and other special equipment for their testimony must contact Ms. Veneta Chatmon at OSHA's Office of Communications, telephone (202) 693–1999, no later than one week before the hearing begins.

Authority and Signature

David Michaels, PHD MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)), Secretary of Labor's Order 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, on this 11th day of March, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–5790 Filed 3–16–10; 8:45 am]
BILLING CODE 4510–26–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Puget Sound, Naval Station Everett, Washington

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers is proposing to amend its regulations for the restricted area established in the waters of Puget Sound adjacent to Naval Station Everett, Everett, Snohomish County, Washington. The amendments will enable the affected units of the United States military to enhance safety and security around an active military establishment. The regulations are necessary to safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. The regulations are also necessary to protect the public from potentially hazardous conditions that may exist as a result of military use of the area.

DATES: Written comments must be submitted by April 16, 2010.

ADDRESSES: You may submit comments, identified by docket number COE–2010–0003, by any of the following methods:

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

E-mail: david.b.olson@usace.army.mil. Include the docket number, COE–2010–0003, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street, NW., Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2010–0003. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that 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 regulations.gov or e-mail. The regulations.gov Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through 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, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Ms. Michelle Walker, Regulatory Branch Chief, U.S. Army Corps of Engineers, at 206–764–6915 or Ms. Vicky Didenhover, of the Regulatory Branch, U.S. Army Corps of Engineers, at 206–764–3311.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is proposing to amend its regulations at 33 CFR part 334 by modifying the area at § 334.1215. The proposed modification to this existing restricted area is described below. The intent of the proposed rule is to increase safety and security of naval operations at Naval Station Everett.

In addition to the publication of the proposed rule in the **Federal Register**, the Seattle District is concurrently soliciting public comment on the proposed rule by distribution of a public notice to all known interested parties.

Procedural Requirements

a. *Review Under Executive Order 12866.* The proposed rule is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects the proposed modification to the existing restricted area would have practically no economic impact on the public, and would create no anticipated navigational hazards or interference with existing waterway traffic.

c. *Review under the National Environmental Policy Act.* The Corps has made a preliminary determination, based on the minor nature of the proposed rule, that the modification of this restricted area, if adopted, will not be a major Federal action having a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. After it is prepared, the environmental assessment may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, above.

d. *Unfunded Mandates Act.* This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private section mandate and is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4). We have also found under section 203 of the Act that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger Zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons stated in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Revise § 334.1215 to read as follows:

§ 334.1215 Port Gardner, Naval Station Everett, Naval Restricted Area, Everett, Washington.

(a) *The area.* The waters of Port Gardner and East Waterway surrounding Naval Station Everett beginning at a point near the northwest corner of Naval Station Everett at latitude 47°59′40″ N, longitude 122°13′23.5″ W (Point 1) and thence to latitude 47°59′40″ N, longitude 122°13′30″ W (Point 2); thence to latitude 47°59′20″ N, longitude 122°13′33″ W (Point 3); thence to latitude 47°59′13″ N, longitude 122°13′38″ W (Point 4); thence to latitude 47°59′05.5″ N, longitude 122°13′48.5″ W (Point 5); thence to latitude 47°58′46″ N, longitude 122°14′11″ W (Point 6); thence to latitude 47°58′39.5″ N, longitude 122°13′59″ W (Point 7); thence to latitude 47°58′39″ N, longitude 122°13′42″ W (Point 8); thence to latitude 47°58′57″ N, longitude 122°13′25″ W (Point 9); thence to latitude 47°59′20″ N, longitude 122°13′08″ W (Point 10); thence to latitude 47°59′20″ N, longitude 122°13′02.5″ W (Point 11), a point upon the Naval Station's shore in the northeast corner of East Waterway.

(b) *The regulation.* (1) All persons and vessels are prohibited from entering the waters in the restricted area for any reason without prior written permission from the Commanding Officer, Naval Station Everett.

(2) Mooring, anchoring, fishing and/or recreational boating are prohibited in the restricted area without prior written permission from the Commanding Officer, Naval Station Everett.

(c) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer, Naval Station Everett and such agencies and persons as he/she shall designate.

Dated: March 10, 2010.

Michael G. Ensch,

Chief, Operations, Directorate of Civil Works.

[FR Doc. 2010–5740 Filed 3–16–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 389

[Docket No. FMCSA–2009–0354]

RIN 2126–AB23

Direct Final Rulemaking Procedures

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: FMCSA proposes to amend its regulations by establishing direct final rulemaking procedures for use on noncontroversial rules. Under these procedures, FMCSA would make regulatory changes that would become effective a specified number of days after the date of publication in the **Federal Register**, unless FMCSA receives written adverse comment(s) or written notice of intent to submit adverse comment(s), received by the date specified in the direct final rule. These new procedures would expedite the promulgation of routine or noncontroversial rules by reducing the time and resources necessary to develop, review, clear, and publish separate proposed and final rules. FMCSA would not use the direct final rule procedures for complex or controversial issues.

DATES: You must submit comments on or before April 16, 2010.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Number in the heading of this document by any of the following methods. Do not submit the same comments by more than one method. However, to allow effective public participation before the comment period deadline, the Agency encourages use of the Web site that is listed first. It will provide the most efficient and timely method of receiving and processing your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this regulatory action. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Refer to the Privacy Act heading on *http://www.regulations.gov* for further information.

Public Participation: The regulations.gov system is generally available 24 hours each day, 365 days each year. You can find electronic submission and retrieval help and guidelines under the "help" section of the Web site. For notification that FMCSA received the comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on line. Copies or abstracts of all documents referenced in this notice are in the docket: FMCSA–2009–0354. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Bivan R. Patnaik, Chief, Regulatory Development Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–8092.

SUPPLEMENTARY INFORMATION:

Background

The Administrative Procedure Act (APA) (5 U.S.C. 553) specifically provides that notice and comment rulemaking procedures are not required where the Agency determines that there is good cause to dispense with them. Generally, good cause exists where the procedures are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). FMCSA proposes to use direct final rulemaking to streamline the rulemaking process where the rule is noncontroversial and the Agency does not expect adverse comment.

Direct final rulemaking would be more efficient in using FMCSA resources by reducing the time and resources necessary to develop, review, clear, and publish separate proposed and final rules for rules the Agency expects to be noncontroversial and unlikely to result in adverse public comment. A number of Federal agencies use this process, including various Department of Transportation operating administrations. For example, on January 30, 2004, the Office of the Secretary of Transportation (OST) published a final rule adopting direct final rule procedures (69 FR 4455) and the Federal Railroad Administration published a final rule adopting direct final rule procedures on March 7, 2007 (72 FR 10086).

Direct Final Rule Procedures

FMCSA would determine whether a particular rulemaking is noncontroversial and unlikely to result in adverse comments based on its experience with similar rules that it previously proposed and published without receiving adverse comments. Adverse comments are those comments that are critical of the rule, suggest that the rule should not be adopted, or suggest a change to the rule. Comments outside the scope of the rule and comments suggesting that the rule's policy or requirements should or should not be extended to other Agency programs outside the scope of the rule would not be considered adverse.

After making the determination that a rule would be appropriate for direct

final rulemaking, FMCSA would publish the rule as a direct final rule in the **Federal Register**. The document would state in the preamble that FMCSA does not anticipate adverse comments and that unless it receives written adverse comments or written notice of intent to submit adverse comments, the rule would become effective a specified number of days after the date it is published in the **Federal Register**. If FMCSA receives adverse comments, or receives notice of intent to file adverse comments by the date specified in the direct final rule, it would publish a rule in the **Federal Register** withdrawing the direct final rule before it goes into effect. FMCSA may then publish a notice of proposed rulemaking with a new comment period if the Agency decides to go forward with the rulemaking.

If no adverse comments or written notice of intent to submit adverse comments are received by the date specified in the direct final rule, FMCSA would publish a rule in the **Federal Register** stating that it did not receive any adverse comments and confirming the effective date of the rule.

Direct final rulemaking may be appropriate for noncontroversial rules that (1) Make non-substantive clarifications or corrections to existing rules; (2) incorporate by reference the latest or otherwise updated versions of technical or industry standards; (3) affect internal procedures of FMCSA such as filing requirements and rules governing inspection and copying of documents; (4) update existing forms; (5) make minor changes to rules regarding statistics and reporting requirements, such as a change in reporting period (for example, from quarterly to annually) or eliminating a type of data collection no longer necessary. FMCSA may also use direct final rulemaking for a particular rule if similar rules had been previously proposed and published without adverse comment. Even if a rulemaking falls into one of the above categories, if adverse comments are anticipated, FMCSA would not use the direct final rule process. The additional time and resources expended to withdraw the rule and republish it for comment will serve as an incentive for the Agency to make careful determinations as to whether this procedure is appropriate.

Regulatory Analyses and Notices

FMCSA has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. There are no costs associated with the proposed rule. There would be some cost savings in **Federal Register** publication costs and efficiencies for the public and FMCSA personnel in eliminating duplicative reviews. I certify that this rule would not have a significant impact on a substantial number of small entities. Finally, FMCSA believes there are no Federalism implications.

Paperwork Reduction Act

This proposed rulemaking contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Unfunded Mandates Reform Act

FMCSA has determined that the requirements of Title II of the Unfunded Mandates Act of 1995, do not apply to this proposed rulemaking.

Environment

FMCSA considered the environmental impacts of this proposed rulemaking under the National Environmental Policy Act of 1969, and determined it is categorically excluded from further environmental analysis under FMCSA Order 5610.1 paragraph 6.x of Appendix 2. FMCSA Order 5610.1 was published on March 1, 2004 (69 FR 9680). A Categorical Exclusion Determination is available for inspection or copying in the regulations.gov website listed under **ADDRESSES**.

List of Subjects in 49 CFR Part 389

Rulemaking procedures.

For the reasons set forth in the preamble, FMCSA proposes to amend 49 CFR part 389 as follows:

PART 389—[AMENDED]

1. The authority citation for 49 CFR part 389 is amended to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.,* subchapters I and III of chapter 311, chapter 313, and 31502; 42 U.S.C 4917; and 49 CFR 1.73.

2. Section 389.11 is revised to read as follows:

§ 389.11 General.

Except as provided in § 389.39, Direct final rulemaking procedures, unless the Administrator, for good cause, finds a rule is impractical, unnecessary, or contrary to the public interest, and incorporates such a finding and a brief statement for the reason for it in the rule, a notice of proposed rulemaking must be issued, and interested persons are invited to participate in the rulemaking proceedings involving rules under an Act.

3. Add new § 389.39 to read as follows:

§ 389.39 Direct final rulemaking procedures

A direct final rule makes regulatory changes and states that those changes will take effect on a specified date unless FMCSA receives an adverse comment or notice of intent to file an adverse comment by the s date specified in the direct final rule published in the **Federal Register**.

(a) *Types of actions appropriate for direct final rulemaking.* Rules that the Administrator determines to be non-controversial and unlikely to result in adverse public comments may be published in the final rule section of the **Federal Register** as direct final rules. These include non-controversial rules that:

(1) Make non-substantive clarifications or corrections to existing rules;

(2) Incorporate by reference the latest or otherwise updated versions of technical or industry standards;

(3) Affect internal FMCSA procedures such as filing requirements and rules governing inspection and copying of documents;

(4) Update existing forms;

(5) Make minor changes to rules regarding statistics and reporting requirements, such as a change in reporting period (for example, from quarterly to annually) or eliminating a type of data collection no longer necessary;

(b) *Adverse Comment.* An adverse comment is a comment that FMCSA judges to be critical of the rule, to suggest that the rule should not be adopted, or to suggest that a change should be made to the rule. Under the direct final rule process, FMCSA does not consider the following types of comments to be adverse:

(1) Comments recommending another rule change, in addition to the change in the direct final rule at issue, unless the commenter states that the direct final rule would be ineffective without the change;

(2) Comments outside the scope of the rule and comments suggesting that the rule's policy or requirements should or should not be extended to other Agency programs outside the scope of the rule;

(3) Comments in support of the rule; or

(4) Comments requesting clarification.

(c) *Confirmation of effective date.* FMCSA will publish a confirmation rule document in the **Federal Register**, if it has not received an adverse comment or notice of intent to file an adverse comment by the date specified in the direct final rule. The confirmation rule document tells the public the effective date of the rule.

(d) *Withdrawal of a direct final rule.*

(1) If FMCSA receives an adverse comment or a notice of intent to file an adverse comment within the comment period, it will publish a rule document in the **Federal Register**, before the effective date of the direct final rule, advising the public and withdrawing the direct final rule.

(2) If FMCSA withdraws a direct final rule because of an adverse comment, the Agency may issue a notice of proposed rulemaking if it decides to pursue the rulemaking.

Issued on: March 10, 2010.

Anne S. Ferro,

Administrator.

[FR Doc. 2010–5737 Filed 3–16–10; 8:45 am]

BILLING CODE P

Notices

Federal Register
Vol. 75, No. 51
Wednesday, March 17, 2010

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

Forest Service

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold a meeting on March 26, in Quincy, CA. The purpose of the meeting is to review applications for Cycle 10 funding and select projects to be recommended to the Plumas National Forest Supervisor for calendar year 2011 funding consideration. The funding is available under Title II provisions of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES AND ADDRESSES: The meeting will take place from 9:30–3 at the Mineral Building Plumas/Sierra County Fairgrounds, 208 Fairgrounds Road, Quincy, CA.

FOR FURTHER INFORMATION CONTACT: *(or for special needs):* Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, P.O. Box 11500/159 Lawrence Street, Quincy, CA, 95971; (530) 283–7850; or by e-mail *eatavlor@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items for the March 26 meeting include: (1) Forest Service Update; (2) Committee Review of Applications; and, (3) Recommendations for Cycle 10 funding distribution. The meetings are open to the public and individuals may address the Committee after being recognized by the Chair. Other RAC information may be obtained at *http://www.fs.fed.us/srs.*

Dated: March 8, 2010.

Mark Beaulieu,

Public Services Staff Officer.

[FR Doc. 2010–5394 Filed 3–16–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–NOP–10–0021]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

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

DATES: The meeting dates are Monday, April 26, 2010, 3 p.m. to 5 p.m.; Tuesday, April 27, 2010, 8 a.m. to 5 p.m.; Wednesday, April 28, 2010, 8 a.m. to 5 p.m.; and Thursday, April 29, 2010, 8 a.m. to 5 p.m. Requests from individuals and organizations wishing to make oral presentations at the meeting are due by the close of business on Monday, April 12, 2010.

ADDRESSES: The meeting will take place at the Heidrick Ag History Center, 1962 Hays Lane, Woodland, CA 95776.

- Requests for copies of the NOSB meeting agenda, may be sent to Ms. Valerie Frances, Executive Director, NOSB, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646–So., Ag Stop 0268, Washington, DC 20250–0268. The NOSB meeting agenda and proposed recommendations may also be viewed at *http://www.ams.usda.gov/nop.*
- Written comments on proposed NOSB recommendations must be received by the close of business, Monday, April 12, 2010. Written comments may be submitted to Ms. Valerie Frances at either the postal address above, or electronically via *http://www.regulations.gov*. The comments should identify Docket No. AMS–NOP–10–0021. It is our intention to have all comments to this notice whether they are submitted by mail or the Internet available for viewing on the *http://www.regulations.gov* Web site.
- Requests to make an oral presentation at the meeting must be received by April 12, 2010 to Ms. Valerie Frances at either the postal address above, by e-mail to *valerie.frances@ams.usda.gov*, facsimile at (202) 205–7808, or phone at (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Valerie Frances, Executive Director, NOSB, National Organic Program (NOP), (202) 720–3252, or visit the NOP Web site at: *http://www.ams.usda.gov/nop.*

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production, and to advise the Secretary on other aspects of the implementation of the OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has six subcommittees working on various aspects of the organic program. The committees are: Compliance, Accreditation, and Certification; Crops; Handling; Livestock; Materials; and Policy Development.

In August of 1994, the NOSB provided its initial recommendations for the NOP to the Secretary of Agriculture. Since that time, the NOSB has submitted 180 addenda to its recommendations and reviewed more than 357 substances for inclusion on the National List of Allowed and Prohibited Substances. The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000, (65 FR 80548). The rule became effective April 21, 2001.

In addition, the OFPA authorizes the National List of Allowed and Prohibited Substances and provides that no allowed or prohibited substance would remain on the National List for a period exceeding five years unless the exemption or prohibition is reviewed and recommended for renewal by the NOSB and adopted by the Secretary of Agriculture. This expiration is commonly referred to as sunset of the National List. The National List appears at 7 CFR Part 205, Subpart G.

The principal purposes of the NOSB meeting are to provide an opportunity for the NOSB to receive an update from the USDA/NOP and hear progress reports from NOSB committees regarding work plan items and proposed

action items. The last NOSB meeting was held on November 3–5, 2009, in Washington, DC. At its last meeting, the Board did not recommend the addition of any new materials to the National List, but did conclude its review of 11 of the 12 materials scheduled to expire after September 12, 2011. In addition to these 11 materials, there is one synthetic substance: Ferric phosphate (CAS # 10045–86–0), currently allowed for use in organic crop production, that will no longer be allowed for use after September 12, 2011. The sunset review process must be concluded no later than September 12, 2011. If renewal is not concluded by those dates, the use of these 12 materials will no longer be in compliance with the NOP.

At this meeting, the NOSB will conclude their review on the continued use of the material exemption for Ferric phosphate (CAS # 10045–86–0), with its respective annotations and limitations, currently allowed for use in organic crop production, that is scheduled to expire after September 12, 2011. Additionally, the NOSB will continue its review pertaining to the continued exemption (use) of 37 agricultural products not commercially available as organic that are scheduled to expire after June 27, 2012. These products are allowed for use in organic handling in or on processed products based on final commercial availability determinations by accredited certifying agents. The NOSB will also continue its review pertaining to the continued exemption (use) and prohibition of 182 substances used in organic production and handling that are set to sunset on October 7, 2012; the continued uses (2) for one substance in organic crop and livestock production that is due to sunset on December 11, 2012; and 10 exempted substances for use in organic livestock production that are due to sunset on December 13, 2012.

Specifically, the Crops Committee will conclude their review on the continued use of the material exemption for Ferric phosphate (CAS # 10045–86–0), with its respective annotations and limitations, currently allowed for use in organic crop production, that is scheduled to expire after September 12, 2011.

The Crops Committee will continue their review pertaining to the continued exemptions (use) for the following synthetic substances, along with any respective annotations and limitations, which are allowed for use in organic crop production per § 205.601 and are scheduled to expire after October 7, 2012: Ethanol; Isopropanol; Calcium hypochlorite; Chlorine dioxide; Sodium hypochlorite; Hydrogen peroxide; Soap-based algicide/demossers; Herbicides, soap-based; Plastic mulch and covers; Newspapers or other recycled paper, without glossy or colored inks (2 uses); Soaps, ammonium; Ammonium carbonate; Boric acid; Elemental sulfur (3 uses); Lime sulfur (2 uses); Oils, horticultural-narrow range oils as dormant, suffocating, and summer oils (2 uses); Soaps, insecticidal; Sticky traps/barriers; Pheromones; Sulfur dioxide; Vitamin D_3; Copper hydroxide; Copper oxide; Copper oxychloride; Copper sulfate (2 uses); Hydrated lime; Hydrogen peroxide; Potassium bicarbonate; Streptomycin; Aquatic plant extracts (other than hydrolyzed); Humic acids; Lignin sulfonate (2 uses); Magnesium sulfate; Soluble boron products; Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt; Liquid fish products; Vitamin B_1; Vitamin C; Vitamin E; Ethylene gas; Sodium silicate; and EPA List 4–Inerts of Minimal Concern.

The Crops Committee will continue their review pertaining to the exemption (use) of sucrose octanoate esters, currently allowed for use in organic crop production as per § 205.601, that is scheduled to expire on December 11, 2012.

The Crops Committee will continue their review pertaining to the continued prohibition of the following nonsynthetic substances, and any respective annotations, which are prohibited for use in organic crop production as per § 205.602: Ash from manure burning; Arsenic; Lead salts; Potassium chloride; Sodium fluoaluminate (mined); Sodium nitrate; Strychnine; and Tobacco dust (nicotine sulfate). The prohibition on each of these substances is scheduled to expire on October 7, 2012, after which each substance would be allowed for use in organic crop production unless the prohibition is renewed.

The Crops Committee will present a recommendation on production standards for terrestrial plants in containers and enclosures. The Committee will also present a recommendation offering guidance regarding the use of inerts in pesticide formulations due to their reassessment under the Food Quality Protection Act (FQPA) recently completed by the Environmental Protection Agency (EPA).

The Livestock Committee will present their recommendation on synthetic substances petitioned for continued use as per § 205.603 (d): As feed additives: (1) DL–Methionine, DL–Methionine—hydroxy analog, and DL–Methionine—hydroxy analog calcium (CAS #–59–51–8; 63–68–3; 348–67–4)—for use only in organic poultry production until October 1, 2010, that is scheduled to expire after October 1, 2010.

The Livestock Committee will continue their review pertaining to the continued exemption (use) of the following synthetic substances, with their respective annotations and limitations, which are allowed for use in organic livestock production as per § 205.603, and which are scheduled to expire after October 7, 2012: Ethanol; Isopropanol; Aspirin; Vaccines; Chlorhexidine; Calcium hypochlorite. Chlorine dioxide; Sodium hypochlorite; Electrolytes; Glucose; Glycerine; Hydrogen peroxide; Iodine (2 uses); Magnesium sulfate; Oxytocin; Ivermectin; Phosphoric acid; Copper sulfate; Lidocaine; Lime, hydrated; Mineral oil; Procaine; Trace minerals; Vitamins; EPA List 4—Inerts of Minimal Concern. The committee will continue its review pertaining to the continued exemption (use) of sucrose octanoate esters for use in organic livestock production scheduled to expire on December 11, 2012

The Livestock Committee will continue their review pertaining to the continued exemptions (use) of the following synthetic substances, with their respective annotations and limitations, that are allowed for use in organic livestock production as per § 205.603, and which are scheduled to expire after December 13, 2012: Atropine (CAS #–51–55–8); Butorphanol (CAS #–42408–82–2); Flunixin (CAS #–38677–85–9); Furosemide (CAS #–54–31–9); Magnesium hydroxide (CAS #–1309–42–8); Peroxyacetic/Peracetic acid (CAS #– 79–21–0); Poloxalene (CAS #–9003–11–6); Tolazoline (CAS #–59–98–3); Xylazine (CAS #–7361–61–7); and Excipients.

The Livestock Committee will continue their review pertaining to the continued prohibition of the nonsynthetic substance, Strychnine, as per § 205.604. Strychnine is scheduled to expire and be allowed for use in organic livestock production after October 7, 2012.

The Livestock Committee will also present their recommendations clarifying the definition and uses of animal health care products.

The Handling Committee will continue their review pertaining to the continued exemption (use) of the nonorganically produced agricultural products allowed as ingredients, with their respective annotations and limitations, in or on processed products labeled as "organic" as per § 205.606 when the organic version is not

commercially available. These exemptions are scheduled to expire after June 27, 2012.

The following are allowed as color ingredients from agricultural products: Annatto extract color (pigment CAS # 1393–63–1)—water and oil soluble; Beet juice extract color (pigment CAS # 7659–95–2); Beta-Carotene extract color from carrots (CAS # 1393–63–1); Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Black/Purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Carrot juice color (pigment CAS # 1393–63–1); Cherry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Paprika color—dried powder and vegetable oil extract (CAS # 68917–78–2); Pumpkin juice color (pigment CAS # 127–40–2); Purple potato juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Red radish extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Saffron extract color (pigment CAS # 1393–63–1), and Turmeric extract color (CAS # 458–37–7).

The following are allowed as ingredients or processing aids from agricultural products: Casings, from processed intestines; Celery powder; Chia (*Salvia hispanica L.*); Dillweed oil (CAS # 8006–75–5); Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8); Fructooligosaccharides (CAS # 308066–66–2); Galangal, frozen; Gelatin (CAS # 9000–70–8); Hops (*Humulus lupulus*); Inulin, oligofructose enriched (CAS # 9005–80–5); Konjac flour (CAS # 37220–17–0); Lemongrass, frozen; Orange shellac, unbleached (CAS # 9000–59–3); Pepper, chipotle chile; Sweet potato starch, for bean thread production only; Turkish bay leaves; Wakame seaweed (*Undaria pinnatifida*); and Whey protein concentrate.

The Handling Committee will continue their review pertaining to the continued exemption (use) of the following nonagricultural (nonorganic) substances allowed as ingredients, with their respective annotations and limitations, in or on processed products labeled as "organic" or "made with organic (specified ingredients or food groups(s)) as per § 205.605 as (a) Nonsynthetics allowed: Acids (Alginic; Citric; and Lactic); Bentonite; Calcium carbonate; Calcium chloride; Carageenan; Dairy cultures; Diatomaceous earth; Enzymes; Flavors; Kaolin; Magnesium sulfate; Nitrogen; Oxygen; Perlite; Potassium chloride; Potassium iodide; Sodium bicarbonate; Sodium carbonate; Waxes; Yeast (Autolysate; Bakers; Brewers; Nutritional; and Smoked). The exemption for each of these substances is scheduled to expire after October 7, 2012.

The Handling Committee will continue their review pertaining to the continued exemption (use) of the following nonagricultural (nonorganic) substances allowed as ingredients, with their respective annotations and limitations, in or on processed products labeled as "organic" or "made with organic (specified ingredients or food groups(s)) as per § 205.605 as (b) Synthetics allowed: Alginates; Ammonium bicarbonate; Ammonium carbonate; Ascorbic acid; Calcium citrate; Calcium hydroxide; Calcium phosphates (monobasic, dibasic, and tribasic); Carbon dioxide; Chlorine materials (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite); Ethylene; Ferrous sulfate; Glycerides (mono and di); Glycerin; Hydrogen peroxide; Magnesium carbonate; Magnesium chloride; Magnesium stearate; Nutrient vitamins and minerals; Ozone; Pectin (low-methoxy); Phosphoric acid; Potassium acid tartrate; Potassium carbonate; Potassium citrate; Potassium hydroxide; Potassium iodide; Potassium phosphate; Silicon dioxide; Sodium citrate; Sodium hydroxide; Sodium phosphates; Sulfur dioxide; Tocopherols; and Xanthan gum. The exemption for each of these substances is scheduled to expire after October 7, 2012.

The Handling Committee will continue their review pertaining to the continued exemption (use) of the nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as "organic" as per § 205.606 and any respective annotations and limitations, when an organic version is not commercially available: Cornstarch (native); Gums-water extracted only (arabic, guar, locust bean, carob bean); Kelp; and Pectin (high-methoxy). The exemption for each of these substances is scheduled to expire after October 7, 2012.

The Compliance, Accreditation, and Certification Committee will present their recommendation to the NOP for use as guidance regarding the use of inert atmospheric gases in processed products labeled as 100% Organic.

The Materials and Handling Committees will jointly present their recommendations to the NOP to clarify the definitions of the National List.

The Policy Development Committee will present their recommendation regarding a revision to the NOSB Policy and Procedures Manual.

The Meeting is Open to the Public. The NOSB has scheduled time for public input for Tuesday, April 27, 2010, from 8 a.m. to 5 p.m. Individuals and organizations wishing to make oral presentations at the meeting must forward their requests by mail, facsimile, e-mail, or phone to Ms. Valerie Frances as listed in **ADDRESSES** above. Individuals or organizations will be given approximately five minutes to present their views. All persons making oral presentations are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation. Anyone may submit written comments at the meeting. Persons submitting written comments are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site at *http://www.ams.usda.gov/nop* to view available meeting documents prior to the meeting, or visit *http://www.regulations.gov* to submit and view comments as provided for in **ADDRESSES** above. Documents presented at the meeting will be posted for review on the NOP website approximately six weeks following the meeting.

Dated: March 11, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–5771 Filed 3–16–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Channel Islands National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONNS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONNS is seeking applications for the following vacant seats on the Channel Islands National Marine Sanctuary Advisory Council: Tourism alternate, Recreational Fishing member and alternate, Education member and alternate, Public at Large alternates (2), Chuinash Community member and alternate, Business alternate, and Commercial Fishing alternate. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; views regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve 2-year terms, pursuant to the council's Charter.

DATES: Applications are due by April 23, 2010.

ADDRESSES: Application kits may be obtained from *http://www.channelislands.noaa.gov/sac/news.html.* Completed applications should be sent to *Danielle.lipski@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Murray, Channel Islands National Marine Sanctuary, 113 Harbor Way Suite 150 Santa Barbara, CA 93109–2315, 805–966–7107 extension 464, *michael.murray@noaa.gov.*

SUPPLEMENTARY INFORMATION: The CINNS Advisory Council was originally established in December 1998 and has a broad representation consisting of 21 members, including ten government agency representatives and eleven members from the general public. The Council functions in an advisory capacity to the Sanctuary Superintendent. The Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Office National Marine Sanctuaries. Specifically, the Council's objectives are to provide advice on: (1) Protecting natural and cultural resources and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) identifying and realizing the Sanctuary's research objectives; (3) identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the Office of National Marine Sanctuaries.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 3, 2010.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Oceanic Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–5542 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1666]

Expansion/Reorganization of Foreign-Trade Zone 149; Port Freeport, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, Port Freeport, grantee of Foreign-Trade Zone 149, submitted an application to the Board for authority to expand FTZ 149 to include two sites in Fort Bend County, Texas, adjacent to the Freeport Customs and Border Protection port of entry (FTZ Docket 69–2008, filed 12/11/2008, amended 7/31/2009);

Whereas, notice inviting public comment has been given in the **Federal Register** (73 FR 78289, 12/22/2008 and 74 FR 42050, 8/20/2009) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 149 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and further subject to a sunset provision that would terminate authority on February 28, 2017 for Sites 11 and 12 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, February 23, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2010–5829 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews

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

SUMMARY: The Department of Commerce ("Department") has conducted an administrative review and two new shipper reviews of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam"). *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) ("*Order*"). The administrative review and new shipper reviews include four companies, the mandatory respondents, QVD Food Company Ltd. ("QVD"),[1] and

[1] The Department is treating QVD, QVD Dong Thap Food Co., Ltd. ("QVD DT"), and Thuan Hung Co., Ltd. ("Thuan Hung") as a single entity in these final results. Similarly, the Department is treating Vinh Hoan, Vinh Hoan USA Inc. ("Vinh Hoan USA"), and Van Duc Food Export Joint Stock Company ("Van Duc") as a single entity. Section 351.401(f) of the Department's regulations define single entities as those affiliated producers who have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Reviews and Fifth Antidumping Duty Administrative Review*, 74 FR 45805 (September 4, 2009) ("Preliminary Results").

Vinh Hoan Corporation ("Vinh Hoan"), and the two new shipper review companies, are Saigon–Mekong Fishery Co., Ltd. ("SAMEFICO"), and Cadovimex II Seafood Import–Export & Processing Joint Stock Company ("Cadovimex II"). We preliminarily found that QVD, Vinh Hoan, SAMEFICO, and Cadovimex II, did not sell subject merchandise at less than normal value ("NV") and thus received zero margins during the period of review ("POR"), August 1, 2007, through July 31, 2008. *See Preliminary Results*. We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the dumping margin calculations for the final results.[2] The final dumping margins are listed below in the section entitled "Final Results of the Reviews."

DATES: *Effective Date:* March 17, 2010.

FOR FURTHER INFORMATION CONTACT: Alan Ray (QVD), Javier Barrientos (Vinh Hoan), Alexis Polovina (SAMEFICO), and Tim Lord (Cadovimex II) Office 9, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–5403, (202) 482–2243, (202) 482–3927, and (202) 482–7425, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On September 4, 2009, the Department published in the **Federal Register** the preliminary results of these new shipper and administrative reviews of the antidumping duty order on certain frozen fish fillets from Vietnam. Since the *Preliminary Results*, the following events have occurred.

On October 2, 2009, Petitioners[3] and Respondents submitted additional surrogate value information. On October 13, 2009, Petitioners and Respondents submitted rebuttal surrogate value information.

On October 30, 2009, Petitioners and Respondents submitted case briefs and rebuttal briefs on November 10, 2009.

On December 23, 2009, the Department extended the time limit for completion of the final results of this administrative review and new shipper reviews by 60 days. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the New Shipper and Fifth Antidumping Duty Administrative Review*, 74 FR 68228 (December 23, 2009).

On January 11, 2010, the Department solicited additional information from East Sea Seafoods LLC ("ESS LLC"). On January 20, 2010, ESS LLC submitted the additional information. On January 29, 2010, and February 16, 2010, Petitioners and ESS LLC, respectively, submitted additional comments regarding ESS LLC's January 20, 2010 data.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the final results of this administrative review is now March 10, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm, dated February 12, 2010.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact ("regular" fillets), boneless fillets with the belly flap removed ("shank" fillets), boneless shank fillets cut into strips ("fillet strips/finger"), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly–flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone–in, cross-section cuts of dressed fish. Nuggets are the belly–flaps.

The subject merchandise will be hereinafter referred to as frozen "basa" and "tra" fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 1604.19.4000, 1604.19.5000, 0305.59.4000, 0304.29.6033 (Frozen Fish Fillets of the species Pangasius including basa and tra) of the Harmonized Tariff Schedule of the United States ("HTSUS").[4] The order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum ("Final Decision Memo"), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this administrative review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit ("CRU"), room 1117 of the main Department building. In addition, a copy of the Final Decision Memo can be accessed directly on our website at http://ia.ita.doc.gov/. The paper copy and electronic version of the Final Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to the margin calculation for QVD, Vinh Hoan, SAMEFICO and Cadovimex II for the final results. For all changes to the calculations of QVD, Vinh Hoan,

[2] *See* Memorandum to the File from Alan Ray, Case Analyst, through Alex Villanueva, Program Manager, Final Results Analysis for QVD Food Company Ltd. and its Affiliates ("QVD") (March 10, 2010); Memorandum to the File from Javier Barrientos, Senior Case Analyst, through Alex Villanueva, Program Manager, Final Results Analysis for Vinh Hoan Corporation ("Vinh Hoan") (March 10, 2010); Memorandum to the File from Alexis Polovina, Case Analyst, through Alex Villanueva, Program Manager, Final Results Analysis for Saigon-Mekong Fishery Co., Ltd. ("SAMEFICO") (March 10, 2010); and Memorandum to the File from Tim Lord, Case Analyst, through Alex Villanueva, Program Manager, Final Results Analysis for Cadovimex II Seafood Import-Export & Processing Joint Stock Company ("Cadovimex II") (March 10, 2010).

[3] The Catfish Farmers of America and individual U.S. catfish processors, America's Catch, Consolidated Catfish Companies, LLC dba Country Select Catfish, Delta Pride Catfish, Inc., Harvest Select Catfish, Inc., Heartland Catfish Company, Pride of the Pond, Simmons Farm Raised Catfish, Inc., and Southern Pride Catfish Company LLC ("Petitioners").

[4] Until July, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS.

SAMEFICO, and Cadovimex II, *see* the Final Decision Memo and company specific analysis memoranda. For changes to the surrogate values see Memorandum to the File, through Alex Villanueva, Program Manager, AC/CVD Operations, Office 9, from Alexis Polovina, case analyst, AD/CVD Operations, Office 9, New Shipper Review and Fifth Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Final Results.

FINAL Results of the Reviews

The weighted–average dumping margins for the POR are as follows:

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/Exporter	Weighted–Average Margin (Dollars Per Kilogram)
QVD	0.00
Vinh Hoan	0.00
SAMEFICO	0.00
Cadovimex II	0.00
Agifish[6]	0.02
East Sea Joint Venture Company ("ESS JVC")	0.02
Vietnam–Wide Entity[7]	2.11

[6] In this proceeding, there are two eligible separate-rate respondents, Agifish and ESS JVC, who were not selected as mandatory respondents. Accordingly, the rate calculated for Agifish and ESS JVC is the assigned non-de minimis per-unit rate of $0.02 per kilogram that Agifish recently received in the most recently completed administrative review. *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from Vietnam* ("4th AR Final"), 74 FR 17816 (April 17, 2009). *See also* the *Rate for Non-Selected Companies* section in the *Preliminary Results* for a discussion the selection of this rate.

[7] Which includes ESS LLC. *See* accompanying Issue and Decision Memorandum at Comment 7.

Assessment

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). We have calculated importer–specific duty assessment rates on a per–unit basis.[8] In this and future reviews, we will direct CBP to assess importer–specific assessment rates based on the resulting per–unit (*i.e.*, per–kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of these administrative and new shipper reviews.

With respect to ESS JVC, the Department will instruct CBP to asses $0.02 per kilogram on all appropriate entries, pursuant to 19 CFR 351.212(b) made during the POR up to June 17, 2008, the effective date of the name change from ESS JVC to ESS LLC. For a detailed explanation, please the Final Decision Memo at Comment 7. Any entries made after June 17, 2008, by ESS JVC will be assessed at the Vietnam–wide entity rate of $2.11 per kilogram.

With respect to ESS LLC, the Department shall instruct CBP to assess $2.11 per kilogram on all appropriate entries, pursuant to 19 CFR 351.212(b) made during the POR as it is currently not under administrative review and remains part of the Vietnam–wide entity.

Cash Deposit Requirements

The following cash–deposit requirements will be effective upon publication of the final results of these administrative and new shipper reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for each of the reviewed companies that received a separate rate in this review will be the rate listed in the final results of review (except that if the rate for a particular company is *ide minimis, i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period of review; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the Vietnam–wide rate of $2.11 per kilogram. These deposit requirements, when imposed, shall remain in effect until further notice.

The cash deposit rate for any future entries made under the name of ESS JVC will be $2.11 per kilogram because we have determined that ESS JVC ceased to exist as of June 17, 2008. *See id.*

Reimbursement of Duties

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

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results of these administrative and new shipper reviews and notice in accordance with sections 751(a)(1) and (2) and 777(i) of the Act.

Dated: March 10, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I - Decision Memorandum

Comment 1: Surrogate Country
Comment 2: Surrogative Values
A. Whole Live Fish
B. Broken Fillets
C. Fish Waste
D. Cold Storage
E. Containerization
F. Salt
G. Ice
H. Labor.
I. Comtrade Data
J. Carton/Boxes
Comment 3: Zeroing
Comment 4: Vinh Hoan
A. Collapsing
B. Marine Insurance
Comment 5: QVD (Sales of Sample Sales)
Comment 6: CADOVIMEX–II
A. Deduction of INLFPWUWOG
B. Inflation of Certain Surrogate Values
Comment 7: Appropriate Rate for East Sea Seafood JVC/East Sea Seafood LLC

[FR Doc. 2010–5853 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–S

[8] We divided the total dumping margins (calculated as the difference between NV and EP or CEP) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU95

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of EFP applications; request for comments.

SUMMARY: NMFS announces the receipt of exempted fishing permit (EFP) applications, and is considering issuance of EFPs for vessels participating in the EFP fisheries. The EFPs are necessary to allow activities that are otherwise prohibited by Federal regulations. The EFPs will be effective no earlier than April 1, 2010, and would expire no later than April 31, 2011, but could be terminated earlier under terms and conditions of the EFPs and other applicable laws.

DATES: Comments must be received no later than 5 p.m., local time on April 1, 2010.

ADDRESSES: You may submit comments, identified by 0648–XU95, by any one of the following methods:

- Fax: 206–526–6736, Attn: Kevin Duffy.
- Mail: Barry A. Thom, Acting Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Kevin Duffy.

FOR FURTHER INFORMATION CONTACT: To view copies of the 2010 EFP applications, visit the Pacific Council website at *www.pcouncil.org* and browse the "November 2009 Briefing Book"; or contact Kevin Duffy (Northwest Region, NMFS), phone: 206–526–4743, fax: 206–526–6736.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson-Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745, which states that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the November 2009 Pacific Fishery Management Council (Council) meeting in Costa Mesa, CA, the Council considered applications for five EFPs from: (1) The Nature Conservancy (TNC) and their collaborators; (2) the California Recreational Fishing Alliance (RFA) and Golden Gate Fisherman's Association; (3) the Oregon RFA; (4) Steven Fosmark; and (5) the Oregon Department of Fish and Wildlife (ODFW). An opportunity for public testimony was provided during the Council meeting. For more details on these EFP applications and to view copies of the applications, see the Pacific Council's website at *www.pcouncil.org* and browse the "November 2009 Briefing Book." The Council recommended that NMFS consider issuing the following EFPs. The Council also recommended a change from the previous years to allow some EFPs, if approved, to span across a calendar year for business and logistical reasons. EFP reporting requirements, in these cases, will be adjusted to ensure reporting consistent with past practice, and an EFP will not be valid for more than 12 consecutive months.

Community-Based Fishing Association EFP

TNC submitted a proposal for a 2010 EFP, along with their collaborators: City of Morro Bay Harbor Department; Port San Luis Commercial Fishermen's Association; Port San Luis Harbor District; California Department of Fish and Game; Morro Bay Commercial Fishermen's Organization, Inc.; and Environmental Defense. The primary purpose of the EFP is to test whether establishing a cooperatively managed, community-based fishing association can provide economic and environmental performance benefits.

Recreational Chilipepper EFP

The California RFA and the Golden Gate Fishermen's Association submitted an application for a 2010 EFP. The primary purpose of the EFP is to do an area-based recreational fishing study to test if hook-and-line fishing gear can be used to access underutilized chilipepper rockfish seaward of the non-trawl RCA, while keeping bycatch of overfished species low.

Recreational Yellowtail EFP

The Oregon RFA submitted an application for a 2010 EFP. The primary purpose of the EFP is to test if recreational fishing gear, fitted with a long leader to keep gear up off the ocean floor, can be used to access underutilized yellowtail rockfish, while keeping bycatch of overfished species low.

Commercial Chilipepper EFP

Steven Fosmark submitted an application for a 2010 EFP. The primary purpose of the EFP is to test if a specific longline gear configuration can be used in the commercial fishery to target underutilized chilipepper rockfish, while keeping bycatch of overfished species low.

ODFW EFP

An EFP sponsored by the ODFW will allow selected Oregon charterboats to retain incidentally-caught yelloweye rockfish to be forfeited to the state. The objective of this EFP is to collect biological samples to inform future yelloweye rockfish stock assessments.

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

Dated: March 11, 2010.

Emily H. Menashes,

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

[FR Doc. 2010–5741 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 15–2010]

Foreign-Trade Zone 133—Quad-Cities, Iowa/Illinois; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Quad-City Foreign Trade Zone, Inc., grantee of FTZ 133, requesting authority to expand the zone within the Davenport-Rock Island-Moline Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 5, 2010.

FTZ 133 was approved on October 29, 1986 (Board Order 338, 51 FR 40238, 11/5/86). After a subsequent minor boundary modification was approved on June 27, 1997 (A(27f)–26–1997), the general-purpose zone currently consists of 23-acres within the River Cities Business Park, located at 200 East 90th Street, Davenport (Scott County), Iowa.

The applicant is now requesting authority to expand the existing site and to include four additional sites in the area: *Existing Site 1*—expand to include the entire River Cities Business Park (223 acres); *Proposed Site 2* (33 acres)—within Rock Island Arsenal, located at 1775 East Street, Rock Island (Rock Island County), Illinois; *Proposed Site 3* (55 acres)—warehouse complex owned by Modern Warehousing, LLC, located at 801 1st Street East, Milan (Rock Island County), Illinois; *Proposed Site 4* (200 acres)—Eastern Iowa Industrial Center, located northeast of Interstate 80 and Highway 130, Davenport (Scott

County), Iowa; and; *Proposed Site 5* (187 acres)—Iowa Research Commerce & Technology Park, located northwest of Interstate 80 and Highway 61, Davenport (Scott County), Iowa. The sites will provide warehousing and distribution services to area businesses.

No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Claudia Hausler of the FTZ staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipts is May 17, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 1, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Claudia Hausler at *Claudia.Hausler@trade.gov* or 202–482–1379.

Dated: March 5, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5852 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 41–2009]

Foreign-Trade Zone 158—Vicksburg/Jackson, MS; Amendment to Application for Subzone; Max Home, LLC (Upholstered Furniture); Fulton and Iuka, MS

A request has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Mississippi Foreign-Trade Zone, Inc. (GMFTZ), grantee of FTZ 158, to amend its application requesting special-purpose subzone status for the upholstered furniture manufacturing facilities of Max Home, LLC (Max Home), located in Fulton and Iuka, Mississippi. The application was docketed under 41–2009 on October 6, 2009 (74 FR 52454, 10–13–09).

GMFTZ is now requesting to add a third site to the proposed subzone plan. The additional manufacturing plant and warehouse (100 employees/26 acres/160,000 sq. ft.) are located at 1313 Sandlin Road, Fulton, Mississippi. The facility will be used to produce cut-and-sewn upholstery covers and finished upholstered furniture (chairs, seats, sofas, sleep sofas, and sectionals). The additional production capacity at the new site in Fulton would add 100,000 pieces to the applicant's proposed scope of authority (new total capacity—270,000 pieces annually).

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002. The closing period for receipt of comments is April 16, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 3, 2010.

A copy of the application amendment will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the address listed above and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: March 12, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5820 Filed 3–16–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 17–2010]

Foreign-Trade Zone 163—Ponce, Puerto Rico; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by CODEZOL, C.D., grantee of FTZ 163, requesting authority to expand its zone to include an additional site in the Ponce, Puerto Rico area, within the Ponce Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 8, 2010.

FTZ 163 was approved on October 18, 1989 (Board Order 443, 54 FR 46097, 11/01/89) and expanded on April 18, 2000 (Board Order 1091, 65 FR 24676, 4/27/00), on June 9, 2005 (Board Order 1397, 70 FR 36117, 6/22/05), on July 26, 2006 (Board Order 1467, 71 FR 44996, 8/8/06), on November 9, 2006 (Board Order 1487, 71 FR 67098, 11/20/06), and on June 26, 2009 (Board Order 1631, 74 FR 34306, 7/15/09).

The zone project currently consists of the following sites in Puerto Rico: Site 1 (106 acres)—within the Port of Ponce area, including a parcel (11 acres) located at 3309 Avenida Santiago de Los Caballeros, Ponce; Site 2 (191 acres, 5 parcels)—Peerless Oil & Chemicals, Inc., Petroleum Terminal Facilities located at Rt. 127, Km. 17.1, Penuelas; Site 3 (13 acres, 2 parcels)—Rio Piedras Distribution Center located within the central portion of the Quebrada Arena Industrial Park, and the Hato Rey Distribution Center located within the northeastern portion of the Tres Monjitas Industrial Park, San Juan; Site 4 (14 acres)—warehouse facility located at State Road No. 3, Km. 1401, Guayama; Site 5 (256 acres, 34 parcels)—located at Mercedita Industrial Park at the intersection of Route PR–9 and Las Americas Highway, Ponce; Site 6 (86 acres)—Coto Laurel Industrial Park located at the southwest corner of the intersection of Highways PR–56 and PR–52, Ponce; Site 7 (17 acres)—warehouse facility located at State Road No. 1, Km 21.1, Guaynabo; Site 8 (5 acres)—warehouse facility located at 42 Salmon Street, Ponce; Site 9 (6 acres)—warehouse facility located on PR Highway 2, at Km.165.2, Hormigueros; and, Site 10 (6 acres)—warehouse facility at #1 Flamboyances Avenue, Road 506 and Rt.14, Coto Laurel Ward, Ponce. An application is pending as the applicant has requested authority (74 FR 62747, 12/01/09) to expand Site 1 to include 3 additional parcels and to add Site 11.

The applicant is now requesting authority to include the following site: *Proposed Site 12* (6 acres)—Yaucono Industrial Park, 2822 Las Americas Ave., Ponce. The site will provide public warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate

and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 17, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 1, 2010).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or 202–482–1346.

Dated: March 8, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5842 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 13–2010]

Foreign-Trade Zone 204—Tri-Cities Area, Tennessee/Virginia; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Tri-Cities Airport Commission, grantee of FTZ 204, requesting authority to expand its zone to include a site in Bristol, Tennessee in the Tri-Cities Area, Tennessee/Virginia, adjacent to the Tri-Cities Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 4, 2010.

FTZ 204 was approved on October 18, 1994 (Board Order 706, 59 FR 54432, 10/31/94) and expanded on June 7, 2002 (Board Order 1233, 67 FR 41393, 06/18/02).

The zone project currently consists of the following sites in the Tri-Cities Area of Tennessee and Virginia: Site 1 (977 acres)—within the Tri-Cities Regional Airport complex, Blountville (Sullivan County), Tennessee; Site 2 (26 acres)—402 Steel Street, Johnson City (Washington County), Tennessee; Site 3 (330 acres)—Northeast Tennessee Business Park, adjacent to the Tri-Cities Regional Airport, at the intersection of TN 357 and Highway 75, Kingsport (Sullivan County), Tennessee; Site 4 (129 acres)—Bristol Tennessee Industrial Park, Bristol (Sullivan County), Tennessee; Site 5 (799 acres)—Tri-County Industrial Park, Piney Flats (Sullivan County), Tennessee; Site 6 (206 acres)—Regional Med-Tech Center, Johnson City (Washington County), Tennessee; Site 7 (103 acres)—Linden/Hairston Industrial Park, Linden Drive at Bonham Rd., Bristol, Virginia; Site 8 (2,100 acres)—Holston Business and Technology Park, 4509 West Stone Drive, Kingsport (Hawkins County), Tennessee; Site 9 (134 acres)—Washington County Industrial Park, Cherry Hill Road, Johnson City (Washington County), Tennessee; and, Site 10 (113 acres)—within the 306-acre Oak Park Industrial Park, Westinghouse Road and Oak Park Drive, Washington County, Virginia (expires 8/31/12).

The applicant is requesting authority to expand the zone to include an additional site in the Tri-Cities area: *Proposed Site 11* (226 acres)—Partnership Park II, 2504 Weaver Pike, Bristol, Tennessee. The site will provide public warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 17, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 1, 2010).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or 202–482–1346.

Dated: February 24, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5850 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Foreign-Trade Zone 50—Long Beach, CA; Site Renumbering Notice

Foreign-Trade Zone 50 was approved by the Foreign-Trade Zones Board on September 14, 1979 (Board Order 147), and expanded on April 2, 1985 (Board Order 298), on March 25, 1987 (Board Order 341), on December 19, 1990 (Board Order 494), on July 16, 1996 (Board Order 833), on January 16, 2001 (Board Order 1141), and on March 11, 2004 (Board Order 1319).

FTZ 50 currently consists of 7 "Sites" totaling some 2,330 acres in the Long Beach/Los Angeles area. The current update does not alter the physical boundaries that have previously been approved, but instead involves an administrative renumbering of the existing sites (with the exception of Sites 4 and 6) to separate unrelated, non-contiguous sites for record-keeping purposes.

Under this revision, the site list for FTZ 50 will be as follows: *Site 1* (8 acres)—909 East Colon Street, Wilmington; *Site 2* (1,844 acres)—California Commerce Center, Ontario; *Site 3* (68 acres)—within the Inter-City Commuter Station Redevelopment area located at 1000 E. Santa Ana Boulevard, Santa Ana; *Site 4* (175 acres)—within the 2,300-acre San Bernardino International Airport and Trade Center complex located at 225 North Leland Norton Way (1 acre), 255 South Leland Norton Way (2 acres), Perimeter Road (33 acres), Mill Street (19 acres), Central Avenue (32 acres) and 300 South Tippecanoe Avenue at East Mill Street (88 acres), San Bernardino; *Site 5* (5 acres)—10501 and 10509 East Valley Boulevard at Pacific Place, El Monte; *Site 6* (50 acres)—former General Dynamics/Hughes facility north of Mission Boulevard between Humane Way and Dudley Street, Pomona; *Site 7*—(1 acre) at the intersection of San Marino Avenue, Broadway and Clary Avenues, San Gabriel; *Site 8* (4 acres)—22941 South Wilmington Avenue,

Carson; *Site 9* (30 acres)—2560 East Philadelphia Street, Ontario; *Site 10* (48 acres)—Ontario Ridge Commerce Center located at 3625 and 3655 East Philadelphia Street and 2055 South Haven Street, Ontario; *Site 11* (33 acres)—4100 East Mission Boulevard, Ontario; *Site 12* (32 acres)—1661 and 1777 South Vintage Avenue and 1670 Champagne Avenue, Ontario; *Site 13* (7 acres)—2530 South Birch Street, Santa Ana; *Site 14* (7 acres)—3000 and 3100 Segerstrom Avenue, Santa Ana; *Site 15* (9 acres)—2900 and 2930 South Fairview Street, Santa Ana; *Site 16* (1 acre)—3630 West Gary Avenue, Santa Ana; *Site 17* (6 acres)—1101 West McKinley Avenue (Buildings 4, 5, 7, 8 & 22); and, *Site 18* (2 acres)—at the intersection of Santa Anita and Junipero Serra Streets, San Gabriel.

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: March 5, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5828 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[T–2–2009]

Foreign-Trade Zone Subzone 33E—Mount Pleasant, PA; Temporary/Interim Manufacturing Authority; DNP IMS America Corporation (Thermal Transfer Ribbon Printer Rolls); Notice of Approval

On December 10, 2009, an application was filed by the Executive Secretary of the Foreign-Trade Zones (FTZ) Board submitted by the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of FTZ 33, requesting temporary/interim manufacturing (T/IM) authority, on behalf of DNP IMS America Corporation to manufacture thermal transfer ribbon printer rolls under FTZ procedures within SZ 33E in Mount Pleasant, Pennsylvania.

The application was processed in accordance with T/IM procedures, as authorized by FTZ Board Orders 1347 (69 FR 52857, 8/30/04) and 1480 (71 FR 55422, 9/22/06), including notice in the **Federal Register** inviting public comment (74 FR 66617, 12/16/09). The foreign-origin component approved for this activity is master rolls of thermal transfer ribbon (HTSUS 3702.39). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. Pursuant to the authority delegated to the FTZ Board Executive Secretary in the above-referenced Board Orders, the application is approved, effective this date, until March 5, 2011, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: March 5, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5822 Filed 3–16–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 16–2010]

Foreign-Trade Zones 73 and 74; Application for Manufacturing Authority; The Belt's Corporation (Kitting of Liquor Gift Sets); Elkridge and Baltimore, MD

An application has been submitted to the Foreign-Trade Zones Board (the Board) by The Belt's Corporation (TBC), an operator of FTZs 73 and 74, requesting manufacturing authority at sites within FTZs 73 and 74 in Elkridge and Baltimore, Maryland. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 5, 2010.

The TBC facility in FTZ 73 (32 employees, 3,300,000 unit gift set capacity) is located within Site 3 in Elkridge, Maryland. The facility in FTZ 74 (36 employees, 674,159 unit gift set capacity) is located within Site 13 in Baltimore, Maryland. The facilities are used for the kitting of imported liquor gift sets on behalf of TBC customers. Components and materials sourced from abroad (representing 65% of the value of the finished kits) include glassware and stainless steel metal cradles for large bottles (duty rate ranges from 2 to 22.5%).

FTZ procedures could exempt TBC customers from customs duty payments on foreign components used in any future export production. On domestic sales, TBC customers would be able to choose the duty rates during customs entry procedures that apply to the finished whiskey, gin, vodka or cognac gift sets (duty-free) for the foreign inputs noted above. FTZ designation would further allow TBC customers to realize logistical benefits through the use of weekly customs entry procedures. Customs duties also could possibly be deferred or reduced on foreign status production equipment. The request indicates that the savings from FTZ procedures would help improve the facilities' international competitiveness.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 17, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 1, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's website, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: March 5, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–5825 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU67

Marine Mammals; File No. 14142

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Niladri Basu, Ph.D., Department of Environmental Health Sciences, University of Michigan, 109 South Observatory Road, Ann Arbor, MI 48109–2029, has been issued a scientific research permit to import marine mammal specimens for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On January 28, 2009, notice was published in the **Federal Register** (74 FR 4945) that a request for a scientific research permit had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit authorizes the importation of marine mammal tissues (brain, liver, muscle, kidney, skin) from up to 100 individuals (hunter-killed, stranded) collected by colleagues at the National Environmental Research Institute of Denmark (Roskilde, Denmark) from each of the following marine mammal species taken in Greenland, Faroe Islands, or Denmark: ringed seal (*Phoca hispida*), pilot whale (*Globicephala melas*), hooded seal (*Cystopora cristata*), harp seal (*Pagophilus groenlandicus*), narwhal (*Monodon monoceros*), beluga (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), harbor seal (*Phoca vitulina*), and grey seal (*Haliocherus grypus*). This permit does not include authorization for takes of live animals or the incidental take of non-target species. This permit will expire 5 years from date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: March 11, 2010.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–5838 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV15

Marine Mammals; File No. 14802

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the Oregon Coast Aquarium, 2820 S.E. Ferry Slip Road, Newport, OR 97365, has been issued a permit to import up to eight non-releasable harbor seals (*Phoca vitulina*) for the purposes of public display.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kristy Beard, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On October 8, 2009, notice was published in the **Federal Register** (74 FR 51836) that a request for a public display permit to import up to eight non-releasable harbor seals (Phoca vitulina; two male, six females) from the Vancouver Aquarium Science Center, Vancouver, British Columbia, Canada to the Oregon Coast Aquarium, had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: March 11, 2010.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–5836 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV25

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting to receive public input on longline fishery issues and the future of longline fisheries in the Western Pacific Region.

DATES: The meeting will be held on April 6 and 7, 2010, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Council Office Conference Room, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The meeting will include overviews of the current longline fisheries in Hawaii, American Samoa and in the Commonwealth of the Northern Marianas, longline fishermen's views on fishery issues and challenges, recent Council actions affecting longline fisheries, review of limited entry programs and potential modifications, observer programs, vessel monitoring systems, catch shares, ecosystem changes and impacts on longline fisheries, and emerging international fishery arrangements and longline fisheries. No issues will be the subject of formal action during this meeting. This meeting is for gathering information only, and participants will not be asked to generate recommendations or advice or attempt to reach consensus on any longline fishery issue.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those

issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: March 12, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–5780 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–813]

Honey from Argentina: Rescission of Countervailing Duty Administrative Review

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

EFFECTIVE DATE: March 17, 2010.

FOR FURTHER INFORMATION CONTACT: Toni Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1398.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2009, the Department published a notice of opportunity to request an administrative review of the countervailing duty order on honey from Argentina. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 62743 (December 1, 2009). On December 31, 2009, the American Honey Producers Association and the Sioux Honey Association (petitioners) timely requested an administrative review of the countervailing duty order on honey from Argentina for the period January 1, 2009 through December 31, 2009. In accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice initiating an administrative review of the countervailing duty order on honey from Argentina. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Initiation of Administrative Review*, 75 FR 4770 (January 29, 2010).

Rescission of Countervailing Duty Administrative Review

The Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation. *See* 19 CFR 351.213 (d)(1). On February 19, 2010, petitioners submitted a letter withdrawing their request of the review within the 90-day deadline. No other party requested a review of the order. Therefore, the Department is rescinding this administrative review of the countervailing duty order on honey from Argentina for the period January 1, 2009 through December 31, 2009. The Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after the date of publication of this notice.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protection orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3) of the Department's regulations, which continues to govern business proprietary information in this segments of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of

the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 11, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–5826 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–AY63

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of Offshore Oil and Gas Facilities in the U.S. Beaufort Sea

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from BP Exploration (Alaska) Inc. (BP) for authorization for the take of marine mammals incidental to operation of offshore oil and gas facilities in the U.S. Beaufort Sea, AK, for the period April 2011 – April 2016. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of BP's request for the development and implementation of new 5-year regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on BP's application and request.

DATES: Comments and information must be received no later than April 16, 2010.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing e-mail comments is *PR1.0648–AY63@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* 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.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289, ext. 156.

SUPPLEMENTARY INFORMATION:

Availability

A copy of BP's application may be obtained by writing to the address specified above (**ADDRESSES**), calling the contact listed above (**FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On November 6, 2009, NMFS received an application from BP requesting authorization for the take of six marine mammal species incidental to operation of the Northstar development in the Beaufort Sea, AK, over the course of 5 years, which would necessitate the promulgation of new five-year regulations. Construction of Northstar was completed in 2001. The proposed activities for 2011–2016 include a continuation of drilling, production, and emergency training operations but no construction or activities of similar intensity to those conducted between 1999 and 2001. The likely or possible impacts of the planned offshore oil developments at Northstar on marine mammals involve both non-acoustic and acoustic effects. Potential non-acoustic effects could result from the physical presence of personnel, structures and equipment, construction or maintenance activities, and the occurrence of oil spills. Petroleum development and associated activities in marine waters introduce sound into the environment, produced by island construction, maintenance, and drilling, as well as vehicles operating on the ice, vessels, aircraft, generators, production machinery, gas flaring, and camp operations. BP requests authorization to take individuals of three cetacean and three pinniped species by Level B Harassment. Further, BP requests authorization to take five individual ringed seals by serious injury or mortality annually over the course of the 5-year rule.

Specified Activities

In the application submitted to NMFS, BP requests authorization to take marine mammals incidental to operation of offshore oil and gas facilities in the U.S. Beaufort Sea. Activities include: the transportation of personnel, equipment, and supplies; production operations; drilling operations; pipeline design, inspection, and maintenance; routine repair and maintenance; and emergency and oil spill response training. Sections 1 and 2 of BP's application describe the full suite of activities, as well as the location and duration of activity.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning BP's request (see **ADDRESSES**). All information, suggestions, and comments related to BP's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by BP's activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: March 11, 2010.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–5835 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement (DEIS) for Resumption of Year-Round Firing Opportunities at Fort Richardson, AK

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army announces the availability of a DEIS that describes and analyzes the potential environmental effects associated with the U.S. Army Alaska (USARAK) proposal to strengthen unit preparedness and improve Soldier and Family quality of life by maximizing live-fire training capacity at Fort Richardson. Current restrictions cause a shortage of live-fire training opportunities at Fort Richardson, resulting in the need for units to travel to other installations for required training. The Proposed Action is to restore year-round live-fire training capabilities at Fort Richardson in order to allow active duty units to achieve and maintain combat readiness, reduce deployment hardships on Soldiers and their Families, and to reduce annual expenditures associated with travel to distant facilities to conduct training.

DATES: The public comment period ends 60 days following publication of a Notice of Availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Written comments should be forwarded to Ms. Carrie McEnteer, Directorate of Public Works, Attention: IMPC–FWA–PWE (C. McEnteer), 1060 Gaffney Road #4500, Fort Wainwright, AK 99703–4500; fax: (907) 361–9867; e-mail: *carrie.mcenteer@us.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hall, Public Affairs Office, 724 Postal Service Loop Road #6000, Building 600, Room B349, Fort Richardson, AK 99505–6000; telephone: (907) 384–2546, e-mail: *robert.hall33@us.army.mil.*

SUPPLEMENTARY INFORMATION: The Proposed Action analyzed in this DEIS is to restore year-round live-firing capabilities at Fort Richardson. Army units must be certified with a variety of weapons systems before they can be safely and effectively deployed. Army policy stipulates how much units are to fire each type of weapon to achieve certification. Fort Richardson currently serves as home station to the 4th Brigade Combat Team (Airborne), 25th Infantry Division (4/25 ABCT) and must, therefore, provide the training

opportunities necessary for this Brigade to attain and sustain certification.

Since the 1940s, units stationed at Fort Richardson have conducted their live-fire munitions training at the Eagle River Flats Impact Area, the only permanent impact area on post. Training with a variety of high-explosive weapons continued at this location until the discovery in 1990 that white phosphorus (a substance contained in certain Army munitions) deposited into Eagle River Flats was causing large-scale mortality of dabbling waterfowl (*e.g.,* ducks and swans). USARAK took several actions to address this situation. First, all firing at the Eagle River Flats Impact Area was suspended. Second, an Environmental Assessment to examine alternatives for resumption of firing was prepared—an analysis that led to the current "winter only" firing regimen. These restrictions are still in effect today and permit indirect live-fire at the Eagle River Flats Impact Area only when the ice is sufficiently thick to eliminate the risk of disturbing any underlying white phosphorus particles. Because of these restrictions, Fort Richardson units travel great distances to train elsewhere, resulting in deployment hardships on Soldiers and their Families, and additional annual expenditures associated with travel to distant facilities to conduct training. Third, USARAK supported a major Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) remediation effort to eliminate white phosphorus from the local ecosystem. Active CERCLA cleanup at Eagle River Flats is scheduled for completion early in 2010.

In addition to consideration of a No Action Alternative (continued use of the Eagle River Flats Impact Area under a "winter only" firing regimen), the DEIS analyzed two alternatives as possible scenarios for the resumption of a year round live-fire training opportunity at Fort Richardson: (1) Year-round use of the Eagle River Flats Impact Area and (2) the development of a new explosive munitions impact area on Fort Richardson. USARAK has identified resumption of year-round live-fire training at the Eagle River Flats Impact Area as its preferred alternative.

The DEIS is available for public review at local libraries and at *http://www.usarak.army.mil/conservation/NEPA_home.htm.* Comments from the public will be considered before any final decision is made. The Army plans to hold public meetings in Anchorage and Eagle River to provide information on the DEIS and to provide opportunities for public comment. In addition, the Army will meet with local, state, and federal agencies, as well as several Alaska Native tribes.

Dated: March 4, 2010.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).

[FR Doc. 2010–5376 Filed 3–16–10; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Reopening of Comment Period for the Draft Environmental Impact Statement for the Silver Strand Training Complex

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: A notice of availability was published by the U.S. Environmental Protection Agency in the **Federal Register** (75 FR 3730) on January 22, 2010, for the Silver Strand Training Complex (SSTC) Draft Environmental Impact Statement (EIS). The public review period ended on March 8, 2010. This notice announces the reopening of the public comment period until March 30, 2010.

DATES: The comment period for the notice published January 22, 2010, at 75 FR 3730 is reopened. Comments are due by March 30, 2010.

ADDRESSES: Comments may be submitted in writing to Naval Facilities Engineering Command Southwest, Attention: Mr. Kent Randall, SSTC EIS Project Manager, 1220 Pacific Highway, Building 1, 5th Floor, San Diego, CA 92132. In addition, comments may be submitted online at *http://www.silverstrandtrainingcomplexeis.com.*

SUPPLEMENTARY INFORMATION: The public comment period on the SSTC Draft EIS will be reopened until March 30, 2010. All written comments must be submitted online or postmarked by March 30, 2010, to ensure they become part of the official record. All comments will be addressed in the Final EIS.

Copies of the Draft EIS are available for public review at the following libraries: Coronado Public Library, 640 Orange Avenue, Coronado, CA; and Imperial Beach Branch Library, 810 Imperial Beach Boulevard, Imperial Beach, CA. The SSTC Draft EIS/OEIS is also available for electronic public viewing online.

FOR FURTHER INFORMATION CONTACT: Mr. Kent Randall, SSTC EIS Project Manager, Naval Facilities Engineering Command Southwest, 1220 Pacific Highway, Building 1, 5th Floor, San Diego, CA 92132; or *http://www.silverstrandtrainingcomplexeis.com.*

Dated: March 11, 2010.

A.M. Vallandingam,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2010–5824 Filed 3–16–10; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Proposed Emergency Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, has submitted an emergency information collection request package with the Office of Management and Budget (OMB) concerning the retrospective Weatherization Assistance Program Evaluation for Program Years 2007 and 2008. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record. Information about the operation of the program, energy used before and after weatherization, energy used by control group low-income homes, the effectiveness of specific energy efficiency measures, customer satisfaction with the program, and non-energy benefits is needed for a comprehensive and rigorous evaluation of the program.

DATES: Comments regarding this proposed information collection must be received on or before March 31, 2010. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to:

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503; and

Bruce Tonn, Environment Sciences Division, Oak Ridge National Laboratory, One Bethel Valley Road, P.O. Box 2008, MS–6038, Oak Ridge, TN 37381–6038, Fax#: (865) 576–8646, *tonnbe@ornl.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to:

Bruce Tonn, Environment Sciences Division, Oak Ridge National Laboratory, One Bethel Valley Road, P.O. Box 2008, MS–6038, Oak Ridge, TN 37381–6038, Fax#: (865) 576–8646, *tonnbe@ornl.gov.*

The plan for this evaluation can be found at *http://weatherization.ornl.gov.* The surveys and data forms that comprise this emergency information request can also be found at *http://weatherization.ornl.gov.*

SUPPLEMENTARY INFORMATION: This package contains: (1) OMB No.: New; (2) Package Title: The Weatherization Assistance Program Evaluation; (3) Type of Review: Emergency; (4) Purpose: This collection of information is necessary for a complete evaluation of the program that weatherized approximately 100,000 low-income homes in Program Years 2007 and 2008; (5) Information will be collected from fifty states and Washington DC, nine hundred local weatherization agencies and approximately one thousand utilities; (6) The estimated burden is 69,136 hours; (7) There are no reporting or recordkeeping burdens associated with this request.

Statutory Authority: Section 6861 of title 42 of the United States Code and 10 CFR 440.25 authorize the collection of this information.

Issued in Washington, DC, on March 10, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–5800 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–301–A]

Application To Export Electric Energy; Integrys Energy Services, Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Integrys Energy Services, Inc. (Integrys Energy) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before April 16, 2010.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Anthony Como (Program Office) 202–586–5935 or Lot Cooke (Program Attorney) 202–586–0503.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On May 24, 2005, DOE issued Order No. EA–301 authorizing Integrys Energy to transmit electric energy from the United States to Canada as a power marketer for a period of five years. That authorization will expire on May 24, 2010. On February 2, 2010, Integrys Energy filed an application with DOE to renew the export authority contained in Order No. EA–301 for an additional five-year term.

The electric energy which Integrys Energy proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies and other entities within the United States. Each of the international transmission facilities to be utilized by Integrys Energy has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the Integrys Energy application to export electric energy to Canada should be clearly marked with Docket No. EA–301–A. Additional copies are to be filed directly with Elizabeth Whittle, Nixon Peabody LLP, 401 9th St., NW., Suite 900, Washington, DC 20004 *and* Amy Klatvier, Integrys Energy Services, Inc., 500 W. Madison St., Suite 3300, Chicago, IL 60661. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm,* or by e-mailing Odessa Hopkins at *Odessa.Hopkins@hq.doe.gov.*

Issued in Washington, DC, on February 19, 2010.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–5802 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket Nos. EA–363 and EA–364]

Applications To Export Electric Energy; Noble Energy Marketing and Trade Corp.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Under two separate applications, Noble Energy Marketing and Trade Corp. (NEMT) has applied for authority to transmit electric energy from the United States to Mexico and from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before April 16, 2010.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Anthony Como (Program Office) 202–586–5935 or Lot Cooke (Program Attorney) 202–586–0503.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the

Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On January 29, 2010, DOE received two applications from NEMT for authority to transmit electric energy from the United States to Mexico and from the United States to Canada as a power marketer using international transmission facilities located at the United States borders with Mexico and Canada. NEMT does not own any electric transmission facilities nor does it hold a franchised service area. The electric energy which NEMT proposes to export would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States. NEMT has requested electricity export authorizations with a 5-year term.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by NEMT has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the NEMT applications to export electric energy to Mexico should be clearly marked with Docket No. EA–364; for exports to Canada please use Docket No. EA–365. Additional copies are to be filed directly with Joseph Limone, Noble Energy Marketing and Trade Corp., 333 Ludlow Street, Suite 1230, Stamford, CT 06902. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm,* or by e-mailing Odessa Hopkins at *Odessa.hopkins@hq.doe.gov.*

Issued in Washington, DC, on February 19, 2010.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–5798 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of International Regimes and Agreements, Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Between the United States of America and the Government of Canada Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 303,250 kg of U.S.-origin natural uranium hexafluoride (67.6% U), 205,000 kg of which is uranium, from Cameco in Saskatoon, Saskatchewan, Canada to Urenco in Capenhurst Works, Chester, United Kingdom. The material, which is currently located at Cameco, Blind River, will be transferred to Urenco for toll enrichment at their Capenhurst UK facility. The natural uranium hexafluoride was originally obtained by Cameco from Crowe Butte Resources Inc. pursuant to export license XSOU8798.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 10, 2010.

For the Department of Energy.

Anatoli Welihozkiy,

Acting Director, Office of International Regimes and Agreements.

[FR Doc. 2010–5797 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of International Regimes and Agreements, Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic

Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 302,188 kg of U.S.-origin natural uranium trioxide (UO3) (82.73% U), 250,000 kg of which is uranium, from Cameco in Saskatoon, Saskatchewan, Canada to Springfields Fuels Ltd. in Lancashire, United Kingdom. The material, which is currently located at Cameco, Blind River, will be transferred to Springfields Fuels Ltd. for conversion to uranium hexafluoride (UF6) for ultimate end use in a civilian nuclear power program. The UO3 from U.S.-origin concentrates was originally obtained by Cameco from Crowe Butte Resources Inc. pursuant to export license XSOU8798.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 11, 2010.

For the Department of Energy

Richard Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. 2010–5803 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–65–000]

Mississippi Hub, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Expansion Project II and Request for Comments on Environmental Issues

March 10, 2010.

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 Expansion Project II (Project) involving construction and operation of facilities by Mississippi Hub, LLC (MS HUB) in Simpson, Jefferson Davis and Covington Counties, Mississippi. 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 the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on April 9, 2010.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives are asked to notify their constituents of this planned Project and encourage them to comment on their areas of concern.

Summary of the Proposed Project

MS HUB proposes to construct and operate at its previously certificated Natural Gas Handling Facility Site (NGHFS): Two new salt dome storage caverns; 37,305 horsepower (HP) of additional compression; and ancillary equipment. The Project would expand the NGHFS storage capacity from 22.1 billion cubic feet (Bcf) to 44.2 Bcf and working gas capacity from 7.1 Bcf to 14.2 Bcf. The Project would also increase the NGHFS delivery capacity from 1.4 Bcf per day (Bcf/d) to 2.8 Bcf/d and injection capacity from 0.8 Bcf/d to 1.5 Bcf/d. According to MS HUB, its Project would meet the growing need for high-deliverability natural gas storage in the Gulf Coast region of the United States in markets served directly and indirectly by the natural gas pipelines that traverse the region.

The Project would consist of the following facilities:

- Two 11.05 Bcf salt dome storage caverns;
- Three 7,700 HP electric motor-driven compressors;
- Three 4,735 HP natural gas-fired reciprocating engine compressors;
- Two 350 million standard cubic feet per day (MMscf/d) gas dehydration units;
- Four 12 million British Thermal Units per hour (MMBtu/hr) natural gas withdrawal heaters;
- One 1,250 kilowatt (kW) emergency generator; and
- Ancillary piping and equipment.

The general location of the Project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would take place entirely within the previously certificated 80-acre NGHFS.

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 [2] 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, the Commission requests 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.

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;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

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 presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. 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.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before April 9, 2010.

For your convenience, there are three methods which you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the Quick Comment feature, which is located at *http://www.ferc.gov* under the link called "*Documents and Filings*". A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the "eFiling" feature that is listed under the "*Documents and Filings*" link. eFiling involves preparing your submission in the same manner as you would if filing

[1] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" 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.

[2] "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

on paper, and then saving the file on your computer's hard drive. You will attach that file to your submission. New eFiling users must first create an account by clicking on the links called "*Sign up*" or "*eRegister*". You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners who own land within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor," which is an official party to the Commission's proceeding. 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 the proceeding by filing a 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.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *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 (*i.e.,* CP10–65). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. 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. 2010–5776 Filed 3–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP10–337–000]

Wyoming Interstate Company, Inc.; Notice of Technical Conference

March 10, 2010.

Take notice that Commission Staff will convene a technical conference in the above-referenced proceeding on Wednesday, March 24, 2010, at 9 a.m. (EST), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The purpose of the conference is to address all issues arising from Wyoming Interstate Company's (WIC's) January 28, 2010 tariff filing. That filing was intended to revise the gas quality allocation procedures that WIC may implement when differing carbon dioxide or Btu standards on downstream pipelines cause these downstream pipelines to restrict or cease receipts into their pipeline systems to enforce their own gas quality specifications.

WIC should be prepared to address all concerns raised by the parties in their comments to the filing, and to provide additional technical, engineering, and operational support for its proposed gas quality allocation procedures. Consistent with the Commission's policy statement on gas quality issues, WIC should also be prepared to explain how its proposal conforms with or differs from the Interim Guidelines and principles. *See Natural Gas Interchangeability, Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs,* 115 FERC ¶ 61,325 (2006) P 34, 37.

Further, WIC should be prepared to identify and discuss any existing gas quality waivers on its system, including how long those waivers have been in place. Any party proposing alternatives to WIC's proposals should be prepared to support its position with adequate technical, engineering, and operational information.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Michael.Freeman at (202) 502–6367 or at *Michael.Freeman@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–5775 Filed 3–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Proposed Rate Adjustment, Public Forum, and Opportunities for Public Review and Comment for Georgia-Alabama-South Carolina System of Projects

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rate.

SUMMARY: Southeastern Power Administration (Southeastern) proposes to revise existing schedules of rates and charges applicable to the sale of power from the Georgia-Alabama-South Carolina System of Projects effective for a 5-year period, October 1, 2010, through September 30, 2015. Additionally, opportunities will be

available for interested persons to review the present rates and the proposed rates and supporting studies, to participate in a public forum, and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before June 15, 2010. A public information and comment forum will be held in Atlanta, Georgia, at 10 a.m., on April 29, 2010. Persons desiring to speak at the forum should notify Southeastern at least three (3) days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia, 30635–6711. The public information and comment forum for the Georgia-Alabama-South Carolina System of Projects will be at the Sheraton Gateway Atlanta Airport, 1900 Sullivan Road, Atlanta, Georgia 30337 (770) 997–1100.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC) by order issued April 8, 2008 (123 FERC ¶ 62,022), confirmed and approved on a final basis Wholesale Power Rate Schedules SOCO–1–C, SOCO–2–C, SOCO–3–C,SOCO–4–C, ALA–1–L, MISS–1–L, Duke-1–C, Duke-2–C, Duke-3–C, Duke-4–C, Santee-1–C, Santee-2–C, Santee-3–C, Santee-4–C, SCE&G–1–C, SCE&G–2–C, SCE&G–3–C, SCE&G–4–C, Pump-1–A, Pump-2, Regulation-1 and Replacement-1 applicable to Georgia-Alabama-South Carolina System of Projects' power for a period ending September 30, 2012.

Discussion: Existing rate schedules are predicated upon a July 2006 repayment study and other supporting data that was adopted prior to the completion of a final cost allocation for the Richard B. Russell Project. The final cost allocation for the Richard B. Russell Project was adopted on March 25, 2008. Southeastern prepared a repayment study in February 2010 with the cost adjustments necessary to comply with the final cost allocation. This repayment study demonstrates that the existing rates are not adequate to meet repayment criteria. Southeastern is proposing to establish new rates that will recoup these unrecovered costs.

A revised study with a revenue increase of $27,679,000 in fiscal year 2011 and all future years over the current repayment study shows that all costs are repaid within their service life. Therefore, Southeastern is proposing to revise the existing rates to generate this additional revenue. The rate adjustment is an increase of about fifteen percent.

Four reversible pumped storage units have been installed at the Richard B. Russell Project. Construction of these units was completed in Fiscal Year 1993. However, due to litigation, these units were not available for commercial operation until Fiscal Year 2002. Southeastern's customers have suggested the cost of interest during construction from 1993 should not be allocated to power for repayment. The U.S. Army Corps of Engineers has provided Southeastern with financial statements that show $223,733,000 was charged to interest during construction at the Russell Project for the period from Fiscal Year 1993 through Fiscal Year 2002. Southeastern has computed an additional $115,466,000 of interest for the period from Fiscal Year 2002 through Fiscal Year 2009. The total interest for the period from 1993 through 2009 is $339,198,000. Consistent with the comments received, Southeastern's proposed rates do not include these costs because Southeastern believes that exclusion of the disputed costs should be discussed further at the public forum.

Southeastern is proposing the following rate schedules to be effective for the period from October 1, 2010, through September 30, 2015.

Rate Schedule SOCO–1–D

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be wheeled and scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated.

Rate Schedule SOCO–2–D

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be wheeled pursuant to contracts between the Government and Southern Company Services, Incorporated. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule SOCO–3–D

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated. The customer is responsible for providing a transmission arrangement.

Rate Schedule SOCO–4–D

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida served through the transmission facilities of Southern Company Services, Inc. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule ALA–1–M

Available to PowerSouth Energy Cooperative.

Rate Schedule MISS–1–M

Available to the South Mississippi Electric Power Association to whom power may be wheeled pursuant to contract between the Government and PowerSouth Energy Cooperative.

Rate Schedule Duke-1–D

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and Duke Power Company.

Rate Schedule Duke-2–D

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be wheeled pursuant to contracts between the Government and Duke Power Company. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule Duke-3–D

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Power Company. The customer is responsible for providing a transmission arrangement.

Rate Schedule Duke-4–D

Available to public bodies and cooperatives in North Carolina and South Carolina served through the transmission facilities of Duke Power Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule Santee-1–D

Available to public bodies and cooperatives in South Carolina to whom

power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Public Service Authority.

Rate Schedule Santee-2–D

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Public Service Authority. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule Santee-3–D

Available to public bodies and cooperatives in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Public Service Authority. The customer is responsible for providing a transmission arrangement.

Rate Schedule Santee-4–D

Available to public bodies and cooperatives in South Carolina served through the transmission facilities of South Carolina Public Service Authority. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule SCE&G–1–D

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Electric & Gas Company.

Rate Schedule SCE&G–2–D

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Electric & Gas Company. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule SCE&G–3–D

Available to public bodies and cooperatives in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Electric & Gas Company. The customer is responsible for providing a transmission arrangement.

Rate Schedule SCE&G–4–D

Available to public bodies and cooperatives in South Carolina served through the transmission facilities of South Carolina Electric & Gas Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule Pump—1–A

Available to all customers of the Georgia-Alabama-South Carolina System and applicable to energy from pumping operations at the Carters and Richard B. Russell projects.

Rate Schedule Pump—2

Available to public bodies and cooperatives who provide their own scheduling arrangement and elect to allow Southeastern to use a portion of their allocation for pumping.

Rate Schedule Regulation—1

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, Florida, South Carolina, or North Carolina to whom regulation service is provided pursuant to contracts between the Government and the customer.

Rate Schedule Replacement—1

Available to all customers in the Georgia-Alabama-South Carolina System and applicable to replacement energy.

The proposed rates for capacity, energy, and generation services are as follows:

Capacity: $4.48 per kW per month.
Energy: 11.43 mills per kWh.
Generation Services: $0.12 per kW per month.

Under this scenario, 75 per cent of generation revenues are recovered from capacity sales and 25 per cent are recovered from energy sales. These rates are expected to produce an average revenue increase of $27,679,000 in FY 2011 and all future years.

The rates for transmission, scheduling, reactive supply, and regulation and frequency response apply to all four scenarios and are illustrated in Table 1.

SOUTHEASTERN POWER ADMINISTRATION PROPOSED RATES FOR TRANSMISSION SCHEDULING, REACTIVE, AND REGULATION CHARGES

Rate schedule	Transmission charge ($/kW/month)	Scheduling charge $/kW/month	Reactive charge $/kW/month	Regulation charge $/kW/month
SOCO–1–D	2.69	0.0806	0.11	0.0483
SOCO–2–D	2.69	N/A	0.11	N/A
SOCO–3–D	N/A	0.0806	N/A	0.0483
SOCO–4–D	N/A	N/A	N/A	N/A
ALA–1–M	N/A	N/A	N/A	N/A
MISS–1–M	2.62	N/A	N/A	N/A
Duke–1–D	0.94	N/A	N/A	N/A
Duke–2–D	0.94	N/A	N/A	N/A
Duke–3–D	N/A	N/A	N/A	N/A
Duke–4–D	N/A	N/A	N/A	N/A
Santee–1–D	1.32	N/A	N/A	N/A
Santee–2–D	1.32	N/A	N/A	N/A
Santee–3–D	N/A	N/A	N/A	N/A
Santee–4–D	N/A	N/A	N/A	N/A
SCE&G–1–D	1.02	N/A	N/A	N/A
SCE&G–2–D	1.02	N/A	N/A	N/A
SCE&G–3–D	N/A	N/A	N/A	N/A
SCE&G–4–D	N/A	N/A	N/A	N/A
Pump—1–A	N/A	N/A	N/A	N/A
Pump—2	N/A	N/A	N/A	N/A
Regulation–1	N/A	N/A	N/A	0.05
Replacement–1	N/A	N/A	N/A	N/A

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, Georgia 30635–6711. Proposed Rate Schedules SOCO–1–D, SOCO–2–D, SOCO–3–D, SOCO–4–D, ALA–1–M, MISS–1–M, Duke–1–D, Duke–2–D, Duke–3–D, Duke–4–D, Santee–1–D, Santee–2–D, Santee–3–D, Santee–4–D, SCE&G–1–D, SCE&G–2–D, SCE&G–3–D, SCE&G–4–D, Pump–1–A, Pump–2, Regulation–1, and Replacement–1 are also available.

Dated: March 10, 2010.

Kenneth E. Legg,

Administrator.

[FR Doc. 2010–5801 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy; Request for Information; Weatherization Assistance Program; Sustainable Energy Resources for Consumers Grants

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Request for Information (RFI).

SUMMARY: The Department of Energy (DOE) is seeking information from stakeholders on a potential competitive Funding Opportunity Announcement (FOA) in support of the Sustainable Energy Resources for Consumers Grants. The authority for these Grants was created by the Energy Independence and Security Act of 2007 ("EISA") Section 411(b).

DATES: Written comments and information are requested on or before 5 p.m. Eastern Time on Monday, March 22, 2010. The RFI was posted publicly on FedConnect on Monday, March 8, 2010.

ADDRESSES: Interested persons may submit information by the following method:

• *E-mail: sustainableenergywap@hq.doe.gov.* Please include "Response to Sustainable Energy Resources for Consumer Grants RFI" in the subject line of the message.

• *Instructions:* Responses must be provided as a Microsoft Word (.doc) attachment to the e-mail, of no more than 3 pages in length, 12 point font, 1 inch margins. Only electronic responses will be accepted.

• The Request for Information can be viewed at:

1. Go to the FedConnect Web site: *https://www.fedconnect.net/.*

2. Click on "Search Public Opportunities."

3. Search by title: "Weatherization."

4. Select the listing with issue date of 3/8/10.

5. In the Documentation section at the right side of the screen, click on "Weatherization Assistance Program Sustainable Energy Resources for Consumers Grants."

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information to Mr. Tyler Huebner, U.S. Department of Energy, Office of Weatherization and Intergovernmental Programs, E-mail: *sustainableenergywap@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Request for Information text as shown below was posted on FedConnect on Monday, March 8, 2010.

DOE Request for Information (RFI) DE–FOA–0000283

Weatherization Assistance Program Sustainable Energy Resources for Consumers Grants

Date: March 8, 2010.

Subject: Request for Information (RFI).

Description: The Department of Energy (DOE) is seeking information from stakeholders on a potential competitive Funding Opportunity Announcement (FOA) in support of the Sustainable Energy Resources for Consumers Grants ("Sustainable Energy Grants"). The authority for these Grants was created by the Energy Independence and Security Act of 2007 ("EISA") Section 411(b). (42 U.S.C. 6827 note). Program Manager/Area: Claire Broido Johnson/Weatherization and Intergovernmental Programs, Robert Adams/Weatherization Assistance Program (WAP).

Background

The traditional Weatherization Assistance Program ("WAP" or "the Program") provides funds to States, the District of Columbia, the Commonwealth of Puerto Rico and other U.S territories to weatherize the homes of low income Americans. EISA Section 411(b) authorizes the Secretary to make funding available to local weatherization agencies to expand the Weatherization Assistance Program for residential buildings to include materials, benefits, and renewable and domestic energy technologies not currently covered by the Program. Section 411(b) states that for a local agency applicant to receive funding under this provision, the State weatherization agency (the grantee under the traditional WAP) must certify that the applicant has the capacity to carry out the proposed activities and that the State weatherization agency will include the project in their financial oversight of the traditional WAP.

The amount of funds used for Sustainable Energy Grants may equal up to two (2) percent of the amount of funds made available for any fiscal year under section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872; the WAP authority) if those funds exceed $275 million. The American Recovery and Reinvestment Act ("ARRA" or "Recovery Act") provided $5 billion for WAP, and FY 2009 provided $450 million ($250 million in supplemental and $200 million in base FY 2009 funding). Thus, the Department has up to $109 million available for Sustainable Energy Grants.

Purposes of the Sustainable Energy Resources for Consumers Grants

The purposes of the Sustainable Energy Resources for Consumers Grants are to:

• Expand WAP for residential buildings to include materials, benefits, and renewable and domestic energy technologies not covered by the Program;

• Work with existing partners to expand and enhance the Program.

Section 411(b)(2) states that in selecting grant recipients under this subsection, DOE shall give priority to:

(A) The expected effectiveness and benefits of the proposed project to low- and moderate-income energy consumers;

(B) The potential for replication of successful results;

(C) The impact on the health and safety and energy costs of consumers served; and

(D) The extent of partnerships with other public and private entities that contribute to the resources and implementation of the program, including financial partnerships.

The purpose of this Request for Information (RFI) is primarily to determine the interest and capacity of local weatherization agencies to apply for and implement the Sustainable Energy Grants, and the types of activities that applicants would propose; and secondarily to solicit feedback on the proposed topic area and evaluation criteria for these competitive Sustainable Energy Grants.

This is a Request for Information (RFI) and not a Funding Opportunity Announcement (FOA). DOE is not accepting applications, and is instead seeking information from local weatherization agencies, State Weatherization agencies, and other stakeholders under the potential FOA.

Request for Information (RFI) Guidelines

Responses to this RFI must be submitted by e-mail to *sustainableenergywap@hq.doe.gov* no later than 5 p.m. Eastern Time on March 22, 2010. Responses must be provided as a Microsoft Word (.doc) attachment to the e-mail, of no more than 3 pages in length, 12 point font, 1 inch margins. Only electronic responses will be accepted.

Parties interested in submitting a response to this RFI should first review these RFI Guidelines and the Questions below. Any information obtained as a result of this RFI is intended to be used by the Government on a non-attribution basis for program planning and funding opportunity strategy development. DOE will review and consider all responses in its formulation of program strategies in the pursuant FOA. Information or data that is restricted in any way or limited for use by the Government is not solicited and will not be considered. Responses will not be considered confidential. Do not provide confidential or proprietary information in your response. DOE will not respond to individual submissions or publish publicly a compendium of responses. This RFI serves as a one-way process for DOE to obtain feedback on its plans for Sustainable Energy Resources for Consumers Competitive Grants FOA. DOE reserves the right to not issue a FOA at the conclusion of this process.

Respondents are requested to provide the following information at the start of their response to this RFI:

- Local Weatherization Provider/ State WAP Agency/Government/ Company/institutional name;
- Name of Point of Contact;
- Address, phone number, and e-mail address.

A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed. DOE may also decide at a later date to issue a FOA based on consideration of the feedback received from this RFI.

DOE will not pay for information provided under this RFI, and there is no guarantee that a project will be supported as a result of this RFI. Respondents under this RFI will not receive any additional consideration for any forthcoming solicitation. This RFI is not accepting applications for financial assistance or financial incentives. DOE has no obligation to respond to those who submit comments, and/or give any feedback on any decision made based on the comments received.

Note: There are two funding sources covered under this authority: up to $100 million from the Recovery Act, and up to $9 million from FY 2009 regular and supplemental funding. DOE is requesting information for both of these funding sources in this single RFI. For projects selected under the planned FOA that would be funded from the Recovery Act, all Federal funds would need to be expensed within three (3) years, and Recovery Act reporting requirements will be used.

Funds Restrictions

Except as identified by section 411(b) (i.e., materials, benefits, and renewable and domestic energy technologies) DOE intends for the restrictions under the WAP authorities to apply. Additionally, awards funded under the Recovery Act will be subject to the applicable ARRA provisions (*e.g.,* application of the Davis-Bacon Act).

DOE thanks you for your assistance and comments in helping to achieve the goals of the Recovery Act and the Weatherization Program.

Request for Information Feedback Questions

Respondents need not reply to all Questions in their response. We especially request local weatherization service providers to respond to Questions 1 and 2.

Question 1: Potential Applicants, Please Comment Regarding Your Interest and Current Capacity To Successfully Implement a Sustainable Energy for Consumers Grant

Under the Recovery Act each local weatherization service provider has been asked to increase the scale of its weatherization activities with increased administrative efforts and public scrutiny. As a local weatherization service provider, do you have the capacity to administer additional DOE grant money (in the range of $5–$10 million) to weatherize additional homes under this provision?

Question 2: Potential Applicants, Please Describe What Materials, Benefits, and Renewable and Domestic Energy Technologies You Propose To Fund With a Sustainable Energy Grant

The list below is not meant to be prescriptive or comprehensive but rather to illustrate the nature and range of ideas DOE is considering.

- Durable high-R building envelope retrofits, such as high-performance walls, foundations, windows, attic ventilation, attic and basement air sealing, cool roofs, and ceiling or cathedral roof insulation;
- High-performance space conditioning system retrofits, such as air handler upgrades, ducts in conditioned space, ventilation, heating, solar ventilation pre-heat, cooling, or direct supply of combustion air;
- High-performance hot water systems, such as condensing, heat pump and solar hot water systems;
- Small-scale renewable energy systems, including
  - Solar photovoltaics.
  - Solar hot water.
  - Small-scale wind.
  - Or others as appropriate.
- Integration with utility smart-grid pilots or implementations;
- Energy usage benchmarking with feedback, either in-home or online, to the users;
- Community-Based Social Marketing (CBSM) and other behavioral approaches;
- Developing innovative buying cooperatives and bulk buying strategies to lower costs of materials;
- Engaging volunteer groups (applicants proposing an approach with volunteers must be prepared to have proper liability insurance for volunteers and dwellings).

Question 3: Please Comment on the Proposed Number and Size of Awards

DOE proposes specifically targeting these funds for a small number of high-profile, high-impact awards. DOE proposes to make 10 to 20 awards at funding levels of $5 to $10 million each.

Reminder: Only local weatherization agencies that are eligible to receive WAP funding are eligible to receive grants under this proposed FOA. A local agency applicant for the grant must be certified by its State Weatherization Program as having the capacity to conduct the proposed project and the State must exercise financial oversight over the grants to any of their agencies.

Question 4: Potential Applicants, How Do You Intend To Leverage Federal Funding With This Grant?

DOE will strongly encourage applications that plan to leverage the participation and support of multiple partners, including utilities, regional planning agencies, businesses, financial institutions, non-governmental organizations, and State energy offices.

Question 5: Potential Applicants, Do You Intend To Develop or Enhance a Revenue Model To Provide Future Sustainable Funding? If So, Please Briefly Explain

DOE believes there are multiple viable approaches to developing revenue streams from residential efficiency improvements that may be used to improve program sustainability after

grant monies are exhausted. These may include revolving loan funds, utility on-bill payment and/or financing, the sale of carbon and other offsets, the sale of white tags to meet efficiency mandates, and the sale of efficiencies into forward capacity markets. DOE intends to allow maximum flexibility to applicants to demonstrate innovative models of sustainability. DOE is interested in learning whether applicants will consider using a Sustainable Energy Grant to develop or enhance a revenue model similar to these listed.

Question 6: Please Comment on the Proposed Application Structure

Proposed Application structure. Applications for the proposed FOA shall include at least the following key elements:

1. A description of how many and what kinds of units will be targeted by the program, and their geographic location. This may be a map of zones/neighborhoods that will be targeted, or a detailed text description.
2. A description of how the program will conduct outreach/marketing to customers of the program and convince them to agree to participate.
3. A description of how the weatherization will be delivered, including who will do the audits and contract work.
4. A description of how savings from weatherization will be monitored and verified.
5. A description of how the program will be financed, including both leveraged funds and alternate revenue streams as discussed above. This section of the application should also include a discussion of the sustainability of the program after the grant monies are exhausted.
6. An implementation plan describing the overall execution of the program, including a detailed timeline and milestones at each stage.
7. Letters of commitment from all partners contributing project funds, and project support letters from an executive officer from all key partners.

Applicants will be encouraged to add further discussion as necessary, including an analysis of key market barriers to retrofits in their local jurisdiction, local resources other than funding, a description of the applicant's historical work in WAP and other energy efficiency programs, and any other relevant information.

DOE will be conducting a formal independent evaluation of the projects funded with Sustainable Energy Grants, and recipients under this proposed FOA would need to cooperate with the collection of information for assessment. Recipients will be expected to complete a Project Final Report which will document the project's achievements, the steps that were undertaken through the project's processes, and lessons learned that can help DOE support replication of success.

Question 7: Please Comment on the Proposed Merit Review Criteria

Proposed Merit Review Criteria

Criterion 1: Project Impact.
Weight: [50%]

- The expected quantitative impact of the proposed project to low and moderate income energy consumers in terms of homes weatherized, cost per weatherized home, energy saved per home, emissions avoided, and jobs created.
- The potential for replication of successful results, both within the local jurisdiction in future years as well as by other local agencies and communities around the country.
- The impact on the health and safety and energy costs of consumers served.
- The extent to which the proposed project will create meaningful and sustainable market transformation, particularly after grant monies are exhausted.

Criterion 2: Project Approach.
Weight: [25%]

- The soundness of the project's management strategy, including the extent to which the proposal contains clear goals, well-defined tasks and methods, objective deliverables, and realistic schedule and milestones.
- The specifics of the outreach/marketing strategy, the funding structure, the implementation/delivery plan, and the monitoring/verification plan, and the strategy for feedback and continuous improvement of the program during its operation.
- The extent to which institutional, regulatory, or market barriers have been identified and the project includes reasonable approaches to overcoming those barriers.
- The extent to which the application demonstrates the ability to fulfill requirements of the Recovery Act, including Davis-Bacon, Buy American, and reporting capabilities (if Recovery Act funding is used).
- Soundness of Evaluation Strategy, including proper record keeping for DOE evaluation, and utility bill proof or actual measurements of energy savings where possible.

Criterion 3: Partnership Structure and Capabilities.
Weight: [25%]

- The extent to which roles and responsibilities of each partner/team member have been identified and are reasonably matched to their ability to successfully manage and implement the proposed project.
- The ability of the project team to complete the work successfully, including qualifications, credentials, capabilities and experience of key personnel/team members.

Question 8: Please Comment on the Proposed Program Policy Factors

Proposed Program Policy Factors

- Diversity of awards, including geographic locations, climates, and program structures.
- Benefits to low- and moderate-income families and economically distressed areas.
- The extent of partnerships with other public and private entities that contribute to the resources and implementation of the program, including financial partnerships.
- Selection of applications that promote and enhance the objectives of the Recovery Act, especially job creation and preservation, and economic recovery (if funded by the Recovery Act).

Question 9: "Moderate Income"

The WAP Program has traditionally served low-income energy users and "low-income" is defined under the WAP authorities as 200% of poverty level. DOE requests information on the income range that could be characterized as "moderate income."

Issued in Washington, DC, on March 11, 2010.

Kathleen Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–5799 Filed 3–16–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0001; FRL–8815–5]

SFIREG Environmental Quality Issues Working Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG), Environmental Quality Issues (EQI) Working Committee will hold a 2–day meeting, beginning on April 26, 2010, and ending April 27, 2010. This notice announces the location and times for

the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, April 26, 2010, from 8:30 a.m. to 5 p.m. and 8:30 a.m to 12 noon on Tuesday, April 27, 2010.

To request accommodations for a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The open meeting will be held at EPA, One Potomac Yard (South Bldg.), 2777 Crystal Dr., Arlington, VA., First Floor, South Conference Room.

FOR FURTHER INFORMATION CONTACT: Ron Kendall, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5561 fax number: (703) 308–1850; e-mail address: *kendall.ron@epa.gov* or Grier Stayton, SFIREG, Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number (302) 422–8152; fax (302) 422–2435; e-mail address: Grier Stayton at *aapco-sfireg@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in a SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. You are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to:

Those persons who are, or may be, required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetics Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

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

EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2010–0001. 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.

II. Background

Topics may include but are not limited to:

1. Pentachlorophenol–use and disposal of treated articles
2. Interpreting drinking water detections of pesticides
3. NPDES Permitting–an update
4. Evaluating Risks from Semi-Volatile Pesticides
5. Region 5 Benchmark Development/OPP/OW Risk Assessment Harmonization–an update
6. Residential risk assessment
7. Endocrine Disruption Screening Program
8. POINTS–an update
9. Revisions to Worker Risk Assessment
10. OPP/OECA Program–an update
11. Endangered Species Protection–an update
12. Petition to protect children–EPA response
13. Drift PRN–an update and response to comments
14. National Lake Survey
15. EPA to disclosure of inert ingredients–an update

III. How Can I Request to Participate in this Meeting?

This meeting is open for the public to attend. You may attend the meeting without further notification.

List of Subjects

Environmental protection.

Dated: March 5, 2010.

William R. Diamond,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 2010–5704 Filed 3–16–2010; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0787; FRL–8815–7]

Difenzoquat; Registration Review Case Closure; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's notice of registration review case closure for the pesticide difenzoquat, case 0223. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact*: Eric Miederhoff, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8028; fax number: (703) 308–8090; e-mail address: miederhoff.eric@epa.gov.

For general information on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin @epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, 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 pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0787. 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.

II. Background

A. What Action is the Agency Taking?

On February 24, 2010 the Agency issued a product cancellation order (75 FR 8339; FRL–8809–7) for all difenzoquat product registrations. Due to the cancellation of all registered difenzoquat products in the United States, the Agency closed the registration review case for difenzoquat, pursuant to 40 CFR 155.42(c). This notice announces the availability of EPA's Notice of Registration Review Case Closure for difenzoquat, case 0223.

In addition to the registration review case closure document, the registration review docket for difenzoquat also includes other relevant documents related to the registration review of this case. The Notice of Receipt of a Request to Voluntarily Cancel Certain Pesticide Registrations was issued on November 25, 2009 and the public was invited to submit any comments or new information. During the 30–day comment period, no public comments were received which impacted the Agency's decision to grant the cancellation request. Subsequently, on February 24, 2010, the Agency published the Cancellation Order for all difenzoquat product registrations in the **Federal Register** (75 FR 8339; FRL–8809–7).

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. Links to earlier documents related to the registration review of this pesticide are provided at: *http://www.epa.gov/oppsrrd1/registration_review/difenzoquat/index.html.*

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

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Difenzoquat, Pesticide and pest, Registration review.

Dated: March 9, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–5598 Filed 3–16–10; 8:45 a.m.]

BILLING CODE 6560–50–S

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Economic Inclusion (ComE-IN); Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations.

DATES: Thursday, April 1, 2010, from 8:45 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will be focused on highlighting best practices for safe transactional and savings products and strategic planning for the committee. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This ComE-IN meeting will be Webcast live via the Internet at: *http://www.vodium.com/goto/fdic/advisorycommittee.asp.* This service is free and available to anyone with the following systems requirements: *http://www.vodium.com/home/sysreq.html.* Adobe Flash Player is required to view these presentations. The latest version of Adobe Flash Player can be downloaded at *http://www.adobe.com/shockwave/download/download.cgi?P1_Prod_Version=ShockwaveFlash.* Installation questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The ComE-IN meeting videos are made available on-demand approximately two weeks after the event.

Dated: March 12, 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2010–5782 Filed 3–16–10; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 2010.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Stonebridge Bancorporation, Minneapolis, Minnesota; to merge with Shakopee Bancorporation, Inc., and thereby indirectly acquire Citizens State Bank of Shakopee, both of Shakopee, Minnesota.

Board of Governors of the Federal Reserve System, March 12, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–5789 Filed 3–16–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 011515–012.

Title: Steamship Line Co-Operative Chassis Pool Agreement.

Parties: Atlantic Container Line AB; China Shipping Container Lines Co., Ltd.; COSCO Container Lines Company, Ltd.; CMA CGM, S.A.; Compania Sud Americana de Vapores, S.A.; Evergreen Joint Service.; Hanjin Shipping Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mediterranean Shipping Company, S.A.; Safmarine Container Lines, NV; Yangming Marine Transport Corporation; and Zim Integrated Shipping Services, Ltd.

Filing Party: Joshua P. Stein, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment clarifies the agreement authority for the operation of a chassis pool at Port of Elizabeth, NJ; provides for associate parties to the Agreement; revises procedures for the addition and withdrawal of members; deletes Atlantic Container Line AB, Mediterranean Shipping Company, S.A., Safmarine Container Lines, NV, Compania Sud American de Vapores, S.A., and CMA CGM S.A. as parties to the agreement and adds United Arab Shipping Company, as a party to the agreement; and adds Bermuda Container Line, Hyundai Merchant Marine Co., Ltd., and Mitsui O.S.K. Lines, Ltd as associate parties to the Agreement.

Agreement No.: 012092.

Title: MOL/"K" Line Space Charter and Sailing Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Mitsui O.S.K. Lines, Ltd.

Filing Parties: Robert B. Yoshitomi, Esq.; Nixon Peabody LLP; 555 West 5th Street, 46th Floor; Los Angeles, CA 90013.

Synopsis: The agreement authorizes the parties to exchange slots and to coordinate sailings in the trades between the U.S. Pacific Coast and Japan, China, and Taiwan.

Dated: March 12, 2010.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–5821 Filed 3–16–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier—Ocean Transportation Intermediary:

Vinpac Container Line (LA), Inc., 470 Cloverleaf Drive, Unit #A&B, Baldwin Park, CA 91706, Officers: Wai (aka Winson) M. Lam, Secretary/General Manager, (Qualifying Individual), Norman Lok, President/Treasurer.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary:

Zust Bachmeier International, Inc. dba Z Lines, 6201 Rankin Road, Humble, TX 77396, Officers: Neal Dewey, Vice President, (Qualifying Individual), Robert D. Johnston, President/CEO.

Grupo Broker Corp., 2231 NW. 79th Avenue, Doral, FL 33122, Officers: Vicente Memoli, Treasurer, (Qualifying Individual), Rafael Apitz, President.

Lama Shipping & Logistics, LLC, 10651 SW. 108 Avenue, #3A, Miami, FL 33176, Officers: Lorenzo A. Macias, President, (Qualifying Individual), Marisol A. Macias, Manager.

Golden Bridge International Group, 17800 Castleton Street, #263, City of Industry, CA 91748, Officers: Hua Yang, Vice President, (Qualifying Individual), Zhenfen Wu, Chairman.

Qingfeng Wang dba Global Intertrans Logistics, 200 East Norwood Place, San Gabriel, CA 91776–3811, Officer: Qingfeng Wang, Sole Proprietor, (Qualifying Individual).

TMO Global Logistics, LLC, 100 10th Street NE, #303, Charlottesville, VA 22902, Officer: Thomas Baldwin, Managing Director, (Qualifying Individual).

America Global Logistics LLC, 1335 NW. 98th Court, Suite 1, Miami, FL 33172, Officers: Olga L. Calderon, Operations Manager, (Qualifying Individual), Alejo Aguilar, Managing Director.

Clark Worldwide Transportation, Inc., 121 New York Avenue, Hillside Bldg., Trenton, NJ 08638, Officers: Brian G. Gillen, President/COO, (Qualifying Individual), Gregory E. Burns, Director.

Supply Chain Services, LLC, 847 West Avenue, Bldg. 10, Rochester, NY 14611, Officers: Thomas H. Iuppa, President/Member, (Qualifying Individual), James H. Wigton, Member.

Transplace International, Inc., 509 Enterprise Drive, Lowell, AR 72745, Officers: Sheila H. Hewitt, Vice President of Logistics, (Qualifying Individual), Thomas Sanderson, Director/Chairman/President/CEO.

MER Logis, Inc., 454 E. Carson Plaza Drive, #218, Carson, CA 90746, Officers: Ellen H. Lee, President/Secretary/CFO/Treasurer, (Qualifying Individual). Man S. Kyung, Shareholder.

Ocean Freight Forwarder—Ocean Transportation Intermediary:

Gulfstream Global Logistics, Inc., 1905 South Mt. Prospect Road, Des Plaines, IL 60018–1806, Officers: Jean De Keyser, President/CEO, (Qualifying Individual), Francine Van Meenen, Vice President.

Dated: March 12, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–5823 Filed 3–16–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
015530N	Distinction Cargo Management Inc., Cargo Bldg. 9, Suite #255, JFK International Airport, Jamaica, NY 11413.	February 15, 2010.
015847NF	Straightline Logistics, Inc., One Cross Island Plaza, Suite 203–G, Rosedale, NY 11422.	February 13, 2010.
018250F	Consolidation Shipping & Logistic, (USA) Inc., 219 Stuyvesant Avenue, Lyndhurst, NJ 01071.	February 13, 2010.
021870N	AKM International, LLC, 301 Varick Street, Jersey City, NJ 07302	February 19, 2010.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2010–5831 Filed 3–16–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 3808F.
Name: Kana D. Castleberry.
Address: 1010 South 312th Street, Suite 333, Federal Way, WA 98003.
Date Revoked: February 15, 2010.
Reason: Failed to maintain a valid bond.

License Number: 004319F.
Name: Lesley Schoepf Cabell.
Address: 922 White Marlin Drive, Charleston, SC 29412.
Date Revoked: February 7, 2010.
Reason: Surrendered license voluntarily.

License Number: 4562NF.
Name: Above & Beyond International Freight Forwarders Inc.
Address: One Cross Island Plaza, Room 226, Rosedale, NY 11422.
Date Revoked: February 8, 2010.
Reason: Failed to maintain valid bonds.

License Number: 11950N.
Name: Intermodal Logistics Systems, Inc.
Address: 200 West 140th Street, Unit 102, Los Angeles, CA 90061.
Date Revoked: February 19, 2010.
Reason: Failed to maintain a valid bond.

License Number: 15106N.
Name: World Express Consulting Corp.
Address: 147–48 175th Street, Suite 201, Jamaica, NY 11434.
Date Revoked: February 27, 2010.
Reason: Failed to maintain a valid bond.

License Number: 015530F.
Name: Distinction Cargo Management, Inc.
Address: Cargo Bldg. 9, Suite 255, JFK Int'l Airport, Jamaica, NY 11413.
Date Revoked: February 15, 2010.
Reason: Failed to maintain a valid bond.

License Number: 17305F.
Name: Distribution Support Systems, Inc.
Address: 6454 East Taft Road, East Syracuse, NY 13057.
Date Revoked: February 15, 2010.
Reason: Failed to maintain a valid bond.

License Number: 17569F.
Name: A.L.S. Cargo, Inc. dba Above & Beyond Cargo.
Address: 136 W. 73rd Street, Suite 3, New York, NY 10023.
Date Revoked: February 19, 2010.
Reason: Failed to maintain a valid bond.

License Number: 17830NF.
Name: Nationwide Forwarding, Inc.
Address: 20 Diann Drive, Montville, NJ 07045.
Date Revoked: February 15, 2010.
Reason: Failed to maintain valid bonds.

License Number: 018182NF.
Name: Sea-Line-Cargo, Inc.
Address: 202 Port Jersey Blvd., (Corner W/Colony Road), Jersey City, NJ 07305.
Date Revoked: February 27, 2010.
Reason: Failed to maintain valid bonds.

License Number: 018250F.
Name: Consolidation Shipping & Logistic, (USA) Inc.
Address: 219 Stuyvesant Avenue, Lynhurst, NJ 01071.
Date Revoked: February 13, 2010.
Reason: Failed to maintain a valid bond.

License Number: 018413NF.
Name: Chicago Int'l Forwarder Incorporated.
Address: 423 East Irving Park Road, Wood Dale, IL 60191.
Date Revoked: February 11, 2010.
Reason: Failed to maintain valid bonds.

License Number: 019258N.
Name: Fastgrow Logistics, Inc.
Address: 2211 S. Hacienda Blvd., Suite 216, Hacienda Heights, CA 91745.
Date Revoked: February 3, 2010.
Reason: Surrendered license voluntarily.

License Number: 019600F.
Name: Transphere, Inc.
Address: 5800 Commerce Avenue, Westland, MI 48185.
Date Revoked: February 5, 2010.
Reason: Failed to maintain a valid bond.

License Number: 019880NF.
Name: Transmax Logistics Corporation.
Address: 830 East Higgins Road, Suite 111–D, Schaumburg, IL 60173.
Date Revoked: February 11, 2010.
Reason: Failed to maintain valid bonds.

License Number: 019902F.
Name: Shipping Overseas Specialist Inc.
Address: 1121–A Industrial Parkway, Brick, NJ 08724.
Date Revoked: February 21, 2010.
Reason: Failed to maintain a valid bond.

License Number: 019908NF.
Name: International Trade Management Group, LLC dba Patriot Lines dba ITM Logistics.

Address: 611 Live Oak Drive, McLean, VA 22101.

Date Revoked: February 21, 2010.

Reason: Failed to maintain valid bonds.

License Number: 021640F.

Name: C. Steinweg (Houston), Inc.

Address: 1717 East Loop North (Turning Basin Drive) Suite 430, Houston, TX 77029–4025.

Date Revoked: February 26, 2010.

Reason: Surrendered license voluntarily.

License Number: 021649F.

Name: D.A.T. International, Inc.

Address: 11512 W. 183rd Street, Unit SE, Orland Park, IL 60467.

Date Revoked: February 27, 2010.

Reason: Failed to maintain a valid bond.

License Number: 021870F.

Name: AKM International, LLC.

Address: 301 Varick Street, Jersey City, NJ 07302.

Date Revoked: February 19, 2010.

Reason: Failed to maintain a valid bond.

License Number: 021925F.

Name: AAA International Shipping, LLC.

Address: 509 Largovista Drive, Oakland, FL 34787.

Date Revoked: February 19, 2010.

Reason: Failed to maintain a valid bond.

License Number: 021932N.

Name: Cargolinx, Inc.

Address: 6405 NW. 36th Street, Suite 107, Miami, FL 33166.

Date Revoked: February 27, 2010.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2010–5830 Filed 3–16–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission ("FTC" or "Commission").

ACTION: Notice and request for comment.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC is seeking public comments on its proposal to extend through March 31, 2013, the current PRA clearance for information collection requirements contained in its Alternative Fuel Rule (or "Rule"). This clearance expires on March 31, 2010.

DATES: Comments must be received on or before April 16, 2010.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form, by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following Web link: (*https://public.commentworks.com/ftc/alternativefuelrulepra2*) (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., M-8102B, Washington, DC 20580, (202) 326–2889.

SUPPLEMENTARY INFORMATION:

Background:

Under the PRA, 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The Alternative Fuel Rule, which implements the Energy Policy Act of 1992, Pub. L. 102–486, requires disclosure of specific information on labels posted on fuel dispensers for non-liquid alternative fuels and on labels on Alternative Fueled Vehicles (AFVs). To ensure the accuracy of these disclosures, the Rule also requires that sellers maintain records substantiating product-specific disclosures they include on these labels.

On January 5, 2010, the FTC sought comment on the information collection requirements associated with the Rule.[1] No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule (OMB Control No. 3084-0094). All comments should be filed as prescribed in the **ADDRESSES** section above and in the **Request for Comments** (found below), and must be received on or before April 16, 2010.

Request for Comments:

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Alternative Fuel Rule: FTC File No. R311002" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . .," as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).[2]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: (*https://public.commentworks.com/ftc/alternativefuelrulepra2*) (and following the instructions on the web-based form). To ensure that the Commission

[1] 75 FR 366.

[2] 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* FTC Rule 4.9(c), 16 CPR 4.9(c).

considers an electronic comment, you must file it on the web-based form at the Web link: (*https://public.commentworks.com/ftc/alternativefuelrulepra2*). If this Notice appears at (*http://www.regulations.gov*), you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

A comment filed in paper form should include the "Alternative Fuel Rule: FTC File No. R311002" 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 H–135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. 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 precautions.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act ("PRA") should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget ("OMB"), Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. postal mail at the OMB is subject to delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC's Web site, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC's Web site. 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.shtm*).

Burden Statement:

It is common practice for alternative fuel industry members to determine and monitor fuel ratings in the normal course of their business activities. This is because industry members must know and determine the fuel ratings of their products in order to monitor quality and to decide how to market them. "Burden" for PRA purposes is defined to exclude effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.2(b)(2). Moreover, as originally anticipated when the Rule was promulgated in 1995, many of the information collection requirements and the originally-estimated hours were associated with one-time start up tasks of implementing standard systems and processes.

Other factors also limit the burden associated with the Rule. Certification may be a one-time event or require only infrequent revision. Disclosures on electric vehicle fuel dispensing systems may be useable for several years.[3] Nonetheless, there is still some burden associated with posting labels. There is also some minimal burden associated with new or revised certification of fuel ratings and recordkeeping. The burden on vehicle manufacturers is limited because only newly-manufactured vehicles require label posting and manufacturers produce very few new models each year.

(1) Estimated total annual hours burden: 38,000 total burden hours, rounded to nearest thousand *(*includes *Non-liquid Alternative Fuels*[4] and *Alternative Fuel Vehicle Manufacturers).*

Non-liquid Alternative Fuels:

Certification: Staff estimates that the Rule's fuel rating certification requirements affect approximately 550 industry members (compressed natural gas producers and distributors and manufacturers of electric vehicle fuel dispensing systems) and consume approximately one hour each per year for a total of 550 hours.

Recordkeeping: Staff estimates that all 1,900 industry members (non-liquid fuel producers, distributors, and retailers) are subject to the Rule's recordkeeping requirements (associated with fuel rating certification) and that compliance requires approximately one-tenth hour each per year for a total of 190 hours.

Labeling: Staff estimates that labeling requirements affect approximately nine of every ten industry members (or roughly 1,700 members), but that the number of annually affected members is only 340 because labels may remain effective for several years (staff assumes that in any given year approximately 20% of 1,700 industry members will need to replace their labels). Staff estimates that industry members require approximately one hour each per year for labeling their fuel dispensers for a total of 340 hours.

Sub-total (Non-liquid Alternative Fuels): 1,080 hours (550 + 190 + 340).

AFV Manufacturers:

Recordkeeping: Staff estimates that a total of 8 manufacturers require 30 minutes to comply with the Rule's recordkeeping requirements for a total of 4 hours.

Producing labels: Staff estimates 2.5 hours as the average time required of manufacturers to produce labels for each of the five new AFV models introduced industry-wide each year for a total of 12.5 hours.

Posting labels: Staff estimates 2 minutes as the average time to comply with the posting requirements for each of the approximately 1,121,153 new AFVs manufactured each year for a total of 37,371 hours.

Sub-total (AFV Manufacturers): 37,388 hours (4 + 12.5 + 37,371).

Thus, the total burden for these industries combined is approximately 38,000 hours (1,080 + 37,388), rounded to nearest thousand.

(2) Estimated labor costs: $1,155,017 per year rounded *(*includes both *Non-liquid Alternative Fuels* and *AFV Manufacturers).*

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. According to Bureau of Labor Statistics data for 2008 (most recent available whole-year information), the average compensation for producers and distributors in the fuel industry is $27.28 per hour and $9.46 per hour for service station employees; the average compensation for workers in the vehicle industry is $30.18 per hour.

Non-liquid Alternative Fuels:

Certification and labeling: Generally, all of the estimated hours except for recordkeeping will be performed by producers and distributors of fuels. Thus, the associated labor costs would be $24,279. [(550 certification hours + 340 labeling hours) × $27.28]

Recordkeeping: Only 1/6 of the total recordkeeping hours will be performed by the producers and distributors of fuels (1/6 of 190 hours = approximately 32 hours; 32 hours × $27.28 = $872.96); the other 5/6 is attributable to service station employees (5/6 of 190 hours = approximately 158 hours; 158 hours × $9.46 = $1,494.68). Thus, the labor cost due to recordkeeping for the entire

[3] Label specifications were designed to produce labels to withstand the elements for several years.

[4] This includes compressed natural gas producers and distributors and manufacturers of electric vehicle fuel dispensing systems.

industry is approximately $2,368 ($872.96 for producers and distributors of fuels +$1,494.68 for service station employees).

The total paperwork related labor cost for the entire industry (*Non-liquid alternative fuels)* is approximately $26,647 ($24,279 for certification and labeling costs + $2,368 for recordkeeping costs).

AFV manufacturers:

The maximum labor cost for the entire industry (*AFV manufacturers*) is approximately $1,128,370 per year for recordkeeping and producing and posting labels (37,388 hours × $30.18/hour).

Thus, the estimated total labor cost for both industries for all paperwork requirements is $1,155,017 ($26,647 + $1,128,370) per year, rounded.

(3) Estimated annual non-labor cost burden: $426,251 rounded (includes both *Non-liquid Alternative Fuels* and *AFV Manufacturers*).

Non-liquid Alternative Fuels:

Staff believes that there are no current start-up costs associated with the Rule, inasmuch as the Rule has been effective since 1995. Industry members, therefore, have in place the capital equipment and means necessary to determine automotive fuel ratings and comply with the Rule. Industry members, however, incur the cost of procuring fuel dispenser and AFV labels to comply with the Rule. The estimated annual fuel labeling cost, based on estimates of 560 fuel dispensers (assumptions: an estimated 20% of 1,400 total fuel retailers need to replace labels in any given year given an approximate five-year life for labels—i.e., 280 retailers—multiplied by an average of two dispensers per retailer) at thirty-eight cents for each label (per industry sources), is $212.8 ($0.38 × 560).

AFV Manufacturers:

Here, too, staff believes that there are no current start-up costs associated with the Rule, for the same reasons as stated immediately above regarding the nonliquid alternative fuel industry. However, based on the labeling of an estimated 1,121,153 new and used AFVs each year at thirty-eight cents for each label (per industry sources), the annual AFV labeling cost is estimated to be $426,038.14 ($0.38 × 1,121,153).

Thus, the estimated total annual nonlabor cost burden associated with the Rule is $426,251 ($212.8 + $426,038.14), rounded.

Willard Tom,

General Counsel

[FR Doc. 2010–5750 Filed 3–16–10; 8:45 am]

BILLING CODE 6750–01–S

GENERAL SERVICES ADMINISTRATION

Maximum Per Diem Rates for the Continental United States (CONUS)

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of FTR Bulletin 10–02, Relocation Allowance—Standard Mileage Rate for Moving Purposes.

SUMMARY: On December 3, 2009, the IRS announced a $0.075 cent decrease in the Standard Mileage Rate for moving purposes from $0.24 cents to $0.165 cents per mile. This new Standard Mileage Rate for moving purposes is effective January 1, 2010, through December 31, 2010. Thus, the reimbursement rate for privately owned vehicles (POV) used in conjunction with official relocation will also be $0.165 for the same period.

DATES: This notice is effective January 1, 2010, and applies for travel performed on January 1, 2010 through December 31, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Ed Davis, Office of Governmentwide Policy (M), Office of Travel, Transportation, and Asset Management (MT), General Services Administration at (202) 208–7638 or via e-mail at *ed.davis@gsa.gov.* Please cite Notice of FTR Bulletin 10–02.

SUPPLEMENTARY INFORMATION:

Change in Standard Procedure

GSA issues/publishes the standard mileage rate for moving purposes in conjunction with relocation, formerly published in 41 CFR Chapter 302, solely on the Internet at *http:www.gsa.gov/relopolicy.* This process, implemented in 2008, ensures more timely updates in relocation mileage rates by GSA for Federal employees on official travel within CONUS. Notices published periodically in the **Federal Register**, such as this one, now constitute the only notification of revisions in the relocation mileage rate to Federal agencies.

Dated: March 3, 2010.

Becky Rhodes,

Deputy Associate Administrator.

[FR Doc. 2010–5832 Filed 3–16–10; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Policy Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of Meetings.

This notice announces forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Policy Committee's Workgroups: Meaningful Use, Privacy & Security Policy, Strategic Plan, Adoption/Certification, and Nationwide Health Information Infrastructure (NHIN) workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The HIT Policy Committee Workgroups will hold the following public meetings during April 2010: April 6th Strategic Plan Workgroup, 12 to 3 p.m./ET, a public listening session, details will be posted on ONC Web site; April 8th Meaningful Use Workgroup, 10 a.m. to 12 p.m./ET; April 14th NHIN Workgroup, 9 a.m. to 12 p.m./ET; April 16th Strategic Plan Workgroup, 10 a.m. to 1 p.m./ET; April 20th Meaningful Use Workgroup hearing on Patient Engagement, 9 a.m. to 5 p.m./ET; April 26th Privacy & Security Policy Workgroup, 2 p.m. to 4 p.m.; and April 30th Certification/Adoption Workgroup, 10 a.m. to 12 p.m./ET.

Location: All workgroup meetings will be available via webcast; for instructions on how to listen via telephone or Web visit *http://*

healthit.hhs.gov. Please check the ONC Web site for additional information as it becomes available.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, *e.g.,* meaningful use, the NHIN, privacy and security policy, adoption/certification, or strategic planning. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroups' meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: March 11, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–5783 Filed 3–16–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Standards Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Standards Committee's Workgroups: Clinical Operations Vocabulary, Clinical Quality, Implementation, and Privacy & Security workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The HIT Standards Committee Workgroups will hold the following public meetings during April 2010: April 1st Privacy & Security Workgroup, webcast only, 10 a.m. to 12 p.m./ET; April 23rd Clinical Quality Workgroup, 10 a.m. to 12 p.m./ET; April 23rd Privacy & Security Workgroup, 2 p.m. to 4 p.m./ET; and April 30th Implementation Workgroup, 3 p.m. to 4 p.m./ET.

Location: All workgroup meetings will be available via webcast; visit *http://healthit.hhs.gov* for instructions on how to listen via telephone or Web. Please check the ONC Web site for additional information as it becomes available.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, *e.g.,* clinical operations vocabulary standards, clinical quality measure, implementation opportunities and challenges, and privacy and security standards activities. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroups' meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: March 11, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–5784 Filed 3–16–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–10–09CD]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance

Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Laboratory Medicine Best Practices Project (LMBP)—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID) (proposed), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is seeking approval from the Office of Management and Budget (OMB) to collect information from healthcare organizations in order to conduct a systemic review of laboratory practice effectiveness. The purpose of information collection is to include completed unpublished quality improvement studies/assessments carried out by healthcare organizations (laboratories, hospitals, clinics) in systematic reviews of practice effectiveness. CDC has been sponsoring the Laboratory Medicine Best Practices (LMBP) initiative to develop new systematic evidence reviews methods for making evidence-based recommendations in laboratory medicine. This initiative supports the CDC's mission of improving laboratory practices.

The focus of the Initiative is on pre- and post-analytic laboratory medicine practices that are effective at improving health care quality. While evidence-based approaches for decisionmaking have become standard in healthcare, this has been limited in laboratory medicine. No single-evidence-based model for recommending practices in laboratory medicine exists, although the number of laboratories operating in the United States and the volume of laboratory tests available certainly warrant such a model.

The Laboratory Medicine Best Practices Initiative began in October 2006, when Division of Laboratory Systems (DLS) convened the Laboratory Medicine Best Practices Workgroup (Workgroup), a multidisciplinary panel of experts in several fields including laboratory medicine, clinical medicine, health services research, and health care performance measurement. The Workgroup has been supported by staff at CDC and the Battelle Memorial Institute under contract to CDC.

To date, the Laboratory Medicine Best Practices (LMBP) project work has been completed over three phases. During Phase 1 (October 2006–September 2007) of the project, CDC staff developed systematic review methods for conducting paper reviews related to the effectiveness of laboratory medicine practices. Results of a review of practices that reduce patient specimen identification indicated that an insufficient quality and number of published studies were available for completing systematic evidence reviews of laboratory medicine practice effectiveness for multiple practices. These results were considered likely to be generalizable to most potential review topics of interest. A finding from Phase 1 work was that laboratories would be unlikely to publish quality improvement projects or studies demonstrating practice effectiveness in the peer reviewed literature, but that they routinely conducted quality improvement projects and had relevant data for completion of evidence reviews. Phase 2 (September 2007–November 2008) and Phase 3 (December 2008–September 2009), involved further development of methods to obtain and critically appraise published and unpublished data. A pilot test of a standardized data collection form with less than nine potential laboratory respondents supported the Phase 1 finding that data from completed laboratory medicine quality improvement projects could supplement published evidence in systematic reviews. The objective for successive LMBP evidence reviews of practice effectiveness is to supplement the published evidence with unpublished evidence to fill in gaps in the literature.

Healthcare organizations and facilities (laboratories, hospitals, clinics) will have the opportunity to voluntarily enroll in an LMBP network and submit readily available unpublished studies; quality improvement projects, evaluations, assessments, and other analyses relying on unlinked, anonymous data using the LMBP Submission Form. LMBP Network participants will also be able to submit unpublished studies/data for evidence reviews on an annual basis using this form. There will be no charge to respondents for their participation, other than their time. The total estimated annualized burden hours for this information collection request are 138 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Healthcare Organizations	150	1	55/60

Date: March 11, 2010.

Maryam I. Daneschvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–5843 Filed 3–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–10–10CB]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

A Survey to Evaluate Occupational Safety and Health Educational Materials for Home Care Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. Under Public Law 91–596, Sections 20 and 22 (section 20–22, Occupational Safety and Health Act of 1970), NIOSH has the responsibility to conduct research to advance the health and safety of workers. In this capacity, NIOSH will conduct a survey of home care workers to evaluate newly developed educational intervention materials.

Home care workers who provide housekeeping and routine personal care services to elderly, disabled or ill individuals in their homes, constitute one of the fastest growing occupational groups, estimated at about 1,500,000 workers. In 1997, the U.S. Bureau of Labor Statistics issued a special report on work-related injuries to home care workers showing an injury rate which was 50% higher than that of workers employed in the private hospital sector and 70% higher than the overall rate for all private industry workers.

NIOSH has developed educational intervention materials for home care workers to prevent exposure to work-related hazards. The intervention materials consist of a printed handbook and a training session that explains how to use the handbook. The primary goal of the handbook and training session is to help home care workers and their clients identify hazards, discuss these hazards and identify accessible and low cost tips and tools for minimizing exposures to hazards. These materials have been developed and piloted in Alameda County, California. The goal of this data collection is to evaluate these materials before disseminating them more broadly.

The study population for this survey includes current home care workers and their clients who are enrolled in the In-Home Supportive Services (IHSS) Program in Alameda County, California.

NIOSH has obtained input on the content and operational aspects of the survey through local stakeholder meetings. The survey instrument has been reviewed by subject matter experts and cognitive interviews have been conducted using the survey instrument. Input received was used to guide development of the survey instrument and plans for survey implementation.

All Alameda County IHSS home care workers will be invited to participate. Volunteers will complete a brief interest response form which will be returned to the study contractor and the first 320 eligible volunteers will be randomized into either an intervention or a control group. The primary client for each home care worker participant will also be invited to participate but the clients' willingness to participate will not affect whether a home care workers can remain as a study participant. Both the home care worker and their primary client will complete two telephone surveys with a two month interval between the two surveys. Data from the telephone survey will be captured directly into an electronic database. For the intervention group the home care workers will receive the intervention materials and training during the interval between the two surveys. The control group will receive their intervention materials and training after the completion of the second survey. Each telephone survey will last approximately 30 minutes for home care workers and 15 minutes for clients. Because of the demographics of the population intervention materials as well as the evaluation surveys are in three languages: English, Spanish and Chinese.

Information will be collected on demographic variables including age, sex, race, education, income, primary language, and marital status. Information will be collected on the number of years a worker has been employed as a home care worker and the number of years a client has received home care services. Information will also be collected on working conditions and occupational exposures, work related injuries, knowledge of work-related health risks and workers' perception of the ease of controlling hazards. Finally, information will be collected from workers on their job satisfaction and clients on their satisfaction with caregiver services, on the quality of the caregiver and client relationships, and specific questions regarding use of the intervention materials.

The purpose of this information collection is to evaluate whether or not the educational materials (the Home Care Worker Handbook and training session) are effective in (1) conveying the intended message and (2) encouraging home care workers and their clients to make changes to reduce hazards. Without benefit of the evaluation, CDC will be unable to determine the effectiveness of the materials or formulate recommendations on their appropriate use and broader dissemination.

Once the study is completed, results will be made available via various means including the NIOSH internet site. NIOSH expects to complete data collection no later than winter of 2011. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Home care workers	Worker interest response form	1500	1	2/60	50
	Worker survey (pre)	320	1	30/60	160
	Worker Training program	320	1	1	320
	Worker survey (post)	320	1	30/60	160
Home care clients	Client survey (pre)	320	1	15/60	80
	Client survey (post)	320	1	15/60	80

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Total					850

Dated: March 11, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–5841 Filed 3–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0110]

Agency Information Collection Activities: Proposed Collection; Comment Request; Prescription Drug Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements, including third party disclosure, contained in FDA's regulations on prescription drug advertisements.

DATES: Submit written or electronic comments on the collection of information by May 17, 2010.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane., rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, e-mail: *Elizabeth.Berbakos@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Prescription Drug Advertisements—21 CFR 202.1 (OMB Control Number 0910)—New

Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) (the act) requires that manufacturers, packers, and distributors (sponsors) who advertise prescription human and animal drugs, including biological products for humans, disclose in advertisements certain information about the advertised product's uses and risks. For prescription drugs and biologics, section 502(n) of the act requires advertisements to contain "a true statement" of certain information including "information in brief summary relating to side effects, contraindications, and effectiveness" as required by regulations issued by FDA. FDA's prescription drug advertising regulations at § 202.1 (21 CFR 202.1) describe requirements and standards for print and broadcast advertisements. Section 202.1 applies to advertisements published in journals, magazines, other periodicals, and newspapers, and advertisements broadcast through media such as radio, television, and telephone communication systems. Print advertisements must include a brief summary of each of the risk concepts from the product's approved package labeling (§ 202.1(e)(1)). Advertisements that are broadcast through media such as television, radio, or telephone communications systems must disclose the major risks from the product's package labeling in either the audio or audio and visual parts of the presentation (§ 202.1(e)(1)); this disclosure is known as the "major statement." If a broadcast advertisement omits the major statement, or if the major statement minimizes the risks associated with the use of the drug, the advertisement could render the drug misbranded in violation of the act (21 U.S.C. 352(n) and 321(n)), and FDA's implementing regulations at § 202.1(e).

Advertisements subject to the requirements at § 202.1 are subject to the PRA because these advertisements disclose information to the public. In addition, § 202.1(e)(6) and (j) include provisions that are subject to OMB approval under the PRA. The information collection requirements in § 202.1 have not previously been submitted to OMB for approval. With this notice, we are seeking comment on the proposed information collection.

Reporting to FDA

Section 202.1(e)(6) includes a provision that is subject to the PRA. Section 202.1(e)(6) permits a person who would be adversely affected by the enforcement of a provision of § 202.1(e)(6) to request a waiver from FDA for that provision. The waiver request must set forth clearly and concisely the petitioner's interest in the advertisement, the specific provision of § 202.1(e)(6) from which a waiver is sought, a complete copy of the

advertisement, and a showing that the advertisement is not false, lacking in fair balance or otherwise misleading, or otherwise violative of section 502(n) of the act.

FDA has not received any waiver requests under § 202.1(e)(6) in the past 10 years. However, we estimate for the purposes of this information collection that FDA would receive one waiver request annually under § 202.1(e)(6). The hours per response is the estimated time that a respondent would spend preparing information to be submitted to FDA under § 202.1(e)(6). Based on its experience reviewing other waiver requests, FDA estimates that approximately 12 hours on average would be needed per submission, including the time it takes to prepare, assemble, and copy the necessary information.

Section 202.1(j), which sets forth requirements for the dissemination of advertisements subject to the standards in § 202.1(e), contains the following information collection that is subject to the PRA:

Under § 202.1(j)(1), a sponsor must submit advertisements to FDA for prior approval before dissemination if: (1) The sponsor or FDA has received information that has not been widely publicized in medical literature that the use of the drug may cause fatalities or serious damage; (2) FDA has notified the sponsor that the information must be part of the advertisements for the drug; and (3) the sponsor has failed to present to FDA a program for assuring that such information will be publicized promptly and adequately to the medical profession in subsequent advertisements, or if such a program has been presented to FDA but is not being followed by the sponsor. Under § 202.1(j)(1)(iii), a sponsor must provide to FDA a program for assuring that significant new adverse information about the drug that becomes known (i.e., use of drug may cause fatalities or serious damage) will be publicized promptly and adequately to the medical profession in any subsequent advertisements.

Under § 202.1(j)(4), a sponsor may voluntarily submit advertisements to FDA for comment prior to publication.

FDA has not received any advertisements requiring prior approval under § 202.1(j)(1) in the past 10 years. However, we estimate for the purposes of this information collection that FDA would receive one advertisement requiring prior approval annually under § 202.1(j)(1). The hours per response is the estimated time that a respondent would spend preparing information to be submitted to FDA under § 202.1(j)(1). Based on its experience reviewing other advertisements, FDA estimates that approximately 2 hours on average would be needed per submission, including the time it takes to prepare, assemble, and copy the necessary information.

FDA has not received any program information required under § 202.1(j)(1)(iii) in the past 10 years. However, we estimate for the purposes of this information collection that FDA would receive one submission of program information annually under § 202.1(j)(1)(iii). The hours per response is the estimated time that a respondent would spend preparing information to be submitted to FDA under § 202.1(j)(1)(iii). Based on its experience reviewing advertisement-related information, FDA estimates that approximately 12 hours on average would be needed per submission, including the time it takes to prepare, assemble, and copy the necessary information.

Based on FDA data, the Center for Drug Evaluation and Research (CDER) estimates that approximately 1,150 draft promotional pieces are received from approximately 125 companies annually for agency comment prior to publication under § 202.1(j)(4), the Center for Biologics Evaluation and Research (CBER) estimates that approximately 250 draft promotional pieces are received from approximately 25 companies annually under § 202.1(j)(4), and the Center for Veterinary Medicine (CVM) estimates that approximately 5 draft promotional pieces are received from approximately 5 companies annually under § 202.1(j)(4). FDA anticipates that this submission rate will moderately increase in the near future. The estimated total number of submissions under § 202.1(j)(4) is 1,405. The hours per response is the estimated time that a respondent would spend preparing the information to be submitted to FDA under § 202.1(j)(4). Based on its experience reviewing advertisements submitted prior to publication for agency comment, FDA estimates that approximately 20 hours on average would be needed per submission, including the time it takes to prepare, assemble, and copy the necessary information.

Disclosures to the Public

Under § 202.1, advertisements for human and animal prescription drug and biological products must comply with the standards described in that section.

Based on FDA data, CDER estimates that approximately 15,000 advertisements for prescription drugs, including print and broadcast advertisements, are prepared by approximately 300 companies under § 202.1 annually, CBER estimates that approximately 1,000 of these advertisements are prepared by approximately 30 companies annually, and CVM estimates that approximately 800 of these advertisements are prepared by approximately 25 companies annually. FDA anticipates that this estimate will moderately increase in the near future. The estimated total number of advertisements under § 202.1 is 16,800. The hours per response is the estimated time that a respondent would spend preparing an advertisement subject to § 202.1. Based on its experience reviewing advertisements, FDA estimates that approximately 400 hours on average would be needed per advertisement, including the time it takes to prepare, assemble, and copy the necessary information.

Under § 202.1, if information that the use of a prescription drug may cause fatalities or serious damage has not been widely publicized in the medical literature, a sponsor must include such information in the advertisements for that drug. FDA is not aware of any advertisements that required inclusion of information on fatalities or serious damage associated with use of the drug under § 202.1(j)(1) in the past 10 years. However, we estimate for the purposes of this information collection that one advertisement would require inclusion of such information annually under § 202.1(j)(1). The hours per response is the estimated time that a respondent would spend preparing information to comply with § 202.1(j)(1). Based on its experience reviewing changes to advertisements, FDA estimates that approximately 40 hours on average would be needed to comply with § 202.1(j)(1), including the time it takes to prepare the necessary information.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Type of Submission	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
202.1(e)(6)	Waiver request to FDA	1	1	1	12	12
202.1(j)(1)	Submission of advertisement to FDA for prior approval	1	1	1	2	2
202.1(j)(1)(iii)	Providing a program to FDA for assuring that adverse information about the drug will be publicized	1	1	1	12	12
202.1(j)(4)	Voluntarily submitting the advertisement to FDA prior to publication for comment	155	9.065	1,405	20	28,100
Total						28,126

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN[1]

21 CFR Section	Type of Submission	No. of Respondents	Annual Frequency per Disclosure	Total Annual Disclosures	Hours per Disclosure	Total Hours
202.1	Advertisements prepared in accordance with § 202.1	355	47.324	16,800	400	6,720,000
202.1(j)(1)	Including information about the drug's fatalities or serious damage in the advertisement	1	1	1	40	40
Total						6,720,040

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 12, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–5812 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0380]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 16, 2010.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0523. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3794, *Jonnalynn.capezzuto@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications—(OMB Control Number 0910–0523)—Extension

This regulation relates to agency management and organization and has two purposes. The first is to implement section 503(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)), as added by the Safe Medical Devices Act of 1990 (Public Law 101–629), and amended by the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), by specifying how FDA will determine the organizational component within FDA assigned to have primary jurisdiction for the premarket review and regulation of

products that are comprised of any combination of the following products: (1) A drug and a device; (2) a device and a biological product; (3) a biological product and a drug; or (4) a drug, a device, and a biological product. The second purpose of this regulation is to enhance the efficiency of agency management and operations by providing procedures for classifying and determining which agency component is designated to have primary jurisdiction for any drug, device, or biological product where such jurisdiction is unclear or in dispute.

The regulation establishes a procedure by which an applicant may obtain an assignment or designation determination. The regulation requires that the request include the identity of the applicant, a comprehensive description of the product and its proposed use, and the applicant's recommendation as to which agency component should have primary jurisdiction, with an accompanying statement of reasons. The information submitted would be used by FDA as the basis for making the assignment or designation decision. Most information required by the regulation is already required for premarket applications affecting drugs, devices, biological products, and combination products. The respondents will be businesses or other for-profit organizations.

In the **Federal Register** of August 25, 2009 (74 FR 42900), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Part 3	43	1	43	24	1,032

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These burden estimates are based on the number of applications FDA received over the past 2 fiscal years.

Dated: March 11, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–5749 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0497]

Agency Information Collection Activities; Submission for Office and Management and Budget Review; Comment Request; Abbreviated New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 16, 2010.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–NEW and title "Abbreviated New Animal Drug Application." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Abbreviated New Animal Drug Applications—FD&C Act/Section 512(n)(1)—(OMB Control Number 0910–NEW)

On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Restoration Act (GADPTRA) (Public Law 100–670). Under Section 512(b)(2) of the Federal Food, Drug, and Cosmetic Act (the act), as amended by GADPTRA, any person may file an abbreviated new animal drug application (ANADA) seeking approval of a generic copy of an approved new animal drug. The information required to be submitted as part of an abbreviated application is described in section 512(n)(1) of the act. Among other things, an abbreviated application is required to contain information to show that the proposed generic drug is bioequivalent to, and has the same labeling as, the approved drug referenced in the abbreviated application. FDA allows applicants to submit a complete ANADA or to submit information in support of an ANADA for phased review followed by the submission of an administrative ANADA when FDA finds that all the applicable technical sections for an ANADA are complete. FDA requests that an applicant accompany ANADAs and requests for phased review of data to support ANADAs with the Form FDA 356v to ensure efficient and accurate processing of information to support approval of the generic new animal drug.

In the **Federal Register** of November 2, 2009 (74 FR 56643), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Section 512(n)(1) of the FD&C Act	FDA Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
ANADA	356v	17	1	17	159	2703
Phased Review With Administrative ANADA	356v	5	5	25	31.8	795
Total						3498

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

ANADA Paperwork Burden (Section 512(n)(1) of the Act) (21 U.S.C. 360b(b)(2)): Over the past 5 fiscal years, from October 2003 through September 2008, FDA has received an average of 22 ANADAs per year. FDA estimates that preparing the paperwork required under section 512(n)(1) of the act to be contained in an ANADA, whether all of the information is submitted with the ANADA or the applicant submits information for phased review followed by an Administrative ANADA that references that information, will take approximately 159 hours. FDA is estimating that each ANADA that uses the phased review process will have approximately 5 phased reviews per application. Therefore, assuming that 5 respondents will take advantage of the phased review option per year and an average of 5 phased reviews are submitted per application, times 31.8 hours per phased review, equals 795 total hours per year or 159 hours per application.

FDA believes that with time, more sponsors will take advantage of the phased review option, as it provides greater flexibility. Eventually, phased review will increase to the point of being the majority of ANADAs submitted during the course of the year. FDA also estimates that it takes sponsors of ANADAs approximately 25 percent less time to put together the information to support an ANADA than an NADA because they only need to provide evidence of bioequivalence and not the data required in an NADA to support a full demonstration of safety and effectiveness.

Form FDA 356v: FDA requests that an applicant fill out and send in with an ANADA and requests for phased review of data to support an ANADAs, a Form FDA 356v to ensure efficient and accurate processing of information to support the approval of a generic new animal drug.

This document also refers to previously approved collections of information found in FDA regulations. The collections of information under 21 CFR 514.80, which describes records and reports that are required post approval, have been approved under OMB control no. 0910–0284.

Dated: March 11, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–5747 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–P–0318]

Determination That CERNEVIT–12 (Multivitamins for Infusion) Was Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) has determined that CERNEVIT–12, multivitamins for infusion (retinol palmitate corresponding to retinol (Vitamin A) 3500 international units (I.U.), cholecalciferol (Vitamin D_3) 200 I.U., DL alpha-tocopherol 10.2 milligrams (mg) corresponding to alpha-tocopherol (Vitamin E) 11.2 I.U., ascorbic acid (Vitamin C) 125 mg, nicotinamide (Vitamin B_3) 46 mg, dexpanthenol 16.15 mg corresponding to pantothenic acid (Vitamin B_5) 17.25 mg, pyridoxine hydrochloride 5.5 mg corresponding to pyridoxine (Vitamin B_6) 4.53 mg, riboflavin sodium phosphate 5.67 mg corresponding to riboflavin (Vitamin B_2) 4.14 mg, cocarboxylase tetrahydrate 5.8 mg corresponding to thiamine (Vitamin B_1) 3.51 mg, folic acid 414 micrograms (mcg), D-biotin 60 mcg, and cyanocobalamin (Vitamin B_{12}) 5.5 mcg), (hereinafter CERNEVIT–12 (multivitamins for infusion)), was withdrawn from sale for reasons of safety or effectiveness. FDA therefore will not accept or approve abbreviated new drug applications (ANDAs) for CERNEVIT–12 (multivitamins for infusion).

FOR FURTHER INFORMATION CONTACT: Nancy Hayes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6354, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984, Public Law No. 98–417 (the 1984 Amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 Amendments include what is now section 505(j)(7)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)(A)) (the act), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which generally is known as the "Orange Book." Under FDA regulations (part 314 (21 CFR part 314)), drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA (§ 314.162(a)(1)) or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162(a)(2)).

Under § 314.161(a)(1), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA

that refers to that listed drug may be approved. FDA may not approve an ANDA that references a listed drug that the agency has determined was withdrawn for reasons of safety or effectiveness (§ 314.127(a)(11)).

CERNEVIT–12 (multivitamins for infusion) is the subject of NDA 20–924, held by Baxter Health Corp. (Baxter). FDA approved the NDA on April 6, 1999, as an application under section 505(b)(2) of the act (21 U.S.C. 355(b)(2)), relying in part upon literature and the agency's prior findings of safety and efficacy for a listed parenteral multivitamin drug product. CERNEVIT–12 (multivitamins for infusion) is indicated as a daily multivitamin maintenance dosage for adults and children age 11 years and older receiving parenteral nutrition, and for situations in which administration by the intravenous route is required.

Adult parenteral multivitamin drug products were reviewed for efficacy under the Drug Efficacy Study Implementation (DESI) program. Under this program, implemented in response to the 1962 amendments to the act requiring demonstration of effectiveness (The Kefauver-Harris Amendments, Public Law No. 87–781 (1962)), the National Academy of Sciences-National Research Council (NAS-NRC) undertook a study of some 4,000 drug formulations for the express purpose of assessing the efficacy of the products. Upon consideration of the findings and recommendations of the NAS-NRC, FDA set forth in the **Federal Register** its conclusions and assessment of whether and under what circumstances a drug product is considered "effective" for use as required by the act.

In the initial DESI notice of July 27, 1972, addressing parenteral multivitamin preparations, FDA announced its conclusion that parenteral multivitamin preparations as then formulated lacked substantial evidence of effectiveness because they did not contain certain essential vitamins, or they contained certain vitamins in doses that were too high or too low (37 FR 15027, July 27, 1972). Because of the critical medical importance of these preparations and the lack of alternative drug products, FDA notified manufacturers and distributors of parenteral multivitamin products in December 1972 that the agency would allow these products to remain on the market pending the development and testing of new formulations and the resolution of complex technical and medical issues (37 FR 26623, December 14, 1972).

On September 17, 1984, FDA announced the parenteral multivitamin formulations the agency had determined to be effective and the conditions for marketing those products (49 FR 36446, September 17, 1984). The agency subsequently modified the conditions for marketing an effective adult parenteral multivitamin drug product in 2000 (65 FR 21200, April 20, 2000). In that "upgrade" notice, FDA announced several changes to the product formulation including increases in the dosage amounts of Vitamins B_1, B_6, C, and folic acid, and amended portions of the "Conditions for Marketing and Approval" for parenteral multivitamin products set forth in the September 17, 1984, notice to reflect the changes (Id. at 21201).

In the **Federal Register** of August 18, 2003, FDA announced that it was withdrawing approval of NDA 20–924 in response to Baxter's withdrawal request dated December 18, 2002 (68 FR 49481, August 18, 2003). As a result, CERNEVIT–12 (multivitamins for infusion) was moved to the "Discontinued Drug Product List" section of the Orange Book.

Strides Arcolab Limited submitted a citizen petition under § 314.161(b) of the regulations (Docket No. FDA–2009–P–0318) requesting that FDA determine whether the NDA for CERNEVIT–12 (multivitamins for infusion) had been withdrawn from sale for reasons of safety or effectiveness. After considering the citizen petition and reviewing agency records, FDA has determined that CERNEVIT–12 (multivitamins for infusion) was withdrawn from sale for reasons of safety or effectiveness.

Specifically, we have carefully reviewed our files for records concerning the withdrawal of CERNEVIT–12 (multivitamins for infusion), including the NDA file for this product. We also have independently evaluated relevant literature and data for possible postmarketing adverse event reports. Agency records did not contain any clinical reviews describing safety issues associated with CERNEVIT–12 (multivitamins for infusion), and postmarketing safety reports did not raise any safety concerns.

FDA has determined, however, that CERNEVIT–12 (multivitamins for infusion) was not reformulated to comply with the April 20, 2000, **Federal Register** upgrade notice before it was withdrawn from the market. As described in that notice, adult parenteral multivitamin drug products must contain higher doses of Vitamins B_1, B_6, C, and folic acid than the dosages contained in CERNEVIT–12 (multivitamins for infusion) (65 FR 21201).

Because CERNEVIT–12 (multivitamins for infusion) is not in compliance with current FDA standards for adult parenteral multivitamin drug products, the agency has determined under § 314.161 that CERNEVIT–12 (multivitamins for infusion) was withdrawn from sale for reasons of safety or efficacy. (57 FR 17950 at 17956, April 28, 1992) ("if the NDA or ANDA holder fails to comply with [the DESI upgrade] notice, the NDA or ANDA product is not considered to be approved for effectiveness and cannot be a listed drug"). The Discontinued Drug Product List delineates, among other items, products that have been discontinued from marketing for reasons other than safety or effectiveness. Therefore, CERNEVIT–12 (multivitamins for infusion) will be removed from the Discontinued Drug Product List section of the Orange Book (§ 314.162(a)(2)). In addition, FDA will not accept or approve ANDAs that refer to CERNEVIT–12 (multivitamins for infusion) (21 CFR 314.127(a)(11)).

Dated: March 11, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–5748 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of Federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will

be required to receive copies of the patent applications.

Caspase Inhibitors Useful for the Study of Autoimmune or Inflammatory Diseases

Description of Invention: Novel and potent caspase 1 inhibitors are available for licensing. In particular, this technology discloses potent and selective caspase 1 inhibitors that target the active site of the enzyme. Caspase 1 is known to play a pro-inflammatory role in numerous autoimmune and inflammatory diseases and therefore represents an excellent target for treatment of a broad range of diseases, including but not limited to Huntington's, amyotrophic lateral sclerosis, ischemia, rheumatoid arthritis, osteoarthritis, inflammatory bowel disease, and sepsis. Not surprisingly this enormous potential has resulted in at least three caspase 1 inhibitors entering clinical trials (VX–740, IDN–6556, and VX–765) in recent years.

Applications

• Potential therapeutic for a broad range of autoimmune diseases.

• Potential therapeutic for a broad range of inflammatory diseases.

Development Status: Early stage.

Market: The market size is potentially very large. For instance, rheumatoid arthritis alone affects 1% of the population, or about 2.5–3 million Americans. Further, it is estimated that osteoarthritis affects at least 16 million people in America.

Inventors: Craig J. Thomas and Matthew B. Boxer (NHGRI).

Publication: Boxer MB, Quinn AM, Shen M, Jadhav A, Leister W, Simeonov A, Auld DS, Thomas CJ. A highly potent and selective caspase 1 inhibitor that utilizes a key 3-cyanopropanoic acid moiety. Chem Med Chem., accepted.

Patent Status: U.S. Provisional Application No. 61/299,790 filed 29 Jan 2010 (HHS Reference No. E–308–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Steve Standley, PhD; 301–435–4074; *sstand@od.nih.gov.*

Collaborative Research Opportunity: The NIH Chemical Genomics Center is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize appropriate lead compounds described in U.S. Provisional Application No. 61/299,790. Please contact Dr. Craig J. Thomas via e-mail (*craigt@nhgri.nih.gov*) for more information.

Defensin-Based Therapeutics for the Treatment of Pulmonary Disease

Description of Invention: Investigators at the National Heart, Lung and Blood Institute have developed modified defensins that are resistant to degradation, have improved characteristics compared to unmodified defensins, and are promising candidates for pulmonary disease therapeutics.

Defensins are small cationic peptides that defend the lung against pathogenic microorganisms and play an important role in innate immunity. However, during lung inflammation, defensin concentrations can reach levels that are cytotoxic for airway epithelial cells. Therefore, the development of methods to produce modified defensins that exhibit reduced cytotoxicity, while retaining the ability to stimulate the innate immune response, would be of potential therapeutic benefit for pulmonary diseases.

The inventors have previously shown that a defensin, human neutrophil peptide 1 (HNP–1), is elevated in samples from the lungs of patients with inflammatory lung disease, and that the HNP–1 in these samples is ADP-ribosylated at one or both of two arginine residues within the protein. *In vitro* studies by the inventors show that ADP-ribosyl-HNP–1 has reduced cytotoxic activity compared to HNP–1, while retaining its T cell chemotactic properties and ability to promote neutrophil recruitment, and thus ADP-ribosyl-HNP–1 may play an important role as a regulator of the inflammatory response. These properties would also be useful for treatment of pulmonary inflammation and lung diseases. However, ADP-ribosylated HNP–1 and other defensins are degraded rapidly in vivo due to the susceptibility of the ADP-ribose moiety to attack by hydrolases and pyrophosphatases, which limits their therapeutic potential.

The inventors have recently discovered that the ADP-ribosylated arginine residues in HNP–1 can be converted to ornithine through a non-enzymatic process that results in a peptide with an altered pharmacological profile. The investigators have also successfully generated ornithine-substituted ADP-ribosyl HNP–1 and ornithine-HNP–1 in vitro, which are currently being characterized. Thus, ornithine-substituted ADP-ribosyl HNP–1 and ornithine-HNP–1 may be promising candidates for the development of therapeutics to treat pulmonary disease, and the strategy of replacing ADP-ribosylated residues with ornithine to enhance stability and therapeutic efficacy may also be extended to other defensins

Through an earlier, related invention, the inventors have also demonstrated that recombinant proteins wherein tryptophan or phenylalanine residues substitute for ADP-ribosylarginine have a similar stabilizing impact on polypeptides, making them more suitable as therapeutic agents.

The inventors also hypothesize that it would be possible to develop a treatment that increases levels of an ADP-ribosylated therapeutic protein, such as HNP–1, in the lung via inhalation administration of the therapeutic protein in conjunction with nicotinamide adenine dinucleotide (NAD), which is required for ADP-ribosylation. This could represent a unique therapeutic strategy for treating pulmonary disease.

Applications: Development of defensin-based therapeutics that enhance the immune response in pulmonary disease patients, without damaging the epithelial cells lining the airway.

Advantages

Modified defensins are less cytotoxic, while retaining ability to stimulate innate immunity.

Ornithine-substituted defensins are resistant to enzymatic degradation, making them more promising as drug candidates.

Development Status: In vitro studies, as well as analysis of patient samples, have been performed.

Inventors: Joel Moss et al. (NHLBI).

Relevant Publication: Stevens LA, Levine RL, Gochuico BR, Moss J. ADP-ribosylation of human defensin HNP–1 results in the replacement of the modified arginine with the noncoded amino acid ornithine. Proc Natl Acad Sci U S A. 2009 Nov 24;106(47):19796–19800. [*PubMed:* 19897717.]

Patent Status: U.S. Provisional Application No. 61/241,311 filed September 10, 2009 (HHS Reference No. E–243–2009/0–US–01).

Related Technologies

• HHS Reference No. E–080–2002/0, "Modified Defensins and Their Use."

• HHS Reference No. E–160–2002/0, "Tryptophan as a Functional Replacement for ADP-ribose-arginine in Recombinant Proteins."

Licensing Status: Available for licensing.

Licensing Contact: Tara Kirby, PhD; 301–435–4426; tarak@mail.nih.gov.

Collaborative Research Opportunity: The National Heart, Lung and Blood Institute Translational Medicine Branch is seeking statements of capability or

interest from parties interested in collaborative research to further develop, evaluate, or commercialize defensin-based therapeutic agents to treat pulmonary diseases. Please contact Brian W. Bailey, PhD at 301–494–4094 or *bbailey@mail.nih.gov* for more information.

HTLV–II Vector and Methods of Use

Description of Invention: The invention hereby offered for licensing is in the field of vaccines and vaccine vectors. More specifically the invention provides compositions and methods of use of HTLV–II viral vector. The vector comprises at least a portion of the HTLV–II genome encoding the gag, pro, and pol genes and lacking all or a portion of the pX region. A heterologous gene is inserted within the deletion of the pX region. The gene of interest may encode all or a portion of a protein that corresponds to a viral protein of a foreign virus. The viral vectors thus constructed are useful for inducing immune response to the viral protein from the foreign virus. In particular the invention claims vaccines against HIV and SIV.

Applications: The technology can be used for DNA-based vaccines.

Advantages

• Vaccines based on HTLV–II vectors have exhibited the capability to eliciting T cell response effectively. In particular they induce specific CD4+ and CD8+ T cell response. Antibody response to the HTLV–II vector is almost undetectable. The vector is infectious, but highly attenuated, with respect to the wild type HTLV–II. Desirably, the HTLV–II viral vector induces antibodies that can participate in Antibody-Dependent-Cell-Mediated Cytotoxicity (ADCC), a mechanism that enhances its effectiveness.

• Most of the T-cell vaccines developed for HIV are based on microbial vectors that have limited replication capacity and do not persist in the host. Such vaccines do not protect macaques from SIV infection and their ability to protect against high virus load is merely transient (approximately six months). They are perceived to elicit too "small T-cell responses" that expand "too late". In addition, few of these vectors target mucosal sites, the first portal of HIV entry. In contrast, an HTLV II based vaccine is anticipated to infect macaques and replicate at very low level in lymphoid tissue and particularly in the gut which may enable them to maintain sufficient level of effectors CD8 memory cells to decrease early seeding of the virus, and sufficient level of central memory cells in lymph nodes that may limit the broadcasting of the virus at distal sites. These features make an HTLV–II based vaccine for HIV an excellent unique candidate to target mucosal tissues and provide long lasting mucosal immunity to HIV. In addition, the HTLV II infects dendritic cells both in vivo and in vitro, and the HTLV II infected dendritic cells have a mature phenotype, suggesting that HIV antigens expressed within dendritic cells could be effectively presented to the immune system.

• HTLV II is a human retrovirus with no clear disease associations neither in healthy nor in HIV infected individuals

• HTLV shares many biological and molecular characteristics of HIV, including routes of transmission, a T-cell tropism and gut tropism.

• Based on the above, it is believed that HIV vaccines based on HTLV II vector will exhibit superiority compared to other vaccines in development.

Development Status: At the present only in vitro as well as animal (macaques) data that demonstrate the proof of concept are available. The data indicates that an HTLV II based vaccine could replicate in the appropriate body compartment and confer immunity in humans. The inventors continue to work on the development of this approach.

Market: In spite of major global efforts of more than 25 years in developing a vaccine against HIV/AIDS, such a vaccine is still not in existence but yet very much needed for the fight against the global epidemic of HIV/AIDS. The market for HIV/AIDS drugs is currently at the level of approximately $6 billion a year and is expected to grow to $13 billion by the year 2015. Should an effective vaccine be developed the market for such a vaccine may exceed this level. The instant technology may offer superiority to existence approaches in the area of HIV vaccines and thus a huge commercial opportunity for pharmaceutical/vaccine enterprises as well as a major contribution for global public health.

Inventors: Genoveffa Franchini *et al.* (NCI).

Publications: Paper in preparation.

Patent Status: PCT Application No. PCT/US2009/051138 filed 20 Jul 2009, which published as WO 2010/009465 on 21 Jan 2010 (HHS Reference No. E–269–2008/1–PCT–01).

Related Technologies: RhCMV SIV vaccine (Picker *et al.*)

Licensing Status: Available for licensing.

Licensing Contact: Susan Ano, PhD; 301–435–5515; *anos@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Animal Models & Retroviral Vaccine Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize HTLV–II vectored HIV vaccines. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Prevention and Treatment of Cancer With Kinase Inhibitors Targeting the PH Domain of AKT

Description of Invention: Activation of the PI3K/Akt signaling pathway has been implicated in the development of cancer. Akt, a kinase that is central to this pathway, is found at elevated levels in many tumors and is associated with a poor disease prognosis. Further research has validated Akt as a therapeutic target for the development of anti-cancer drugs. Most efforts of drug development targeting Akt have focused on inhibitors of the ATP-binding domain which have the drawback that they interfere with other physiologically important kinases. This is reflected in that no Akt inhibitors have been clinically approved. However, investigators at the National Institutes of Health (NIH) and Georgetown University (GU) have developed an alternative strategy that improves Akt specificity by targeting the unique pleckstrin homology (PH) domain of Akt.

Scientists at NIH and GU have discovered several lipid-based inhibitors of Akt called phosphatidylinositol ether lipid analogues (PIAs) that target the pleckstrin homology (PH) domain of Akt. These PIAs, which are analogues of the products of phosphatidylinositol 3-kinase (PI3K), inhibit Akt within minutes and selectively kill cancer cells that contain high levels of Akt activation. The mechanism of action of these compounds has been intensively studied providing much insight into how PIAs inhibit the growth of cancer cells. In addition, several molecular targets have been identified that highly correlate with cancer cell sensitivity to PIA that potentially could serve as clinical biomarkers predictive of responsiveness to PIAs. U.S. and Australian patents issued for this invention have composition and method of use claims.

Applications

• Treating or preventing development of cancer or preventing progression of premalignant lesions to cancer.

• Used as single agents or in combination with other anti-cancer treatments like chemotherapy, biological therapy, or radiation.

Advantages: Targeting the PH domain improves specificity against Akt kinase in comparison to inhibitors of the ATP domain which typically are unspecific.

Inventors: Phillip A. Dennis (NCI) *et al.*

Relevant Publications

1. Memmott RM, Gills JJ, Hollingshead M, Powers MC, Chen Z, Kemp B, Kozikowski A, Dennis PA. Phosphatidylinositol ether lipid analogues induce AMP-activated protein kinase-dependent death in LKB1-mutant non small cell lung cancer cells. Cancer Res. 2008 Jan 15;68(2):580–588. [*PubMed:* 18199555.]

2. Gills JJ, Castillo SS, Zhang C, Petukhov PA, Memmott RM, Hollingshead M, Warfel N, Han J, Kozikowski AP, Dennis PA. Phosphatidylinositol ether lipid analogues that inhibit AKT also independently activate the stress kinase, p38alpha, through MKK3/6-independent and -dependent mechanisms. J Biol Chem. 2007 Sep 14;282(37):27020–27029. [*PubMed:* 17631503.]

3. Gills JJ, Holbeck S, Hollingshead M, Hewitt SM, Kozikowski AP, Dennis PA. Spectrum of activity and molecular correlates of response to phosphatidylinositol ether lipid analogues, novel lipid-based inhibitors of Akt. Mol Cancer Ther. 2006 Mar;5(3):713–722. [*PubMed:* 16546986.]

4. Carón RW, Yacoub A, Li M, Zhu X, Mitchell C, Hong Y, Hawkins W, Sasazuki T, Shirasawa S, Kozikowski AP, Dennis PA, Hagan MP, Grant S, Dent P. Activated forms of H–RAS and K–RAS differentially regulate membrane association of PI3K, PDK–1, and AKT and the effect of therapeutic kinase inhibitors on cell survival. Mol Cancer Ther. 2005 Feb;4(2):257–270. [*PubMed:* 15713897.]

5. Castillo SS, Brognard J, Petukhov PA, Zhang C, Tsurutani J, Granville CA, Li M, Jung M, West KA, Gills JG, Kozikowski AP, Dennis PA. Preferential inhibition of Akt and killing of Akt-dependent cancer cells by rationally designed phosphatidylinositol ether lipid analogues. Cancer Res. 2004 Apr 15;64(8):2782–2792. [*PubMed:* 15087394.]

6. Kozikowski AP, Sun H, Brognard J, Dennis PA. Novel PI analogues selectively block activation of the pro-survival serine/threonine kinase Akt. J Am Chem Soc. 2003 Feb 5;125(5):1144–1145. [*PubMed:* 12553797.]

Patent Status: U.S. Patent No. 7,378,403 issued 27 May 2008 (HHS Reference No. E–245–2002/0–US–03), and related international filings.

Licensing Status: Available for licensing.

Licensing Contact: Surekha Vathyam, PhD; 301–435–4076; *vathyams@mail.nih.gov.*

Dated: March 10, 2010.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2010–5764 Filed 3–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Spontaneously Transformed Mouse Epithelial Cancer Cell Lines Serving as Mouse Models: A New Model for Cancer Research

Description of Invention: Investigators at the NIH have created a collection of 45 mouse epithelial cancer cell lines derived from six organs: Bladder, cervix, colon, lung, kidney, and mammary glands. These cells lines were obtained from spontaneously transformed primary cell cultures without genetic, viral or chemical manipulation so they can serve as mouse models for studying the natural process of oncogenesis.

The cell lines were characterized cytogenetically during their transformation from normal to spontaneously immortalization and were found to recapitulate many of the changes observed in human cancer cells such as the deregulation of oncogenes (Myc, Mdm2) and tumor suppressor genes (Cdnk4a/Ink4a/p16, Rb).

Carcinomas that arise from the epithelial cells lining organs lead to the most common cancers in humans. However, research on cellular transformation has largely relied on fibroblast cells which are not of epithelial origin and therefore, may not reflect the changes that lead to epithelial oncogenesis. The availability of these mouse epithelial cancer cell lines should allow for a more accurate analysis of this process.

Applications: These cell lines serve as "ideal" murine tumor models as they show evidence of progression, permitting analysis of the genetic and biological changes observed in the equivalent human carcinomas and associated with tumor progression. Their tumor histology is comparable to human cancers.

The cell lines have unique properties that make them suitable for study of the following:

• Unlimited replicative potential.

• Exhibit tumorigenic potential and EMT (Epithelial Mesencymal Transition).

• Exhibit high degree of chromosome instability (chromosome rearrangements, amplifications) in regions orthologous to those altered in human cancers.

• Use in mapping mouse genes homologous to human cancer genes and for the study of the effects of deregulation of cancer associated genes, through silencing or overexpression.

• For use in gene expression studies of tumor progression, comparing profiles to human cancers involving the same tissue types.

• Use as experimental controls in the analysis of oncogene signaling pathways.

• Use in the studying telomerase pathway regulation (200-fold expression difference between cell lines).

• Use of mouse as model of epithelial carcinomas and specifically cancers of the bladder, cervix, colon, lung, mammarys and kidney cancers.

• These mouse models serve as vehicles to test the efficacy of new therapies, targeting specific targets associated with the transformation of six different mouse epithelial tissues.

• Use for discovering drugs that alter the tumorigenic potential, invasiveness, and the Epithelial-Mesenchymal Transition state.

Advantages:

• Cytogenetically defined epithelial cell lines from mouse that model human carcinomas.

• Spontaneously transformed primary cell cultures were generated from isogenic mouse strain that has a low propensity for epithelial tumors in vivo therefore, not involving other mouse strains potentially influencing the genetic background.

• These cell lines were generated without viral, chemical or genetic manipulation and thus can serve as mouse models for studying the natural process of oncogenesis and as mouse models of human cancers.

• Genomically defined colon, bladder, and kidney cell lines showing oncogene deregulation (i.e. Mdm2 and Myc overexpression).

Development Status:

• Ready for use.

• Pre-clinical.

Market: Cancer is the second most common cause of death in the United States. More than half a million Americans are expected to die of cancer. The cell lines will serve as a valuable tool for cancer researchers.

Inventors: Hesed AM. Padilla-Nash *et al.* (NCI).

Publications: None currently available for this technology.

Patent Status: HHS Reference No. E–089–2010/0—Research Material. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing under a Biological Materials License Agreement.

Licensing Contact: Sabarni Chatterjee, PhD; 301–435–5587; *chatterjeesa@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Cancer Genetics Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John Hewes, PhD at 301–435–3131 or *hewesj@mail.nih.gov* for more information.

Tumor Tissues Harboring Mutations in cAMP-Specific Phosphodiesterases Useful for the Study of Endocrine Tumors

Description of Invention: Researchers at the National Institute of Child Health and Human Development (NICHD), NIH, have made available samples of patient-derived adrenal and heart tumors that harbor genetic mutations that have been implicated in the predisposition of endocrine tumors. An endocrine tumor is a growth that affects the parts of the body that secrete hormones. Because an endocrine tumor arises from cells that produce hormones, the tumor itself can produce hormones and cause serious illness.

The tumor samples made available herein contain deletions in the cyclic nucleotide phosphodiesterase (PDE) PDE7A or PDE8B genes that impair PDE function and are characterized by high sensitivity to changes in cAMP levels. Commercially, phosphodiesterase inhibitors are widely used in the treatment of various disorders, including asthma, pulmonary hypertension, and erectile dysfunction, suggesting a potential utility for these tissues in a wide range of investigations.

Applications: Useful in the investigation of the mechanisms of phosphodiesterase inhibition.

Inventors: Constantine Stratakis et al. (NICHD).

Patent Status: HHS Reference No. E–059–2010/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing under a biological material license.

Licensing Contact: Patrick P. McCue, PhD; 301–435–5560; *mccuepat@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Child Health and Human Development, Division of Intramural Research, is seeking statements of capability or interest from parties interested in collaborative research. Please contact Joseph Conrad, PhD at 301–435–3107 or *jmconrad@mail.nih.gov* for more information.

Akt-Ser473 Phosphorylation as a Marker for Predicting Taxane Chemotherapy Outcome

Description of Invention: Over the past decades, taxanes such as paclitaxel and docetaxel have emerged as effective chemotherapy agents for breast cancer and other malignancies. Taxanes are effective in many patients, however, not all patients benefit from this type of chemotherapy. A significant need remains for a means of predicting clinical outcome from taxane-based chemotherapy.

Akt, a serine/threonine kinase that can block apoptosis, has been implicated in the regulation of microtubule dynamics and organization. Akt phosphorylation and its transducing downstream events play a central role in cell survival and cell cycle progression at the G_2/M transition. Paclitaxel or docetaxel inhibits Akt-Ser473 phosphorylation (pAkt) and induces mitotic arrest. Therefore, taxanes may cause more damage to tumor cells that are dependent on pAkt for survival and cell cycle progression, significantly impacting treatment outcome.

Researchers at the National Cancer Institute, NIH, have identified pAkt as having predictive significance for paclitaxel chemotherapy outcome in patients with early stage breast cancer. The researchers have developed an immunohistochemistry method for determining pAkt status with appropriate controls for assay performance and cutoff for pAkt positivity. They also discovered methods of correlating pAkt expression with clinical outcome (disease-free survival and overall survival). pAkt is a novel predictive marker of taxane chemotherapy, and can be applied to indicate which patients should receive taxane-based chemotherapy.

Applications: A Kit for identifying pAkt-positive tumors in surgical tumor specimens or tumor biopsies prior to treatment (adjuvant, neoadjuvant therapy or therapy for metastatic disease); and methods for predicting clinical outcome from taxane chemotherapy.

Advantages: pAkt is a useful clinical predictive marker to determine which patients should or should not receive taxane-based chemotherapy for cancer. Determining pAkt status would allow patients with pAkt-positive tumors to elect taxane therapy for whom are likely to benefit, and allow patients with pAkt-negative tumors for whom are unlikely to benefit to be spared from taxane therapy as well as toxicity, and earlier use of other therapies that could be more effective. The application of this invention may potentially reduce the cost of cancer care.

Inventors: Sherry X. Yang *et al.* (NCI).

Related Publications:

1. Yang, SX, Costantino JP, Mamounas EP, Nguyen D, Jeong J–H, Wolmark N, Kim C, Kidwell K, Paik S, Swain SM. Correlation of levels of Akt phosphorylation at Ser473 with benefit from paclitaxel chemotherapy in NSABP B–28 patients with node-positive breast cancer. J Clin Oncol. 2009 (May 20 Supplement);27(15S):537.

2. Yang SX, Costantino JP, Mamounas EP, Nguyen D, Jeong J–H, Wolmark N, Kim C, Kidwell K, Paik S, Swain SM. Akt phosphorylation at Ser473 predicts benefit to paclitaxel chemotherapy in node-positive breast cancer. J Clin Oncol. 2010, In Press.

Patent Status: U.S. Provisional Application No. 61/180,558 filed 22

May 2009 (HHS Reference No. E–191–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Patrick P. McCue, PhD; 301–496–7057; *mccuepat@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the pAkt assay for use in a clinical setting. The National Cancer Institute would be particularly interested in discussing collaborations to provide additional clinical validation of pAkt as a primary biomarker. Please contact John Hewes, PhD at 301–435–3131 or *hewesj@mail.nih.gov* for more information.

Dated: March 10, 2010.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2010–5765 Filed 3–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RO1 Review.

Date: April 6, 2010.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.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: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Translational Research.

Date: May 20, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Michele L. Barnard, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 10, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–5768 Filed 3–16–10; 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. App.), 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: AOIC & VACC.

Date: April 7–8, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Ethical, Legal and Societal Implications of Genetic Information.

Date: April 19, 2010.

Time: 12 p.m. to 1 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: Cheryl M. Corsaro, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.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: March 10, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–5770 Filed 3–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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: National Center on Minority Health and Health Disparities Special Emphasis Panel Loan Repayment Program for Health Disparities Research—Panel 2.

Date: April 5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza 6707 Democracy Boulevard 800, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Prabha L. Atreya, PhD, Chief, Office of Scientific Review, National Center on Minority Health and Health Disparities, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 594–8696, *atreyapr@mail.nih.gov.*

Name of Committee: National Center on Minority Health and Health Disparities Special Emphasis Panel R13 Special Emphasis Panel

Date: April 8, 2010.

Time: 8 a.m. to 5 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd. 800, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Prabha L. Atreya, PhD, Chief, Office of Scientific Review, National Center on Minority Health, and Health Disparities, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 594–8696, *atreyaprmail.nih.gov.*

Name of Committee: National Center on Minority Health and Health Disparities Special Emphasis Panel Loan Repayment Program for Health Disparities Research—Panel 3.

Date: April 19, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Prabha L. Atreya, PhD, Chief, Office Of Scientific Review, National Center On Minority Health and Health Disparities, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 594–8696, *atreyapr/@mail.nih.gov.*

Dated: March 8, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–5540 Filed 3–16–10; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Joint Meeting of the Anesthetic and Life Support Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Anesthetic and Life Support Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 22, 2010, from 8 a.m. to 4:30 p.m.

Location: Hilton Washington DC North/Gaithersburg, The Ballrooms, 620 Perry Pkwy., Gaithersburg, MD. The hotel phone number is 301–977–8900.

Contact Person: Kalyani Bhatt, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *Kalyani.Bhatt@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in Washington, DC area), codes 3014512529 and 3014512535. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hotline/phone line to learn about possible modifications before coming to the meeting.

Agenda: On April 22, 2010, the committees will discuss new drug application (NDA) 22–451 ACUROX (oxycodone HCl and niacin) Tablets, Acura Pharmaceuticals, Inc., for the proposed indication of relief of moderate to severe pain where the use of an immediate-release, orally administered, opioid analgesic tablet is appropriate, and the results of studies evaluating the addition of niacin, added for the purpose of reducing the misuse of oxycodone.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 15, 2010. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 7, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 8, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 11, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–5815 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held by teleconference on April 12, 2010, from 1 p.m. to 5:30 p.m.

Location: National Institutes of Health, 9000 Rockville Pike, Bldg. 29, conference rm. 121, Bethesda, MD, 20892. The public is welcome to attend the meeting at the specified location where a speakerphone will be provided. Public participation in the meeting is limited to the use of the speakerphone in the conference room. Important information about transportation and directions to the NIH campus, parking, and security procedures is available on the Internet at *http://www.nih.gov/about/visitor/index.htm*. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.) Visitors must show two forms of identification, one of which must be a Government-issued photo identification such as a Federal employee badge, driver's license, passport, green card, etc. Detailed information about security procedures is located at *http://www.nih.gov/about/visitorsecurity.htm*. Due to the limited available parking, visitors are encouraged to use public transportation.

Contact Person: Bryan Emery or Pearline K. Muckelvene, Center for Biologics Evaluation and Research (CBER) (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014519516. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On April 12, 2010, the committee will meet in open session to hear updates on the research programs of the Laboratory of Cellular Hematology and the Laboratory of Biochemistry and Vascular Biology, Division of Hematology, Office of Blood Research and Review, CBER, FDA.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: On April 12, 2010, from 1 p.m. to approximately 4:15 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 7, 2010. Oral presentations from the public will be scheduled between approximately 3:15 p.m. and 4:15 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 30, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 31, 2010.

Closed Committee Deliberations: On April 12, 2010, from approximately 4:15 p.m. to approximately 5:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss the site visit report of the intramural research programs and make recommendations regarding personnel staffing decisions.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Bryan Emery or Pearline Muckelvene at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 11, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–5814 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 6, 2010, from 8 a.m. to 5 p.m.

Location: The Inn and Conference Center, University of Maryland University College (UMUC), Marriott

Conference Centers, 3501 University Blvd. East, Adelphi, MD. The hotel telephone number is 301–985–7300.

Contact Person: Diem-Kieu Ngo, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, email: *diem.ngo@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512543. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On May 6, 2010, the committee will discuss supplemental new drug application (sNDA) 22–432, H.P. ACTHAR Gel (repository corticotropin injection), 80 USP units per milliliter, Questcor Pharmaceuticals, proposed for the treatment of infantile spasms.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 22, 2010. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 noon. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 14, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 15, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Diem-Kieu Ngo at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 11, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–5813 Filed 3–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Institute of Allergy and Infectious Diseases Special Emphasis Panel; HLA Region Genetics in Immune-Mediated Diseases.

Date: April 7–8, 2010.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Maryam Feili-Hariri, PhD, Scientific Review Officer, Immunology Review Branch, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–5658, *haririmf@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 10, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–5769 Filed 3–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine Announcement of Workshop on Control/Comparison Groups for Trials of Non-Pharmacologic Interventions

ACTION: Notice.

SUMMARY: The National Center for Complementary and Alternative Medicine (NCCAM) invites the public to participate at a Workshop on the choice of control and comparison groups for trials of non-pharmacological interventions (NPI). The purpose of this workshop is to review the strengths and weaknesses of the various control/comparison groups used in studies of NPI and the most appropriate use of these control/comparison groups. This workshop will be divided into six sessions that will feature presentations and discussions focusing on the selection of a particular control/comparison group(s) for a given research question. The first session will provide case studies from the NPI literature, while the remainder will address the choice of control/comparison groups when researching the following questions: What is/are the major active component(s) of the NPI? What is/are the major effective mechanism(s) of the NPI? Does this NPI work at all? Is this NPI as good as (or better than) some other intervention? Does this NPI improve standard-of-care?

The Workshop will take place on April 26–27, 2010 in Rockville, Maryland. Seating is limited.

Background: The National Center for Complementary and Alternative Medicine (NCCAM) was established in 1998 with the mission of exploring complementary and alternative healing practices in the context of rigorous science, training CAM researchers, and disseminating authoritative information to the public and professionals.

To date, NCCAM's efforts to rigorously study CAM, to train CAM researchers, and to communicate with the public and professionals, have been guided by NCCAM's previous strategic plans, located on the NCCAM Web site at *http://nccam.nih.gov/about/plans.*

The Workshop will take place on April 26–27, 2010 in Rockville, Maryland. Seating is limited.

FOR FURTHER INFORMATION CONTACT: To request more information, visit the NCCAM Web site at *http://nccam.nih.gov*, call Edward Culhane at 301–594–3391, or e-mail *culhanee@mail.nih.gov.*

Dated: March 9, 2010.

Richard Nahin,

Senior Advisor for Scientific Coordination and Outreach, National Center for Complementary and Alternative Medicine, National Institutes of Health.

[FR Doc. 2010–5767 Filed 3–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660—NEW; Regional Catastrophic Preparedness Grant Program (RCPGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660—NEW; FEMA Form FEMA Form 089–19, RCPGP Investment Justification Template; FEMA Form 089–26, RCGCP (Sample) Detailed Project Plan Template; FEMA Form 089–17, RCPT Membership List.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before April 16, 2010.

ADDRESSES: 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 the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: FEMA Preparedness Grants: Regional Catastrophic Preparedness Grant Program (RCPGP).

Type of information collection: New information collection.

OMB Number: 1660—NEW.

Form Titles and Numbers: FEMA Form 089–19, RCPGP Investment Justification Template; FEMA Form 089–26, RCGCP (Sample) Detailed Project Plan Template; FEMA Form 089–17, RCPT Membership List.

Abstract: The RCPGP is an important tool among a comprehensive set of measures to help strengthen the Nation against risks associated with potential terrorist attacks. DHS/FEMA uses the information to evaluate applicants' familiarity with the national preparedness architecture and identify how elements of this architecture have been incorporated into regional/state/local planning, operations, and investments.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 10.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 176.2 hours.

Estimated Total Annual Burden Hours: 1,762 hours.

Estimated Cost: There is no annual reporting recordkeeping cost associated with this collection.

Dated: March 2, 2010.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–5854 Filed 3–16–10; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; Radiological Emergency Preparedness Program Alert and Notification Phone Survey

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 111, Radiological Emergency Preparedness Program Alert and Notification Phone Survey.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before April 16, 2010.

ADDRESSES: 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 the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Radiological Emergency Preparedness Program Alert and Notification Phone Survey.

Type of information collection: New information collection.

OMB Number: OMB No. 1660–NEW.

Form Titles and Numbers: FEMA Form 111, Radiological Emergency Preparedness Program Alert and Notification Phone Survey.

Abstract: Immediately following activation of a commercial nuclear power plant's alert and notification system, FEMA will conduct a telephone survey of a sample of residents within that plant's Emergency Planning Zone.

Affected Public: Individuals or households.

Estimated Number of Respondents: 338.

Frequency of Response: Once.

Estimated Average Hour Burden per Respondent: .1667 burden hours.

Estimated Total Annual Burden Hours: 56 burden hours.

Estimated Cost: None.

Dated: March 3, 2010.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–5851 Filed 3–16–10; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0013]

Certificate of Alternative Compliance for the Offshore Supply Vessel CALLAIS PROVIDER

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance was issued for the offshore supply vessel CALLAIS PROVIDER as required by 33 U.S.C. 1605(c) and 33 CFR 81.18.

DATES: The Certificate of Alternate Compliance was issued on January 4, 2010.

ADDRESSES: The docket for this notice is 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. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2010–0013 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call CWO2 David Mauldin, District Eight, Prevention Branch, U.S. Coast Guard, telephone 504–671–2153. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background And Purpose

A Certificate of Alternative Compliance, as allowed under Title 33 of the Code of Federal Regulation, Parts 81 and 89, has been issues for the offshore supply vessel CALLAIS PROVIDER. The horizontal distance between the forward and aft masthead lights may be 20′–8⅝″. Placing the aft masthead light at the horizontal distance from the forward masthead light as required by Annex I, paragraph 3(a) of the 72 COLREGS, and Annex I, Section 84.05(a) of the Inland Rules Act, would result in an aft masthead light location directly over the cargo deck where it would interfere with loading and unloading operations. The offset from centerline of the RAM/NUC lights may be 3′. Offsetting the RAM/NUC lights 2 meters from the centerline as required by Annex I paragraph 3(c) the 72 COLREGS and Annex I, Section 84.05(c) of the Inland rules Act would place them in an exposed position beyond the width of the aft end of the pilothouse.

The Certificate of Alternative Compliance allows for the horizontal separation of the forward and aft masthead lights to deviate from the requirements of Annex I, paragraph 3(a) of 72 COLREGS, and Annex I, Section 84.05(a) of the Inland Rules Act as well as the offset of the RAM/NUC lights to deviate from the requirements of Annex I, paragraph 3(c) of 72 COLREGS and Annex I, Section 84.05(c) of the Inland Rules Act.

This notice is issued under authority of 33 U.S.C. 1605(c), and 33 CFR 81.18.

Dated: 21 Jan 2010.

J.W. Johnson,

Commander, U.S. Coast Guard, Chief, Inspections and Investigations Branch, By Direction of the Commander, Eighth Coast Guard District.

[FR Doc. 2010–5758 Filed 3–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0013]

Certificate of Alternative Compliance for the Offshore Supply Vessel CALLAIS PROVIDER

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance was issued for the offshore supply vessel CALLAIS PROVIDER as required by 33 U.S.C. 1605(c) and 33 CFR 81.18.

DATES: The Certificate of Alternate Compliance was issued on January 4, 2010.

ADDRESSES: The docket for this notice is 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. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2010–0013 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call CWO2 David Mauldin, District Eight, Prevention Branch, U.S. Coast Guard, telephone 504–671–2153. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

A Certificate of Alternative Compliance, as allowed under Title 33 of the Code of Federal Regulation, Parts 81 and 89, has been issues for the offshore supply vessel CALLAIS PROVIDER. The horizontal distance between the forward and aft masthead lights may be 20′–8⅝″. Placing the aft masthead light at the horizontal distance from the forward masthead light as required by Annex I, paragraph

3(a) of the 72 COLREGS, and Annex I, Section 84.05(a) of the Inland Rules Act, would result in an aft masthead light location directly over the cargo deck where it would interfere with loading and unloading operations. The offset from centerline of the RAM/NUC lights may be 3′. Offsetting the RAM/NUC lights 2 meters from the centerline as required by Annex I paragraph 3(c) the 72 COLREGS and Annex I, Section 84.05(c) of the Inland rules Act would place them in an exposed position beyond the width of the aft end of the pilothouse.

The Certificate of Alternative Compliance allows for the horizontal separation of the forward and aft masthead lights to deviate from the requirements of Annex I, paragraph 3(a) of 72 COLREGS, and Annex I, Section 84.05(a) of the Inland Rules Act as well as the offset of the RAM/NUC lights to deviate from the requirements of Annex I, paragraph 3(c) of 72 COLREGS and Annex I, Section 84.05(c) of the Inland Rules Act.

This notice is issued under authority of 33 U.S.C. 1605(c), and 33 CFR 81.18.

Dated: 21 Jan 2010.

J.W. Johnson,

Commander, U.S. Coast Guard, Chief, Inspections and Investigations Branch, By Direction of the Commander, Eighth Coast Guard District.

[FR Doc. 2010–5760 Filed 3–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2010–0127]

National Offshore Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet in New Orleans LA to discuss various issues relating to offshore safety and security. The meeting will be open to the public.

DATES: NOSAC will meet on Thursday, April 8, 2010, from 9 a.m. to 4:00 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 25, 2010. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before March 25, 2010.

ADDRESSES: NOSAC will meet in the Waterbury Ballroom of the Sheraton Hotel and Conference Center, 500 Canal Street, New Orleans, Louisiana. Send written material and requests to make oral presentations to Commander P.W. Clark, Designated Federal Officer (DFO), Commandant (CG–5222), U.S. Coast Guard, 2100 Second Street, SW., STOP 7126, Washington, DC 20593–7126. This notice is available on our online docket, USCG–2010–0127, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Commander P.W. Clark, Designated Federal Officer of NOSAC, or Mr. Kevin Pekarek, Assistant to Designated Federal Officer, telephone 202–372–1410, fax 202–372–1926.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Agenda of Meeting

The agenda for the April 8, 2010, Committee meeting is as follows:

(1) An update on the Coast Guard's policy with respect to MARPOL Annex II Implementation and IMO Resolution A.673 for Offshore Supply Vessels (OSVs).

(2) Update on the Diving Sub-committee to study the matter of medical treatment of injured divers while working on the OCS.

(3) Discussion of US Coast Guard's planned update of the Hazardous Locations Shipping Regulations in 46 CFR Subpart 111.105 related to electrical installations in hazardous areas and the requested formation of a Task Group.

(4) Brief Updates on the following topics:

(a) The proposed regulations governing the Advanced Notice of Arrival (NOA) for units arriving on the U.S. Outer Continental Shelf (OCS)

(b) Commercial Diving Regulations Report

(c) Dynamic Positioning Best Practices discussion

(d) 46 CFR Subchapter L update

(e) A progress report/discussion of safe lifting operations

(f) 33 CFR Subchapter N update

(g) MODU Crane regulations

(h) Fire Suppression Systems/CO_2 NPRM FR Feb. 24, 2010

(5) STCW Convention Update.

(6) Ocean Policy Task Force Presentation.

(7) A discussion on Subsea Pipeline system/Pipeline Mapping from MMS.

(8) National Center of Expertise Offshore Section (Morgan City) will be providing a briefing about the services they provide.

(9) A Report on IMO Issues and Upcoming Meeting Dates for this organization.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the DFO no later than March 25, 2010. Written material for distribution at the meeting should reach the Coast Guard no later than March 25, 2010. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the DFO no later than March 25, 2010.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the DFO as soon as possible.

Dated: March 8, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2010–5763 Filed 3–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–16]

Federal Labor Standards Payee Verification and Payment Processing

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 collected by HUD is used to issue refunds to depositors where labor standards discrepancies have been resolved, and to issue wage restitution payments on behalf of construction and maintenance workers who have been underpaid for work performed on HUD-assisted projects subject to prevailing wage requirements.

DATES: *Comments Due Date: April 16, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2501–0021) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

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: Federal labor standards payee verification and payment processing

OMB Approval Number: 2501–0021.

Form Numbers: HUD–4734–Labor Standards Deposit Voucher.

Description of the Need for the Information and Its Proposed Use: The information collected by HUD is used to issue refunds to depositors where labor standards discrepancies have been resolved, and to issue wage restitution payments on behalf of construction and maintenance workers who have been underpaid for work performed on HUD-assisted projects subject to prevailing wage requirements.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	50	1		10		5

Total Estimated Burden Hours: 5.

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: March 11, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–5805 Filed 3–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5379–N–02]

Notice of Proposed Information Collection: Comment Request Ginnie Mae Mortgage-Backed Securities Guide 5500.3, Revision 1 (Forms and Electronic Data Submissions); Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), 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:* May 17, 2010.

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: Leroy McKinney Jr., QDAM, Information Reports Management Officer, Department or Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 800a, Washington, DC 20410; e-mail *Leroy.McKinney.jr@hud.gov*; telephone (202) 708–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

FOR FURTHER INFORMATION CONTACT: Debra Murphy, Ginnie Mae, 451 7th Street, SW., Room B–133, Washington, DC 20410; e-mail—*Debra.L.Murphy@hud.gov*; telephone—(202) 475–4923; fax—(202) 485–0225 (this is not a toll-free number); Victoria Vargas, Ginnie Mae, 451 7th Street, SW., Room B–133, Washington, DC 20410; e-mail—*Victoria.Vargas@hud.gov*; telephone—(202) 475–6752; fax—(202) 485–0225 (this is not a toll-free number); or the Ginnie Mae Web site at *http://www.ginniemae.gov* for other available information.

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 hours 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: Ginnie Mae Mortgage-Backed Securities Guide 5500.3, Revision 1 (Forms and Electronic Data Submissions).

OMB Control Number, if applicable: 2503–0033.

Description of the need for the information and proposed use: Ginnie Mae's Mortgage-Backed Securities Guide 5500.3, Revision 1 ("Guide") provides instructions and guidance to participants in the Ginnie Mae

Mortgage-Backed Securities ("MBS") programs ("Ginnie Mae I and Ginnie Mae II"). Under the Ginnie Mae I program, securities are backed by single-family or multifamily loans. Under the Ginnie Mae II program securities are only backed by single-family loans. Both the Ginnie Mae I and II MBS are modified pass-through securities. The Ginnie Mae II multiple Issuer MBS is structured so that small issuers, who do not meet the minimum number of loans and dollar amount requirements of the Ginnie Mae I MBS to participate in the secondary mortgage market. In addition, the Ginnie Mae II MBS permit the securitization of adjustable rate mortgages ("ARMs"). Included in the Guide are appendices, forms, and documents necessary for Ginnie Mae to properly administer its MBS programs.

Agency form numbers, if applicable: 11700, 11701, 11702, 11704, 11705, 11706, 11707, 11708, 11709, 11709–A, 11710A, 1710–B, 1710–C, 11710D, 11710E, 11711–A, 11711–B, 11714, 11714–SN, 11720, 11715, 11732, 11785.

While most of the calculations are based on number of respondents multiplied by the frequency of response; there are several items whose calculations are based on volume.

Form	Appendix No.	Title	Number of respondents	Frequency of responses per year	Total annual responses	Hours per response	Total annual hours
11700	II–1	Letter of Transmittal	210	4	840	0.033	27.7
11701	I–1	Application for Approval Ginnie Mae Mortgage-Backed Securities Issuer.	100	1	100	1	100.0
11702	I–2	Resolution of Board of Directors and Certificate of Authorized Signatures.	210	1	210	0.08	16.8
11704	II–2	Commitment to Guaranty Mortgage-Backed Securities.	210	4	840	0.033	27.7
11707	III–1	Master Servicing Agreement	210	1	210	0.016	3.4
11709	III–2	Master Agreement for Servicer's Principal and Interest Custodial Account.	210	1	210	0.033	6.9
11715	III–4	Master Custodial Agreement	210	1	210	0.033	6.9
11720	III–3	Master Agreement for Servicer's Escrow Custodial Account.	210	1	210	0.033	6.9
11732	III–22	Custodian's Certification for Construction Securities.	144	1	144	0.016	2.3
	IX–1	Financial Statements and Audit Reports.	210	1	210	1	210.0
		Mortgage Bankers Financial Reporting Form.	350	4	1400	0.5	700.0
11709–A	I–6	ACH Debit Authorization	210	1	210	0.033	6.9
11710 D	VI–5	Issuer's Monthly Summary Reports	210	12	2520	0.033	83.2
11710A, 1710B, 1710C & 11710E.	VI–12	Issuer's Monthly Accounting Report and Liquidation Schedule.	110	1	110	0.5	55.0
		Data Verification Form	210	2	420	0.05	21.0
	III–13	Electronic Data Interchange System Agreement.	40	1	40	0.166	6.6
	III–14	Enrollment Administrator Signatories for Issuers and Document Custodians.	54	1	54	2	108.0
	I–4	Cross Default Agreement	10	1	10	0.05	0.5
	VII–18	WHFIT Reporting	210	4	840	0.25	210.0
	VII–19	Monthly Pool and Loan Level Report (RFS).	210	12	2520	4.3	10836.0
The Burden for the Items Listed Below Is Based on Volume and/or Number of Requests							
11705	III–6	Schedule of Subscribers and Ginnie Mae Guaranty Agreement.	210	12	24800	0.0075	186.0
11706	III–7	Schedule of Pooled Mortgages	210	12	24800	0.0075	186.0
11708	V–5	Document Release Request	210	1	374	0.05	18.7
	XI–6, XI–8, XI–9	Soldiers' and Sailors' Quarterly Reimbursement Request and SSCRA Loan Eligibility Information.	32	4	8000	0.033	1056.0
11711A and 11711B.	III–5	Release of Security Interest and Certification and Agreement.	210	1	24800	0.005	124.0
11714 and 11714SN.	VI–10, VI–11	Issuer's Monthly Remittance Advice and Issuer's Monthly Serial Note Remittance Advice.	210	12	56500	0.016	10848.0
	VI–2	Letter for Loan Repurchase	210	12	420	0.033	13.9
	VII–1	Collection of Remaining Principal Balances.	210	12	344000	0.0125	51600.0
	III–21	Certification Requirements for the Pooling of Multifamily Mature Loan Program.	11	1	11	0.05	0.6
	VI–9	Request for Reimbursement of Mortgage Insurance Claim Costs for Multifamily Loans.	56	1	56	0.25	14.0
	VIII–3	Assignment Agreements	63	1	63	0.13	8.2
	III–9	Authorization to Accept Facsimile Signed Correction Request Forms.	210	12	128	0.016	2.0
Total				Varies	495,260	Varies	76,493

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 11, 2010.

Mary K. Kinney,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 2010–5808 Filed 3–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5374–N–07]

Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, an exception was granted to the West Valley Housing Authority for the installation of a ductless split system during the LaCreole Manor Heating, Ventilation and Air Conditioning (HVAC) and Water Distribution Replacement Project.

FOR FURTHER INFORMATION CONTACT: Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act provides that none of the funds appropriated or made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Section 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality, or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Section 1605(c) provides that if the head of a Federal department or agency makes a determination pursuant to section 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

In accordance with section 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on February 26, 2010, upon request of the West Valley Housing Authority, HUD granted an exception to the applicability of the Buy American requirements with respect to work, using CFRFC grant funds, based on the fact that the relevant manufactured goods (ductless split HVAC systems) are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: *March 3, 2010.*

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2010–5751 Filed 3–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5407–N–01; MHLS 2010–1]

Notice of HUD-Held Multifamily and Healthcare Loan Sale

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of sale of mortgage loans.

SUMMARY: This notice announces HUD's intention to sell certain unsubsidized multifamily and healthcare mortgage loans, without Federal Housing Administration (FHA) insurance, in a competitive, sealed bid sale (MHLS 2010–1). Additionally, HUD intends to extend the sale to include a supplementary pool of unsubsidized multifamily mortgage loan(s), without Federal Housing Administration (FHA) insurance, limited to not-for-profit organizations and units of State and local government. This notice also describes generally the bidding process for the sale and certain persons who are ineligible to bid.

The Department is also working with units of local governments on potential direct loan sales. It is anticipated that any sales of these notes would be offered and closed in the same timeframe as the competitive sale.

DATES: The Bidder's Information Package (BIP) was made available to qualified bidders on February 26, 2010. Bids for the loans must be submitted on the bid date, which is currently scheduled for March 24, 2010. HUD anticipates that awards will be made on or before March 25, 2010. Closings are expected to take place between April 1, 2010 and April 9, 2010.

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents will be available on the HUD Web site at *http://www.hud.gov/offices/hsg/comp/asset/mfam/mhls.cfm.* Please mail and fax executed documents to KDX Ventures:

KDX Ventures, c/o The Debt Exchange, 133 Federal Street, 10th Floor, Boston, MA 02111.

Attention: MHLS 2010–1 Sale Coordinator.

Fax: 1–617–531–3499.

FOR FURTHER INFORMATION CONTACT: John Lucey, Deputy Director, Asset Sales Office, Room 3136, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone number 202–708–2625, extension 3927. Hearing- or speech-impaired individuals may call telephone number 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell in MHLS 2010–1 certain unsubsidized mortgage loans (Mortgage Loans) secured by multifamily and healthcare properties located throughout the United States. The Mortgage Loans are comprised primarily of non-performing mortgage loans. A final listing of the Mortgage Loans will be included in the BIP. The Mortgage Loans will be sold without FHA insurance and with servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the Mortgage Loans.

The Mortgage Loans will be stratified for bidding purposes into several mortgage loan pools, including a supplementary pool of unsubsidized multifamily mortgage loan(s), without

Federal Housing Administration (FHA) insurance, limited to not-for-profit organizations and units of State and local government. Each pool will contain Mortgage Loans that generally have similar performance, property type, geographic location, lien position and other characteristics. Qualified bidders may submit bids on one or more pools of Mortgage Loans or may bid on individual loans. A mortgagor who is a qualified bidder may submit an individual bid on its own Mortgage Loan. Interested Mortgagors should review the Qualification Statement to determine whether they may also be eligible to qualify to submit bids on one or more pools of Mortgage Loans or on individual loans in MHLS 2010–1 for eligible bidders.

The Bidding Process

The BIP will describe in detail the procedure for bidding in MHLS 2010–1. The BIP will also include a standardized non-negotiable loan sale agreement (Loan Sale Agreement). Deposits are calculated based upon each bidder's aggregate bid price. For an aggregate bid price greater than or equal to one hundred thousand dollars ($100,000), each bidder must submit a deposit equal to the greater of: (a) One hundred thousand dollars ($100,000); or (b) ten percent (10%) of its bid price. In the event the bidder's aggregate bid price is less than $100,000, the minimum deposit shall not be less than fifty percent (50%) of its bid price.

HUD will evaluate the bids submitted and determine the successful bids, in terms of the best value to HUD, in its sole and absolute discretion. If a bidder is successful, the bidder's deposit will be non-refundable and will be applied toward the purchase price. Deposits will be returned to unsuccessful bidders. Closings are expected to take place between April 1, 2010 and April 9, 2010.

These are the essential terms of sale. The Loan Sale Agreement, which will be included in the BIP, will contain additional terms and details. To ensure a competitive bidding process, the terms of the bidding process and the Loan Sale Agreement are not subject to negotiation.

Due Diligence Review

The BIP will describe the due diligence process for reviewing loan files in MHLS 2010–1. Qualified bidders will be able to access loan information remotely via a high-speed Internet connection. Further information on performing due diligence review of the Mortgage Loans will be provided in the BIP.

Mortgage Loan Sale Policy

HUD reserves the right to add Mortgage Loans to or delete Mortgage Loans from MHLS 2010–1 at any time prior to the Award Date. HUD also reserves the right to reject any and all bids, in whole or in part, without prejudice to HUD's right to include any Mortgage Loans in a later sale. Mortgage Loans will not be withdrawn after the Award Date except as is specifically provided in the Loan Sale Agreement.

This is a sale of unsubsidized mortgage loans, pursuant to Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997, 12 U.S. C. 1715z–11a(a).

Mortgage Loan Sale Procedure

HUD selected a competitive sale as the method to sell the Mortgage Loans. This method of sale optimizes HUD's return on the sale of these Mortgage Loans, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loans, and provides the quickest and most efficient vehicle for HUD to dispose of the Mortgage Loans. HUD's intention to limit a supplementary pool to not-for-profit organizations and units of State and local government enables HUD to ensure certain projects maintain affordablity after the sale.

Bidder Eligibility

In order to bid in the sale, a prospective bidder must complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Not-for-profit organizations and units of State and local government must complete, execute and submit both a Confidentiality Agreement and Qualification Statement for Non-Profits, Units of General Local Government and State Agencies acceptable to HUD. The following individuals and entities are ineligible to bid on any of the Mortgage Loans included in MHLS 2010–1:

(1) Any employee of HUD, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household;

(2) Any individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 24 of the Code of Federal Regulations, Part 24, and Title 25 of the Code of Federal Regulations, Part 2424;

(3) Any contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for or on behalf of HUD in connection with MHLS 2010–1;

(4) Any individual who was a principal, partner, director, agent or employee of any entity or individual described in subparagraph 3 above, at any time during which the entity or individual performed services for or on behalf of HUD in connection with MHLS 2010–1;

(5) Any individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subparagraphs 1 through 4 above to assist in preparing any of its bids on the Mortgage Loans;

(6) Any individual or entity which employs or uses the services of an employee of HUD (other than in such employee's official capacity) who is involved in MHLS 2010–1;

(7) Any mortgagor (or affiliate of a mortgagor) that failed to submit to HUD on or before March 1, 2010, audited financial statements for fiscal years 2001 through 2009 for a project securing a Mortgage Loan;

(8) Any individual or entity and any Related Party (as such term is defined in the Qualification Statement) of such individual or entity that is a mortgagor in any of HUD's multifamily housing programs and that is in default under such mortgage loan or is in violation of any regulatory or business agreements with HUD, unless such default or violation is cured on or before March 17, 2010;

(9) Any entity or individual that serviced or held any Mortgage Loan at any time during the 2-year period prior to March 17, 2010, is ineligible to bid on such Mortgage Loan or on the pool containing such Mortgage Loan, but may bid on loan pools that do not contain Mortgage Loans that they have serviced or held at any time during the 2-year period prior to March 1, 2010; and

(10) Also ineligible to bid on any Mortgage Loan are: (a) Any affiliate or principal of any entity or individual described in the preceding sentence (paragraph 9); (b) any employee or subcontractor of such entity or individual during that 2-year period; or (c) any entity or individual that employs or uses the services of any other entity or individual described in this paragraph in preparing its bid on such Mortgage Loan.

In addition, to be eligible to bid in HUD's supplementary pool of unsubsidized multifamily mortgage loan(s) limited to not-for-profit organizations and units of State and local government, a prospective bidder must qualify as one or more of the following:

(1) An entity that is a nonprofit as defined by Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. 501(c)(3)); and/or

(2) An entity that is unit of general local government or State agency. Prospective bidders should carefully review the Qualification Statement to determine whether they are eligible to submit bids on the Mortgage Loans in MHLS 2010–1.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding MHLS 2010–1, including, but not limited to, the identity of any successful bidder and its bid price or bid percentage for any pool of loans or individual loan, upon the closing of the sale of all the Mortgage Loans. Even if HUD elects not to publicly disclose any information relating to MHLS 2010–1, HUD will have the right to disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to MHLS 2010–1 and does not establish HUD's policy for the sale of other mortgage loans.

Dated: March 9, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010–5810 Filed 3–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5324–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2009

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2009 and ending on December 31, 2009.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–1793 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2009.

SUPPLEMENTARY INFORMATION:

Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register.** These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337), as revised and updated by the notice issued on December 17, 2008 (73 FR 76674). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2009 through December 31, 2009. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, *etc.*). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2009) before the next report is published (the first quarter of calendar year 2010), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: March 11, 2010..

Helen R. Kanovsky,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development—October 1, 2009 Through December 31, 2009

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 58.22(a).

Project/Activity: Beyond Housing of St. Louis, MO, advised of using HUD Economic Development Initiative Special Project (EDI–SP) funds to implement the Pagedale Community Development Initiative, the initial phase of which consists of construction of a 17,000 square foot grocery store, related site improvements, and, in early 2010, construction of a 4-story building that will have 10,000 square feet of retail space and 40 units of senior housing. The development site (approximately 2.7 acres) will require demolition of six single-family houses, three businesses and one church. All structures are currently vacant. Subsequent to the March 11, 2009 appropriation containing the EDI–SP, but prior to the release of funds from HUD, Beyond Housing and/or its development partners undertook multiple, legal commitments for acquisition, demolition and leasing.

Nature of Requirement: The regulation in 24 CFR 58.22(a) requires that an environmental review be performed and a Request for Release of Funds be completed and certified prior to the commitment of non-HUD funds to a project using HUD funds.

Granted By: Mercedes M. Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: November 19, 2009.

Reason Waived: The waiver was granted based on the following findings: the above project will further the objective of providing community development; no HUD funds were committed; and based on the environmental assessment and HUD field inspection, granting a waiver will not result in any unmitigated, adverse environmental impact provided that Beyond Housing implements the conditions described in the St. Louis County's Environmental Assessment and the project obtains an approved release of funds.

Contact: Danielle Schopp, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7250, Washington, DC 20410–7000, telephone (202) 402–4442.

• *Regulation:* 24 CFR 58.22(a).

Project/Activity: Cowlitz Indian Tribe of Longview, WA submitted an application for Indian Community Development Block Grant (ICDBG) funds in June, 2007 to demolish an existing health clinic facility and construct a new health clinic. After submission of the ICDBG application, but prior to release of funds by HUD, the Cowlitz Indian Tribe demolished the existing structure and entered into a construction contract for the new facility.

Nature of Requirement: The regulation in 24 CFR 58.22(a) requires that an environmental review be performed and a Request for Release of Funds be completed and certified prior to the commitment of non-HUD funds to a project using HUD funds.

Granted By: Mercedes M. Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: October 13, 2009.

Reason Waived: The waiver was granted based on the following findings: the above project will further the HUD program goal, specifically the expansion of affordable health care for low-income tribal members; the errors made in the environmental process for the commitment of non-HUD funds were made in good faith and Cowlitz Indian Tribe did not willfully violate the applicable regulations; no HUD funds were committed; and, based on the environmental assessment and the HUD field inspection, granting a waiver will not result in any unmitigated, adverse environmental impact.

Contact: Danielle Schopp, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7250, Washington, DC 20410–7000, telephone (202) 402–4442.

• *Regulation:* 24 CFR 84.32.

Project/Activity: AIDS Alabama in Birmingham, AL sought to sell two properties that were plagued with vandalism. The organization reported that the cost of the repairs would exceed the value of the properties and a more cost effective use of such resources has been identified. The organization reported that disposition proceeds from the sale of the two properties would be retained and used to meet the critical housing needs of HOPWA eligible clients at other project sites.

Nature of Requirement: Section 84.32 of HUD's regulation prescribes requirements for recipients concerning the use and disposition of real property acquired in whole or in part under funding awards. A waiver of 84.32, or more specifically 84.32(c), which specifies HUD's disposition requirements, was required because the nonprofit did not wish to compensate HUD under paragraphs (c)(1) or (c)(2), or to transfer title under paragraph (c)(3). Whenever real property is no longer needed, the disposition requirements of paragraphs (c)(1) through (c)(3) come into play and the sales proceeds from those properties go into a miscellaneous Treasury account. Since AIDS Alabama wanted to retain the sales proceeds to fill a local HIV/AIDS housing need, the funds would not be used to "compensate" HUD within the meaning of 84.32(c).

Granted By: Mercedes Márquez, Assistant Secretary for Community Planning & Development.

Date Granted: October 26, 2009.

Reason Waived: The structures were no longer needed to carry out the objectives of the original HOPWA projects for which they were acquired. Pursuant to this waiver, disposition proceeds from the sale of the two properties are to be retained by the HOPWA service provider, AIDS Alabama, and used to meet the critical housing needs of HOPWA eligible clients in the Alabama Rural AIDS project. This funding is to be reported, utilized and dedicated to the project in a manner consistent with HOPWA program, as defined at 24 CFR 84.24.

Contact: David Vos, Director, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7276, Washington, DC 20410–7000, telephone (202) 708–1590.

• *Regulation:* 24 CFR 92.214(a)(6).

Project/Activity: The Kansas Housing Resources Corporation of Topeka, KS requested a waiver to permit it to provide additional HOME funds to rehabilitate three previously assisted projects that fell into physical disrepair due to capacity problems with the nonprofit owner.

Nature of Requirement: The HOME regulations at 24 CFR 92.214(a)(6) prohibit, except for the 12 months following project completion, the provision of additional HOME assistance to projects that were previously assisted with HOME funds during the period of affordability established by the participating jurisdiction.

Granted By: Mercedes M. Márquez, Assistant Secretary for Community Planning and Development.

Date Granted: December 17, 2009.

Reason Waived: HUD approved the waiver request because it determined that the Participating Jurisdiction exercised due diligence in addressing compliance issues and because the additional HOME investment would ensure the long-term viability of the project as affordable housing.

Contact: Ms. Virginia Sardone, Deputy Director, Office of Affordable Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7164, Washington, DC 20410–7000, telephone (202) 708–2470.

• *Regulation:* 24 CFR 92.214(a)(6).

Project/Activity: The City of Cincinnati, OH requested a waiver to invest additional HOME funds in a project previously-assisted with HOME funds and to reduce the period of affordability for the project. The City originally imposed a period of affordability of 31.5 years, of which nearly 22 years remained. The project was undergoing

financial restructuring through the Mark-to-Market process. The City proposed investing an additional $1,000,000 of HOME funds to rehabilitate the 651-unit project and impose a new affordability period of 5 years.

Nature of Requirement: The HOME regulations at 24 CFR 92.214(a)(6) prohibits, except for the 12 months following project completion, the provision of additional HOME assistance to projects that were previously assisted with HOME funds during the period of affordability established by the participating jurisdiction.

Granted By: Mercedes Márquez, Assistant Secretary for Community Planning & Development.

Date Granted: November 3, 2009.

Reason Waived: In 1998, the City provided a $1,000,000 HOME rehabilitation loan to Fay Apartments. The written agreement designated 651 HOME-assisted units and imposed a period of affordability of 31.5 years, which exceeded the 5-year minimum required by the HOME regulations. HUD approved the waiver request because it determined that the additional HOME investment would stabilize the HOME-assisted units and ensure the long-term viability of the project as affordable housing. However, HUD did not approve the City's request to reduce the affordability period to 5 years. The City must maintain HOME affordability restrictions on the property for the remainder of the original 31.5-year affordability period.

Contact: Virginia Sardone, Deputy Director, Office of Affordable Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7158, Washington, DC 20410–7000, telephone 202–708–2470.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act of 2009), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Alhambra, California, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Los Angeles Homeless Services Authority (LAHSA).

Nature of Requirement: Subsections III.B. and III.C. of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Nelson R. Bregon. General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: October 23, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following:

(1) HPRP participants will be selected in a manner that will ensure LAHSA residents are not unfairly selected over other eligible individuals and families; (2) utilizing LAHSA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) LAHSA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act of 2009), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Huntington Park, California, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Los Angeles Homeless Services Authority (LAHSA).

Nature of Requirement: Subsections III.B. and III.C. of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Nelson R. Bregon. General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: October 23, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following:

(1) HPRP participants will be selected in a manner that will ensure LAHSA residents are not unfairly selected over other eligible individuals and families; (2) utilizing LAHSA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) LAHSA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act of 2009), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the Metropolitan Government of Nashville and Davidson County, Tennessee, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to a local public housing authority (PHA).

Nature of Requirement: Subsections III.B. and III.C. of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez. Assistant Secretary for Community Planning and Development.

Date Granted: October 26, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following:

(1) HPRP participants will be selected in a manner that will ensure PHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the PHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the PHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act of 2009), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Newport News, Virginia, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to a local public housing authority (PHA).

Nature of Requirement: Subsections III.B. and III.C. of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez. Assistant Secretary for Community Planning and Development.

Date Granted: December 7, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following:

(1) HPRP participants will be selected in a manner that will ensure PHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the PHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the PHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act of 2009), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Fresno, California, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to a local public housing authority (PHA).

Nature of Requirement: Subsections III.B. and III.C. of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez. Assistant Secretary for Community Planning and Development.

Date Granted: December 7, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following:

(1) HPRP participants will be selected in a manner that will ensure PHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the PHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the PHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone (202) 708–4300.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.926d(f)(1)(i) and (2)(i).

Project/Activity: This waiver was granted for new construction properties located in the following Boroughs in the State of Alaska; Juneau, Mantanuska-Susitna, Anchorage, Bethel, North Slope (Barrow), Fairbanks (North Star and Southeast), and the Kenai Peninsula that utilize alternative water supply systems, such as Cisterns used in conjunction with hauled/purchased water.

Nature of Requirement: FHA's Minimum Property Standards (MPS) regulations governing new construction for single-family dwellings, found at 24 CFR 200.926d(f)(1)(i) and (2)(i) provide that to be eligible for FHA insurance, each living unit within a newly constructed single-family residential property should be capable of delivering a flow of 5 gallons per minute (gpm) over a 4-hour period in order to provide a continuing and sufficient supply of safe water under adequate pressure and appropriate quality for household use. Under these regulatory requirements water supply systems that utilize water holding tanks, cisterns, and similar alternative devices are not considered acceptable.

Granted By: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 6, 2009.

Reason Waived: Granting the waiver enabled lenders to provide FHA financing to homebuyers of new construction single family housing in the boroughs Juneau, Mantanuska-Susitna, Anchorage, Bethel, North Slope (Barrow), Fairbanks (North Star and Southeast), and the Kenai Peninsula where it is not feasible to procure water from conventional water supply systems.

Contact: Danny Mendez, Director, Processing and Underwriting Division, Department of Housing and Urban Development, Santa Ana Homeownership Center, 34 Civic Center Plaza, Santa Ana, CA 92701, telephone (714) 796–1200.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Homes of Oakridge (Polk County), Des Moines, Iowa—FHA Project Number 074–44015–SHM–LPA–NP–R–L8. The owner requested to defer repayment of the Flexible Subsidy loans on this project to enable the project to be revitalized.

Nature of Requirement: Section 219.220(b) of HUD's regulations govern the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time.

Granted By: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 10, 2009.

Reason Waived: Granting the waiver allowed the owner to amortize the flexible subsidy debt with a newly financed mortgage. The owner is exempt from the requirement to re-pay the Flexible Subsidy Operating Assistance Loans upon prepayment/refinancing of the Section 236 mortgage loan. The existing Flexible Subsidy loans were recast and are to be repaid over the 30-year term of the new financing from available surplus cash. Granting the waiver allowed the property to be recapitalized, thereby maintaining the preservation of 150 units of affordable housing."

Contact: Robert G. Iber, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Halfway Manor Apartments, Hagerstown, Maryland—FHA Project Number 052–44114. The project owner requested deferment of repayment of the Residual Receipts Note in connection with a 236(e)(2) Decoupling proposal. Granting of the waiver would allow recapitalization of the IRP subsidy for rehabilitation of the property.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time."

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 22, 2009.

Reason Waived: Granting the waiver permitted the repayment of the existing Section 236(e)(2) mortgage with a new permanent first mortgage and capitulation of the Interest Reduction Payment subsidy which will provide funds to rehabilitate and service the loan, pay the principal portion of the Residual Receipts note and assume the balance plus accumulated accrued interest. Granting the waiver also allowed the property to continue as a well-maintained source of affordable housing.

Contact: Barbara Chiapella, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Martin Luther King a.k.a. Marcus Garvey Square Cooperative Apartments, San Francisco, California—FHA Project Number 121–35654. The project owner requested deferment of repayment of Flexible Subsidy loans on this project because the project had not generated sufficient cash flow for immediate repayment of the loan.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time."

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 14, 2009.

Reason Waived: Granting the waiver allowed the owner to prepay the existing mortgage without requiring the balance of the Flexible Subsidy loan to be repaid upon prepayment of the mortgage. Granting of the waiver also allowed the property to be able to obtain financing for improvements and repairs and to remain as a cooperative and as affordable housing for 45 years.

Contact: Robert G. Iber, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Rich Park Apartments, Raleigh, North Carolina—FHA Project Number 053–35011. The project owner requested deferment of repayment of the Flexible Subsidy loans on this project because the project had not generated sufficient cash flow to pay off the loan when the mortgage matures.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time."

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 2, 2009.

Reason Waived: Granting the waiver allowed the owner to prepay the existing mortgage without requiring the balance of the Flexible Subsidy loan to be repaid upon maturity of the mortgage. Granting the waiver also allowed the property to be able to make improvements and much needed repairs, and subsequently be a well-maintained source of affordable housing in Raleigh, North Carolina.

Contact: Robert G. Iber, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Birch Run Cooperative, Romulus, Michigan—FHA Project Number 044–55178/79. The project owner requested deferment of repayment of Flexible Subsidy loans on this project because the project had not generated sufficient cash flow for repayment of the loan upon its impending maturity.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time."

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 21, 2009.

Reason Waived: Granting the waiver allowed the owner to prepay the existing mortgage, obtain financing to improve and repair the property and allow the amortization of the Flexible Subsidy loan with the new mortgage. Granting the waiver also allowed the property to remain a well-maintained source of affordable housing for the Romulus, Michigan area.

Contact: Robert G. Iber, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: High Park Terrace Apartments, Newark, New Jersey—FHA Project Number 031–55032. The project owner requested deferment of repayment of Flexible Subsidy loans. The project was unable to meet its obligations as of the date of the request. Waiver of the regulation would avoid foreclosure of the project.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time."

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 21, 2009.

Reason Waived: Granting the waiver of this regulation allowed the owner to prepay the existing mortgage, obtain financing to carry on its current obligations, improve and repair the property and allow the amortization of the Flexible Subsidy loan with the new mortgage. Granting the waiver also allowed the property to remain a well-maintained source of affordable housing for the Newark, New Jersey area.

Contact: Robert G. Iber, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Des Moines Area Council of Church Homes, Des Moines, Iowa—FHA Project No. 074–35003–LPA–NP–SUP–R. The project owner requested deferment of the repayment of the Flexible Subsidy Operating Assistance loans on this property because the property did not possess resources to repay the loan upon its maturity.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, and states: "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time."

Granted by: David H. Stevens, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 10, 2009.

Reason Waived: Granting the waiver permitted the owner to prepay the existing mortgage, sell the project and obtain financing to rehabilitate the property and allow the repayment of the Flexible Subsidy loans over the term of the new mortgage loan. Granting the waiver also allowed the property to continue as a well-maintained source of affordable housing.

Contact: Robert G. Iber, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 232.3.

Project/Activity: Central Tampa Assisted Living, Tampa, Florida.

Nature of Requirement: HUD's regulations at 24 CFR 232.3 provide that not less than one full bathroom must be provided for every four residents of a board and care home or assisted living facility, and the bathroom access from any bedroom or sleeping area must not pass through a public corridor or area.

Granted By: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 7, 2009.

Reason Waived: In this project, resident bathing is accomplished utilizing bathing aides and a shower schedule. Due to their dementia diagnosis, residents can be resistive to care, but with the assistance of bathing aides and a regular shower schedule, the facility is able to ensure that residents are receiving the proper care. The shower rooms feature individual private cubicles and are used to bathe residents with assistance of aides on a daily basis. The administrator reported that the number of existing showers is sufficient for residents to bathe, and that it is a top priority to ensure that residents are clean and healthy.

The current design and bathroom layout do not appear to present a marketing concern for the facility. As of the request of the waiver, the facility reported 93.0 percent occupancy as of October 21, 2009, and historical occupancy was consistently been above 90.0 percent.

Contact: Mark Williams, Housing Program Manager, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2247, Washington, DC 20410–8000, telephone (202) 402–7168.

• *Regulation:* 24 CFR 236.2.

Project/Activity: Cokesbury Gardens Apartments, Greenwood, South Carolina—FHA Project Number 054–44037. The owner requested permission to waive the definition of family in the regulation to permit rental of 15 vacant units at the property to a local university.

Nature of Requirement: Section 236.2 of HUD's regulations, as preserved in 1995, governs the leasing of available units to qualified tenants, and states in part: "Family. Two or more persons related by blood, marriage, or operation of law, who occupy the same dwelling unit." The units will be occupied by unrelated parties."

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 7, 2009.

Reason Waived: The property was experiencing a high vacancy rate of 28 percent and cash flow problems, with no waiting list. The local university proposed to rent the 15 vacant units at the market rate. Waiver of this regulation allowed the project to rent to students, thereby allowing it to operate successfully and achieve full occupancy. Had the waiver not been granted, the property would have defaulted on its mortgage.

Contact: Edward J. Hinsberger, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Crossway Tower, Lee, MA, Project Number: 023–EE212/MA06–S071–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 2, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Lafayette Court, Palantine Bridge, NY, Project Number: 014–EE264/NY06–S061–009.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 8, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: DAHC Housing III, Denton, TX, Project Number: 113–HD036/TX16–Q051–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: North East Manor, Erie, PA, Project Number: 033–EE135/PA28–S081–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mulford Apartments, Rockford, IL, Project Number: 071–HD160/IL06–Q081–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 25, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: High Street Homes, Elkton, MD, Project Number: 052–HD076/MD06–Q071–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 16, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Fraser Hopkins Court, Hopkins, MN, Project Number: 092–HD072/MN46–Q081–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 22, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Sheldon Terrace Apartments, New Haven, CT, Project Number: 017–HD040/CT26–Q071–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 29, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Enola A. Dew Village Apartments, Chicago, IL, Project Number: 071–EE232/IL–S071–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 6, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was also needed to achieve an initial closing of the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Oak Village Independence House of Detroit, Detroit, MI, Project Number: 044–HD054/MI28–Q071–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was also needed to achieve an initial closing of the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Oak Village Independence House, Detroit, MI, Project Number: 044–HD054/MI28–Q071–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 11, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was also needed for the sponsor/owner's architect to redesign portions of the project and to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.130(a).

Project/Activity: Destiny Towers, Kansas City, MO, Project Number: 084–EE072/MO16–S071–001.

Nature of Requirement: Section 891.130(a) prohibits Officers and Board members of either the sponsor or the owner from having any financial interest in any contract with the owner or in any firm which has a contract with the owner.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 1, 2009.

Reason Waived: For the sponsor to sell the site to the owner is no longer considered a prohibited relationship.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Fillmore Haciendas, Phoenix, AZ, Project Number: 123–EE105/AZ20–S071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 6, 2009.

Reason Waived: Additional time was needed for the firm commitment to be processed and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Folsom Oaks, Folsom, CA, Project Number: 136–HD017/CA30–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 6, 2009.

Reason Waived: Additional time was needed for HUD to complete its review of the closing documents and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Parkside Apartments, Terra Alta, WV, Project Number: 045–EE031/WV15–S071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 6, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to resolve development issues of the site's plans and specifications.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Kaaterskill Manor (aka Jefferson Heights), Catskill, NY, Project Number: 014–EE252/NY06–S051–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 19, 2009.

Reason Waived: Additional time was needed for the State review process to be completed and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Mulberry Manor, Wayne, WV, Project Number: 045–HD041/WV15–Q051–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 19, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain a release of an existing blanket easement over the site and for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Darlington Road Supportive Housing, Pittsburgh, PA, Project Number: 033–HD104/PA28–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 23, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to resubmit the firm commitment application and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Johnnie B. Moore Towers II, Atlanta, GA, Project Number: 061–EE160/GA06–S061–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 23, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to finalize the closing documents and for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Bangor VOANNE Senior Housing, Bangor, ME, Project Number: 024–EE109/ME36–S071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 2, 2009.

Reason Waived: Additional time was needed for the closing documents to be finalized and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Willow Glen Apartments (aka Newton Falls Apartments), Newton Falls, OH, Project Number: 042–EE223/OH12–S071–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to secure additional funding, submit the firm commitment application and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Mary Rose Estates, Willoughby, OH, Project Number: 042–EE208/OH12–S061–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for a site change to be approved, the firm commitment application to be resubmitted and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cedar Street Apartments, Redwood City, CA, Project Number: 121–HD090/CA39–Q071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to finalize secondary funding from the California Department of Housing and Community Development (HCD) and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Galloway Housing Project, Galloway Township, NJ, Project Number: 035–HD068/NJ39–Q071–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Sierra Meadows, Visalia, CA, Project Number: 121–EE199/CA39–S071–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for the initial closing documents to be reviewed and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Parham House, Vista, CA, Project Number: 129–EE031/CA33–Q061–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for the firm commitment to be processed and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Kappa House II Apartments, Cleveland, OH, Project Number: 042–EE206/OH12–S061–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for HUD to review the request from the sponsor/owner for a partial release of security for the site and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Querencia Place, Manteca, CA, Project Number: 136–HD022/CA30–Q071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 4, 2009.

Reason Waived: Additional time was needed for a new site to be approved, the firm commitment application to be processed and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pensacola VOA Living Center, Pensacola, FL, Project Number: 063–HD025/FL29–Q071–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 9, 2009.

Reason Waived: Additional time was needed for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: 29th Avenue Apartments, San Francisco, CA, Project Number: 121–HD089/CA39–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 10, 2009.

Reason Waived: Additional time was needed for HUD to review the secondary financing documents and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Townsend Woods, Townsend, MA, Project Number: 023–EE218/MA06–S071–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 10, 2009.

Reason Waived: Additional time was needed for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Paseo de Luz Apartments, Oxnard, CA, Project Number: 122–HD168/CA16–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 10, 2009.

Reason Waived: Additional time was needed for the firm commitment application to be submitted and processed and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Brunswick Apartments, Brunswick, OH, Project Number: 042–HD152/OH12–Q071–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 16, 2009.

Reason Waived: Additional time was needed for the firm commitment to be issued and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Leeway Welton Apartments, New Haven, CT, Project Number: 017–HD041/CT26–Q071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 16, 2009.

Reason Waived: Additional time was needed for an appeal of the zoning by the neighbors to be resolved, for the sponsor/owner to secure secondary funding and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Atwood Park Apartments, Gates, NY, Project Number: 014–EE267/NY06–S071–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 17, 2009.

Reason Waived: Additional time was needed for HUD to review the closing documents and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Harrison Street Senior Housing, Oakland, CA, Project Number: 121–EE204/CA39–S071–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 18, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain a tax credit investor, secure secondary funding and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Wood Lane Residential, Bowling Green, OH, Project Number: 042–HD151/OH12–Q071–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund

reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 18, 2009.

Reason Waived: Additional time was needed for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cardinal's Peak, Cuyahoga Falls, OH, Project Number: 042–HD147/OH12–Q071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 18, 2009.

Reason Waived: Additional time was needed for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Sheldon Terrace Apartments, New Haven, CT, Project Number: 017–HD040/CT26–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 19, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to secure secondary funding and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Welcome House Apartments, Lakewood, OH, Project Number: 042–HD149/OH12–Q071–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: AHEPA Apartments #63, Tallmadge, OH, Project Number: 042–EE218/OH12–S071–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for the firm commitment to be processed and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Roseland Place, Chicago, IL, Project Number: 071–EE236/IL06–S071–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to finalize the closing documents and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Villa Serena, Chico, CA, Project Number: 136–HD021/CA30–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for HUD's approval of amendment funds and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pelican Place Apartments, Wooster, OH, Project Number: 042–HD148/OH12–Q071–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for the sponsor/owner's architect to redesign the project to reduce costs and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: 1512 Mount Royal, Baltimore, MD, Project Number: 052–HD075/MD06–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain their 501(c)(3) tax exemption from the Internal Revenue Service, secure secondary funding, submit the firm commitment application and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Hale Oli Group Home, Ewa Beach, HI, Project Number: 140–HD032/HI10–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 24, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to secure secondary funding and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: The Manor at Maple Esplanade, Harrison, AR, Project Number: 082–EE179/AR37–S071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 25, 2009.

Reason Waived: Additional time was needed for the firm commitment to be processed and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Odd Fellows Senior Housing, Bronx, NY, Project Number: 012–EE351/NY36–S061–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 7, 2009.

Reason Waived: Additional time was needed for the city surveyor to process a tax map amendment for the site and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lil Jackson Senior Community, Oceanside, CA, Project Number: 129–EE032/CA33–S051–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 7, 2009.

Reason Waived: Additional time was needed for the City of Oceanside to record the parcel map for the site and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Port Town Village Phase II, Urbanna, CA, Project Number: 051–EE118/VA36–S071–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 7, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain approval of the cost review and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Accessible Space, Incorporated, Mesa, AZ, Project Number: 123–HD041/AZ20–Q061–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 11, 2009.

Reason Waived: Additional time was needed to complete the re-processing of the firm commitment application documents and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Council Towers V, Bronx, NY, Project Number: 012–EE337/NY36–S051–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 14, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain the building permits and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Peter's Senior Housing, Pleasantville, NJ, Project Number: 035–EE053/NJ39–S071–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 16, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain an investor for the subject mixed finance project and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Neponset Field, Mattapan, MA, Project Number: 023–EE217/MA06–S071–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 16, 2009.

Reason Waived: Additional time was needed for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Johns Commons, Havre de Grace, MD, Project Number: 052–EE058/MD06–S071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 16, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain approval of zoning for the site and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant

Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Emerald Rose I Apartments, Burton, OH, Project Number: 042–HD141/OH12–Q061–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 16, 2009.

Reason Waived: Additional time was needed for a site change to be approved, the firm commitment application to be resubmitted and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lafayette Court, Palantine Bridge, NY, Project Number: 014–EE264/NY06–S061–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 22, 2009.

Reason Waived: Additional time was needed to process the firm commitment application and for the project to reach an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Shillman House, Framingham, MA, Project Number: 023–EE187/MA06–S051–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 28, 2009.

Reason Waived: Additional time was needed to issue the firm commitment and for the project to be closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Michaloski House, Carlsbad, CA, Project Number: 129–HD033/CA33–Q071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 30, 2009.

Reason Waived: Additional time was needed for the sponsor/owner's attorney and the City's attorney approval of the grant agreement for the site and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165, 24 CFR 891.830(b) and 891.830(c)(4).

Project/Activity: Valley Vista Senior Housing, San Ramon, CA, Project Number: 121–EE201/CA39–S071–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis. Section 891.830(b) requires that capital advance funds be drawn down only in an approved ratio to other funds in accordance with a drawndown schedule approved by HUD. Section 891.830(c)(4) prohibits the capital advance funds from paying off bridge or construction financing, or repaying or collateralizing bonds. Section 891.830(c)(5) requires the amount of the drawdown is consistent with the ratio of 202 or 811 supportive housing units to other units.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 23, 2009.

Reason Waived: Additional time was needed for the issuance of the firm commitment of the Capital Advance Upon Completion and for the project to be initially/finally closed. In order to not delay the construction of this mixed finance project, other funds were identified to pay for the construction of the project prior to release of any capital advance funds and the capital advance funds would be used to repay that portion of the tax exempt bonds used to incur capital advance eligible expenses.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Dallas Housing Authority, (TX009), Dallas, TX.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 13, 2009.

Reason Waived: The HA fourth waiver request advised that the auditor was in the final stages of completing the FY 2007 audit and that audit adjustments were needed to correct inaccurate accounting entries that require many reclassifications and/or prior periods of adjustment. The waiver was granted on the condition that the HA must submit its financial data for FYE December 31, 2007, no later than December 31, 2009. No further audits for FYE December 31, 2007 will be considered. The HA's waiver request for FYE December 31, 2008, audited submission was also approved in accordance with PIH Notice 2009–34 dated September 8, 2009. PIH Notice 2009–34 states that the Department will accept the audited financial information within 12 months of the end of the HA's fiscal year for housing authorities with FYE's June 30, 2008, September 30, 2008, December 31, 2008, and March 31, 2009.

Contact: Wanda Funk, Director, Liaison and Relationship, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of New Haven, (CT004), New Haven, CT.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing

Date Granted: December 14, 2009.

Reason Waived: The HA original waiver request dated April 23, 2009, was initially granted on May 21, 2009, with an audited submission due date extension to September 30, 2009, for its September 30 2008, audited financial submission. For the second waiver request, the HA requested an additional 90 days until December 31, 2009, to submit its audited financial information for its FYE September 30, 2008. The HA advised that the auditors completed the compliance work and

were scheduled to begin their review of the general ledger on November 16, 2009. The waiver was granted because the additional time permitted the HA to complete the general ledger portion of the audit and finalize the audit report.

Contact: Wanda Funk, Director, Liaison and Relationship, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: The Midtown Housing Infill Development, Jackson, MS

Nature of Requirement: HUD's regulations at 24 CFR 942.306(b) requires construction of units to be within the Total Development Costs (TDC) and 24 CFR 941.306(c) limits Housing Construction Costs (HCC).

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing

Date Granted: October 29, 2009.

Reason Waived: Jackson Housing Authority received funds under the American Reinvestment and Recovery Act (ARRA) to complete 22 energy-efficient, sustainable public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: McKenzie Court, (Grant: AL09URD77I104), Tuscaloosa, AL.

Nature of Requirement: HUD's regulations at 24 CFR 941.606(n)(1)(ii)(B) require that if an owner entity wants to serve as general contractor; it may self-award subject to demonstration to HUD's satisfaction that its bid is the lowest competitive offer.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 8, 2009.

Reason Waived: Tuscaloosa Housing Authority submitted independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: Gardenview Estates (Grant: MI28URD001I296), Detroit, MI.

Nature of Requirement: HUD's regulations at 24 CFR 941.606(n)(1)(ii)(B) require that if an owner entity wants to serve as general contractor, it may self-award subject to demonstration to HUD's satisfaction that its bid is the lowest competitive offer.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 9, 2009.

Reason Waived: Detroit Housing Commission submitted independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: Curtis Lane and Alfred Street (Grant: NC19URD009I107), Fayetteville, NC.

Nature of Requirement: HUD's regulations at 24 CFR 941.606(n)(1)(ii)(B) require that if an owner entity wants to serve as general contractor, it may self-award subject to demonstration to HUD's satisfaction that its bid is the lowest competitive offer.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 17, 2009.

Reason Waived: Fayetteville Metropolitan Housing Authority submitted independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.610(a)(1)–(a)(7).

Project/Activity: Madison Senior Apartments (Grant: PA26URD007I103), New York, NY.

Nature of Requirement: HUD's regulations at 24 CFR 941.610(a)(1)–(a)(7) require HUD review and approval of certain legal documents relating to mixed-finance development before closing.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 6, 2009.

Reason Waived: Certifications to the accuracy and authenticity of legal documents was submitted by the Judicial Administrator for Development, Chester Housing Authority to expedite the closing and public housing production.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.610(a)(1)–(a)(7).

Project/Activity: Baker Village/Arbor Pointe, Columbus, GA.

Nature of Requirement: HUD's regulations 24 CFR 941.610(a)(1)–(a)(7) require HUD review and approval of certain legal documents relating to mixed-finance development before closing.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing

Date Granted: November 20, 2009.

Reason Waived: Certifications to the accuracy and authenticity of legal documents were submitted by the Housing Authority of Columbus to expedite the closing and public housing production.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Roanoke Redevelopment and Housing Authority (RRHA), Roanoke, VA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the housing assistance payment (HAP) contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 14, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable RRHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Richmond Redevelopment and Housing Authority (RRHA), Richmond, VA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 16, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable RRHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Berlin Housing Authority (BHA), Berlin, NH.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular

reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 27, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable BHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(4).

Project/Activity: Housing Authority of the County of Monterey (HACM), Monterey, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(4) provides that if the payment standard amount is increased during the term of the housing assistance payments (HAP) contract, the increased payment standard amount shall be used to calculate the monthly HAP for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 2, 2009.

Reason Waived: This waiver was granted to alleviate rent burden that may have resulted through the implementation of a lower payment standard as a cost-savings measure to avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of the Town of Manchester (HATM), Manchester, CT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) provides that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 8, 2009.

Waived: The applicant, who is disabled, needed to rent a unit on a first floor with on-site laundry facilities which provide reasonable accommodation. To provide this reasonable accommodation so the client could be assisted in this unit while paying no more than 40 percent of adjusted income toward the family share, the HATM was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 1003.201(e).

Project/Activity: Campo Band of Mission Indians, Campo, California.

Nature of Requirement: Section 1003.201(e) of HUD's regulation states that public services which are directed toward improving a community's public services and facilities may be funded with Indian Community Development Block Grant (ICDBG) funds. However, the amount of ICDBG funds used for public services may not exceed 15 percent of the grant. Such projects must be submitted with one or more other projects which must comprise at least 85 percent of the total requested ICDBG amount.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing

Date Granted: December 11, 2009.

Reason Waived: The Campo Band of Mission Indians submitted a request for an ICDBG Imminent Threat Grant to address a water contamination issue. Specifically the Campo Band wanted to use the funds to provide bottled water to its members until the water problem was permanently resolved. Pursuant to the ICDBG regulation, bottled water was defined as public service and as such could not exceed 15 percent of the ICDBG grant. The Tribe subsequently submitted a request for a waiver of 24 CFR 1003.201(e). The regulation was waived because the Tribe verified the existence of the imminent threat and obtained funding to permanently resolve the water contamination problem.

Contact: Deborah Lalancette, Director, Office of Grants Management, ONAP, Office of Public and Indian Housing, Department of Housing and Urban Development, 1670 Broadway, 23rd Floor, Denver, CO 80202, telephone (303) 675–1600.

[FR Doc. 2010–5811 Filed 3–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Weekly Listing of Historic Properties

Pursuant to (36CFR60.13(b,c)) and (36CFR63.5), this notice, through publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from December 21 to December 24 and December 28 to December 31, 2009.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St., NW., Washington, DC 20240; in person (by appointment), 1201 Eye St., NW., 8th Floor, Washington DC 20005; by fax, 202–371–2229; by phone, 202–354–2255; or by e-mail, *Edson_Beall@nps.gov.*

Dated: March 9, 2010.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

December 21 to December 24, 2009

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name

ARIZONA

Maricopa County

Palm Lane Gardens, 101–115 E. Palm La., Phoenix, 09001112, Listed, 12/22/09

Villa del Coronado, 100–190 E. Coronado Rd., Phoenix, 09001113, Listed, 12/22/09

Pima County

Villa Catalina, 3000–3034 E. 6th St. & 521–525 N. Country Club Rd., Tucson, 09001114, Listed, 12/22/09

ARKANSAS

Cross County

Wynne Commercial Historic District, Roughly bounded by Front St., Commercial Ave., Terry St., Wilson St., and Pecan Ave., Wynne, 09001115, Listed, 12/22/09

CALIFORNIA

Los Angeles County

Gill, Merwyn C., House, 1385 El Mirador Dr., Pasadena, 09000176, Listed, 12/23/09 (Cultural Resources of the Recent Past, City of Pasadena)

Poppy Peak Historic District, Bounded by Ave. 64 on the E., La Loma Rd. on the N. including Poppy Peak Dr., Kaweah Dr., Cresthaven Dr., Pasadena, 09000182, Listed, 12/23/09 (Cultural Resources of the Recent Past, City of Pasadena)

Mendocino County

Navarro, Navarro Beach Rd., Albion, 09001089, Listed, 12/21/09

California Theatre, The, 562 W. 4th St., San Bernardino, 09001116, Listed, 12/22/09

San Francisco County

Armour & Co. Building, 1050 Battery St., San Francisco, 09001117, Listed, 12/22/09

Four Fifty Sutter Building, 450 Sutter St., San Francisco, 09001118, Listed, 12/22/09

COLORADO

Baca County

Two Buttes Gymnasium, 5th and C Sts., Two Buttes, 09001119, Listed, 12/22/09 (New

Deal Resources on Colorado's Eastern Plains MPS)

Las Animas County

7–D School, Co. Rd. 171 N. of Co. Rd. 50.6, Branson vicinity, 09001120, Listed, 12/22/09 (New Deal Resources on Colorado's Eastern Plains MPS)

Prowers County

Prowers Country Welfare Housing, 800 E. Maple St., Lamar, 09001121, Listed, 12/22/09 (New Deal Resources on Colorado's Eastern Plains MPS)

ILLINOIS

Lake County

Mandel, Mr. Fred L., Jr., House, 2479 Woodbridge La., Highland Park, 09001122, Listed, 12/22/09

Winnebago County

Valencia Court Apartments, 500–518 Fisher Ave., Rockford, 09001123, Listed, 12/22/09

INDIANA

Adams County

Dugan, Charles, House, 420 W. Monroe St., Decatur, 09001124, Listed, 12/22/09

Allen County

Indian Village Historic District, Roughly bounded by Nuttman Ave on the N., Bluffton Rd. on E., Eagle Rd. on S., Norfold Southern ROW on W., Fort Wayne, 09001125, Listed, 12/22/09 (Park and Boulevard System of Fort Wayne, Indiana MPS)

Southwood Park Historic District, Bounded by W. Pettit Ave., Stratford Rd., W. Sherwood Terrace, Hartman Rd., Lexington Ave., Indiana Ave., Fort Wayne, 09001126, Listed, 12/22/09 (Historic Residential Suburbs in the United States, 1830–1960 MPS)

Decatur County

Champ's Ford Bridge, Co. Rd. 100S over Clifty Creek, 2 mi. W. of Burney, Burney vicinity, 09001127, Listed, 12/22/09

Elkhart County

Koerting, William and Helen, House, 2625 Greenleaf Blvd., Elkhart, 09001128, Listed, 12/22/09

Hamilton County

Taylor Ten, Address Restricted, Noblesville vicinity, 09001130, Listed, 12/24/09

Knox County

Simonson, Alfred, House, 207 Shipping St., Edwardsport, 09001131, Listed, 12/24/09

Porter County

Chesterton Residential Historic District, Roughly a two block area between Lincoln & W. Indiana Aves., Chesterton, 09001134, Listed, 12/24/09

Collier Lodge Site, Address Restricted, Kouts vicinity, 09001133, Listed, 12/24/09

Ripley County

Straber Ford Bridge, Co. Rd. 550 N. over Otter Creek, Osgood vicinity, 09001132, Listed, 12/24/09

Shelby County

Middletown Bridge, Co. Rd. 450 S. over Conn's Creek, Middletown vicinity, 09001135, Listed, 12/24/09

Pearson, Lora B., School, 115 W. Colescott St., Shelbyville, 09001136, Listed, 12/24/09 (Indiana's Public Common and High Schools MPS)

KENTUCKY

Bell County

Brooks House, 210 Arthur Heights, Middlesboro, 09001137, Listed, 12/23/09

Cumberland County

Coe House, 433 N. Main St., Burkesville, 09001138, Listed, 12/23/09

Hardin County

Hills, Jonathan, House, 202 N. Main St., Elizabethtown, 09001139, Listed, 12/23/09

MAINE

Aroostook County

Martin, Isaie and Scholastique, House, 137 Saint Catherine St., Madawaska, 09001147, Listed, 12/23/09

York County

Biddeford Main Street Historic District, 29 to 316 Main St., and portions of Elm, Jefferson, Adams, Washington, Franklin, Alfred and Water Sts., Biddeford, 09001146, Listed, 12/24/09

MARYLAND

Caroline County

Linchester Mill, 3395 Linchester Rd., Preston vicinity, 09001148, Listed, 12/23/09

Kent County

Gobbler Hill, 10121 Fairlee Rd., Chestertown vicinity, 09001149, Listed, 12/23/09

Talbot County

Paw Paw Cove Site, Address Restricted, Tilghman vicinity, 09001150, Listed, 12/23/09

MINNESOTA

Watonwan County

Grand Opera House, 502 First Ave. S., St. James, 09001152, Listed, 12/23/09

MONTANA

Flathead County

Kelly's Camp Historic District, S. of Kelly's Camp Rd. between Kelly's Creek and by S. of cabins, Glacier National Park, Lake McDonald vicinity, 08001224, Listed, 12/23/09 (Recreational Camps on Lake McDonald, MT)

NEW JERSEY

Bergen County

Arnault, Fridolin, House, 111 First St., Wood-Ridge Borough, 09001153, Listed, 12/23/09

Edgewater Public Library, 49 Hudson Ave., Edgewater, 09001154, Listed, 12/23/09

Burlington County

Chesterford School, 415 W. Main St., Maple Shade, 09001155, Listed, 12/23/09

VIRGINIA

Charlottesville Independent City

McGuffey, William H., Primary School, 201 2nd St. N.W., Charlottesville, 09001156, Listed, 12/23/09

Henrico County

Curles Neck Farm, 4705 Curles Neck Rd., Henrico, 09001222, Listed, 12/22/09

Petersburg Independent City

Virginia Trunk & Bag Company, 600 W. Wythe St., Petersburg, 09001157, Listed, 12/23/09

Richmond Independent City

First Battalion Virginia Volunteers Armory, 122 W. Leigh St., Richmond, 09001158, Listed, 12/23/09

Russell County

Honaker Commercial Historic District, US Hwy 80, Honaker, 09001159, Listed, 12/23/09

December 28 to December 31, 2009

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name

ARIZONA

Maricopa County

Buckeye Union High School A–Wing, 902 E. Eason Ave., Buckeye, 09001160, Listed, 12/30/09

IDAHO

Blaine County

Rialto, Hotel, The, 201 S. Main St., Hailey, 09001162, Listed, 12/30/09

Kootenai County

Mooney-Dahlberg Farmstead, 5803 Riverview Dr., Coeur d'Alene vicinity, 09001163, Listed, 12/30/09

INDIANA

Gibson County

Trippett—Glaze—Duncan—Kolb Farm (Boundary Increase), IN 65 E. of Patoka, Patoka, 09001129, Listed, 12/28/09

KANSAS

Marshall County

Transue Brothers Blacksmith & Wagon Shop, 309 Main St., Summerfield, 09001164, Listed, 12/30/09

Montgomery County

Independence Junior High School, 300 W. Locust St., Independence, 09001165, Listed, 12/30/09 (Public Schools of Kansas MPS)

Republic County

Cossaart Barn, 3040 Birch Rd., Narka, 09001166, Listed, 12/30/09 (Agriculture-Related Resources of Kansas)

Sedgwick County

Fairmount Apartments, 1702 N. Fairmont Ave., Wichita, 09001167, Listed, 12/30/09 (Residential Resources of Wichita, Sedgwick County, Kansas 1870–1957)

Fairview Apartments, 206 E. 18th St., Wichita, 09001168, Listed, 12/30/09

(Residential Resources of Wichita, Sedgwick County, Kansas 1870–1957)

Shawnee County

Topeka Council of Colored Women's Clubs Building, 1149 SW Lincoln, Topeka, 09001169, Listed, 12/30/09

Wabaunsee County

East Stone Arch Bridge—Lake Wabaunsee, E. Flint Hills Dr. .9 mi. S. of KS 4, Eskridge, 09001170, Listed, 12/30/09 (Masonry Arch Bridges of Kansas TR)

Southeast Stone Arch Bridge—Lake Wabaunsee, E. Flint Hills Dr. 2.2 mi. S. of KS 4, Eskridge, 09001171, Listed, 12/30/09 (Masonry Arch Bridges of Kansas TR)

KENTUCKY

Larue County

Hodgenville Commercial Historic District (Boundary Increase), Water St. on N., High St. on the S., Greensburg St. on the E., and Walters St. on the W., Hodgenville, 09001140, Listed, 12/28/09

MARYLAND

Baltimore County

Dumbarton Historic District, Roughly bounded by Park Heights Ave., Slade Ave., Seven Mile La., and Old Court Rd., Pikesville, 09001172, Listed, 12/30/09

Baltimore Independent City

Union Baptist Church, 1219 Druid Hill Ave., Baltimore City, 09001173, Listed, 12/30/09

MASSACHUSETTS

Worcester County

Thayer, Benjamin, House, 200 Farm St., Blackstone, 09001174, Listed, 12/30/09

MISSOURI

Jackson County

Mercantile Bank & Trust Building, 1101 Walnut St., Kansas City, 09000830, Listed, 12/31/09

St. Louis County

Cragwold, 1455 Cragwold Rd., Kirkwood, 09001175, Listed, 12/30/09

NEW JERSEY

Essex County

Interstate Hosiery Mills, Inc. Mill Building, 110 N. Fulton St., Bloomfield, 09001176, Listed, 12/30/09

Union County

Summit Playhouse, 10 New England Ave., Summit, 09001177, Listed, 12/30/09

NORTH CAROLINA

Lincoln County

Lincolnton Recreation Department Youth Center, 119 E. Pine St., Lincolnton, 09001178, Listed, 12/30/09

WEST VIRGINIA

Berkeley County

Vanmetre, Thomas, House, 3093 Golf Course Rd., Martinsburg vicinity, 09001189, Listed, 12/30/09

Cabell County

Barnett Hospital and Nursing School, 1201 7th Ave., Huntington, 09001190, Listed, 12/30/09

Hampshire County

Fort Van Meter, River Rd., Romney vicinity, 09001191, Listed, 12/30/09

Logan County

Blair Mountain Battlefield, Address Restricted, Logan vicinity, 08000496, Removed/Determined Eligible, 12/30/09

Preston County

Gribble, A.W., Farm, Loop Rd., Pisgah vicinity, 09001192, Listed, 12/30/09

Randolph County

First Ward School, S. Davis Ave. and 13th St., Elkins, 09001193, Listed, 12/30/09

Randolph County

Riverside School, Block No. 1, River St., Elkins, 09001194, Listed, 12/30/09

Upshur County

Downtown Buckhannon Historic District, Portions of E. and W. Main, N. and S. Florida, Locust, N. and S. Kanawha and Spring Sts., Buckhannon, 09001196, Listed, 12/31/09

Webster County

Camp Caesar, 4868 Webster Rd., Cowen, 09001197, Listed, 12/30/09

WISCONSIN

Oneida County

Yawkey, William H., Boathouse, 7090 Woodson St., Hazelhurst, 09001198, Listed, 12/30/09

[FR Doc. 2010–5755 Filed 3–16–10; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 27, 2010. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by April 1, 2010.

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.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Maricopa County

Asbury, Cline R./Riney B. Salmon House, (North Central Phoenix Farmhouses and Rural Estate Homes, 1895–1959) 7801 N. Central Ave., Phoenix, 10000154

Converse, Ralph, House, (North Central Phoenix Farmhouses and Rural Estate Homes, 1895–1959) 6617 N. Central Ave., Phoenix, 10000153

Harelson, Sarah and Jack, House, 4437 E. Arlington Rd., Phoenix, 10000152

Olney, George A/Everett E. Ellinwood House, (North Central Phoenix Farmhouses and Rural Estate Homes, 1895–1959) 6810 N. Central Ave, Phoenix, 10000155

Vradenburg, George H., House, (North Central Phoenix Farmhouses and Rural Estate Homes, 1895–1959) 1600 W. Colter St., Phoenix, 10000156

CALIFORNIA

Nevada County

Davis Mill, Three miles NE of Nevada City, Ca., near the S. Fork of the Yuba River., Nevada City, 10000157

GEORGIA

Dooly County

County Training School, (Rosenwald Schools in Georgia, 1912–1937) 190 Ninth St., Vienna, 10000158

IDAHO

Payette County

Portia Club, 225 N. 9th St., Payette, 10000159

IOWA

Pottawattamie County

Parl/Glen Avenues Historic District, 101–508 Glen Ave., 102–471 Park Ave., 209 & 301 W. Pierce, & 524 & 600 Huntington, Council Bluffs, 10000160

MASSACHUSETTS

Franklin County

Shelburne Falls Historic District (Boundary Increase 2010), roughly bounded by Deerfield River, Bridge St., MA Route 2 and Arms Cemetery, Shelburne, 10000161

NORTH CAROLINA

Buncombe County

Biltmore High School, 4 Vanderbilt Park Dr., Asheville, 10000162

Robeson County

Fairmont Commercial Historic District, Bordered Roughly by Byrd St. on the N., Walnut St. on the E., Red Cross St. on the S., & Alley St. on the W., Fairmont, 10000163

Wake County

Holly Springs Masonic Lodge, (Wake County MPS) 224 Raleigh St., Holly Springs, 10000164

RHODE ISLAND

Providence County

Church Hill Grammer School, 81 Park Pl., Pawtucket, 10000165

SOUTH CAROLINA

Horry County

Conway Residential Historic District, (Conway MRA) Main St. on the E., Fifth Ave to the S; Beaty and Burroughs Sts. to the W., and Ninth and Tenth Aves. to the N., Conway, 10000166

Richland County

Hopkins Family Cemetery, Back Swamp Rd., Hopkins, 10000167

VERMONT

Windham County

Grafton Village Historic District, Main St., Rte. 121 E., Townshend Rd., Chester Hill Rd., Kidder Hill Rd., Pleasant St., School St., Middletown Rd., Hinck, Grafton, 10000171

WEST VIRGINIA

Wyoming County

Wyco Church, DR 12/1 apx. 1 mile N. of CR 16, Mullens, 10000168

WISCONSIN

Fond Du Lac County

East Division St.-Sheboygan St. Historic District, East Division St. generally bounded by Oaklawn Ave. and Armory St.; Sheboygan St. generally bounded by Everett St, Fond du Lac, 10000169

Request for RELOCATION has been made for the following resources:

CALIFORNIA

Sutter County

Live Oak Historic Commercial District, Along Broadway between Pennington Rd. and Elm St., Live Oak, 97001657

UTAH

Summit County

Beggs, Ellsworth J., House 703 Park Ave. Park City, 84002240

Request for BOUNDARY INCREASE has been made for the following resources:

WEST VIRGINIA

Jefferson County

Beverley, 1 Burns Farm Rd., Charles Town, 87000486

[FR Doc. 2010–5756 Filed 3–16–10; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before April 16, 2010.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov*.
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2010–005–C.

Petitioner: Manalapan Mining Co., Inc., 8174 East Highway 72, Pathfork, Kentucky 40863.

Mine: RB #12 Mine, MSHA I.D. No. 15–18771, located in Harlan County, Kentucky.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an increase in the maximum length of trailing cables supplying power to permissible pumps. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of 480-volt power for permissible pumps will be 1,800 feet; (3) the 480-volt power for permissible pump trailing cables will be no smaller than #10 American Wire Gauge (AWG); (4) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of part 18, will have an instantaneous trip unit calibrated to trip at 70% of phase to phase short circuit current. The trip setting of these circuit breakers will be sealed or locked, and these circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables and be

maintained legible. In instances where a 70% instantaneous setpoint will not allow a pump to start, due to motor inrush, a thermal magnetic breaker will be furnished. The thermal rating of the circuit breaker will be no greater than 70% of the available short circuit current and the instantaneous setting will be adjusted to one setting above the motor inrush trip point. This setting will also be sealed or locked; (5) replacement instantaneous trip units, used to protect pump trailing cables exceeding the length of item #4, will be calibrated to trip at 70% of the available phase to phase short circuit current and this setting will be sealed or locked; (6) permanent warning labels will be installed and maintained on the cover(s) of the power center to identify the location of each sealed or locked short-circuit protection device. These labels will warn miners not to change or alter these short circuit settings; (7) all future pump installations with excessive cable lengths will have a short-circuit survey conducted and items 1–6 will be implemented. A copy of each pump's short-circuit survey will be available at the mine site for inspection; (8) the petitioner's alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit settings, and proper procedures for examining trailing cables for defects and damage have received the elements of training herein; and (9) within sixty (60) days after this petition is granted, proposed revisions for approved 30 CFR Part 48 training plans will be submitted to the District Manager for the area in which the mine is located. The training will include the following elements: (a) Training in mining methods and operating procedures that will protect the trailing cables against damage; (b) training in the proper procedures for examining the trailing cables to ensure the cables are in safe operating condition; (c) training in hazards of setting the instantaneous circuit breakers too high to adequately protect the trailing cables; and (d) training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained. The petitioner asserts that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply, and that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Manalapan Mining Company, Inc., provided by the existing standards.

Docket Number: M–2010–006–C.

Petitioner: Armstrong Coal Company, Inc., 407 Brown Road, Madisonville, Kentucky 42341.

Mine: Parkway Mine, MSHA I. D. No. 15–19358, located in Muhlenberg County, Kentucky.

Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the requirement that deluge-type water spray system nozzles be provided with blow-off dust covers. The petitioner proposes to conduct weekly examinations and weekly functional testing of the deluge-type water spray systems. Specifically, the petitioner proposes that the alternative method consist of the following requirements: (a) Once every seven (7) days, a person trained in the testing procedures specific to the deluge-type water spray systems utilized at each belt drive will: (i) Conduct a visual examination of each of the deluge-type water spray systems; (ii) conduct a functional test of the deluge-type water spray systems by actuating the system and observing its performance; and (iii) record the results of the visual examination and functional test in a book maintained on the surface for that purpose. The record will be made available to the authorized representative of the Secretary of Labor (the "Secretary") and retained at the mine for one year; (b) a clogged nozzle or any other malfunction detected as a result of the weekly visual examination and functional test will be corrected immediately; and (c) the procedure used to perform the functional test will be posted at or near each belt drive that utilizes a deluge-type water spray system. The petitioner states that: (1) The alternative method provides for weekly functional testing of the deluge-type water spray system while 30 CFR 75.1101–11 requires only yearly functional testing; (2) the alternative method greatly increases frequency of testing, which flushes out the entire system and better assures that the nozzles are not plugged with debris; and (3) eliminating the blow-off dust covers ensures that they do not become corroded and resist blowing off when actuated. The petitioner asserts that the proposed alternative method will all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2010–007–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 75 Mine, MSHA I.D. No. 15–17478, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance).

Modification Request: The petitioner requests a modification of the existing standard to permit an increase in the maximum length of trailing cables supplying power to permissible pumps. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of the 480-volt power for permissible pumps will be 4,000 feet; (3) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of Part 18 will have an instantaneous trip unit calibrated to trip at 75% of phase to phase short-circuit current. The trip setting of these circuit breakers will be sealed or locked, and will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables, and the label will be maintained legible. In instances where 75% instantaneous set point will not allow a pump to start due to motor inrush, a thermal magnetic breaker will be furnished. The thermal rating of the circuit breaker will be no greater than 75% of the available short-circuit current and the instantaneous setting will be adjusted one setting above the motor inrush trip point. This setting will also be sealed or locked; (4) replacement instantaneous trip units used to protect pump trailing cables exceeding the length of item #4 will be calibrated to trip at 75% of the available phase to phase short-circuit current and this setting will be sealed or locked; (5) permanent warning labels will be installed and maintained on the cover(s) of the power center to identify the location of each sealed or locked short-circuit protection device. These labels will warn miners not to change or alter these short-circuit settings; (6) all future pump installation with excessive cable lengths will have a short-circuit survey conducted and items 1–6 will be implemented. A copy of each pumps short-circuit survey will be available at the mine site for inspection; (7) the petitioner's alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit settings, and proper procedures for examining trailing cables for defects and damage have received the elements of training herein; and (8) within sixty (60) days after this petition is granted, proposed revisions for approved 30 CFR Part 48 training plan will be submitted to the District Manager for the area in

which the mine is located. The training will include the following elements: (a) Training in mining methods and operating procedures that will protect the trailing cables against damage; (b) training in the proper procedures for examining the trailing cables to ensure the cables are in safe operating condition; (c) training in hazards of settings the instantaneous circuit breakers too high to adequately protect the trailing cables; and (d) training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained. The petitioner asserts that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply, and the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Blue Diamond Coal Company provided by the existing standard.

Docket Number: M–2010–008–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 77 Mine, MSHA I. D. No. 15–09636, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance).

Modification Request: The petitioner requests a modification of the existing standard to permit an increase in the maximum length of trailing cables supplying power to permissible pumps. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of the 480-volt power for permissible pumps will be 4,000 feet; (3) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of Part 18 will have an instantaneous trip unit calibrated to trip at 75% of phase to phase short-circuit current. The trip setting of these circuit breakers will be sealed or locked, and will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables, and the label will be maintained legible. In instances where 75% instantaneous set point will not allow a pump to start due to motor inrush, a thermal magnetic breaker will be furnished. The thermal rating of the circuit breaker will be no greater than 75% of the available short-circuit current and the instantaneous setting will be adjusted one setting above the motor inrush trip point. This setting will also be sealed or locked; (4) replacement instantaneous trip units used to protect pump trailing cables exceeding the length of item #4 will be calibrated to trip at 75% of the available phase to phase short-circuit current and this setting will be sealed or locked; (5) permanent warning labels will be installed and maintained on the cover(s) of the power center to identify the location of each sealed or locked short-circuit protection device. These labels will warn miners not to change or alter these short-circuit settings; (6) all future pump installations with excessive cable lengths will have a short circuit survey conducted and items 1–6 will be implemented. A copy of each pumps short-circuit survey will be available at the mine site for inspection; (7) the petitioner's alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit settings, and proper procedures for examining trailing cables for defects and damage have received the elements of training herein; and (8) within sixty (60) days after this petition is granted, proposed revisions for approved 30 CFR Part 48 training plan will be submitted to the District Manager for the area in which the mine is located. The training will include the following elements: (a) Training in mining methods and operating procedures that will protect the trailing cables against damage; (b) training in the proper procedures for examining the trailing cables to ensure the cables are in safe operating condition; (c) training in hazards of settings the instantaneous circuit breakers too high to adequately protect the trailing cables; and (d) training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained. The petitioner asserts that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply, and the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Blue Diamond Coal Company provided by the existing standard.

Docket Number: M–2010–009–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 81 Mine, MSHA I. D. No. 15–12753, located in Leslie County, Kentucky.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance).

Modification Request: The petitioner requests a modification of the existing standard to permit an increase in the maximum length of trailing cables supplying power to permissible pumps. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of the 480-volt power for permissible pumps will be 4,000 feet; (3) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of Part 18 will have an instantaneous trip unit calibrated to trip at 75% of phase to phase short-circuit current. The trip setting of these circuit breakers will be sealed or locked, and will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables, and the label will be maintained legible. In instances where 75% instantaneous set point will not allow a pump to start due to motor inrush, a thermal magnetic breaker will be furnished. The thermal rating of the circuit breaker will be no greater than 75% of the available short-circuit current and the instantaneous setting will be adjusted one setting above the motor inrush trip point. This setting will also be sealed or locked; (4) replacement instantaneous trip units used to protect pump trailing cables exceeding the length of item #4 will be calibrated to trip at 75% of the available phase to phase short-circuit current and this setting will be sealed or locked; (5) permanent warning labels will be installed and maintained on the cover(s) of the power center to identify the location of each sealed or locked short-circuit protection device. These labels will warn miners not to change or alter these short-circuit settings; (6) all future pump installations with excessive cable lengths will have a short-circuit survey conducted and items 1–6 will be implemented. A copy of each pumps short-circuit survey will be available at the mine site for inspection; (7) the petitioner's alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit settings, and proper procedures for examining trailing cables for defects and damage have received the elements of training herein; and (8) within sixty (60) days after this petition is granted, proposed revisions for approved 30 CFR Part 48 training plan will be submitted to the District Manager for the area in which the mine is located. The training will include the following elements: (a) Training in mining methods and operating procedures that will protect the trailing cables against damage; (b) training in the proper procedures for

examining the trailing cables to ensure the cables are in safe operating condition; (c) training in hazards of settings the instantaneous circuit breakers too high to adequately protect the trailing cables; and (d) training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained. The petitioner asserts that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply, and the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Blue Diamond Coal Company provided by the existing standard.

Docket Number: M–2010–010–C.

Petitioner: Leeco Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 68 Mine, MSHA I. D. No. 15–17497, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance)

Modification Request: The petitioner requests a modification of the existing standard to permit an increase in the maximum length of trailing cables supplying power to permissible pumps. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of the 480-volt power for permissible pumps will be 4,400 feet; (3) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of Part 18 will have an instantaneous trip unit calibrated to trip at 75% of phase to phase short-circuit current. The trip setting of these circuit breakers will be sealed or locked, and will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables, and the label will be maintained legible. In instances where 75% instantaneous set point will not allow a pump to start due to motor inrush, a thermal magnetic breaker will be furnished. The thermal rating of the circuit breaker will be no greater than 75% of the available short-circuit current and the instantaneous setting will be adjusted one setting above the motor inrush trip point. This setting will also be sealed or locked; (4) replacement instantaneous trip units used to protect pump trailing cables exceeding the length of item #4 will be calibrated to trip at 75% of the available phase to phase short-circuit current and this setting will be sealed or locked; (5) permanent warning labels will be installed and maintained on the cover(s) of the power center to identify the location of each sealed or locked short-circuit protection device. These labels will warn miners not to change or alter these short-circuit settings; (6) all future pump installations with excessive cable lengths will have a short-circuit survey conducted and items 1–6 will be implemented. A copy of each pumps short-circuit survey will be available at the mine site for inspection; (7) the petitioner's alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit settings, and proper procedures for examining trailing cables for defects and damage have received the elements of training herein; (8) within sixty (60) days after this petition is granted, proposed revisions for approved 30 CFR Part 48 training plan will be submitted to the District Manager for the area in which the mine is located. The training will include the following elements: (a) Training in mining methods and operating procedures that will protect the trailing cables against damage; (b) training in the proper procedures for examining the trailing cables to ensure the cables are in safe operating condition; (c) training in hazards of settings the instantaneous circuit breakers too high to adequately protect the trailing cables; and (d) training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained. The petitioner asserts that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply, and the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Leeco Coal Company provided by the existing standard.

Dated: March 12, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2010–5785 Filed 3–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before April 16, 2010.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov*.

2. *Facsimile:* 1–202–693–9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the

application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2010–001–C.

Petitioner: Lone Mountain Processing, Inc., Drawer C, St. Charles, Virginia 24282.

Mine: Huff Creek No. 1 Mine, MSHA I. D. No. 15–17234, located in Harlan County, Kentucky.

Regulation Affected: 30 CFR 75.364(b)(1) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method for weekly examinations on the out by A-Mains panel due to bad roof, rib sloughage, and floor heave. The petitioner proposes to: (1) Establish two evaluation points for weekly evaluation of the affected area. The evaluation points will be located at break 71 and break 40 on the A-Mains panel to monitor air quality and quantity entering and exiting the hazardous area; (2) Place an atmospheric monitoring system (AMS) sensor at each evaluation point to continuously monitor the quality of air in the effective area as follows: (a) An AMS meeting all of the applicable requirements of 30 CFR 75.351(a), (b), (c), (d), (k), and (l) will be used to continuously monitor methane, oxygen and carbon monoxide concentrations at the specified monitoring stations. The AMS will be calibrated and maintained in accordance with 30 CFR 75.351(n), (o), (p), and (q); (b) the AMS sensor will be located such that the air flowing over the sensor is representative of the air flowing through the inaccessible belt air entry; (c) the AMS sensors will be capable of providing both visual and audible signals as follows: (i) A visual and audible alert signal will be activated for the following initial levels: (1) Oxygen: 19.4%; (2) Methane: 1.5%; (3) Carbon Monoxide: 8 ppm; (ii) an audible and visual alarm signal will be activated for the following initial levels; (1) Oxygen: 19.0%: (2) Methane: 2.0%; and (3) Carbon Monoxide: 13 ppm; (d) if an AMS sensor indicates an alert signal, a qualified person will immediately be dispatched to the affected area to determine the reason for the alarm and what action must be taken to correct the condition. If it is determined that a fire exists, all persons not required for firefighting activities will be evacuated from the mine; (e) if an AMS sensor indicates an alarm signal, all persons in by that sensor in the same split of air will be withdrawn out by to the next sensor not in an alarm mode. All persons will remain at that location, or be withdrawn from the mine, until the reason for the alarm has been determined and action has been taken to correct the condition. If it is determined that a fire exists, all persons not required for firefighting activities will be evacuated from the mine; (3) A certified person will: (a) Examine each of the evaluation points at least every 7 days, including: (i) Examine for hazards on the approaches to and at the evaluation points; (ii) perform visual examinations of the AMS sensors; and (iii) evaluate and measure the quality and quantity of air flowing past the evaluation points. Air quality measurements will determine the methane, oxygen, and carbon monoxide concentrations using a MSHA approved hand-held device. Air quantity measurements will be made using an appropriately calibrated anemometer. Methane gas or other harmful, noxious, or poisonous gases will not be permitted to accumulate in excess of legal limits for an intake aircourse. At these evaluations points, an increase of 0.3 percent methane above the previous reading or a 10 percent change in the airflow quantity from the previous reading will cause an immediate investigation of the affected area, with prompt remedial action being taken as needed; and (iv) at each evaluation point, a date board will be provided where the certified examiner will record the date, time, his or her initials, and the measured quantity and quality of the air entering the affected area; and (v) record the results of each weekly examination in a book maintained on the surface. The certification, recordkeeping, and retention period requirements of 30 CFR 75.364(g), (h), and (i) will be met, (4) The permanent ventilation controls, evaluation points, and AMS sensor locations will be shown on the annual mine ventilation map submitted in accordance with 30 CFR 75.372; (5) All evaluation points and approaches to evaluation points will be maintained in a safe condition at all times. The roof will be adequately supported by suitable means to prevent deterioration of the roof in the vicinity of the evaluation points. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the appropriate portion of 30 CFR 75.364.

Docket Number: M–2010–002–C.

Petitioner: Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942.

Mine: Bridger Underground Mine, MSHA I.D. No. 48–01646, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to allow mining through abandoned oil and gas wells. The petitioner states that: (1) Bridger Coal Company expects to plug and mine through wells intersecting three coal seams: (a) Deadman D41 (the lowermost mineable seam, currently being mined), Deadman D5 Seam (not being mined), and Deadman D6 Seam (not being mined); (b) Bridger Coal Company is currently mining the Deadman D41 Seam. This seam varies from 7 to 17-feet in thickness, and liberates little to no methane in seam; (c) the Deadman D5 seam is approximately 70-feet above the active mine workings. This seam is approximately 5-feet thick. Bridger Coal Company has no current plans to mine this seam; (d) the Deadman D6 Seam is approximately 170-feet above the active mine workings. This seam is approximately 2.5-feet thick. Bridger Coal Company has no current plans to mine this seam; (2) there are two abandoned gas wells, #41–35 (P & A July 28, 1964) and Pierce #1 (P & A December 23, 1960). The drilled depth of #41–35 is 2793 feet; that of Pierce #1 is 3276 feet. Both of these wells were already professionally plugged and abandoned. Copies of geologic logs have been secured for each well and have been interpreted to identify coal bed horizons; and (3) the interval of all three seams is approximately 210 feet so the total expansive cement interval would be 510 feet to meet the minimum proposed plugging requirements set forth below. Plugging to the surface is planned for each abandoned and plugged gas well. The two abandoned and plugged gas wells will be cut through by longwall shear. Mine development occurs near the three hundred (300) foot diameter barrier of #41–35 in December 2010. As an alternative method of achieving the results of 30 CFR 75.1700, the petitioner proposes the following: (1) Bridger Coal Company will provide the District Manager with a map showing the location of all known oil and gas wells within the lease boundaries of the mine; (2) At least 30 days prior to mining within 150 feet of any oil or gas well, written certification will be provided to the District Manager that such well was cleaned out, prepared, and plugged using methods that meet or exceed the

following techniques and procedures: (a) A diligent effort will be made to clean the boreholes to a depth which would permit the placement of expanding cement to at least 200 feet below the base of the lowest mineable coal seam; (b) If the cleaned out borehole produces an excessive amount of methane gas, a mechanical bridge plug will be set in the borehole in a stratum of at least 200 feet below the base of the lowest mineable coal seam. If it is not feasible to set a mechanical bridge plug, an appropriately sized substantial brush plug may be used; and (c) A suite of logs will be made and maintained consisting of caliper survey, directional deviation survey, and log(s) suitable for determining the top and bottom of the mineable coal seams. Invoices, work orders, and other records relating to all work on the well will also be maintained. This information will be provided to MSHA upon request.

The following procedures will be followed when plugging oil and gas wells to the surface: (1) Using open-end tubing, a gel will be pumped into the borehole to a point approximately 20 feet above the bottom of the cleaned-out area of the borehole, or 20 feet above the mechanical bridge plug or substantial brush plug. The gel should circulate around the borehole, completely filling the cavity, so that the gel inhibits any flow of gas, supports the walls of the borehole, and densifies the expanding cement that will be pumped into the borehole; (2) using open-ended tubing, a cement plug will be set in the well by pumping expanding cement slurry to a point at least 200 feet below the lowest mineable coal seam up to a point approximately 100 feet above the top of the lowest mineable coal seam. There will be at least 200 feet of expanding cement below the base of the lowest mineable coal bed; (3) the remainder of the borehole will be filled to the surface, either with expanding cement slurry, or beginning from the point approximately 100 feet above the top of the lowest mineable coal seam, with Portland cement or a Portland cement-fly ash mixture; (4) a small quantity of steel turnings, or other magnetic particles will be imbedded in the top of the cement near the surface to serve as a permanent magnetic monument of the borehole. The following procedures will apply to mining through an oil or gas well: (1) The operator will notify the District Manager or designee prior to mining within 150 feet of the well, and when a specific plan is developed for mining through each well; (2) The petitioner will participate in a conference with the District Manager prior to mining-through the plugged well to review the specific procedures for mining through the well. Representatives of miners, miners on the section, and the appropriate State agency will be informed within a reasonable time prior to the conference, and all persons who will be present during the mining through will attend and participate. The conference may be called by the operator and may be conducted by teleconference; (3) Mining through a plugged well will be done on a shift approved by the District Manager or designee; (4) The District Manager or designee, representatives of the miners, the miners on the section, and the appropriate State agency will be notified by the operator in sufficient time prior to the mining through operation in order to have an opportunity to have representatives present; (5) When using continuous mining or conventional mining methods, drivage sights not more than 50 feet from the well, will be installed at the last open crosscut near the place to be mined to assure intersection of the well. When using longwall mining methods, drivage sights will be installed on 10-foot centers for a distance of 50 feet in advance of the well bore. The drivage sights will be installed in the headgate and tailgate; (6) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face will be available. The fire hose will be located near the working face. The fire hose will be extended to the face area of the mine-through when the longwall mining method is implemented. All fire hoses will be ready for operation during the mine-through; (7) Sufficient supplies of roof support and ventilation materials will be available and located not more than two crosscuts outby the mining-through location on intake air; (8) During the mine-through operation, the quantity of air required by the ventilation plan, but not less than 10,800 cfm, will reach each working face where coal is being cut, mined or loaded by continuous mining or conventional mining methods being employed during a mining through of a plugged well. The quantity of air required by the ventilation plan, but not less than 65,000 cfm, will reach the working face of the longwall during the mine-through operation; (9) Equipment will be checked for permissibility and serviced on the maintenance shift prior to mining through the well and the waterline maintained up to the tail piece with a sufficient amount of fire hose to reach the farthest point of penetration on the section; (10) The methane monitor(s) on the continuous mining machine, cutting machine and loading machine or longwall will be calibrated on the maintenance shift prior to mining through the well; (11) When mining is in progress, tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time mining is within 30 feet of the well until the well is intersected and immediately prior to mining through. During the actual cutting through process, no individual will be allowed on the return side until mining through has been completed and the area has been examined and declared safe; (12) When using continuous or conventional mining methods, the working place will be free of accumulations of coal dust and coal spillages, and rock dusting will be conducted and placed on the roof, rib and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and placed on the roof, rib and floor up to both the headgate and tailgate gob; (13) When the well bore is intersected, all equipment will be de-energized and the place thoroughly examined and determined safe before mining is resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well bore; (14) After a well has been intersected and the working place determined safe, mining will continue inby the well a sufficient distance to permit adequate ventilation around the area of the well bore; (15) No person will be permitted in the area of the well mining-through operation except those actually engaged in the operation, company personnel, representatives of the miners, personnel from MSHA, and personnel from the appropriate State agency; (16) The mining-through operation will be under the direct supervision of a certified individual; (17) Instructions concerning the mining-through operation will be issued only by the certified individual in charge; and (18) MSHA personnel may interrupt or halt the mining-through operation when it is necessary for the safety of miners. The petitioner states that: (1) A copy of the Proposed Decision and Order will be maintained at the mine office and be available to the Secretary's representatives, miners' representatives, and miners; and (2) within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions to the approved Part 48 training plans to the District Manager. These proposed revisions will include initial and refresher training regarding compliance with the terms

and conditions stated in the Proposed Decision and Order. The petitioner asserts that the proposed alternative method of achieving the results of the standard proposed by Bridger Coal Company will at all times guarantee no less than the same measure of protection afforded the miner under the existing standard.

Docket Number: M–2010–003–C.
Petitioner: Brooks Run Mining Company, LLC, 208 Business Street, Beckley, West Virginia 25801.
Mine: Wyoming No. 2 Mine, MSHA I. D. No. 46–06263, located in Wyoming County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water systems).
Modification Request: The petitioner requests a modification of the existing standard to permit nozzles to be used without blow-off dust covers for its deluge-type water spray system. The petitioner proposes to continue its weekly inspection and functional testing of the complete deluge-type water spray system, and remove blow-off dust covers from the nozzles. The petitioner states that: (1) Currently each nozzle is provided with a blow-off dust cover. In view of the frequent inspections and functional testing of the system, the dust covers are not necessary because the nozzles can be maintained in an unclogged condition through weekly use; and (2) it is burdensome to recap the large number of covers weekly after each inspection and functional test. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners employed by said standard.

Docket Number: M–2010–004–C.
Petitioner: Jim Walter Resources, P.O. Box 133, Brookwood, Alabama 35444.
Mine: No. 7 Mine, MSHA I. D. No. 01–01401, located in Tuscaloosa County, Alabama.
Regulation Affected: 30 CFR 75.507 (Power connection points).
Modification Request: The petitioner requests a modification of the existing standard to permit the use of one or more three-phase, 2,400-volt or 4,160-volt alternating current submersible pumps installed in return and bleeder entries in the No. 7 Mine. The petitioner states that: (1) The three-phase, 2, 400-volt or 4,160-volt, alternating current electric power circuit for each pump will be designed and installed to: (a) Contain either a direct or derived neutral, which will be grounded through a suitable resistor at the source transformer or power center. A grounding circuit originating at the grounded side of the grounding resistor must extend along with the power conductors and serve as the grounding conductor for the frame of each pump and all associated electric equipment that may be supplied power from each such circuit. The borehole casing will be bonded to the system grounding medium; and (b) contain a grounding resistor that limits the ground-fault current to not more than 6.5 amperes. The grounding resistor must be rated for the maximum fault current available and must be insulated from ground for a voltage equal to the phase-to-phase voltage of the system. (2) The following protections for each pump power circuit will be provided by a suitable circuit interrupting device of adequate interrupting capacity with devices to provide protection against undervoltage, grounded phase, short-circuit, and overload: (a) The undervoltage protection device will operate on a loss of voltage to prevent automatic restarting of the equipment; (b) the grounded phase protection device will be set not to exceed fifty percent (50%) of the current rating of the neutral grounding resistor; (c) the short circuit protection device will not be set to exceed the required short circuit protection for the power cable or seventy-five percent (75%) of the minimum available phase-to-phase short circuit current, whichever is less; (d) each power circuit will contain a disconnecting device located on the surface and installed to provide visual evidence that the power is disconnected; (e) each disconnecting device will include a means to visually determine the relevant pump power circuit is disconnected and be provided with a means to lock, tag-out, and ground the system; (f) each disconnecting device shall be designed to prevent entry unless the disconnect handle is in the "off" position and the circuit is grounded; and (g) each disconnecting device will be clearly identified and provided with a warning sign stating, "Danger do not enter unless the circuit is opened, locked, tagged-out, and grounded". (3) Each three-phase, alternating current system will be provided with a low resistance grounding medium for the grounding of the lightning/surge arrestors for the high-voltage pump power circuit that is separated from the neutral grounding medium by a distance of not less than twenty-five (25) feet. (4) The electric control circuit(s) for each pump will meet the following requirements: (a) The control circuit will be equipped with a circuit that determines a high and low water level; (b) when the water level is reached, the pump will cease operation and will not start in either the manual or automatic mode; (c) when the high water level is reached, the pump will be capable of operation; (d) the high and low water levels will be determined by a differential pressure switch located at the surface; (e) the grounded-phase protective circuit for each pump will be able to be tested by injecting a test current through the grounded-phase current transformer; and (f) a remote control and monitoring system can be used with a pump system for condition monitoring and for remote startup and shutdown control of the pump. The remote control and monitoring system will not allow remote reset of the pump power system when any fault condition (*e.g.,* grounded phase, short circuit, or overload) exists on the system. (5) Each surface pump control and power circuit will be examined as required by 30 CFR 77.502. (6) The power cable to each submersible pump motor must be suitable for this application, have a current carrying capacity not less than one-hundred twenty-five percent (125%) of the full load motor current of the submersible pump motor, and have an outer jacket suitable for a wet location. The power cable must be supported at the entrance to the borehole and throughout its length by securing it with clamps, spaced approximately twenty-five feet (25') apart, affixed to the discharge pipe casing. (7) A device will be installed to monitor ground continuity from the starter box to the well head. (8) The starter will be equipped with ground fault "look-ahead" device to prevent the motor from being energized during a fault condition. (9) Each pump installation must comply with all other applicable requirement of 30 CFR. (10) Within sixty (60) days after this petition is granted, petitioner will submit proposed revisions for their approved Part 48 training plan to the District 11 Manager. These provisions will specify task training for all qualified mine electricians who perform electric work, monthly examinations as required by 30 CFR 77.502, and refresher training regarding the alternative method outlined in the petition. The procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply. The petitioner asserts that the alternate method of achieving the result of the existing standard will at all times guarantee no less than the same measure of protection afforded the miners by the present application of the standard.

Dated: March 12, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2010–5787 Filed 3–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before April 16, 2010.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov.*

2. *Facsimile:* 1–202–693–9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2009–064–C.

Petitioner: Omega Mining, Inc., P.O. Box 929, Honaker, Virginia 24260.

Mine: Beehive Mine, MSHA I.D. No. 44–05411 and Hatfield Mine, MSHA I.D. No. 44–07104, located in Russell County, Virginia.

Regulation Affected: 30 CFR 75.1506(c)(1) (Refuge alternatives).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method to maintain a refuge alternative to within 1,000 feet of the working face but be allowed to develop a maximum 200 feet inby the 1,000 foot location prior to the installation of the refuge alternative to its Beehive and Hatfield Mines. This will allow the refuge alternative to be installed adjacent to the loading point of the active section while not interfering with ventilation or haulage. The petitioner states that: (1) Both the aforementioned underground mining operations have an approved Emergency Response Plan with MSHA through District 5; (2) the mining height at both operations averages 42 to 48 inches in overall height; (3) each mine utilizes refuge alternatives (safe havens) constructed of 15 psi block stoppings provided with 15 psi rated metal doors to access the internal area of the refuge alternative; (4) breathable air is supplied by a surface mounted portable fan to each established refuge alternative through pre-drilled vertical boreholes; (5) the breathable air system is a forced air system designed to maintain positive pressure within the refuge alternative at all times; (6) this system is designed to sustain personnel for an indefinite period of time, easily exceeding 96 hours; (7) the borehole design allows for introduction of additional communications, water, food, and correspondence between the surface and underground through letters or other means; (8) the depth of the vertical boreholes should not exceed 300 to 400 feet; (9) strategic surface locations are necessary for providing adequate placement of the boreholes in relation to active underground workings. Flexibility for positioning surface to mine location is very important; (10) constructed refuge alternatives are located in a crosscut entry between the primary and secondary escapeways; (11) each person on the working section is provided with an approved 1 hour SCSR (self-contained self-rescuer) and an approved 10 minute SCSR. An additional approved 1 hour SCSR is provided in the refuge alternative; (12) the modification to the timing of the installation for the working section refuge alternative will not interfere or affect the service and maintenance of the outby refuge alternatives; (13) both of these mines have been in operation for over 5 years and has no record of methane liberation at any time; and (14) all other requirements of the Emergency Response Plan and the Mine Emergency Evacuation and Firefighting Program of Instruction will be complied with. The petitioner asserts that the alternative method will at all times provide the same measure of protection for the miners as the existing standard while eliminating the need for portable type refuge alternatives, and will also allow for safe and sound development of the working face in a limited amount of time and distance where ventilation and haulage will not be interfered upon.

Docket Number: M–2009–065–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 75 Mine, MSHA I. D. No. 15–17478, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.513 (Electric conductor; capacity and insulation).

Modification Request: The petitioner requests a modification of the existing standard to permit use of smaller cables than allowed by the National Electric Code for 480 Volt AC 250 H.P. and 300 H.P. head drive motors. The petitioner states that: (1) In lieu of a 350 MCM cable for a 300 H.P. Head Drive motor and a 250 MCM cable for a 250 H.P.

Head Drive motor, a 4/0, 90 deg. C. ICEA cable with an ampacity of 329 amps at 20 deg. C ambient will be used; (2) additional protection will be provided for this cable by providing overload devices for the drive motor that are set to pick up at no more than the ampacity of the cable; (3) a 400 amp thermal magnetic breaker will be provided at the beginning of the branch circuit at the power center to protect the cable to no more than 125% of its ampacity; (4) motor circuits will be checked for overload by a handheld ammeter to ensure that the cable ampacity is sufficient periodically during belt advancement and once the belt line length is permanently established; (5) short circuit protection for the motor will continue to be set between 700%–1300% of the motor full load amps, unless a high efficiency motor is used and will not start at these settings. In no case will the motor's short circuit protection be set higher than is currently allowed by the National Electric Code; (6) means will be provided to prevent the motor branch circuit cables from being installed into another circuit breaker that is not a 400 amp thermal magnetic breaker. A warning label will be placed on the belt drive disconnect indicating "400 amp thermal magnetic only". Otherwise an equivalent circuit breaker with the correct settings will be provided at the power center as the head drive spare; and (7) within sixty (60) days after this petition is granted, the petitioner will submit proposed revisions for its approved 30 CFR Part 48, Subpart A training plan to the District Manager. The petitioner further states that the proposed alternative method will not be implemented until miners have been trained in the proper installation of these circuits and proper examinations to ensure they are maintained. Training will include the following: (a) Training in hazards associated with incorrect circuit breaker setting to protect power cables; (b) training in how to verify that circuit breakers are properly set and maintained; (c) training in how to protect power cables from damage; and (d) training in the proper procedures for examining power cables to ensure the cables are in safe operating condition. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Blue Diamond Coal Company provided by the existing standard.

Docket Number: M–2009–066–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 81 Mine, MSHA I. D. No. 15–12753, located in Leslie County, Kentucky.

Regulation Affected: 30 CFR 75.513 (Electric conductor; capacity and insulation).

Modification Request: The petitioner requests a modification of the existing standard to permit use of smaller cables than allowed by the National Electric Code for 480 Volt AC 250 H.P. and 300 H.P. head drive motors. The petitioner states that: (1) In lieu of a 350 MCM cable for a 300 H.P. Head Drive motor and a 250 MCM cable for a 250 H.P. Head Drive motor, a 4/0, 90 deg. C. ICEA cable with an ampacity of 329 amps at 20 deg. C ambient will be used; (2) additional protection will be provided for this cable by providing overload devices for the drive motor that are set to pick up at no more than the ampacity of the cable; (3) a 400 amp thermal magnetic breaker will be provided at the beginning of the branch circuit at the power center to protect the cable to no more than 125% of its ampacity; (4) motor circuits will be checked for overload by a handheld ammeter to ensure that the cable ampacity is sufficient periodically during belt advancement and once the belt line length is permanently established; (5) short circuit protection for the motor will continue to be set between 700%–1300% of the motor full load amps, unless a high efficiency motor is used and will not start at these settings. In no case will the motor's short circuit protection be set higher than is currently allowed by the National Electric Code; (6) means will be provided to prevent the motor branch circuit cables from being installed into another circuit breaker that is not a 400 amp thermal magnetic breaker. A warning label will be placed on the belt drive disconnect indicating "400 amp thermal magnetic only". Otherwise an equivalent circuit breaker with the correct settings will be provided at the power center as the head drive spare; and (7) within sixty (60) days after this petition is granted, the petitioner will submit proposed revisions for its approved 30 CFR Part 48, Subpart A training plan to the District Manager. The petitioner further states that the proposed alternative method will not be implemented until miners have been trained in the proper installation of these circuits and proper examinations to ensure they are maintained. Training will include the following: (a) Training in hazards associated with incorrect circuit breaker setting to protect power cables; (b) training in how to verify that circuit breakers are properly set and maintained; (c) training in how to protect power cables from damage; and (d) training in the proper procedures for examining power cables to ensure the cables are in safe operating condition. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Blue Diamond Coal Company provided by the existing standard.

Docket Number: M–2009–067–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: No. 77 Mine, MSHA I.D. No. 15–09636, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.513 (Electric conductor; capacity and insulation).

Modification Request: The petitioner requests a modification of the existing standard to permit use of smaller cables than allowed by the National Electric Code for 480 Volt AC 250 H.P. and 300 H.P. head drive motors. The petitioner states that: (1) In lieu of a 350 MCM cable for a 300 H.P. Head Drive motor and a 250 MCM cable for a 250 H.P. Head Drive motor, a 4/0, 90 deg. C. ICEA cable with an ampacity of 329 amps at 20 deg. C ambient will be used; (2) additional protection will be provided for this cable by providing overload devices for the drive motor that are set to pick up at no more than the ampacity of the cable; (3) a 400 amp thermal magnetic breaker will be provided at the beginning of the branch circuit at the power center to protect the cable to no more than 125% of its ampacity; (4) motor circuits will be checked for overload by a handheld ammeter to ensure that the cable ampacity is sufficient periodically during belt advancement and once the belt line length is permanently established; (5) short circuit protection for the motor will continue to be set between 700%–1300% of the motor full load amps, unless a high efficiency motor is used and will not start at these settings. In no case will the motor's short circuit protection be set higher than is currently allowed by the National Electric Code; (6) means will be provided to prevent the motor branch circuit cables from being installed into another circuit breaker that is not a 400 amp thermal magnetic breaker. A warning label will be placed on the belt drive disconnect indicating "400 amp thermal magnetic only". Otherwise an equivalent circuit breaker with the correct settings will be provided at the power center as the head drive spare; and (7) within sixty (60) days after this petition is granted, the petitioner will

submit proposed revisions for its approved 30 CFR Part 48, Subpart A training plan to the District Manager. The petitioner further states that the proposed alternative method will not be implemented until miners have been trained in the proper installation of these circuits and proper examinations to ensure they are maintained. Training will include the following: (a) Training in hazards associated with incorrect circuit breaker setting to protect power cables; (b) training in how to verify that circuit breakers are properly set and maintained; (c) training in how to protect power cables from damage; and (d) training in the proper procedures for examining power cables to ensure the cables are in safe operating condition. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Blue Diamond Coal Company provided by the existing standard.

Docket Number: M–2009–068–C.

Petitioner: Leeco Coal Company, P.O. Box 309, Jeff, Kentucky 41751.

Mine: No. 68 Mine, MSHA I.D. No. 15–17497, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.513 (Electric conductor; capacity and insulation).

Modification Request: The petitioner requests a modification of the existing standard to permit use of smaller cables than allowed by the National Electric Code for 480 Volt AC 250 H.P. and 300 H.P. head drive motors. The petitioner states that: (1) In lieu of a 350 MCM cable for a 300 H.P. Head Drive motor and a 250 MCM cable for a 250 H.P. Head Drive motor, a 4/0, 90 deg. C. ICEA cable with an ampacity of 329 amps at 20 deg. C ambient will be used; (2) additional protection will be provided for this cable by providing overload devices for the drive motor that are set to pick up at no more than the ampacity of the cable; (3) a 400 amp thermal magnetic breaker will be provided at the beginning of the branch circuit at the power center to protect the cable to no more than 125% of its ampacity; (4) motor circuits will be checked for overload by a handheld ammeter to ensure that the cable ampacity is sufficient periodically during belt advancement and once the belt line length is permanently established; (5) short circuit protection for the motor will continue to be set between 700%-1300% of the motor full load amps, unless a high efficiency motor is used and will not start at these settings. In no case will the motor's short circuit protection be set higher than is currently allowed by the National Electric Code; (6) means will be provided to prevent the motor branch circuit cables from being installed into another circuit breaker that is not a 400 amp thermal magnetic breaker. A warning label will be placed on the belt drive disconnect indicating "400 amp thermal magnetic only". Otherwise an equivalent circuit breaker with the correct settings will be provided at the power center as the head drive spare; and (7) within sixty (60) days after this petition is granted, the petitioner will submit proposed revisions for its approved 30 CFR Part 48, Subpart A training plan to the District Manager. The petitioner further states that the proposed alternative method will not be implemented until miners have been trained in the proper installation of these circuits and proper examinations to ensure they are maintained. Training will include the following: (a) Training in hazards associated with incorrect circuit breaker setting to protect power cables; (b) training in how to verify that circuit breakers are properly set and maintained; (c) training in how to protect power cables from damage; and (d) training in the proper procedures for examining power cables to ensure the cables are in safe operating condition. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at Leeco Coal Company provided by the existing standard.

Dated: March 12, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2010–5786 Filed 3–16–10; 8:45 am]

BILLING CODE 4510–43–P

LEGAL SERVICES CORPORATION

Notice of Availability of Calendar Year 2011 Competitive Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Solicitation for Proposals for the Provision of Civil Legal Services.

SUMMARY: The Legal Services Corporation (LSC) is the national organization charged with administering Federal funds provided for civil legal services to low-income people.

LSC hereby announces the availability of competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient, and high quality civil legal services to eligible clients in the service area(s) of the states and territories identified below. The exact amount of congressionally appropriated funds and the date, terms, and conditions of their availability for calendar year 2011 have not been determined.

DATES: See **SUPPLEMENTARY INFORMATION** section for grants competition dates.

ADDRESSES: Legal Services Corporation—Competitive Grants, 3333 K Street, NW., Third Floor, Washington, DC 20007–3522.

FOR FURTHER INFORMATION CONTACT: Office of Program Performance by e-mail at *competition@lsc.gov,* or visit the grants competition Web site at *http://www.grants.lsc.gov.*

SUPPLEMENTARY INFORMATION: The Request for Proposals (RFP) will be available April 8 2010. Applicants must file a Notice of Intent to Compete (NIC) to participate in the competitive grants process. Applicants must file the NIC by May 13 2010, 5 p.m. E.D.T. The due date for filing grant proposals is June 7 2010, 5: p.m. E.D.T.

LSC is seeking proposals from: (1) Non-profit organizations that have as a purpose the provision of legal assistance to eligible clients; (2) private attorneys; (3) groups of private attorneys or law firms; (4) State or local governments; and (5) sub-state regional planning and coordination agencies that are composed of sub-state areas and whose governing boards are controlled by locally elected officials.

The RFP, containing the NIC and grant application, guidelines, proposal content requirements, service area descriptions, and specific selection criteria, will be available from *http://www.grants.lsc.gov* April 8, 2010. LSC will not fax the RFP to interested parties.

Below are the service areas for which LSC is requesting grant proposals. Service area descriptions will be available from Appendix A of the RFP. LSC will post all updates and/or changes to this notice at *http://www.grants.lsc.gov.* Interested parties are asked to visit *http://www.grants.lsc.gov* regularly for updates on the LSC competitive grants process.

State	Service area
Alabama	MAL

State	Service area
American Samoa	AS–1
Arizona	AZ–2, AZ–3, AZ–5, MAZ, NAZ–6, NAZ–5
Arkansas	AR–6, AR–7, MAR
California	CA–1, CA–27, CA–28, NCA–1
District of Columbia	DC–1
Illinois	IL–3, IL–7
Kentucky	KY–2, KY–5, KY–9, KY–10, MKY
Louisiana	LA–1, LA–12, MLA
Massachusetts	MA–11
Michigan	MI–9, MI–12, MI–13, MI–14, MI–15, MMI, NMI–1
Minnesota	MN–1, MN–4, MN–5, MN–6, MMN
Mississippi	MS–10, MMS
Missouri	MO–3, MO–4, MO–5, MO–7, MMO
Nevada	NV–1, MNV, NNV–1
New Mexico	NM–1, NM–5, MNM, NNM–2, NNM–4
New York	NY–9
North Dakota	ND–3, MND, NND–3
Ohio	OH–20, OH–18, OH–21, OH–23, MOH
Oklahoma	NOK–1
Pennsylvania	PA–1, PA–24, MPA
Puerto Rico	PR–2
South Dakota	SD–2, SD–4, MSD, NSD–1
Tennessee	TN–4, TN–7, TN–9, TN–10, MTN
Texas	TX–13, TX–14, TX–15, MTX, NTX–1
Virginia	VA–17, VA–18, VA–19, VA–20, MVA
West Virginia	WV–5, MWV
Wisconsin	WI–5, MWI
Wyoming	WY–4, MWY, NWY–1

Dated: March 11, 2010.

Janet LaBella,

Director, Office of Program Performance, Legal Services Corporation.

[FR Doc. 2010–5742 Filed 3–16–10; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Fingerprint Submission Requirements Rule

Authority: 42 U.S.C. 14616.

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice.

SUMMARY: Notice of the Compact Council's establishment of a process for initiating noncriminal justice criminal history record checks during times of emergencies and disasters under the authority of the Fingerprint Submission Requirements Rule, title 28 Code of Federal Regulations (CFR), part 901.

FOR FURTHER INFORMATION CONTACT: Gary S. Barron, FBI CJIS Division, 1000 Custer Hollow Road, Module D3, Clarksburg, WV 26306; telephone (304) 625–2803; email *gbarron@leo.gov;* fax number (304) 625–2539.

SUPPLEMENTARY INFORMATION: This notice provides the process that a state or federal agency may utilize to request Compact Council approval to conduct federal noncriminal justice criminal history record checks of individuals who, during an existing or impending emergency or disaster, will have access to children, the elderly, or disabled persons (vulnerable populations). The Compact Council has approved similar requests pursuant to the Fingerprint Submission Requirements Rule (28 CFR, part 901) when health or safety of vulnerable populations is at issue and time is of the essence. Health or safety issues will be present during evacuation and relocation efforts.

As a prerequisite to receiving approval to initiate noncriminal justice criminal history record checks under the exigent circumstances described above, the President or authorized state executive officer(s) must have declared a state of emergency or major disaster in the jurisdiction from which individuals are being displaced, or to which the individuals are being relocated. States eligible to make such requests include the state or states in which the disaster has been declared and the state(s) to which evacuees are relocated. The appropriate federal or state official may submit the request to the FBI Compact Officer, FBI Criminal Justice Information Services (CJIS) Division, 1000 Custer Hollow Road, Clarksburg, WV 26306. The appropriate federal/state officials authorized to make such requests are: Federal/state CJIS Systems Officers (CSO), State Compact Officers (SCO), State Identification Bureau (SIB) Chiefs, or an official who is superior in the federal/state official's chain of command. The authorized federal or state official may make initial contact by telephone, agreeing to restrict dissemination of the results of exigent name-based criminal history record checks to the receiving governmental department or related governmental agency and to submit fingerprints within 15 days of each name-based check, which must be part of a follow-up e-mail or letter to the FBI Compact Officer.

The FBI Compact Officer will determine whether to approve the request, consulting with the Compact Council if necessary. Upon approval of the request, the FBI Compact Office will coordinate FBI CJIS Division procedures and communicate detailed information to the requesting official regarding operational procedures to be followed, which may include: the issuance of a unique Originating Agency Identifier (ORI) for use in conducting name-based checks of the Interstate Identification Index (III) system and/or submission of the follow-up fingerprints; a specific time frame that such exigent criminal history record checks may be conducted; other requirements and information needed for the CJIS Division to process the criminal history record checks; and any additional guidance established by the Compact Council or the CJIS Division.

Prior to conducting the exigent federal criminal history record checks, a state statute authorizing fingerprint submissions to the FBI for individuals

having unsupervised contact with children (or other vulnerable population) would ideally have been submitted to the FBI and approved pursuant to Public Law 92–544. However, in the absence of such approved state statute, the FBI Compact Officer may determine that the National Child Protection Act (NCPA)/Volunteers for Children Act (VCA) may be used as authorization to access FBI-maintained criminal history record information during emergencies and disasters. Authorized federal or state officials must ensure, within reason, that a system is maintained to track the name-based criminal history record checks of the III system and the required follow-up fingerprint submissions during the emergency period and to ensure name-based check results are disseminated solely to government officials to be used for official purposes.

Dated: February 23, 2010.

Liane M. Moriyama,

Compact Council Chairman.

[FR Doc. 2010–5708 Filed 3–16–10; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson, Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web-site: *http://www.nsf.gov.* This information may also be requested by telephoning, 703/292–8182.

Dated: March 12, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–5779 Filed 3–16–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on EPR; Notice of Meeting

The ACRS U.S. Evolutionary Power Reactor (EPR) Subcommittee will hold a meeting on April 6, 2010, at 11545 Rockville Pike, T2–B1, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to protect information that is proprietary to AREVA NP, pursuant to 5 U.S.C. 552b(c)(4).

The proposed agenda for the subject meeting shall be as follows:

Tuesday, April 6, 2010, 8:30 a.m.–5 p.m.

The Subcommittee will review Chapters 11 and 16 of the Safety Evaluation Report with Open Items associated with the U.S. EPR Design Certification Document Review. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Mr. Derek Widmayer (Telephone 301–415–7366, *E-mail: Derek.Widmayer@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009, (74 FR 58268–58269).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in major inconvenience.

Dated: March 12, 2010.

Antonio F. Dias,

Branch Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2010–5791 Filed 3–16–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0103]

Withdrawal of Regulatory Guide 8.6

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of Regulatory Guide 8.6, "Standard Test Procedure for Geiger-Müller Counters."

FOR FURTHER INFORMATION CONTACT: Harriet Karagiannis, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–251–7477 or e-mail *Harriet.Karagiannis@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 8.6, "Standard Test Procedure for Geiger-Müller Counters," published in May 1973. The NRC issued RG 8.6, for Geiger-Müller (GM) counters endorsing test procedures specified in ANSI N42.3–1969, "Test Procedure for Geiger-Müller Counters." ANSI N42.3–1969 has not been revised; it is outdated and no longer useful.

RG 8.6 provided guidance for licensees to comply with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, "Standards for Protection against Radiation," specifically 10 CFR 20.201, "Precautionary Procedures: Surveys" which required surveys, including appropriate measurements of levels of radiation. That provision, 10 CFR 20.201, was deleted, and that subject matter is addressed in a new section, 10 CFR 20.1501, "General," which states that licensees shall perform surveys to ensure that instruments and equipment used for quantitative radiation measurements (*e.g.,* dose rate and effluent monitoring) are calibrated periodically for the radiation measured.

In the 1970s, the GM counters were the main radiation detection instruments used by licensees. At that time, radiation protection programs needed the guidance included in RG 8.6 because there was limited information available on the use and maintenance of these counters. However, since the 1970s, technology has changed radically, and currently, in addition to GM counters, there are many types of radiation detection and measurement instruments used. Most of them are fairly complex to operate, maintain, and calibrate.

Generally, the NRC does not provide specific guidance for the technical testing or calibration of radiation detection and measurement equipment. Any such guidance would soon become outdated, since the development of these instruments is continuously advancing, producing new models tailored to a range of specialized clientele. The manufacturers provide instructions and training for testing and calibration of each new instrument. Also, since the 1970s, the industry has gained extensive experience in the characteristics of the GM counters and other instruments. In addition, organizations such as the National Institute of Standards and Technology and other private groups offer calibration services to those who lack in-house training and experience in testing and calibrating instruments.

II. Further Information

The withdrawal of RG 8.6 does not alter any prior or existing licensing commitments or conditions based on its use. The guidance provided in RG 8.6 is neither necessary nor current. Regulatory guides may be withdrawn when their guidance is superseded by congressional action or no longer provides useful information.

Regulatory guides are available for inspection or downloading through the NRC's public Web site under "Regulatory Guides" in the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections.* Regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR's mailing address is US NRC PDR, Washington, DC 20555–0001. The PDR staff can be reached by telephone at 301–415–4737 or 800–397–4209, by fax at 301–415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 9th day of March, 2010.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–5794 Filed 3–16–10; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2010–26; Order No. 420]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to include a new contract within the existing Global Expedited Package Services 2 (GEPS 2) product. The Postal Service characterizes the referenced contract as a successor to a current contract, which will terminate early due to fulfillment of a volume condition. This notice addresses procedural steps associated with this filing.

DATES: Comments are due: March 19, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

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II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

On March 10, 2010, the Postal Service filed a notice announcing that it has entered into an additional Global Expedited Package Services 2 (GEPS 2) contract.[1] The Postal Service believes the instant contract is functionally equivalent to previously submitted GEPS 2 contracts, and is supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice also explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1. In Order No. 290, the Commission approved the GEPS 2 product.[2]

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that the contract is in accordance with Order No. 86. The Postal Service submitted the contract and supporting materials under seal, a redacted copy of the contract as Attachment 1, a certified statement required by 39 CFR 3015.5(c)(2) to the Notice as Attachment 2, Governors' Decision No. 08–7 and an application for non-public treatment of materials as Attachments 3 and 4, respectively. *Id.* at 1–2.

The Postal Service relates that the instant contract is the immediate successor contract to the contract in Docket No. CP2009–59, which expires on September 5, 2010, and which the Commission found to be functionally equivalent in Order No. 286.[3] It states that because the customer has met the volume commitment of its present contract, it requests approval for the instant contract and the customer's current contract will be terminated early. The term of the contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received.

The Notice advances reasons why the instant GEPS 2 contract fits within the

[1] Notice of United States Postal Service Filing of Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, March 10, 2010 (Notice).

[2] Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

[3] Docket No. CP2009–59, Order Concerning Additional Global Expedited Package Services 1 Negotiated Service Agreement, August 24, 2009 (Order No. 286).

Mail Classification Schedule language for GEPS 2. The Postal Service identifies customer specific information and general contract terms that distinguish the instant contract from the baseline GEPS 2 agreement. *Id.* at 4–8. It contends that the instant contract is functionally equivalent to the GEPS 2 contracts filed previously notwithstanding these differences. *Id.* at 6–7.

The Postal Service asserts that several factors demonstrate the contract's functional equivalence with previous GEPS 2 contracts, including the general terms of the contract, the market to which it is being offered, and its cost characteristics. *Id.* at 3. The Postal Service concludes that because the "GEPS agreements incorporate the same cost attributes and methodology, the relevant cost and market characteristics are similar, if not the same . . ." despite any incidental differences. *Id.* at 6.

The Postal Service contends that its filings demonstrate that this new GEPS 2 contract is established in compliance with the requirements of 39 U.S.C. 3633, is functionally equivalent to previous GEPS 2 contracts, and requests that this contract be included within the GEPS 2 product. *Id.* at 7.

II. Notice of Filing

The Commission establishes Docket No. CP2010–26 for consideration of matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3622 or 3642. Comments are due no later than March 19, 2010. The public portions of these filings can be accessed via the Commission's Web site *(http://www.prc.gov).*

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned filings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2010–26 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than March 19, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–5793 Filed 3–16–10; 8:45 am]

BILLING CODE 7710–FW–S

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2003–15962]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected costs and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 8, 2010 [Vol. 75, No. 5, Page 1112]. No comments were received.

DATES: Comments on this notice must be received by April 16, 2010 and sent to the attention of the DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket library, Room 10102, 725 17th Street, NW., Washington, DC 20503 and Docket Number DOT–OST–2003–15962.

FOR FURTHER INFORMATION CONTACT: Lauralyn Remo, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, (202) 366–9721.

SUPPLEMENTARY INFORMATION:

Title: Procedures and Evidence Rules for Air Carrier Authority Applications:

14 CFR part 201—Air Carrier Authority under Subtitle VII of Title 49 of the United States Code—(Amended);

14 CFR part 204—Data to Support Fitness Determinations;

14 CFR part 291—Cargo Operations in Interstate Air Transportation.

OMB Control Number: 2106–0023

Type of Request: Renewal of previously approved collection.

Abstract: In order to determine the fitness of persons seeking authority to engage in air transportation, the Department collects information from them about their ownership, citizenship, managerial competence, operating proposal, financial condition, and compliance history. The specific information to be filed by respondents is set forth in 14 CFR parts 201 and 204.

Respondents: Persons seeking initial or continuing authority to engage in air transportation of persons, property, and/or mail.

Estimated Number of Respondents: 147.6.

Average Annual Burden per Respondent: 45.73 hours.

Estimated Total Burden on Respondents: 6,750 hours.

Comments are invited on: (a) 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; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC, on March 10, 2010.

Todd M. Homan,

Director, Office of Aviation Analysis.

[FR Doc. 2010–5819 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2003–15623]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected costs and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January

8, 2010 [Vol. 75, No. 5, Page 1112]. No comments were received.

DATES: Comments on this notice must be received by April 16, 2010 and sent to the attention of the DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket library, Room 10102, 725 17th Street, NW., Washington, DC 20503 and Docket Number DOT–OST–2003–15623.

FOR FURTHER INFORMATION CONTACT: Lauralyn Remo, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–9721.

SUPPLEMENTARY INFORMATION:

Title: Use and Change of Names of Air Carriers, Foreign Air Charters, and Commuter Air Carriers, 14 CFR Part 215.

OMB Control Number: 2106–0043.

Type of Request: Renewal of a previously approved collection.

Abstract: In accordance with the procedures set forth in 14 CFR Part 215, before a holder of certificated, foreign, or commuter air carrier authority may hold itself out to the public in any particular name or trade name, it must register that name or trade name with the Department, and notify all other certificated, foreign, and commuter air carriers that have registered the same or similar name(s) of the intended name registration.

Respondents: Persons seeking to use or change the name or trade name in which they hold themselves out to the public as an air carrier or foreign air carrier.

Estimated Number of Respondents: 12.

Estimated Total Burden on Respondents: 65 hours.

Comments are invited on: (a) 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; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on March 10, 2010.

Todd M. Homan,

Director, Office of Aviation Analysis.

[FR Doc. 2010–5817 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 6, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations. (See 14 CFR 301.201 *et seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2000–6796.

Date Filed: March 1, 2010.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 22, 2010.

Description: Application of Aerolineas Santo Domingo, S.A. requesting renewal of its exemption and a foreign air carrier permit to conduct scheduled foreign air transportation of persons, property and mail between the Dominican Republic and the United States.

Docket Number: DOT–OST–2010–0058.

Date Filed: March 5, 2010.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 26, 2010.

Description: Application of Dynamic Airways, LLC d/b/a Dynamic Aviation ("Airways") requesting a certificate of public convenience and necessity authorizing Airways to engage in interstate charter air transportation of persons, property and mail.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Alternate Federal Register Liaison.

[FR Doc. 2010–5807 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 2010–0011]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about our intention to request the Office of Management and Budget's (OMB) to approve the following information collection: 49 U.S.C. Section 5308—Clean Fuels Grant Program. The information to be collected for this program is used to satisfy the program oversight responsibilities. FTA will use the information to evaluate the impact of the program on air quality and its support of emerging markets for new clean fuel and advanced propulsion technologies. The **Federal Register** notice with a 60-day comment period soliciting comments was published on November 20, 2009.

DATES: Comments must be submitted before April 16, 2010. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. 5308, Clean Fuels Grant Program.

Abstract: The Section 5308 Clean Fuels Grant program was initiated as a formula program under the Transportation Equity Act for the 21st Century (TEA–21) in June 1998. The program was reauthorized in August 2005 under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) as a grant program. The program supports the development and deployment of clean fuel and advanced propulsion technologies for transit buses by providing funds for clean fuel vehicles and facilities. To meet program oversight responsibilities, FTA needs information on the operations and performance of clean fuel technology buses to help assess the reliability, benefits and costs of these technologies compared to conventional vehicle technologies.

Respondents: State and local government and public transportation authorities located in areas designated as non-attainment or maintenance for ozone or carbon monoxide.

Estimated Total Annual Burden: 512 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: March 11, 2010.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2010–5809 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1043 (Sub-No. 1)]

Montreal, Maine & Atlantic Railway, Ltd.—Discontinuance of Service and Abandonment—In Aroostook and Penobscot Counties, ME

On February 25, 2010, Montreal, Maine & Atlantic Railway, Ltd. (MMA) filed with the Board an application [1] for permission to abandon the following lines of railroad:

(1) The Madawaska Subdivision, consisting of approximately 151 miles of line between milepost 109 near Millinocket and milepost 260 near Madawaska in Penobscot and Aroostook Counties, which traverses United States Postal Service ZIP Codes 04462, 04460, 04777, 04776, 04747, 04763, 04780, 04759, 04732, 04775, 04768, 04739, 04781, 04743, 04745, and 04756; [2]

(2) The Presque Isle Subdivision, consisting of approximately 25.3 miles of line between milepost 0.0 near Squa Pan and milepost 25.3 near Presque Isle in Aroostook County, which traverses United States Postal Service ZIP Codes 04732, 04757, and 04769; [3]

(3) The Fort Fairfield Subdivision, consisting of approximately 10 miles of line between milepost 0.0 near Presque Isle and milepost 10.0 near Easton in Aroostook County, which traverses United States Postal Service ZIP Codes 04769, 04742, and 04740; [4]

(4) The Limestone Subdivision, consisting of approximately 29.85 miles of line between milepost 0.0 near Presque Isle and milepost 29.85 near Limestone in Aroostook County, which traverses United States Postal Service ZIP Codes 04769, 04736, 04742, and 04750; [5] and

(5) The Houlton Subdivision, consisting of approximately 16.9 miles of line between milepost 0.0 near Oakfield and milepost 16.9 near Houlton in Aroostook County, which traverses United States Postal Service ZIP Codes 04763, 04761, and 04730.[6]

The lines do not contain federally granted rights-of-way. Any documentation in MMA's possession will be made available promptly to those requesting it. MMA's entire case for abandonment was filed with the application.

The lines of railroad have appeared on the applicant's system diagram map since August 28, 2009.

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).

Any interested person may file with the Surface Transportation Board written comments concerning the proposed abandonment or protests (including the protestant's entire opposition case), by April 12, 2010. All interested persons should be aware that, following any abandonment of rail service and salvage of the lines, the lines may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) and any request for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by April 12, 2010. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27). Applicant's reply to any opposition statements and its response to trail use requests must be filed by April 26, 2010. *See* 49 CFR 1152.26(a). A final decision will be issued by June 15, 2010.

Persons opposing the proposed abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide: (i) An offer of financial assistance (OFA) for continued rail service, pursuant to 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner); (ii) recommended provisions for protection of the interests of employees; (iii) a request for a public use condition under 49 U.S.C. 10905; and (iv) a statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

Written comments and protests, including all requests for public use and trail use conditions, must indicate the proceeding designation STB Docket No. AB–1043 (Sub-No. 1) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001, and (2) James E. Howard, One Thompson Square, Suite 201, Charlestown, MA 02129. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in 49 CFR 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The lines sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually

[1] The State of Maine, by and through its Department of Transportation, filed a motion to reject the application on March 11, 2010. The Board will address the motion in a separate decision.

[2] MMA lists the stations on the lines it proposes to abandon in Exhibit 5 of its application. The Madawaska Subdivision includes the stations of Grindstone, Stacyville, Serman, Crystal, Belvedere, Island Falls, Dyer Brook, Oakfield, Smyrna Mills, Weeksboro, Howe Brook, St. Croix, Masardis, Levesque, Squa Pan, Ashland, Sheridan, Wrightville, Moody, Skerry, Portage, Nixon, Winterville, Eagle Lake Wallagrass, Soldier Point, Fort Kent, Frenchville, and Cleveland.

[3] This line includes the stations of Squa Pan, Chapman, Mapleton, Skyway Jct., and Presque Isle.

[4] This line includes the stations of Presque Isle, Phair, and Easton.

[5] This line includes the stations of Presque Isle, Industrial, Caribou, Macneil, Goodrich, and Limestone.

[6] This line includes the stations of Oakfield, Ludlow, New Limerick, and Houlton.

agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the lines in operation. MMA's representative to whom inquiries may be made concerning sale or subsidy terms is set forth above.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment/discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to 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. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in this type of abandonment proceeding normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: March 12, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–5795 Filed 3–16–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the City of Melbourne and the Federal Aviation Administration for the Melbourne International Airport, Melbourne, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties, 15.819 acres at the Melbourne International Airport, Melbourne, Florida from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Melbourne, dated August 6, 1947. The release of property will allow the Melbourne Airport Authority to dispose of the property for other than aeronautical purposes. The property is located in the the Southwest ¼ of Section 21, Township 27 South, Range 37 East, Brevard County, Florida. The parcel is currently designated as non-aeronautical use. The property will be disposed of for the purpose of municipal use. The fair market value of the property has been determined by appraisal to be $1,061,211. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Melbourne International Airport and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATE: Comments are due on or before April 16, 2010.

ADDRESSES: Documents are available for review at the Melbourne International Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2010–5522 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Dallas/Fort Worth International Airport, DFW Airport, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Request to Release Airport Property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Dallas/Fort Worth International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before April 16, 2010.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Mike Nicely, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Texas Airports Development Office, ASW–650, Fort Worth, Texas 76193–0650.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jeff Fegan, Chief Executive Office, at the following address: Dallas/Fort Worth International Airport, Executive Office, P.O. Box 619428, DFW Airport, Texas 75261.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney Clark, Program Manager, Federal Aviation Administration, Texas Airports Development Office, ASW–651, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0650.

Telephone: (817) 222–5659.

E-mail: Rodney.Clark@faa.gov.

Fax: (817) 222–5989.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Dallas/Fort Worth International Airport under the provisions of the AIR 21.

On January 29, 2010, the FAA determined that the request to release property at Dallas/Fort Worth International Airport, submitted by the Airport, met the procedural requirements of the Federal Aviation Regulations, Part 155. The FAA may approve the request, in whole or in part, no later than March 29, 2010.

The following is a brief overview of the request:

The Dallas/Fort Worth International Airport requests the release of 137–743

acres of non-aeronautical airport property. The land was acquired by the Cities of Dallas and Fort Worth for use as an airport. The funds generated by the release will be used to improve the Airport's roadway system.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the Dallas/Fort Worth International Airport, telephone number (972) 973–5200.

Issued in Fort Worth, Texas, on March 2, 2010.

Joseph G. Washington,

Acting Manager, Airports Division.

[FR Doc. 2010–5538 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Marquette Rail, LLC

[Docket Number FRA–2008–0081]

The Marquette Rail, LLC, has submitted a waiver request to permit field testing of the software-based dispatch system for low density lines identified as TrackAccess System. The waiver request addresses the requirements under 49 CFR 211.51.

TrackAccess is an electronic track occupancy system similar to the conventional block register. It is designed to protect the area of exclusive track occupancy given to roadway workers or train crew members by excluding the possibility of electronic issuance of conflicting track occupancy authorities. TrackAccess aims to reduce the potential for human errors associated with issuance of track occupancy authorities to roadway workers and train crews by the dispatcher. In its autonomous mode of operation, the TrackAccess System assumes electronic delivery of track occupancy authorities to roadway workers and train crews.

Marquette Rail, LLC, desires to commence field testing of the product on or about March 1, 2010, or as soon thereafter as practicable, contingent upon FRA's acceptance and approval of this waiver request. Marquette Rail, LLC, is requesting a petition of regulatory relief from the following Federal regulation: 49 CFR 214.321(a)(1) Exclusive Track Occupancy.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2008–0081) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, 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) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on March 10, 2010.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 2010–5752 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Morton Buildings, Inc.

[Waiver Petition Docket Number FRA–2010–0015]

The Morton Buildings, Inc. (MBI) has petitioned FRA for a waiver of compliance from the requirements of 49 CFR 223.11 Safety Glazing Standards for Locomotives, 49 CFR 231.30 Locomotives used in Switching Service, 49 CFR Part 224 Reflectorization of Rail Freight Rolling Stock, and 49 CFR Part 229 Locomotive Safety Standards, for one Whiting Trackmobile. MBI is a manufacturer of steel clad buildings and the company is located in Morton, IL, with six other manufacturing locations. One of the six locations in Spencer, IA, is not served by rail and MBI provides for switching of approximately one hundred cars a year, utilizing a "Whiting Trackmobile" a self-propelled highway/rail vehicle.

MBI states in their request that they operate over 3.2 miles of former Soo Line track known as the North Railroad Spur Track, which they lease from the city of Spencer. MBI only provides service to itself, switching of cars is done in daylight hours, and they do not operate the trackmobile during inclement weather. The trackmobile is always operated in the lead position at speeds not to exceed 10 miles per hour. The approval of this request would allow for continued use of the Whiting Trackmobile for MBI operations.

Interested parties are invited to participate in these proceedings by submitting written views, data, or

comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0015) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, 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) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC on March 10, 2010.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 2010–5753 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief from the requirements of 49 CFR part 236, as detailed below.

Norfolk Southern Corporation

[Docket Number FRA–2010–0011]

The Norfolk Southern Corporation (NS) seeks relief from the requirements of the Rules, Standards, and Instructions, Title 49 CFR 236.377 Approach Locking, 236.378 Time Locking, 236.379 Route Locking, 236.380 Indication Locking, and 236.381 Traffic Locking, regarding performance of locking test at intervals not to exceed 2 years, on processor-based solid-state systems to the extent that only the following be required every 4 years after initial testing or program change:

1. Performing appropriate test on equipment external to the solid-state interlocking at the interlocking site to verify integrity of this equipment, including verifying the integrity of underground cable connecting the solid-state interlocking to the external equipment. Equipment that would be verified to the processor inputs would include power switch control and indication, track circuit indication, signal aspect control, and if used, searchlight signal control and indication.

2. Verifying that the executive and application software has not changed since the previous locking test was made. This verification includes verifying accuracy of the check sum and CRC values of all programmable elements used in the solid-state interlocking equipment at the interlocking, as well as verifying the correct version and revision levels of the software being used. This verification is done by comparing the parameters found on all programmable elements at the location with those parameters found in the Software Management System (SMS) for the location.

3. Verifying the run time of variable run time elements employed at the solid-state interlocking and ensuring that the run times of these are in accordance with timings specified on the design plans.

Applicant's justification for relief: NS feels that tests being performed on a 2-year interval provide no real safety benefit since the equipment operates using programmed logic that once installed does not change. FRA's Subpart H rule-making has resulted in the invoking of a strict software change and revision control process for application and executive software of solid-state systems, with the underlying premise of this rule-making being that safety is maintained when software revision levels and software changes are controlled and managed. NS believes that architectural features inherent to solid-state interlockings permit them to consistently deliver enhanced safety as compared to their relay-based counterparts. The dual microprocessor design of these systems where identical processes are executed in parallel and where these systems are able to continuously monitor operational status as well as status of ancillary components enables solid-state systems to deliver an overall superior level of safety as compared to relay-based counterparts. NS believes that these attributes have contributed to the solid-state's successful delivery of an unparalleled track record in the areas of safety and reliability. NS currently employs 650 solid-state interlocking systems, many of which have been in service approaching 25 years. In the years since first deployed, there have been no recorded instances of these systems experiencing unsafe-side failure attributed to undetected system hardware or executive software malfunction.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0011) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200

New Jersey Avenue, SE., W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, 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) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on March 10, 2010.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 2010–5754 Filed 3–16–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an extension of OMB approval of the information collection titled, "Interagency Guidance on Asset Securitization Activities."

DATES: Comments must be submitted on or before May 17, 2010.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0217, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0217, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary H. Gottlieb, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Interagency Guidance on Asset Securitization Activities.

OMB Control No.: 1557–0217.

Type of Review: Extension, without revision, of a currently approved collection.

Description: This information collection applies to institutions engaged in asset securitization and consists of a written asset securitization policy, the documentation of fair value of retained interests, and a management information system to monitor securitization activities. Institution management uses the collection as the basis for the safe and sound operation of their asset securitization activities. The OCC uses the information to evaluate the quality of an institution's risk management practices.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 33.

Estimated Number of Responses: 97.

Estimated Annual Burden: 478 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 11, 2010.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 2010–5759 Filed 3–16–10; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a continuing information collection titled, "Survey of Minority Owned National Banks."

DATES: Comments must be submitted on or before May 17, 2010.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0236, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0236, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary H. Gottlieb, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Survey of Minority Owned National Banks.

OMB Control No.: 1557–0236.

Type of Review: Regular review.

Description: The OCC is committed to assessing its efforts to provide supervisory support, technical assistance, education, and other outreach to the Minority Owned National Banks (MONBs) under its supervision. To perform this assessment, it is necessary to obtain, from the individual MONBs, feedback on the effectiveness of OCC's current efforts and suggestions for enhancing its supervision and assistance going forward. The OCC will use the information it gathers to assess the needs of MONBs, and its efforts to meet those needs. The OCC will also use the information to focus and enhance its supervisory, technical assistance, education and other outreach activities with respect to MONBs.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 39.

Estimated Number of Responses: 39.

Estimated Annual Burden: 78 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 11, 2010.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 2010–5766 Filed 3–16–10; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Community and Economic Development Entities, Community Development Projects—12 CFR part 24."

DATES: You should submit comments by May 17, 2010.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0194, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274 or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, please send a copy of your comments to OCC Desk Officer, 1557–0194, by mail to U.S. Office of Management and Budget, 725, 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary H. Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend the following information collection:

Title: Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments—12 CFR 24.

OMB Control No.: 1557–0194.

Description: This submission covers an existing regulation and revisions to the Part 24, CD–1, National Bank Community Development Investments form contained in the regulation, pursuant to which a national bank may notify the OCC, or request OCC approval, of certain community development investments.

Section 24.5(a) provides that an eligible bank may make an investment without prior notification to, or approval by, the OCC if the bank submits an after-the-fact notification of an investment within 10 days after it makes the investment.

Section 24.5(a)(5) provides that a national bank that is not an eligible bank, but that is at least adequately capitalized, and has a composite rating of at least 3 with improving trends under the Uniform Financial Institutions Rating System, may submit a letter to the OCC requesting authority to submit after-the-fact notices of its investments.

Section 24.5(b) provides that if a national bank or its investment does not

meet the requirements for after-the-fact notification, the bank must submit an investment proposal to the OCC.

The OCC requests that OMB approve its revised estimates and extend its approval of the information collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 600.

Estimated Total Annual Responses: 600.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 877.5 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 11, 2010.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 2010–5804 Filed 3–16–10; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held on April 12–15, 2010, in San Diego, California. On April 12, the Committee will meet at the San Diego VA Medical Center (VAMC), 3350 La Jolla Village Drive, from 9 a.m. until 4:30 p.m. On April 13, the Committee will meet at the VA Regional Office (VARO), 8810 Rio San Diego Drive, from 8:30 a.m. until 4 p.m. On April 14–15, the Committee will meet at the Westin San Diego, Opal Room, 400 West Broadway, from 8 a.m. each day until 6:30 p.m. on April 14 and until 5 p.m. on April 15.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority Veterans, to assess the needs of minority Veterans and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities subsequent to the meeting.

On April 12, the Committee will meet in open session from 9 a.m. until 3:30 p.m. to hold discussions with VAMC key staff members on services, benefits, delivery challenges and successes and receive a briefing by the Veterans Employment Coordination Service Area Coordinator. The Committee will meet in a closed session from 3:30 p.m. until 4:30 p.m. to tour the VAMC facility.

On April 13, the Committee will meet in open session from 8:30 a.m. until noon to hold discussions with VARO key staff members on services, benefits, delivery challenges and successes. The Committee will meet in closed session from 1:30 p.m. until 2:30 p.m. to tour the VARO facility. The Committee will resume in open session at 2:30 p.m. until 4 p.m. for a panel discussion with Veteran Service Organization on San Diego Veterans' issues. At 6:30 p.m., the Committee will hold a Town Hall meeting at the Scottish Rite Event Center on 1895 Camino Del Rio South.

On April 14, the Committee will meet in open session to work on their after action report and receive a briefing from the Area Director on the California Area Indian Health Service. In the afternoon, the Committee will depart the hotel for Fort Rosecrans National Cemetery at Point Loma for a tour and briefing. After receiving the briefing, the Committee will then depart and reconvene at Westin San Diego—Opal Room to work on their report to the Secretary.

On April 15, the Committee will meet in open session to conduct an exit briefing with VA leadership from all three administrations and work on their report during this period.

The Committee will convene the above mentioned closed sessions in order to protect the privacy of patients and patient records as the Committee tours patient treatment areas and discusses service needs of Veterans. Closing these portions of the meeting is in accordance with 5 U.S.C. 552b(c)(6).

The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority Veterans. Such comments should be referred to the Committee at the following address:

Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

For additional information about the meeting, please contact Mr. Ronald Sagudan or Mr. Dwayne Campbell at (202) 461–6191.

Dated: March 10, 2010.

By Direction of the Secretary.

Vivian Drake,

Acting Advisory Committee Management Officer.

[FR Doc. 2010–5739 Filed 3–16–10; 8:45 am]

BILLING CODE P

Federal Register

Wednesday,
March 17, 2010

Part II

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Revised Designation of Critical Habitat for California Red-Legged Frog; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R8-ES-2009-0089]
[MO 92210-0-0009-B4]

RIN 1018-AV90

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the California Red-Legged Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate revised critical habitat for the California red-legged frog (*Rana draytonii*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 1,636,609 acres (ac) (662,312 hectares (ha)) of critical habitat in 27 California counties fall within the boundaries of the final revised critical habitat designation.

DATES: This rule becomes effective on April 16, 2010.

ADDRESSES: This final rule, final economic analysis, and maps are available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/sacramento/*. Comments and materials received, as well as supporting documentation used in preparing this final rule, are available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825; telephone 916–414–6600; or facsimile 916–414–6712.

FOR FURTHER INFORMATION CONTACT: For information on the revised designation in general and information about the revised designation in Alameda, Butte, Calaveras, Contra Costa, El Dorado, Kern, Kings, Marin, southern Mendocino, Merced, Napa, Nevada, Placer, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Stanislaus, and Yuba Counties, contact Susan Moore, Field Supervisor or Arnold Roessler, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825; telephone 916–414–6600; or facsimile 916–414–6712. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

For information about the revised designation in Los Angeles, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura Counties, contact Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2394 Portola Road, Suite B, Ventura, CA 93003; telephone 805–644–1766; facsimile 805–644–3958.

For information about the exclusion of critical habitat in Riverside County, contact Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011; telephone 760–431–9440; facsimile 760–431–9624.

For information about the revised designation in northern Mendocino County, contact Randy Brown, Acting Field Supervisor, Arcata Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone 707–822–7201; facsimile 707–822–8411.

SUPPLEMENTARY INFORMATION:

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the California red-legged frog in this final rule. For more information on the California red-legged frog and threats affecting the species, refer to the final listing rule published in the **Federal Register** on May 23, 1996 (61 FR 25813) and the recovery plan for the species (Service 2002, pp. 1-173).

Change in Nomenclature

When we made the draft economic analysis of the proposed revised critical habitat for the California red-legged frog available on April 28, 2009 (74 FR 19184), we proposed a nomenclature change to the California red-legged frog from *Rana aurora draytonii* to *Rana draytonii* and for that change to be published in the Code of Federal Regulations (CFR) when this rule became final. In this rule, we make that change and will now refer to the California red-legged frog by its accepted taxonomic name of *Rana draytonii*.

Species Description

The California red-legged frog is the largest native frog in the western United States. It is endemic (native and restricted) to California and Baja California, Mexico, at elevations ranging from sea level to approximately 5,000 feet (ft) (1,500 meters (m)). Records of the California red-legged frog are known from Riverside County to Mendocino County along the Coast Range; from Calaveras County to Butte County in the Sierra Nevada; and in Baja California, Mexico (Grismer 2002, p. 79; Fidenci 2004, pp. 27–29; Smith and Krofta 2005, pp. 4, 6; California Natural Diversity Database 2009 (CNDDB)). The California red-legged frog gains its name from the typically red or pink color of its posterior abdomen and hind legs. For a detailed description of the species, see the recovery plan for the California red-legged frog (Service 2002, pp. 1–173), references identified in the recovery plan, and information in previous **Federal Register** notices (April 13, 2006, 71 FR 19244; March 13, 2001, 66 FR 14626; May 23, 1996, 61 FR 25813).

Life History

During the breeding season, which typically runs from November through April, males call to females from the margins of ponds and slow streams (Jennings *et al.* 1992, p. 3). Mating most commonly occurs in February or March, but can vary depending on seasonal climatic patterns. The female lays a jellylike mass of 2,000 to 5,000 reddish brown eggs in the water attached to emergent vegetation, twigs, or other structure. The resulting tadpoles, which likely feed on algae (Dickman, 1968, pp. 1189–1190), typically require about 3 weeks to hatch, and another 11 to 20 weeks to metamorphose into juvenile frogs. Metamorphosis, therefore, typically occurs from July to September, although some tadpoles have been observed to delay metamorphosis until the following March or April (Bobzien *et al.* 2000, p. 13; Fellers *et al.* 2001, pp. 156–157). Adults are predominantly nocturnal, while juveniles can be active at any time of day (Hayes and Tennant 1985, p. 604).

Habitat

California red-legged frogs live in a Mediterranean climate, which brings about temporal and spatial changes in habitat quality. Almost the entire landscape, not just breeding ponds and streams, may become suitable habitat for the adults during periods of above average rainfall. Conversely, habitat that is suitable may be drastically reduced during periods of prolonged drought. Due to this variability, population sizes can vary widely from year to year. During years when aquatic habitat (ponds and streams) is abundant as a result of adequate rainfall, the California red-legged frog can produce large numbers of dispersing young, resulting in an increase in the number of occupied sites. In contrast, the California red-legged frog may temporarily disappear from an area during periods of extended drought. Therefore, it is essential to provide for sites that can be recolonized by

dispersing individuals (Semlitsch 2000, pp. 623, 624).

Habitats used by the California red-legged frog typically change in extent and suitability in response to the dynamic nature of floodplain and fluvial processes (i.e., variable natural water flow and sedimentation regimes that create, modify, and eliminate deep pools, backwater areas, ponds, marshes, and other aquatic habitats). Rangewide, and even within local populations, the California red-legged frog uses a variety of areas, including aquatic, riparian, and upland habitats. They may complete their entire life cycle in a particular habitat (e.g., a pond is suitable for all life stages), or they may seek multiple habitat types depending on climatic conditions or distance between and availability of wetland and other suitably moist environments.

Despite the California red-legged frog's ability to utilize multiple habitat types, there are certain habitat features they require. Most important is a breeding pond, or slow-flowing stream reach or deep pool within a stream with vegetation or other material to which egg masses may be attached. These areas must hold water long enough for tadpoles to complete their metamorphosis into juvenile frogs that can survive outside of water. Bobzien *et al.* (2000, p. 12) observed juveniles inhabiting a wide variety of habitats while adults primarily inhabited deep pools. They postulated that juveniles might segregate themselves away from adults to escape predation and competition (see Dispersal section below).

In northern California, many California red-legged frog populations occupy artificially created wetland environments. Historically, as natural wetlands and streams were converted for agriculture, flood control, and urban development, the California red-legged frog colonized small artificial impoundments, or stock ponds, created by cattle ranchers for the purpose of providing water for their cattle. Our understanding of the role of stock ponds in the conservation of the California red-legged frog has evolved since listing. Without these stock ponds, the range of the California red-legged frog would be more limited in this region.

Riparian and upland habitats adjacent to aquatic areas used by the California red-legged frog are essential in maintaining frog populations, and for protecting the appropriate hydrological, physical, and water quality conditions of the aquatic areas. Riparian habitat includes vegetation that grows along banks and in the floodplains of streams and adjacent to ponds and that is dependent on the bordering water source for survival. Adjacent uplands are marked by vegetation that is not dependent on a nearby supply of surface water. The California red-legged frog uses both riparian and upland habitats for foraging, shelter, cover, and non-dispersal movement (Service 2002, pp. 14–15; Bulger *et al.* 2003, p. 87; Fellers and Kleeman 2007, p. 276). Bulger *et al.* (2003, pp. 85–95) studied the California red-legged frog's terrestrial activity in coastal forest and grassland habitats and recommends at least a 328-ft (100-m) buffer zone for protection of adjacent aquatic and upland habitat, as well as seasonal restrictions for activities within this zone. In a recent study also specific to the California red-legged frog, Fellers and Kleeman (2007, pp. 278–280) recommend establishing zones around breeding habitat, non-breeding habitat, and migration corridors that are sufficient to protect function of the amphibian habitat. However, Fellers and Kleeman (2007, p. 279) discourage setting specific distances for these zones due to differences in biological or site-specific requirements; they further state that any distances set for avoidance of upland habitat should be made on a case-by-case basis, taking into account the need to protect breeding and non-breeding habitat as well as any migration corridors. Without protecting and maintaining the upland areas surrounding breeding and non-breeding habitats the quality of the water feature may deteriorate to such an extent as to not support the California red-legged frog.

California red-legged frogs will disperse from their breeding habitat to forage and seek suitable upland and riparian habitat if aquatic habitat is not available. Tatarian (2004, p. 33) found the California red-legged frog inhabiting upland areas for 50 days at a distance of 302 ft (92 m) from aquatic habitat; Bulger *et al.* (2003, p. 87–89) found that the species is capable of inhabiting upland habitats within 200 ft (60 m) of aquatic habitat for continuous durations exceeding 20 days; and Rathbun *et al.* (1993, p. 15) observed a California red-legged frog inhabiting upland riparian habitat at distances of up to 85 ft (26 m) for 65 days. These upland habitat areas used by the California red-legged frog include structure that provides shade, moisture, and cooler temperatures. This structure may be natural, such as the spaces under boulders or rocks and organic debris (e.g., downed trees or logs), or manmade, such as certain industrial debris and agricultural features (e.g., drains, watering troughs, abandoned sheds, or stacks of hay or other vegetation). The California red-legged frog will also use small mammal burrows and moist leaf litter as refugia (areas whose climate remains habitable when that of the surrounding areas has changed) (Rathbun *et al.* 1993, p. 15; Jennings and Hayes 1994, p. 64; Fellers and Kleeman 2005, p. 12).

Metapopulation Dynamics

The life history and ecology of the California red-legged frog make it likely that this species has a metapopulation structure (Hanski and Gilpin 1991, pp. 3-16). A metapopulation is a set of breeding sites within an area, where typical migration from one local occurrence or breeding site to other areas containing suitable habitat is possible, but not routine. Within this rule we refer to these local occurrences as populations. The movement (i.e., dispersal) of frogs between areas containing suitable upland and aquatic habitats is restricted due to inhospitable conditions around and between areas of suitable habitats. Because many of the areas of suitable habitats may be small and support small numbers of frogs, local extinction of these small populations may be common. The persistence of a metapopulation depends on the combined dynamics of these local extinctions and the subsequent recolonization of these areas through dispersal (Hanski and Gilpin 1991, pp. 3-16; Hanski 1994, pp. 151-162). Maintaining corridors for dispersal between breeding and non-breeding habitat and between populations is essential in preserving the population structure of the California red-legged frog.

Dispersal

Adult California red-legged frogs may disperse from breeding sites at any time of year depending on habitat availability and the environmental conditions of the aquatic habitat. In addition, a few frogs may disperse long distances in search of additional breeding or non-breeding habitat. Dispersing adult California red-legged frogs in northern Santa Cruz County traveled distances of 0.25 mile (mi) (0.4 kilometers (km)) to more than 2.0 mi (3.2 km) without apparent regard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003, p. 90). California red-legged frogs have also been tracked using radio telemetry in East Las Virgenes Creek, Ventura County, which is characterized by a well-defined creek and riparian zone with permanent deep pools and highly variable rainfall (Smith 2005, p. 1). The maximum distance moved in this study was 48 ft (15 m) (Smith 2005, p. 1). In contrast, California red-legged frog

movements in Santa Cruz County in similar habitat were found to be substantially less, with typical movements of 9 to 16 ft (3 to 5 m) from the water's edge. In a study in Marin County, 123 California red-legged frogs were tracked using radio telemetry between 1997 and 2003 at 8 different sites within the Point Reyes National Seashore and Golden Gate National Recreation Area (Fellers and Kleeman 2007, p. 277). The habitat at the sites included permanent ponds, seasonal ponds, permanent marsh, and a seasonal seep. The majority of movement was small scale (less than 98 ft (30 m)) and considered non-dispersal. Movements of greater than 98 ft (30 m) occurred mostly during winter rain events; however, some movements did occur when the ponded habitat was almost dry (Fellers and Kleeman 2007, p. 279). The majority of California red-legged frogs dispersed less than 1,640 ft (500 m) away from breeding habitat, and the maximum dispersal distance recorded was 1.7 mi (2.8 km) (Fellers and Kleeman 2007, pp. 279–280). The study concluded that most California red-legged frogs move away from breeding sites, but only a few disperse farther than the nearest non-breeding habitat, and that the distance moved is highly dependent on site conditions and local landscapes (Fellers and Kleeman 2007, p. 284). The study also concluded that, by establishing a generic dispersal distance for the species, we may select for sedentary frogs and thus lose those individuals that disperse farthest and reach other distant breeding sites. This selection may thereby decrease genetic exchange and diversity (Fellers and Kleeman 2007, p. 285). As a result the authors recommend that the average dispersal or migration distances identified in the study not be used; site conditions should dictate the area needed for the species.

Newly metamorphosed juveniles tend to disperse short distances initially from July through September, and then move farther away from the breeding habitat during warm rain events (Jennings 2000, p. 1). Additionally, and for reasons that are unclear, juveniles tend to disperse away from aquatic habitat occupied by adults. Juvenile dispersal is essential for recolonizing temporarily extirpated habitat and for preventing genetic isolation because juveniles disperse in more directions, and for longer distances, than do migrating adults (Wright 1999, p. 2; Bulger *et al.* 2003, p. 94). Dispersal habitat for juveniles can be any habitat that provides sheltering vegetation and scattered wetlands or streams, including forested areas, nonnative grasslands, croplands, and pastures. It is unlikely that juveniles disperse through urbanized or suburban areas, suburban developments, or areas separated from breeding habitat by impassible barriers. Juveniles dispersing along riparian corridors may have higher survivorship, as sheltering vegetation and suitable aquatic habitat are both more common in such corridors (Jennings 2000, p. 1). Finally, juvenile California red-legged frogs appear to have less strict requirements for aquatic habitat than adults, and tend to segregate away from adults in water bodies that are shallower or faster moving than those typically used for breeding (Hayes and Jennings 1988, p. 147; Bobzien 2000, p. 1; M. Jennings 2000, p. 1).

Dispersal Barriers

Impassible barriers that impact dispersal of the California red-legged frog include wide or fast-flowing rivers and streams, lakes greater than 50 ac (20 ha), and heavily traveled roads (such as highways or freeways) without underpasses or culverts (Reh and Seitz 1990, pp. 247, 248; Fahrig *et al.* 1995, pp. 179–181). Passable roadways that are heavily used by vehicles may also result in a high rate of mortality for California red-legged frog adults and juveniles, and other amphibians, thereby limiting dispersal capabilities (Glista *et al.* 2008, pp. 81–82).

The long-term probability of the survival and recovery of the California red-legged frog is dependent upon the protection of existing breeding habitat and associated uplands (Fellers and Kleeman 2005, pp. 1, 17–18), the movement of individuals between aquatic habitat patches, and the ability to recolonize newly created or vacated habitats. Recolonization of vacant habitat patches, which is vital to maintaining the California red-legged frog populations and the recovery of this species, is dependent upon landscape characteristics, including appropriate distances between suitable breeding and non-breeding aquatic habitat, and limited fragmentation of interconnecting habitat (Vos and Chardon 1998, pp. 44, 53–56). For this rule, we based our designation of critical habitat on areas of high-quality habitat that we determined provide for persistence of California red-legged frog populations and allow for dispersal within, and in most cases between, populations. We did not designate areas subject to anthropogenic activities (e.g., urban development) or those that were fragmented or unlikely to be restorable (poor quality habitat) unless it was determined that these areas were unique for the species (for more information, see the Criteria Used to Identify Critical Habitat section below).

Previous Federal Action

On July 20, 2007, we announced that we would review the April 13, 2006, final rule (published at 71 FR 19243) designating critical habitat for the California red-legged frog under the Act (16 U.S.C. 1531 *et seq.*)(Service 2007a, pp. 1–2), after questions were raised about the integrity of scientific information used and whether the decision made was consistent with the appropriate legal standards. Based on our review of the 2006 final critical habitat designation, we determined it was necessary to revise the critical habitat; however, no specific dates for completing such revision were established. Subsequently, the Center for Biological Diversity filed a complaint in the U.S. District Court for the Northern District of California on December 12, 2007, challenging our designation of critical habitat for the California red-legged frog (*Center for Biological Diversity* v. *Kempthorne, et al.*, Case No. C-07-6404-WHA). The court entered a consent decree on April 2, 2008, requiring a proposed revised critical habitat rule to be submitted to the **Federal Register** by August 29, 2008, and a final revised critical habitat designation to be submitted to the **Federal Register** by August 31, 2009. On September 16, 2008, we published in the **Federal Register** a proposed revised rule to designate critical habitat for the California red-legged frog (73 FR 53491).

We published a document in the **Federal Register** on April 28, 2009 (74 FR 19184): (1) Reopening the public comment period on the revised proposed rule to designate critical habitat for the California red-legged frog (73 FR 53491); (2) announcing the availability of a draft economic analysis (DEA) of the proposed rule to revise critical habitat; (3) proposing boundary changes to Unit MEN-1 to better reflect the occupied habitat for the species; and (4) proposing a change to the taxonomic nomenclature for the species. The public comment period closed on May 28, 2009.

The comments received on our DEA (IEc 2009a) during the April 28 to May 28, 2009, public comment period led us to revise the DEA (IEc 2009b). To allow public comment on the revised DEA, an extension to the publication deadline of the final determination of critical habitat was required. On August 31, 2009, a consent decree was signed by the court extending the deadline for the final revised designation of critical habitat for the California red-legged frog

to March 1, 2010. On October 8, 2009, we published a document in the **Federal Register** (74 FR 51825) announcing the availability of the revised DEA. We reopened the comment period for an additional 30 days to allow all interested parties an opportunity to comment simultaneously on the proposed revision of critical habitat and the associated revised DEA. This rule represents our final revised designation of critical habitat in compliance with the court order.

Summary of Comments and Recommendations

We requested written comments from the public and peer reviewers during three comment periods on the proposed rule to revise critical habitat for the California red-legged frog. The first comment period opened September 16, 2008 (73 FR 53491), and closed November 17, 2008. The second comment period opened April 28, 2009 (74 FR 19184), and closed May 28, 2009. The third comment period opened October 8, 2009 (74 FR 51825), and closed November 9, 2009. During these three comment periods, we contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule to revise critical habitat for the California red-legged frog and the associated DEA. We did not receive any requests for public hearings during these comment periods. We did, however, receive a request to attend a public meeting in San Andreas, California held on October 30, 2008. During the public meeting, we provided information and answered questions regarding the designation and exclusion processes.

During the three comment periods we received a total of 113 public comments directly addressing the proposed revision of critical habitat. In addition we received four responses from peer reviewers we solicited to comment on the proposed revised designation. During the first comment period we received 80 comments directly addressing the proposed revision of critical habitat for the California red-legged frog. During the second comment period, we received 19 new comments directly addressing the proposed revision of critical habitat for the California red-legged frog and the DEA; and during the third comment period we received an additional 12 comments addressing the proposed revision of critical habitat for the California red-legged frog and the DEA.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we solicited expert opinions from five knowledgeable individuals with scientific expertise that included familiarity with the California red-legged frog, the geographic region in which the species occurs, and conservation biology principles. We received responses from four of the peer reviewers.

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding critical habitat for the California red-legged frog. These comments are addressed below and incorporated into the final rule as appropriate.

Peer Review Comments

Comment (1): One peer reviewer stated that the Service used a reasonable approach in determining the critical habitat boundaries for the California red-legged frog by looking at the core recovery areas as identified in the 2002 recovery plan. The reviewer also said the Service appropriately evaluated the metapopulation dynamics, unoccupied areas, dispersal, and connectivity of habitat for the California red-legged frog. The peer reviewer concurred with our proposal to raise the California red-legged frog to full species level. However, the peer reviewer went on to say that the current designation represents only a relatively small proportion of the historic geographic range of the species and that it is unknown if the California red-legged frog can survive long-term in such a reduced range.

Response: In this current revised designation, we acknowledge that we did not include all areas where the California red-legged frog occurs and that areas outside the designation either: (1) Do not contain essential habitat features, or (2) are not essential to the conservation of the species. We believe it is important, however, to note that critical habitat designation is a different process than development of a long-term management plan such as a recovery plan. A critical habitat designation is a specific regulatory action that defines particular areas as critical habitat in accordance with the statutory definition. Our revised methodology incorporates new information to best identify areas that meet the definition of critical habitat. As a result, the final revised critical habitat designation does not include, for example, all areas that the 2002 recovery plan identified as necessary for the conservation of the California red-legged frog. Therefore, we believe this final revised critical habitat designation more precisely maps the essential physical and biological features that occur within the geographical area occupied by the California red-legged frog at the time of listing, and includes those areas containing the most suitable habitat for use by the frog.

Comment (2): One peer reviewer stated that, although the review of dispersal capabilities of the frog were well discussed, it should be noted that the studies of dispersal capabilities rely on relatively few individuals and likely miss the relatively rare long-range distance dispersers. The peer reviewer also mentioned that the Service did not discuss whether dispersal events actually result in geneflow between metapopulations.

Response: We believe we have reviewed the most recent scientific information on frog dispersal capabilities of the California red-legged frog and have used this information appropriately in our designation of critical habitat. We acknowledge that the California red-legged frog may disperse beyond the dispersal distance of 1 mi (1.6 km) identified in the designation (Bulger *et al.* 1999, p. 11; Fellers and Kleeman 2007, pp. 279–280). However, as stated by the peer reviewer, these long distance movements are rare and represent the exception to dispersal events for the species. In addition, the designation is not based solely on the 1-mi (1.6-km) dispersal distance but is based on habitat features and watershed boundaries that we have determined are connected to those areas where the California red-legged frog occurs. We have, therefore, included areas in this designation beyond the strict 1-mi (1.6-km) distance. We are currently unaware of any completed genetic studies regarding the genetic exchange between frog populations and at what distance this genetic exchange is considered to be limited and not important for the species. Our methodology to include the habitat areas surrounding known populations, as well as to connect adjacent populations together into discernable units, most likely allows for such genetic exchange.

Comment (3): One peer reviewer applauded our decision to reevaluate the 2006 designation, but stated that the Service should incorporate the 2001 designation into our analysis and remove areas identified in the 2001 designation only if the Service has justifiable scientific information or if it can be shown that the 2001 designation

was inaccurate. The same peer reviewer mentioned that the Service should review the units within Sonoma County to ensure that they include all uplands within 1 mi (1.6 km). The peer reviewer also stated that the entire Sonoma Mountain area from Annadel State Park to Sears Point/Highway 37 area should be designated as this area has more than 15 records of the California red-legged frog, most of which are breeding sites. The peer reviewer went on to mention that Unit SON-3 should be connected to Unit MRN-2 in Marin County to provide connectivity between units based on habitat availability and recent documentation of new California red-legged frog records within the area.

Response: We agree with the peer reviewer that habitat connectivity is important to allow for movement between California red-legged frog populations and to maintain genetic variation. We are aware of the extensive amount of scientific evidence illustrating the importance of habitat connectivity, and we considered this information during the development of this critical habitat designation. We acknowledge that areas potentially providing connectivity between units were included in the 2001 critical habitat designation; however, based on our reevaluation of the data available at the time of the 2001 designation, data obtained since, and our revised methodology for delineating critical habitat, we find that those areas do not meet the definition of critical habitat because the available data do not identify specific areas between these units that contain the physical or biological features essential to the conservation of the California red-legged frog. The 2001 designation was based on large-scale watershed boundaries and not the local watershed boundaries in this designation. We believe the use of the local watershed boundaries is more appropriate based on dispersal capabilities of the species and the information known on occupancy. The area surrounding the Sonoma and Marin County units includes developed areas, dairies, and ranchland. We evaluated the areas within the 1-mi (1.6-km) distance from the Sonoma and Marin County occurrence records and potential breeding habitats and determined that for the most part these areas, although likely used by the frog, do not meet our criteria established for this designation. We focused our designation to encompass areas that support viable (self-sustaining or increasing) populations, areas that represent portions of the geographic extent of the species within the core areas identified in the 2002 recovery plan, and any other unique habitats. We did not include all the areas occupied by the California red-legged frog. For more information on our criteria for designating critical habitat for the California red-legged frog see the Criteria Used To Identify Critical Habitat section below.

Comment (4): One peer reviewer commented on Unit MEN-1 (as identified in the September 2008 proposed revised designation), saying that it includes northern red-legged frogs (*Rana aurora*) or hybrids between the northern red-legged frog and the California red-legged frog. The peer reviewer stated that hybrids between the two species occur as far south as Manchester State Beach, but that the exact zone of hybridization and its importance to either species is unknown.

Response: As stated in our April 28, 2009, **Federal Register** publication announcing the availability of the draft economic analysis (74 FR 19184), we revised Unit MEN-1 to better reflect new species occurrence data within the area and the habitat surrounding those records. On further review of the unit, we further adjusted the boundaries to include only known California red-legged frog records and not hybrid northern red-legged frog records. The unit currently includes the habitat from Manchester State Beach south to Riverside Road. Unit MEN-1 represents the northern extent of the California red-legged frog within the North Coast of California and likely represents a unique genetic component of the species.

Comment (5): One peer reviewer concluded that it is unclear whether the Service considered climate change in the current designation and what effects climate change may have on the California red-legged frog's habitat in the future.

Response: We acknowledge that climate change may alter the suitability of the California red-legged frog's habitat in the future. However, we are required to designate critical habitat based upon the best available scientific data at the time that we finalize the designation. For species like the California red-legged frog, we conclude relatively higher elevation and moister habitat is likely to become increasingly important in the face of climate changes. The designated critical habitat units include areas distributed across the species range from southern California to Butte and Mendocino County in northern California and vary from coastal sea-level locations to interior Coast Range areas and higher elevation locations in the Sierra Nevada Mountains. The variability of environmental conditions at locations across the range of the species would likely become more important to the extent that California red-legged frog distribution and habitat may shift upward in elevation and northward in distribution as temperatures increase and precipitation becomes more variable due to climate change. However, at this point in time, reliable projections of future climatic conditions and how those conditions may affect the California red-legged frog's distribution and habitat in California are not available. Consequently, we find it appropriate to designate critical habitat for the California red-legged frog in areas occupied by the species that currently contain the physical and biological features or the areas essential to the conservation of the California red-legged. Revisions to the critical habitat designation may be necessary in the future to accommodate shifts in the occupied range of the California red-legged frog.

Comments from Department of Defense

Comment (6): The Department of The Army, the National Guard Bureau, and the California Army National Guard commented that we should exclude Camp San Luis Obispo (CSLO) from critical habitat designation for the California red-legged frog under section 4(b)(2) of the Act, for reasons including national security and economic impacts.

Response: The Secretary has determined to exercise his discretion under section 4(b)(2) of the Act to exclude lands at CSLO from this final designation due to potential impacts on national security (see Application of Section 4(b)(2) – Impacts to National Security section).

Comment (7): The Department of the Air Force commented that we should exclude Vandenberg Air Force Base (VAFB) from critical habitat designation for the California red-legged frog under section 4(b)(2) of the Act, for reasons including impacts on national security, and under section 4(a)(3)(B)(i) of the Act, for operating under a draft Integrated Natural Resources Management Plan (INRMP).

Response: The Secretary has determined to exercise his discretion under section 4(b)(2) of the Act to exclude lands at VAFB from this final designation due to potential impacts on national security (see Application of Section 4(b)(2) – Impacts to National Security section).

Public Comments

Comments Related to Site-Specific Areas or Issues

Comment (8): Four commenters opposed designation of parts or all of proposed Unit CAL-1 because they believe that the majority of the area constitutes poor habitat for the California red-legged frog. Six commenters stated that most of the area is too dry for the California red-legged frog to occur, and that most ponds and streams are dry for 4 to 5 months of the year. Two commenters noted that perennial ponds and streams support populations of predatory fish and bullfrogs and would not support California red-legged frogs.

Response: We consider Unit CAL-1 to contain high-quality habitat because it contains the physical and biological features essential to the conservation of the species and has not been subject to fragmentation due to development. The habitat within the unit includes areas of aquatic breeding habitat that hold water for a minimum of 20 weeks in all but the driest years, areas of non-breeding aquatic habitat, and areas of upland and dispersal habitat within 1 mi (1.6 km) of aquatic habitat. The California red-legged frog is adapted to dry environments. The drying of watercourses and ponds is beneficial in that it precludes the use of these habitats by bullfrogs and predatory fish. While water bodies free of bullfrogs and predatory fish would be optimal, the California red-legged frog can persist in the presence of both of these predators under specific conditions such as occur within Unit CAL-1. In aquatic systems subject to seasonal drying, it may be difficult for bullfrogs to become established. As discussed in the background section of the proposed revised critical habitat rule, Doubledee *et al.* (2003, pp. 424–438) studied the relationship between bullfrogs and California red-legged frog persistence. That study showed that bullfrogs and California red-legged frogs can coexist and persist under certain natural and managed regimes. Additionally, periodic drying may prevent nonnative warm water fish from becoming established as well. Alvarez *et al.* (2003, pp. 9–12) presented evidence that nonnative predatory fish can have a significant effect on juvenile California red-legged frog survival in ponds where they co-occur. Of 90 ponds surveyed in the Los Vaqueros watershed in Contra Costa County, 7 were found to have nonnative fish. Over 3 years, one or more ponds with nonnative fish were repeatedly drained, and all fish were exhaustively removed. Compared to surveys conducted before fish removal, surveys conducted after fish removal and pond recharge showed juvenile and adult California red-legged frog abundance increased dramatically. This suggests a strong link between nonnative fish presence and decreased California red-legged frog survival. The California red-legged frog is adapted to the drying of its aquatic habitat. Moreover, this drying assists the frog by eliminating potential predators and competition for resources.

Comment (9): Nine commenters stated that the data on the California red-legged frog population in Unit CAL-1 are not sufficient to justify critical habitat designation throughout the unit. Five of these claimed there is no information to indicate the population still exists, while others noted they had never seen such frogs within the unit despite long residence and experience with catching bullfrogs in the area. One commenter questioned the validity of California red-legged frog occurrence as being natural and suggested that the California red-legged frog was potentially introduced to the area. One commenter asked why the unit extends 2.2 mi (3.5 km) from the frog population despite our PCEs, which restrict the extent of upland and dispersal habitat. Another commenter specifically noted the importance of the California red-legged frog population at Unit CAL-1 on the grounds that it is one of only six remaining in the Sierra foothills.

Response: We consider this population to be important to the conservation of the California red-legged frog because it is one of six remaining populations in the Sierra Nevada foothills, which is a historical portion of the species' range (Service 2002, p. 5). Such peripheral populations may also have unusual genetic characteristics that could prove useful in maintaining the genetic variability of the species (Gilpin and Soule 1986, p. 32). Species that are able to maintain their genetic variability can more easily adapt to environmental changes and therefore be less prone to extirpation or extinction. The California Natural Diversity Database (2009) indicates the California red-legged frog population was seen relatively recently, and we have no evidence to suggest it is no longer extant. Information available to the Service confirms the species' presence as recently as October 2008. We consider repeated and comprehensive surveys by trained personnel to be necessary to conclude a population has been extirpated. Based on the information available on the sighting and circumstances surrounding the discovery of California red-legged frogs, we have no reason to question the validity of the record as being a natural occurrence. Also, regardless of whether the population of California red-legged frogs was introduced to the area, it is still considered a listed species under the Act and still receives the protections of a listed entity.

The size of Unit CAL-1 reflects our methodology and criteria for mapping the critical habitat units. We based the proposed boundaries of the unit on the local watershed boundaries where California red-legged frogs have been sighted. However, in response to public comments and site visits by Service staff, we revised the boundaries of the unit to better reflect the available habitat within the area and the locations used by the California red-legged frog. As a result, we revised the extent of the unit and removed those areas that we determined do not contain the physical and biological features essential for conservation of the California red-legged frog.

Comment (10): Two commenters noted that Unit CAL-1 is outside the core recovery area identified by the recovery plan (Service 2002, p. 132). One additional commenter asked if surveys had established local salinity or temperature levels, or if a habitat suitability index had been established for the area.

Response: We recognize this designation is different than what is outlined as essential habitat in the 2002 recovery plan (which largely adopted the boundary delineated in the 2001 critical habitat designation (66 FR 14625; March 13, 2001)). While we believe the 2001 designation and the 2002 recovery plan are important for determining the extent of habitat use by the California red-legged frog, we have significantly more data available today than when we finalized 2001 critical habitat designation and the 2002 Recovery Plan. We have utilized the currently available data to more precisely identify areas meeting the definition of critical habitat, in particular, areas related to connectivity. We include such areas in this designation where the data support the determination that such areas contain the physical and biological features essential to the conservation of the species. We believe it is important to note that critical habitat designation is a different process than development of a recovery plan. A critical habitat designation is a specific regulatory action that defines specific areas as critical habitat in accordance with the statutory definition. A recovery plan is a guidance document, developed in cooperation with partners, that provides a roadmap with detailed site-specific

management actions to help conserve listed species and their ecosystems. The term "essential," as used in the recovery plan, is not necessarily used in the same manner as it is used in the definition of critical habitat (section 3(5) of the Act). The recovery plan provides important information about the species and the actions that are needed to bring about its recovery, while critical habitat identifies specific areas that are essential for the species' conservation. In addition, although Unit CAL-1 is outside the core recovery area established for Calaveras County by the recovery plan, that plan was completed in 2002, and could not account for the discovery of the California red-legged frog population in 2003.

We have not conducted water quality surveys or developed habitat suitability index models for proposed critical habitat units. The extent of the designation would make these efforts impractical. We have determined that specific water salinity or other water monitoring aspects are not necessary because the California red-legged frog is recently confirmed to be occupying the area and the landowner maintains suitable habitat as a result of agreements with the Service. Based on the best scientific information available to us at this time, we believe that the area within Unit CAL-1 that we are designating as critical habitat for the California red-legged frog is appropriate and necessary.

Comment (11): Five commenters indicated we could do more for California red-legged frog conservation by pursuing conservation agreements with landowners in the vicinity of Unit CAL-1, rather than by designating the unit. Thirty-five signatories of a form letter indicated they would be less likely to participate in conservation partnership projects with us in the future if we designate this unit.

Response: Although we are aware that the establishment of partnerships with private landowners is essential to the conservation of many species including the California red-legged frog, we are not able to forego the designation of critical habitat based on the possibility of establishing conservation partnerships in the future. We must adequately weigh the benefits, pursuant to section 4(b)(2) of the Act, for conserving the California red-legged frog and its habitat from the partnerships and resulting conservation programs and plans relative to the regulatory benefits of designating the specific areas as critical habitat. Despite our exclusion of this unit in our 2006 final critical habitat designation (71 FR 19243), landowners wishing to build partnerships have not approached us despite our efforts to establish such willing partnerships with landowners. It was not until after we published our proposed revised designation on September 16, 2008 (73 FR 53491), that landowners within Unit CAL-1 contacted us regarding developing potential partnerships. On October 30, 2008, we attended a public meeting in San Andreas, California, to provide information on the proposed revised designation, and we were subsequently approached by several landowners interested in forming partnerships and working with the Service on conservation measures for the California red-legged frog on their private property. However, due to the short court-ordered timeframe of this action, we have not been able to finalize any agreements or management plans for the frog or its habitat with these landowners. We have, however, been able to meet with these landowners during site visits to discuss potential habitat restoration activities or other conservation measures for the California red-legged frog on their properties. We will continue to work with local landowners and seek new partnerships regarding the frog in the future.

Comment (12): Ten commenters, and an additional 35 signatories of a form letter, requested exclusion of Unit CAL-1 under section 4(b)(2) of the Act. They stated that the benefits of such exclusion would outweigh the benefits of designation for the following reasons:

(1) Routine grazing practices benefit the California red-legged frog, and designation would increase the liabilities on such practices;

(2) Designation would trigger review of Farm Bill conservation grant projects under section 7 of the Act, thereby decreasing the incentive to apply for such grants;

(3) Designation negatively impacts landowners but provides little benefit to the species;

(4) Much of the land in the unit is already protected by incentives under the Williamson Act to keep the land in agricultural uses;

(5) Designation could impact water deliveries to farmers and interfere with road repair, the clearing of logjams from streams, and other infrastructure maintenance;

(6) Designation would limit development and the planting of crops; and

(7) Designation would lower property values.

Response: We finalized a special rule under section 4(d) of the Act for the California red-legged frog in 2006 (71 FR 19243; April 13, 2006) that exempts routine ranching operations from the take prohibitions of the Act. We recognize livestock ranching as a dynamic process, which requires the ability to adapt to changing environmental and economic conditions. However, many of the activities essential to successful ranching are considered routine, and are undertaken at various times and places throughout the year as need dictates. Although the 4(d) special rule is not intended to provide a comprehensive list of those ranching activities considered routine, some examples include: maintenance of stock ponds; fence construction for grazing management; planting, harvest, and rotation of unirrigated forage crops; maintenance and construction of corrals, ranch buildings, and roads; discing of field sections for fire prevention management; control of noxious weeds by prescribed fire or by herbicides; placement of mineral supplements; and rodent control. The final version of the 4(d) special rule includes an expanded definition of routine ranching practices and incorporates additional activities we believe are consistent with the conservation of the California red-legged frog. These activities are those that may provide conservation benefits to the California red-legged frog. The ranching activities listed in the 2006 final critical habitat designation (71 FR 19243; April 13, 2006) are examples of practices that we understand are routine to managing an active ranching operation. Our intention is not to limit activities that may be necessary to the operation of a ranch. As a result of implementing the 4(d) special rule, we are unaware of any increased liabilities associated with ranching operations having a higher liability than those areas not dedicated to ranching.

The final economic analysis (EA) prepared for this designation calculates the impact of critical habitat on agricultural land values by measuring its effect on the likelihood and profitability of residential and commercial development. One comment stated that farm subsidies may trigger a consultation under section 7 of the Act and that these costs should be included in the final EA. This linkage is speculative, and there is no instance of a farm subsidy being used as the basis for a consultation with the Service. Further, activities including discing, plowing, irrigation, chemical application, harvesting, and others that are part of normal agricultural operations are also unlikely to trigger a section 7 consultation. Incremental

costs to farming operations may result from construction of stream crossings, water diversion, and sediment and debris removal; these costs are discussed in the final economic analysis. Existing regulatory mechanisms such as the California Land Conservation Act of 1965 (commonly referred to as the Williamson Act) may afford some regulatory protection to the California red-legged frog. However, the protection afforded by these regulations does not sufficiently protect the species to such an extent that it would warrant consideration for exclusion under section 4(b)(2) of the Act. The Williamson Act is a voluntary contract between participating landowners and cities or counties to voluntarily restrict land use to agricultural or open-space uses. The term of the contracts is a minimum of 10 years, and the landowner may petition to cancel the contract. Also the conditions of the contracts vary by city or county or even landowner and would not specifically identify conservation measures for the frog. Therefore, as a result of implementing the 4(d) special rule, our review of the Williamson Act conditions, and review of the economic costs associated with Unit CAL-1, we have determined that the measures identified by the commenters do not warrant further consideration for our exclusion of the unit under section 4(b)(2) of the Act.

Comment (13): Five commenters asked us to exclude agricultural land in Marin County under section 4(b)(2) of the Act. They stated that the benefits of such exclusion would outweigh the benefits of designation for the following reasons:

(1) Routine grazing practices benefit the frog, and designation would increase the liabilities on such practices;

(2) Designation would trigger review of Farm Bill conservation grant projects under section 7 of the Act, thereby decreasing the incentive to apply for such grants;

(3) Designation negatively impacts landowners economically but provides little benefit to the species;

(4) Designation could impact water deliveries to farmers and interfere with road repair, the clearing of logjams from streams, and other infrastructure maintenance; and

(5) Designation would lower property values.

Response: See our response to *Comment (12)* above.

Comment (14): One commenter noted that we provided incorrect area estimates for Federal and private lands in proposed unit ELD-1. The commenter also stated that designation of private lands within the proposed unit would be inconsistent with the El Dorado County General Plan.

Response: We have revised the land ownership for Unit ELD-1 to correctly reflect the landownership within the unit. When designating critical habitat, we base our designation on the essential habitat features required by the species. When exercising our discretion to exclude areas from critical habitat under section 4(b)(2) of the Act, we must weigh the benefits of designating against the benefits of not designating critical habitat. Such exclusions are usually based on finalized management plans, habitat conservation plans, or other documents and not on local general plans unless there is a high degree of certainty that conservation measures will take place for a particular species and that those measures are more beneficial than the designation of critical habitat. We have reviewed El Dorado County's general plan and found no measures specific to the conservation of the California red-legged frog or its habitat. The County identifies numerous goals in the Conservation and Open Space Element within its general plan; however, no specific measures with respect to the conservation of the primary constituent elements for the California red-legged frog are mentioned. While we value El Dorado County's voluntary agreement in the interagency protection of Spivey Pond, based on the general plan, we have not exercised our discretion to exclude El Dorado County in its entirety from designated critical habitat. We have, however, exercised our discretion to exclude those areas managed by the Bureau of Land Management (BLM) at Spivey Pond in El Dorado County based on an interagency land use management plan (see Application of Section 4(b)(2) of the Act section below).

Comment (15): One commenter stated that we should include downstream portions of Weber Creek in proposed unit ELD-1, as that area contains habitat elements essential to the conservation of the species.

Response: We used the best scientific information available in determining those areas that contain the physical and biological features essential for the California red-legged frog and that we therefore proposed as critical habitat. During our determination process, we considered several criteria in the selection of areas that contain the features essential for the conservation of the California red-legged frog. We did not include all available habitat or all areas where frogs are located within the designation. Although the Weber Creek area may contain some primary constituent elements, we believe the arrangement and quantity of those features may not be adequate. For more information, please see the Criteria Used to Identify Critical Habitat section below.

Comment (16): One commenter asked us to remove a specific property from SOL-2 on the basis that some of it is too dry to constitute good habitat, while the rest is not within 1 mi (1.6 km) of a known occurrence, nor is it uplands connecting several occurrences. The commenter also requested exclusion from the critical habitat designation on economic grounds, arguing that designation would prevent conversion of over 900 ac (364 ha) of land suitable for winegrowing, resulting in a cost of $3.5 million in gross revenue. Another commenter stated that we appropriately designated land within Units SOL-1, SOL-2, and SOL-3 in that designation of this land will assist in conserving the California red-legged frog and its habitat. The commenter suggested that additional areas adjacent to Unit SOL-1 be part of the designation including areas along Highway 680 and adjacent to Suisun Marsh in Solano County. The commenter also stated that the Service should ensure that "these critical habitat designations not be overridden by presumed 'public' benefits" for other uses such as wind energy or electrical transmission lines.

Response: We based this final revised critical habitat designation on California red-legged frog occurrence records, habitat surrounding those localities, and local watershed boundaries. The occurrence records within Unit SOL-2 are associated with the drainages in the Jameson Canyon area. Our determination of the unit boundaries focused on incorporating not only the occurrence records but also any adjacent habitat up to the local watershed boundary as long as we could determine that the habitat within the watershed was reasonably connected. In some cases where the records were isolated and habitat not extensive, we used the 1-mi (1.6-km) dispersal distance to determine the extent of the designation. In other cases where the habitat was similar or included adjacent water courses within the dispersal distance of the California red-legged frog, we looked at the habitat and watershed boundaries to guide our designation (see Criteria Used To Identify Critical Habitat section below). In regards to the areas adjacent to Unit SOL-1 along Highway 680, we believe we have properly designated the specific areas where those physical or biological features essential to the conservation of the species are found. Extending the unit to these adjacent

areas would require, as the commenter points out, the species to cross under the multilane highway through a culvert. Our review of the use of the area by the California red-legged frog shows the species in upland grassland habitats with no records into the Suisun Marsh area. Although the species may be able to access and use the Suisun Marsh area, we believe the species is more likely to use the upland grassland habitats and not the brackish marsh habitats associated with the Suisun Marsh. As a result of our examining the available habitat within the area and use of our mapping criteria, we believe we have used the best scientific information available on determining the critical habitat boundaries including those for Units SOL-1 and SOL-2.

The final economic analysis prepared for this designation calculates potential impacts to agricultural crop farming activities. According to the final economic analysis, the relative incremental costs associated with the designation within Unit SOL-2 is less than 1 percent of the total incremental costs of the designation and only 3 percent of the total incremental costs associated with agricultural crop farming activities. Based on these results, we do not consider the estimated costs associated with the designation of critical habitat within Unit SOL-2 to be disproportionate and have not exercised our discretion to exclude any area within Unit SOL-2 under section 4(b)(2) of the Act. See "Exclusions Under Section 4(b)(2) of the Act – Economic Exclusions" section below for more information regarding exclusions.

Comment (17): The San Francisco Public Utilities Commission (Commission) wrote in support of the two units proposed on portions of its property. Those units are SNM-1 and ALA-2 in San Mateo and Alameda Counties. The commenter added that the Commission has enacted additional protections for the frog, and that it is also preparing habitat conservation plans (HCPs) with the Service to protect endangered and threatened species and enhance their habitats within those areas.

Response: We appreciate the support and look forward to working with the commenter in the future on continued conservation efforts for the California red-legged frog. We do not expect the HCPs to be completed by the time this designation is made effective (see the **DATES** section).

Comment (18): Three commenters stated that they were not properly notified of the proposed rule, despite being landowners in designated areas or having submitted comments in the past.

Response: We published the proposed critical habitat designation in the **Federal Register** on September 16, 2008 (73 FR 53491), and we accepted comments from all interested parties for 60 days, ending November 17, 2008. We then extended the public comment period for an additional 30 days (74 FR 19184; April 28, 2009). We later reopened the public comment period again for another 30 days (74 FR 51825; October 8, 2009). For each publication, the Service wrote press releases that resulted in newspaper articles throughout California and specifically noticed the proposed designation in pertinent newspapers in the range of the California red-legged frog. We held a public meeting where we discussed opportunities for the public to comment and provide input and information. Thus, although we did not specifically notify individual landowners within the designation, we believe we provided adequate opportunity for individuals to review and provide comment on the proposed revised rule. It is our practice to include on our mailing lists those individuals who have made comments in the past regarding a specific issue. We apologize for having inadvertently failed to notify certain people of the proposed action and have updated our records accordingly.

Comment (19): A commenter requested exclusion of approximately 3,000 ac (1,214 ha) of private land proposed within unit MNT-3 because there is an existing conservation easement that protects habitat in this area.

Response: Our review of the easement indicates that: (1) It primarily is intended to protect viewshed resources; (2) it covers only a portion of the area requested for exclusion; and (3) it allows a variety of uses that could adversely affect the physical and biological features essential to the California red-legged frog, including new utilities and highway improvements, clearing of vegetation for fire management, and changes in water use. We have therefore determined not to exercise our discretion to exclude these areas under section 4(b)(2) of the Act.

Comment (20): A commenter requested designation of an additional critical habitat unit encompassing the Moss Beach, Sawmill Gulch, Seal Rock Creek, Fan Shell, and Carmel Bay watersheds on the Monterey Peninsula in Monterey County.

Response: Our approach to designating critical habitat includes designating areas with a high density of California red-legged frog occurrences and avoiding developed and fragmented areas. Our review of the information provided by the commenter and information available in our files indicates that the area requested for designation is highly fragmented by recreational and residential development. The California red-legged frog has been observed in the area, with a small number of frogs observed at two localities. Although the California red-legged frogs occur in watersheds of the Monterey Peninsula, the best available information indicates these watersheds are occupied at low densities within fragmented habitat. We have therefore determined that the requested addition is not appropriate. For more information, please see the Criteria Used to Identify Critical Habitat section below.

Comment (21): One commenter supported the expansion of critical habitat to include the Little Sur River, North and South forks of La Brea Creek, the North fork and Upper North fork of Matillija Creek, Santa Paula Creek and its tributaries, and Agua Caliente Creek. The commenter indicated that these areas are important to the survival and recovery of the California red-legged frog.

Response: We contacted the commenter because we were unable to locate Agua Caliente Creek on a map. The commenter stated that the correct name was Agua Blanca Creek. In our proposed designation of revised critical habitat for the California red-legged frog, we determined that all occupied habitat did not need to be designated as revised critical habitat, nor did we believe it necessary to designate unoccupied habitat, based on our determination that enough occupied areas representing the distribution of the frog across its range had already been determined and that these areas would provide for the conservation of the species. Because we have no records of the California red-legged frog occupying the Little Sur River, North and South forks of La Brea Creek, the North Fork and Upper North Fork of Matillija Creek, Santa Paula Creek and its tributaries, or Agua Blanca Creek, we consider these areas unoccupied and have not included them in this final rule. For more information on our criteria for designating critical habitat, please see the Criteria Used to Identify Critical Habitat section below.

Comment (22): One commenter supported the expansion of critical habitat to include the Cuyama River and its tributaries, Branch Creek and Alamo Creek, the tributaries feeding Lake Cachuma, a portion of Sespe Creek, Birabent Canyon, a portion of the

Sisquoc River, the Arroyo Seco River and its tributaries, and San Carpoforo Creek. The commenter indicated that these areas are important to the survival and recovery of the California red-legged frog.

Response: Our designation of revised critical habitat for the California red-legged frog does not include all occupied areas. As described in the proposed rule, when determining which occupied areas are essential to the conservation of the species and meet the definition of critical habitat, we considered theories of metapopulation persistence, on-the-ground survey data, and California red-legged frog longevity. We focused on areas of high California red-legged frog abundance, areas needed to maintain connectivity between aquatic breeding habitat, and areas of unique ecological significance. We selected areas that are inhabited by source populations that are capable of maintaining their current population levels and capable of providing individuals to recruit into subpopulations found in adjacent areas. We are aware that California red-legged frogs do occur in the areas listed by the commenter; however, these areas are isolated, occupied at low densities, or otherwise not essential to the conservation of the species; therefore, we have not included them in this final designation. For more information on our criteria for designating critical habitat, please see the Criteria Used to Identify Critical Habitat section below.

Comment (23): One commenter identified the California red-legged frog as a coastal species and stated that the species was never in any inland counties until the early 1900s. The commenter concluded that the designation of critical habitat for the species outside of coastal areas is not justified.

Response: According to accepted scientific and taxonomic information on the California red-legged frog, the species' historic and current distribution includes inland counties in the Sacramento and San Joaquin Valleys as well as Sierra Nevada and Interior Coast Range counties from Riverside to Shasta County, California. According to early species distribution accounts and collections by species experts (Storer 1925; pp. 235–236), the species was present in the interior portions of California well before the 1900s. As a result of the early species' range descriptions and collections in accredited scientific facilities and currently known occurrence records for the species, we have determined that the historic and current range of the species does include interior California counties. This information justifies the designation of critical habitat within these interior areas.

Comment (24): One commenter requested not to increase the mitigation requirements for the California red-legged frog because it will harm the livelihood or restrict activities of private citizens.

Response: According to section 7(a)(2) of the Act, each Federal agency shall, in consultation with the Service, insure that any action will not result in the destruction or adverse modification of habitat of a listed species . Only activities that have a Federal nexus (i.e., that involve a Federal permit, license, or funding, or are carried out by a Federal agency) and are likely to destroy or adversely modify the area of critical habitat will be affected. If this is the case, we will work with the Federal agency and, where appropriate, applicants for Federal permits or license, or for Federal funding, to modify their projects so that those projects will not adversely affect the critical habitat. Thus, most Federal projects are likely to go forward, but some will be modified to minimize harm to critical habitat. Critical habitat does not set mitigation requirements for a species.

Comment (25): One commenter identified pesticide use and pesticide drift from agricultural use, not habitat loss, as the major threat impacting the California red-legged frog. The commenter also stated the decline in frog populations worldwide is a result of disease and climate change and that fish are not at all the cause of the species' decline. The commenter stated that the designation of critical habitat is a typical "knee-jerk" reaction to frog species' decline and does not address the problem.

Response: In our May 23, 1996, final listing determination (61 FR 25813), we determined that habitat loss and fragmentation from urban encroachment (along with other factors) constituted the dominant factor leading to the listing of the species. Since the listing, numerous studies have looked at pesticide drift as the potential cause of amphibian declines in California. According to several studies, the transport and deposition of pesticides from the agriculturally intensive Central Valley of California to the adjacent Sierra Nevada is well documented, and pesticides have been found in the bodies of Sierra frogs (Davidson *et al.* 2002, pp. 1589-1590; Davidson 2004, pp. 1892-1902). However, to date, no direct links have been found between pesticides and actual amphibian population declines. We are currently consulting with the Environmental Protection Agency (EPA) on the use of 66 pesticides on or near areas where the California red-legged frog occurs to determine appropriate conservation measures for the species. We disagree with the commenter that fish are not an issue in the species' decline because the introductions of nonnative warm water fish (e.g., bass, sunfish, and mosquito fish) have caused some declines in the species' distribution and abundance throughout its range (Service 1996, p. 25827). We agree with the commenter that other factors in addition to habitat loss are contributing to a world-wide decline in frog and other amphibian populations and that, in some species, disease is the major factor. However, in the case of the California red-legged frog, we continue to assert that habitat loss and fragmentation continue to be the dominant factors in preventing the recovery of the species. In response to the commenter's statement that the designation is only a reaction to current amphibian declines, we have designated critical habitat according to our implementing regulations at 50 CFR 424.12, by using the best scientific data available and defining specific areas that contain those essential physical or biological features essential to the conservation of the species and which may require special management considerations or protection. Consistent with these regulations, we have determined the areas designated as critical habitat are appropriate for conservation of the California red-legged frog.

Comment (26): One commenter: (1) Stated that the designation as proposed is essential for the proper protection of this species, and (2) emphasized the importance of maintaining buffer zones around wetland areas, and (3) agreed that the methodologies employed in the designation were a practical means for determining the extent of the critical habitat boundaries. The commenter stated that that methodologies used would assist in protecting both the aquatic features and habitat corridors between wetland features and thus allow the necessary genetic exchange between populations.

Response: In accordance with 50 CFR 424.12, we designated critical habitat on the basis of the best scientific data available, after taking into consideration the probable economic and other impacts of making such a designation. In designating critical habitat, we considered those physical and biological features that are essential to the conservation of the California red-legged frog and that may require special management considerations or

protection. We are not designating buffer zones around those features we determined to be essential. An area we designate as critical habitat is not a refuge or sanctuary for the species; it serves as a reminder to Federal agencies that they must make special efforts to protect the important characteristics of the areas designated. Listed species and their habitats are protected by the Act whether or not they are in an area designated as critical habitat.

Comment (27): One commenter stated that we should exclude all areas being considered as part of the proposed Santa Clara Valley Habitat Conservation Plan (SCVHCP) under section 4(b)(2) of the Act, because the California red-legged frog is a covered species, an administrative draft has been developed and released to the public, and the exclusion would follow past Service practice in previous exclusions such as with the East Contra Costa HCP.

Response: When considering the exclusion of areas that are covered by conservation plans from critical habitat under section 4(b)(2) of the Act, we must determine whether the benefits of such exclusion outweigh the benefits of specifying such areas as critical habitat. Such exclusions are usually based on finalized management plans, HCPs, or other documents that provide a high degree of assurance that conservation measures will be implemented and effective for a particular species and its habitat, and that those measures are more beneficial than the designation of critical habitat. The current information on the SCVHCP made available to stakeholders and resource agencies consists of early administrative drafts and only portions of the entire document. The information is not intended for public review and comment and is not final documents. Because they are incomplete, the documents have not gone through section 7 intra-Service consultation regarding effects to endangered species. The Service's current position is not to consider areas for exclusion that are covered by draft conservation programs or plans. Draft documents and their proposed conservation measures are subject to change. Without a high degree of assurance that conservation measures will be implemented and effective for a particular species and its habitat, we cannot complete a meaningful analysis under section 4(b)(2) of the Act.

Comment (28): One commenter objected to the redefinition of "occupied at the time of listing" and said the redefinition was arbitrary and capricious because the Service did not articulate its rational for the change.

Response: In the previous final critical habitat designation, we interpreted the "occupied at time of listing" standard to include only those specific records mentioned in the final listing rule (61 FR 25813, May 23, 1996). The purpose of the listing rule is to identify threats to a species and determine whether or not listing the species under the Act is necessary. The final listing rule is not intended as a complete listing of all specific locations where a species occurs. The records identified in the final listing rule were not the only locations where California red-legged frogs existed but only those reported to scientific, higher education, or informational sources. Other occupied areas outside those specifically mentioned in the final listing rule existed for the frog. In this designation, we interpreted occupancy "at time of listing" based on the dates of occurrence records and life history of the California red-legged frog. For example, if an occurrence was recorded after the 1996 listing, but we could determine based on population size, demographics, and biological factors that the population was most likely present at time of listing, we considered that area to be occupied at the time of listing for this designation of revised critical habitat. When determining occupancy, we considered theories of metapopulation persistence, on-the-ground survey data, and California red-legged frog longevity. Bulger *et al.* (2003, pp. 85, 92) found that more than 75 percent of California red-legged frogs are resident at permanent aquatic habitats over the course of a year, thereby providing local population stability. Survey data provided to us during the development of this and previous critical habitat rules show an average persistence of 19 years for the California red-legged frog populations. Additionally, the California red-legged frog is considered long-lived, with a minimum longevity of male and female California red-legged frogs of between 8 and 10 years, respectively (Jennings *et al.* 1992, p. 3), which also contributes to generational and metapopulation stability. By limiting our previous designation to only those specific records identified in the listing rule and using an overly narrow definition of occupancy at the time of listing, we were not including many records which were identified before 1996, or any records present but not specifically identified in the listing rule. The process for designating critical habitat in this rule is consistent with the standards required by our implementing regulations at 50 CFR 424.12 on using the best scientific data when designating critical habitat.

Comment (29): One commenter stated that the elimination of the upward boundary for upland habitat was arbitrary and capricious in that it deferred designation of critical habitat to the consultation process under section 7 of the Act.

Response: We did identify the upland distance surrounding aquatic features within the current designation. The primary constituent element (PCE 3), as identified in the 2006 final critical habitat designation, limited the upland areas to 200 ft (60 m) from the water feature. Based on new biological information on protecting breeding and non-breeding aquatic features for the California red-legged frog and movements of the frog between breeding and non-breeding habitat (Fellers and Kleeman 2007, pp. 276–286), we have extended the upland distance surrounding the breeding and non-breeding aquatic features. In general, the upland habitat surrounding the aquatic breeding and non-breeding habitat (PCEs 1 and 2) would be limited to 1 mile (1.6 km) in most cases, depending on surrounding landscape and dispersal barriers.

Comment (30): One commenter stated that several units or portions of units be removed from the designation because they are within planned development areas as identified in County or City general plans and these areas, according to the preamble of the proposed revised critical habitat rule, should not be designated according to the methodology used in determining the critical habitat boundaries. An additional commenter stated that we should not remove areas of planned development because arbitrarily removing these areas is not a valid biological reason.

Response: We are basing this final designation of revised critical habitat on the best scientific data available, after taking into consideration the probable economic and other impacts of making such a designation in accordance with our implementing regulations at 50 CFR 424.19. As we state in the preamble of our 2008 proposed rule to revise critical habitat (73 FR 53500), our methodology and the criteria we used to determine the critical habitat boundaries were not intended to exclude all planned development as identified in city, county, or regional general plans. The methods and criteria we used to map areas adjacent to development removed areas only if (1) they do not contain sufficient PCEs to support one or more of the species' life processes, or (2) they have low-quality PCEs because either

the area is highly degraded and is likely not restorable or the area is small, highly fragmented, or isolated and may provide little or no long-term conservation value. As a result, we do not believe it would be appropriate to automatically exclude planned development areas from the designation.

Comment (31): One commenter requested exclusion from the designation of critical habitat in Unit SLO-4 between the town of Pozo and the National Forest boundary south of Pozo. The commenter stated that designation of critical habitat on private land can significantly depreciate the value of the property, affecting the landowner's ability to acquire operating capital. The commenter further stated that designation of critical habitat can make habitat-enhancing projects (i.e., water troughs and delivery systems) cost-prohibitive if it is necessary to obtain permits for the projects, thereby discouraging voluntary measures to enhance habitat for California red-legged frogs. The commenter also expressed concerns with our assertion that the Salinas River, near the town of Pozo, is occupied by California-red legged frogs.

Response: Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographical area occupied by the species, at the time it is listed, 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. Our criteria for determining features essential to the conservation of the species has been to target areas known to be occupied by the California red-legged frog at the time of listing; including those areas discovered to be occupied since the time of listing; or known to possess high-quality habitat likely to be occupied based on proximity to known occurrences, contiguous habitat, or dispersal capabilities of the California red-legged frog. We included large blocks of contiguous habitat that: (1) Provide geographic distribution across the range of the species; (2) represent the full range of habitat and environmental variability the species occupies; (3) avoid conflict with existing commercial and residential development; (4) focus on public land, where available; and (5) overlap with other critical habitat designations, where possible.

As noted in the unit description for SLO-4 (see Final Critical Habitat Designation section), this area was not known to be occupied at the time of listing but is currently occupied. Based on life history and population dynamics of the species we have determined that the area was most likely occupied at the time of listing. The occurrence records for California red-legged frogs in SLO-4 were generated from surveys conducted according to Service protocol by the U.S. Forest Service in 1999. We have reviewed these records and consider them to be our best available science. SLO-4 contains the following features that are essential for the conservation of the species: aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging, dispersal activities, and shelter (PCE 3 and PCE 4). Also, as noted in the unit description, threats that may require special management in this unit include predation by nonnative species and habitat disturbance. Therefore, based on the criteria above, we have designated SLO-4 as revised critical habitat in this rule.

We recognize that routine ranching activities may be beneficial to the California red-legged frog. In 2006, we published a special rule under the authority of section 4(d) of the Act containing the actions and prohibitions necessary to provide for the conservation of the California red-legged frog (50 CFR 17.43(d)). Under the special rule, incidental take of the California red-legged frog is not a violation of section 9 of the Act, if the incidental take results from routine ranching activities located on private or Tribal lands. We believe that this special rule will encourage landowners and ranchers operating on non-Federal land to continue their livestock-related practices that are important not only for livestock operations, but also for maintaining or enhancing habitat for the California red-legged frog.

Comment (32): One commenter opposed the designation of the Hearst Corporation's Jack Ranch property in Unit SLO-1. The commenter stated that many areas on the portion of the Jack Ranch within SLO-1 are extremely arid, would not support a California red-legged frog population, and therefore do not meet the definition of critical habitat. The commenter also argued that the Jack Ranch property does not meet the definition of critical habitat because the property does not require special management considerations or protection. The commenter stated that the Jack Ranch has been responsibly managed for over 40 years in a manner that has protected and benefited the various natural habitats on the ranch. Alternatively, the commenter argued that we should exclude the Jack Ranch property from critical habitat because the benefits of excluding the ranch outweigh the benefits of including it. The commenter asserted that as a result of the current ranch management practices in place on the Jack Ranch, the various habitats and species present on the ranch are generally flourishing and will continue to benefit if these practices are allowed to continue. The commenter argued that designating the ranch as critical habitat would create regulatory uncertainty, impose economic burdens on the landowner, and increase vulnerability to legal challenge that could threaten the area's long-term viability as a working ranch.

Response: Section 3(5)(A) of the Act defines critical habitat, in part, as the specific areas within the geographic area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Act, on which are found only those physical and biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection. Our strategy for determining features essential to the conservation of the species was to target areas that are known to be occupied by the California red-legged frog at the time of listing; that we determined to be occupied since the time of listing; or that are known to possess high-quality habitat likely to be occupied based on proximity to known occurrences, being part of contiguous habitat, and the dispersal capabilities of the California red-legged frog. We included large blocks of contiguous habitat that:

(1) Provide geographic distribution across the range of the species;

(2) Represent the full range of habitat and environmental variability the species occupies;

(3) Avoid conflict with existing commercial and residential development;

(4) Focus on public land, where available; and

(5) Overlap with other critical habitat designations, where possible.

As noted in the unit description for SLO-1 (see "Final Critical Habitat Designation" section), this area was known to be occupied by California red-legged frogs at the time of listing, is currently occupied, and contains the following features that are essential for the conservation of the species: aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). Also as noted in the unit description, threats that may require special management in this unit include: highway construction, which may remove upland or aquatic habitat; overgrazing of aquatic and riparian habitats; and dewatering of

aquatic habitats due to water diversions. Therefore, based on the criteria above, occupancy at the time of listing, and the requirement for special management, we have designated SLO-1 as critical habitat, including a portion of the Jack Ranch property within SLO-1.

We recognize that routine ranching activities may be beneficial to the California red-legged frog. In 2006, we published a special rule under the authority of section 4(d) of the Act to provide for the conservation of the California red-legged frog (50 CFR 17.43(d)). The special rule provides that incidental take of the California red-legged frog will not be a violation of section 9 of the Act, if the incidental take results from routine ranching activities located on private or Tribal lands. We believe that this special rule will encourage landowners and ranchers operating on non-Federal land to continue their livestock-related practices that are important not only for livestock operations, but also for maintaining or enhancing habitat for the California red-legged frog.

Comment (33): One commenter was opposed to the designation of lands in Unit SLO-2 in San Luis Obispo County that are covered under the Hearst Ranch Conservation Easement (Easement) and Hearst Ranch San Simeon Conservation Easement Management Plan (Plan). The commenter asserted that California red-legged frogs occurring within the boundaries of the Easement will be protected through specific measures addressed in the Plan, and therefore, these lands either do not fall within the definition of critical habitat contained in section 3 of the Act or should be excluded under section 4(b)(2) of the Act. In addition, the commenter argued that designation of lands covered under the Easement would discourage voluntary conservation initiatives on private land.

Response: We recognize the importance of voluntary conservation measures, such as the Hearst Ranch Easement and Plan, which provide protections for California red-legged frogs and their habitat. The Secretary has determined to exercise his discretion under section 4(b)(2) of the Act to exclude from critical habitat 34,777 ac (14,074 ha) of Easement lands that occur in Unit SLO-2. See the Exclusions under Section 4(b)(2) of the Act section for additional information.

Comment (34): One commenter commended our abandonment of methods used in determining "co-extensive" costs in previous critical habitat designations including the previous final designation for the California red-legged frog (April 13, 2006, 71 FR 19244). The commenter also commended the Service for refraining from claiming in the preamble that the designation of critical habitat provides little additional protection to most listed species and for refraining from statements emphasizing primarily the "limitations" of any "benefits of designating" an area as critical habitat and using this as a basis for excluding areas from the designation. The commenter strongly urged the Service to "follow through with changes in interpretations and procedures" as found in the **Federal Register** notice for the proposed designation (September 16, 2008, 73 FR 53491).

The commenter also pointed out several concerns with the DEA and the proposed revised designation. The commenter stated that the DEA does not appropriately focus on or address market impacts; stated that the DEA is not transparent on whether the ancillary benefits of designating critical habitat were appropriately analyzed; and that the Service did not fairly account for the benefits and costs of designating critical habitat.

Response: We acknowledge that our past practice of including language in the preamble to critical habitat designations stating a policy position at that time was not the appropriate forum for doing so and has not been conducive for facilitating the appropriate dialogue to assist in the conservation of listed species. As stated earlier, we are revising this and certain other designations because of inappropriate influence of past Department of Interior personnel and have taken into account the information reported by the General Accounting Office on critical habitat and listing designations. Comments related to the Economic analysis are addressed below.

Comments Related to the Economic Analysis

Comment (35): One commenter requested the exclusion based on economic costs of an area in SOL-1 where a mining company plans to expand its existing aggregate quarry.

Response: As described in section 10.2 of the final economic analysis (FEA), we revised the report to include discussion of the potential economic impacts to the proposed mining project. The company states it is already working closely with Solano County and representatives of the Service to develop appropriate mitigation measures. The options under consideration are consistent with the types of project modifications considered in the FEA. Because these discussions are already underway, costs are attributed to the baseline scenario. Additional impacts resulting from the designation of critical habitat are not anticipated.

Comment (36): One commenter requested exclusion of a portion of an existing aggregate quarry overlapping the southern portion of SOL-3 because it does not contain the PCEs and out of concern that the designation may delay implementation of the ongoing reclamation process.

Response: As described in section 10.2 of the FEA, we revised the report to include a discussion of this quarry site. The company has already submitted a revised reclamation plan to Napa County, which incorporates the results of a biological assessment. In addition, the company is currently working with the County and the Service to develop mitigation measures that will minimize the impact of the reclamation operations on the California red-legged frog. Because the company is already working with the Service, costs of efforts to protect the California red-legged frog are attributed to the baseline scenario. Given that the PCEs are not present at the site, delays due to the designation of critical habitat are not anticipated.

Comment (37): Multiple commenters requested the exclusion of specific private properties in SLO-1, SLO-2, SLO-3, and SOL-4, based on the assumption that the designation will trigger land use restrictions limiting current ranching and farming practices, and in SLO-2, that the designation will create barriers to future uses of the land for development or agricultural purposes.

Response: The commenters do not provide information about the types of farming and ranching activities taking place on these properties. As described in Chapters 6 and 7 of the FEA, this analysis relies upon the California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) to identify active crop farming and grazing land within the study area as of 2006. According to the FMMP, the private properties identified by these commenters are classified primarily as grazing lands with a small portion of the properties classified as agricultural lands. For property identified as agricultural lands, these areas are included in the analysis of impacts to agricultural activities presented in Chapter 6. For areas identified in these private properties as grazing lands, as described in Chapter 7, this analysis assumes that ranchers will likely be subject to restrictions on the use of 66 named active ingredients. However,

according to discussions with representatives of the Agricultural Commissioner offices in several counties, the impact of the use restrictions to date have been relatively minor, as herbicides are only used to treat noxious weeds through spot application. To further minimize the impact of the restrictions, some Agricultural Commissioner offices are also working with affected ranchers to identify alternative herbicides not subject to restrictions. Accordingly, while ranchers may be affected by California red-legged frog related herbicide use restrictions, the nature of the use of herbicides by ranchers is likely to vary depending on the specific ranching operation, and the economic impacts of any resulting herbicide use restrictions are expected to be minor.

In addition to existing ranching activities, one of the commenters notes that approximately 300 ac (121 ha) of the private property located in SLO-2 are allocated for development. The commenter does not provide specific information about plans for future residential or commercial development of the property. As described in Chapter 4 of the FEA, this analysis relies on local planning authorities for estimates of the number of housing units projected to be built by 2030 in the study area. In San Luis Obispo County, this analysis relies upon data from the San Luis Obispo Council of Governments (SLOCOG). As shown in Exhibit 4-4, in SLO-2 this analysis forecasts the development of 241 ac (98 ha). Baseline impacts associated with consideration of the California red-legged frog and its habitat are estimated in this unit to be $14.6 million to $58.0 million and incremental impacts are estimated to be $3.9 million to $16.4 million, assuming a seven percent discount rate.

Comment (38): Several commenters requested the exclusion of a private property in CAL-1 engaged in ranching activities, based on the assumption that the designation will trigger (1) land use restrictions by local agencies limiting current ranching practices, (2) devaluation of the property as a result of barriers to urban development, and (3) additional costs should the landowner chose to convert a portion of their property to agricultural uses.

Response: The private property identified by the commenter is approximately 1,094 ac (443 ha) in size, of which 247 ac (100 ha) is proposed for critical habitat designation in CAL-1. As described in Chapter 7, this analysis assumes that ranchers will likely be subject to restrictions on the use of 66 named active ingredients. However, according to discussions with representatives of the Agricultural Commissioner offices in several counties, the impact of these restrictions have been relatively minor, as herbicides are only used to treat noxious weeds through spot application. To further minimize the impact of the restrictions, some Agricultural Commissioner offices are also working with affected ranchers to identify alternative herbicides not subject to restrictions. Accordingly, while ranchers may be affected by California red-legged frog related herbicide use restrictions, the nature of the use of herbicides by ranchers is likely to vary depending on the specific ranching operation, and the economic impacts of any resulting herbicide use restrictions are expected to be minor..

The commenter does not provide specific information about plans for future residential or commercial development of the property. As described in Chapter 4 of the FEA, this analysis relies on local planning authorities for estimates of the number of housing units projected to be built by 2030 in the study area. In Calaveras County, this analysis relies upon growth projections obtained from Applied Geographic Solutions (AGS), which develops forecasts of population and households at the census tract level for the entire state of California through the year 2018. Growth through 2030 was projected linearly. As shown in Exhibit 4-4, in CAL-1 this analysis forecasts the development of 300 ac (121 ha). Baseline impacts to development activities in CAL-1 associated with the consideration of the California red-legged frog and its habitat are estimated to be $2.6 million to $7.6 million and incremental impacts are estimated to be $2.1 million to $7.0 million, assuming a seven percent discount rate.

There could also be additional property value losses if the landowner is not able to develop portions of the property for agricultural purposes. In that case, those losses may not be captured because this property was not identified as agricultural lands. Without additional information on plans for future agricultural development of this property, data are not readily available to estimate potential future losses.

Comment (39): One commenter states that the DEA fails to analyze the socio-economic and cumulative impacts related to agriculture. The commenter anticipates economic impacts stemming from the loss of agricultural acreage in production, the loss of jobs, and reductions in food and fiber production, and from negative impacts to local communities, among other losses.

Response: As described in Section 6.5 of the FEA, we revised the analysis to include the regional economic impacts expected to result from the implementation of no-pesticide use areas for 66 pesticide ingredients in the study area. The estimated baseline impact of a loss 16,519 ac (6,685 ha) from agricultural production to the study area in an average year is approximately $103.3 million and approximately 2,062 jobs. The estimated impact of an incremental loss 7,286 ac (2,949 ha) from agricultural production to the study area in an average year is approximately $23.8 million and approximately 404 jobs. Detailed information on direct, indirect, and induced impacts, including job losses, is provided in Chapter 6 of the FEA.

Comment (40): The Small Business Administration (SBA) submitted a comment recommending the Service exercise its discretion under section 4(b)(2) of the Act to exclude the agricultural acres of small business-owned farmland that the DEA expects to be taken out of agricultural production.

Response: As described in Chapter 6 and Appendix A of the FEA, we revised the Initial Regulatory Flexibility Analysis (IRFA) to incorporate refined geographic data on active farming lands in the study area. Specifically, this analysis relies upon the Farmland Mapping & Monitoring Program (FMMP) to identify active crop farming and grazing lands, including a newer data set maintained internally by the FMMP, that resulted in the reclassification of a significant number of cropped acres within the study area as grazing lands. The number of cropped agricultural area incrementally affected decreased from 29,413 ac (11,903 ha) in the first DEA (dated March 3, 2009) to 7,286 ac (2,949 ha) in the FEA.

We also revised the methodology used to estimate the number of small farms affected in each county. Small businesses in crop production (North American Industry Classification System (NAICS) subsectors 1111, 1112, and 1113) are defined by SBA as having annual revenues less than $750,000 (hereinafter referred to as "small farms"). Ideally this analysis would rely on geographic data to identify the size of farms within the study area and the percentage of a farm's total harvested acres potentially removed from agricultural production as a result of the pesticide use restriction. However such geographic data are not readily available.

As described in section A.1.3 of the FEA, in the absence of this information, this analysis uses publically-available Census data to estimate the probability

that incrementally affected acres are located on small farms and the percent of cropland harvested by "small farms." This approach yields a lower-bound estimate of the total number of small farms affected in the study area of 198. Worst-case annualized incremental impacts are anticipated to range between $500 and $168,000 per farm.

Comment (40): One commenter stated that the Service's failure to evaluate the economic benefits of the rule is inconsistent with administrative guidance and widely accepted professional standards. Further, the commenter stated that the economic benefits of protecting critical habitat for the California red-legged frog probably outweigh the costs and are too substantial to downplay or ignore. The commenter concludes that the Service should devote equal effort to identifying and accounting for categories of benefits relative to the rigor devoted to identifying costs.

Response: In the context of a critical habitat designation, the primary purpose of the rulemaking (i.e., the direct benefit) is to designate areas in need of special management that are essential to the conservation of listed species. While a listed species may be the primary beneficiary of designated critical habitat, the Act is clear that it is the policy of the Federal government to provide a means whereby the ecosystems upon which endangered and threatened species depend are conserved. By extension, therefore, benefits must somehow also accrue to society from a designation or else Congress would not have included this provision in the Act. The designation of critical habitat may result in two distinct categories of benefits to society: (1) use; and (2) non-use benefits. Use benefits are simply the social benefits that accrue from the physical use of a resource. Visiting critical habitat to see endangered species in their natural habitat would be a primary example. Non-use benefits, in contrast, represent welfare gains from "just knowing that a particular listed species' natural habitat is being specially managed for the survival and recovery of that species." Both use and non-use benefits may occur unaccompanied by any market transactions.

A primary reason for conducting the economic analysis is to provide information regarding the economic impacts associated with a proposed critical habitat designation. Section 4(b)(2) of the Act requires the Secretary to designate critical habitat based on the best scientific data available after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. Economic impacts can be both positive and negative and by definition, are observable through market transactions.

While the Act requires the specific consideration of the economic impact of a designation, it does not require the Service to explicitly consider any broader social benefits (or costs) that may be associated with the designation. In fact, the Service believes that this is by Congressional design because the Act explicitly states up front that it is the Federal government's policy to conserve all threatened and endangered species and the ecosystems upon which they depend. While section 4(b)(2) of the Act gives the Secretary discretion to exclude certain areas from the final designation, he is authorized to do so only if an exclusion does not result in the extinction of the species. Thus, the Service believes that explicit consideration of broader social values for the species and its habitat, beyond economic impacts, is not necessary as Congress has already clarified the importance our society places on conserving all threatened and endangered species and their natural habitats upon which they depend. In terms of carrying out its responsibilities under section 4(b)(2) then, the Service need only to consider whether the economic impacts are significant enough to merit exclusion of any particular area without causing the species to go extinct.

To support the claim that the benefits of designating critical habitat for the frog probably outweigh the costs, the commenter provides examples of other situations and environmental regulations where studies have shown that the benefits exceed costs. However, this evidence does not support a conclusion that the same is true in this instance. If environmental regulation always resulted in net benefits, there would be no need to conduct economic analyses.

Finally, no guidance or executive order requires Federal agencies to spend equal effort estimating the benefits and costs of regulations. Specifically, OMB's Circular A-4 states (p. 26-27), "some important benefits and costs...may be inherently too difficult to quantify or monetize given current data and methods". Chapter 13 of the FEA describes qualitatively the types of benefits that may result from the designation of critical habitat, including open space benefits, improved water quality, aesthetic benefits, flood control, improved soil productivity, and regional economic benefits if increased visitation results from the former benefits. To quantify these benefits, information about the current environmental quality of the habitat (e.g., current concentration of pollutants in waterways, current capacity of the habitat to absorb flood waters, current productivity of the soil) is necessary as a starting point. In addition, ecological and hydrologic models are necessary to understand how conservation measures such as reduced pesticide use will change the concentration of contaminants in the relative waterways. Most of these data and models are not readily available, preventing the quantification of benefits at this time.

Comment (41): One commenter states that in its estimate of the costs imposed on development activities, the DEA does not consider offsetting positive market impacts, particularly in areas outside of the designation. Specifically, the commenter states that the Service mistakenly reports the gross, rather than net, costs of critical habitat designation.

Response: We considered the potential for shifts in the market that would offset the costs experienced by existing landowners and developers within the proposed designation and concluded that measurable offsetting gains to homeowners, developers, or landowners are unlikely. As discussed in detail in Chapter 4 of the FEA, anticipated costs to landowners and developers include the administrative costs to consult with the Service or to comply with the California Environmental Quality Act, the costs of conservation measures, and opportunity costs associated with delays in development schedules. Anticipated conservation measures include on-site or off-site habitat restoration and the preservation of off-site habitat through the acquisition of mitigation banking credits (see section 4.7.2 of the FEA).

If adequate substitutes for areas projected for development are available, developers are likely to avoid areas of critical habitat and to develope substitute sites instead. Thus, existing owners of land parcels that would have been developed absent critical habitat experience a devaluation of their property equivalent to the additional costs that would have been incurred by the developers to conserve the California red-legged frog. As described in section 4.3 of the FEA, of the 1,252,096 ac (506,706 ha) of private land within the proposed designation, only 5,746 ac (2,325 ha), or less than one percent, of this land is anticipated to be developed within the next 22 years. In the 20 affected counties, the number of affected acres (hectares) ranges from 2 ac (0.8 ha) to 1,034 ac (418 ha), with an average of 287 ac (116 ha) affected per

county. Given the relatively small number of affected acres relative to the size of the affected counties (hundreds of thousands to millions of acres), the availability of suitable substitutes is likely.

It is possible that the value of land at substitute sites outside of critical habitat may increase; however, where many substitutes are available, the marginal increase is likely small. Furthermore, quantification of such increases requires significant additional data describing the geographic characteristics of alternatives and construction of complex, general equilibrium economic models of the markets for raw land in each county. Finally, no reduction in the number of new houses is anticipated. Developers will either move to substitute locations or implement the project modifications, which do not include conserving habitat on-site. Thus, measurable consumer surplus gains in the market for existing houses, and consumer surplus losses in the market for new housing, are not anticipated.

Finally, we note that Quigley and Swoboda (2007, pp. 299-318) specifically addressed these issues in the context of critical habitat, and found that consideration of additional losses and gains to landowners and homeowners outside of critical habitat but within the same market is likely to result in higher, rather than lower overall cost estimates.

Comment (42): One commenter stated that they could not identify clear evidence that the Service estimated ancillary benefits that are measurable in markets through shifts in resource allocation, as suggested in Chapter 2 of the DEA. Specifically, the commenter states that habitat protection for an aquatic species such as the California red-legged frog may enhance water quality or quantity, resulting in avoided costs associated with treatment facilities or other water-supply-related infrastructure. The commenter cites, as an example, a study of such benefits resulting from restoring high-quality watersheds in Portland, Oregon.

Response: Assessment of the potential changes in the costs associated with treatment facilities or other water-supply-related infrastructure first requires an understanding of current water quality. In addition, complex fate and transport models of contaminants and sediments are necessary to calculate the change in water quality likely to result from the implementation of conservation activities (e.g., pesticide use restrictions, habitat restoration) protecting critical habitat. Finally, engineering cost models of alternative treatment technologies are necessary to estimate the incremental cost savings associates with a change in water quality. Most of these data and models are not readily available; thus, the potential offsetting benefit of reduced water treatment costs cannot be quantified or monetized at this time.

Summary of Changes from the 2006 Critical Habitat Designation to the 2008 Proposed Rule to Revise Critical Habitat

In the proposed revised and final revised designation of critical habitat for the California red-legged frog, we determined that it would be appropriate to complete our analysis of critical habitat without using the 2006 final critical habitat designation as a base from which to make changes due to the involvement of Department of the Interior personnel that may have inappropriately influenced the extent and locations of critical habitat designated in our previous final determination. As a result of this unrestricted analysis, the amount and distribution of final critical habitat has increased over the 2006 final critical habitat designation and better represents those areas that contain the features essential to the conservation of the species.

In the 2006 final critical habitat designation for the California red-legged frog (71 FR 19281; April 13, 2006), we excluded all Forest Service lands managed under the Sierra Nevada Forest Plan Amendment (SNFPA) under section 4(b)(2) of the Act. We based this decision on the conservation benefits to the frog outlined in the SNFPA. In the proposed revised critical habitat designation issued on September 16, 2008 (73 FR 53491) we asked for public comment regarding the exclusion of these lands from the designation under section 4(b)(2) of the Act and whether the SNFPA was an appropriate mechanism for exclusion. Although the SNFPA addresses the California red-legged frog in Chapter 4, and states generally that the "species parameters are similar to those applicable to other areas of California" (USDA 2004, pp. 234–239), no details are given as to what specific conservation measures would be implemented and how these measures would benefit the California red-legged frog. The SNFPA does state that the preferred alternative is to limit streambank disturbance to 10 percent of any reach within critical aquatic refuges and the SNFPA does limit streambank disturbance to 20 percent of any reach in general. Again these measures are not specific to identify how and where these measures will be implemented and how they will benefit the California red-legged frog. Consequently, we are not exercising our discretion to exclude Forest Service lands from the final designation because the SNFPA not including specific measures to protect and conserve the California red-legged frog and its habitat.

In the 2006 final critical habitat designation, we also excluded the entire critical habitat unit CAL-1 from Calaveras County, California, under section 4(b)(2) of the Act. We based this decision on the actions of a single private landowner who has been managing for the frog on their property and who has been encouraging additional landowners to join efforts to conserve the frog. Since our publication of the proposed revised designation of critical habitat in September 2008 (73 FR 53491), we held a public meeting to discuss the revised proposal in San Andreas, California on October 30, 2008, and to answer questions regarding the Unit CAL-1. Shortly after the meeting we were approached by several private landowners within the unit that are willing to work with us on potentially developing conservation efforts for the frog on their lands. We are also working with the County of Calaveras on developing a Habitat Conservation Plan for the California red-legged frog and other listed or sensitive species in the county. However, we have not been able to finalize a HCP or other management plans to assure development and implementation of conservation measures and protection for the California red-legged frog or its habitat. As a result we are not excluding the lands within Unit CAL-1 from the designation under section 4(b)(2) of the Act.

In the 2008 proposed revised designation, we used the recovery plan for the California red-legged frog (Service 2002, pp. 1–173) as part of our criteria. Specifically, we used the 34 core areas described in the recovery plan to focus our efforts on where to designate critical habitat. We attempted to include areas in this critical habitat designation from those 34 core areas that contain those physical and biological features essential to the conservation of the species, that were unique habitat types for the species, that were a representation of the species' geographic range within each core area, and that were most appropriate for conservation of the species across its current range. When determining critical habitat, we included areas that met the definition of critical habitat and that maximized the potential for the conservation of the species, and we attempted to avoid potential conflict

with development. As a result, we included several new areas within the species' current range as final revised critical habitat. We did not designate areas adjacent to development (i.e., planned development areas) if we determined that the areas do not contain sufficient PCEs to support one or more of the species' life processes, or that the areas have low-quality PCEs because either the area is highly degraded and is likely not restorable or the area is small, highly fragmented, or isolated and may provide little or no long-term conservation value. As a result, designations adjacent to highly developed areas are "pulled-back" to areas that are more biologically defensible and less likely to be affected by anthropogenic activities. We did not exercise our discretion to exclude areas from the designation based solely on planned development.

In the proposed revised critical habitat we also included a new unit in the Sierra Nevada (Unit PLA-1); bringing the total number of units in the designation to six for the Sierra Nevada region.

In the 2006 final critical habitat designation, we interpreted the "occupied at time of listing" standard to include only those specific records mentioned in the final listing rule (May 23, 1996; 61 FR 25813). The records identified in the final listing rule were not the only locations where California red-legged frogs existed; rather, the final listing rule identified only those records reported to scientific, higher education, or informational sources. Other occupied areas outside those specifically mentioned in the final listing rule existed for the California red-legged frog. In this final revised designation, we interpreted "occupied at time of listing" based on the dates of occurrence records and life history of the California red-legged frog. For example, if an occurrence was recorded after the 1996 listing, but we could determine based on population size, demographics, and biological factors that the population was most likely present at the time of listing just not specifically recorded, we would consider the area as occupied at the time of listing for this final revised critical habitat designation. When determining occupancy, we considered metapopulation dynamics, population persistence, on-the-ground survey data, and California red-legged frog longevity. Bulger *et al.* (2003, pp. 85, 92) found more than 75 percent of California red-legged frogs are resident at permanent aquatic habitats over the course of a year, thereby providing local population stability. Survey data provided to us during the development of this and previous critical habitat rules show an average persistence of 19 years for California red-legged frog populations. Additionally, the California red-legged frog is considered long-lived, with a minimum longevity of male and female California red-legged frogs of between 8 and 10 years, respectively (Jennings *et al.* 1992, p. 3), which also contributes to generational and metapopulation stability.

In the 2006 rule, we only focused on designating those areas that contain large numbers and concentrations of occurrence records. In this final revised critical habitat designation we focused on occurrence records as well as on areas adjacent to the occurrences that we determined are essential or contain the features essential to the conservation of the species.

We revised the primary constituent element that described the upland habitat surrounding water features (PCE 3). The PCE in the 2006 rule limits the upland areas to 200 ft (60 m) from a water feature. Based on new biological information on protecting breeding and non-breeding aquatic features for the California red-legged frog and movements of the California red-legged frog between breeding and non-breeding habitat (Fellers and Kleeman 2007, pp. 276–286), we decided that such determinations should be made on a case-by-case basis and removed the specific distance surrounding each individual water feature. In general, the upland habitat surrounding the aquatic breeding and non-breeding habitat (PCEs 1 and 2) would be limited to 1 mi (1.6 km) in most cases, depending on surrounding landscape and dispersal barriers. The 1 mi (1.6 km) distance is also the distance used in the Service's site assessment and survey guidelines used in analyses under section 7 and section 10 of the Act for consultation purposes and allows for a better evaluation of habitat use and characteristics of a given area by the frog (Service 2005, pp. 1–26).

In the 2008 proposed revised critical habitat designation we included a new area in Mendocino County (Unit MEN-1) based on new genetic information on the northern coastal range of the species (Shaffer *et al.* 2004, pp. 2667–2677). The intent of the new unit was to capture habitat that would represent the northern extent of the species along the northern California coast. The occurrence information was based on CNDDB records (CNDDB 2008).

Summary of Changes from the 2008 Proposed Rule

On September 16, 2008, we proposed revised critical habitat for the California red-legged frog comprising a total of 1,804,865 ac (730,402 ha) (73 FR 53491). This final revised critical habitat designation includes approximately 1,681,938 ac (680,656 ha) in 27 California counties in 48 units, after refining areas based on public comment and excluding approximately 121,927 ac (49,746 ha) under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below for a detailed discussion).

In the 2008 proposed revised critical habitat designation, we included an area in Mendocino County (Unit MEN-1) as a result of genetic information on the northern coastal range of the species (Shaffer *et al.* 2004, pp. 2667–2677). We revised the boundary of this unit in the **Federal Register** document announcing the availability of the draft economic analysis on the proposed revised designation of critical habitat (74 FR 19184; April 28, 2009). The revised Unit MEN-1 included approximately 26,875 ac (10,876 ha), a change of an additional 2,970 ac (1,202 ha) of critical habitat within this unit from the 2008 proposed revised designation. We revised Unit MEN-1 to better reflect new species occurrence data within the area and the habitat surrounding those records. On further review of the unit in this final revised designation, we have adjusted the boundaries to include only known California red-legged frog records or hybrid records genetically comprised mostly (50 percent or greater) of the California red-legged frog. This percentage was chosen because research on the exact boundary between the two species has not yet been determined and we wanted to avoid designating critical habitat in areas solely populated by the northern red-legged frog (*Rana aurora*). By choosing such a percentage we are ensuring that the designated unit is comprised mostly of pure California red-legged frogs. The unit currently includes the habitat from Manchester State Beach south to Riverside Road. Unit MEN-1 represents the northern extent of the California red-legged frog within the North Coast of California and likely represents a unique genetic component of the species.

In response to public comments and site visits by Service staff, we reevaluated the boundaries of Unit CAL-1 to assess the available habitat within the area and the locations used by the California red-legged frog. As a result, we revised the extent of the unit and removed those areas that we determined

do not contain the physical and biological features essential for conservation of the California red-legged frog or that are part of the watershed not likely used by the species.

The Secretary also exercised his discretion to exclude several areas from the designation under section 4(b)(2) of the Act due to potential impacts on national security (see Application of Section 4(b)(2) – Impacts to National Security section for further discussion) and the Department of Defense's efforts to conserve the California red-legged frog on their military installations. These areas include: Vandenberg Air Force Base (24,913 ac (10,090 ha)) (Units STB-2 and STB-4) and Camp San Luis Obispo (5,612 ac (2,271 ha)) (Unit SLO-3). The Secretary further exercised his discretion to exclude several other areas either based on existing management plans or HCPs that specifically identify and implement measures to conserve and protect the California red-legged frog and its habitat. These areas include: Bonnie Doon Quarries Settlement Ponds HCP, Santa Cruz County (6 ac (3 ha)) (Unit SCZ-1); East Contra Costa HCP/NCCP, Contra Costa County (75,767 ac (30,662 ha)) (Unit CCS-2); Western Riverside Multi-species HCP, Riverside County (4,069 ac (1,647 ha)) (Unit RIV-1); East Bay Regional Park District lands, Contra Costa County (14,627 ac (5,919 ha)) (Unit CCS-2); Hearst Ranch lands, San Luis Obispo County (34,777 ac (14,074 ha)) (Unit SLO-2); and Spivey Pond Management Area (BLM), El Dorado County (54 ac (22 ha)) (Unit ELD-1). See the section Exclusions Under Section 4(b)(2) of the Act for further discussion.

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) that 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 the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided under the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, and in the extraordinary case where population pressures within a given ecosystem cannot otherwise be relieved, may include regulated taking.

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 to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by private landowners. Where a landowner 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) of the Act would apply, but even in the event of a destruction or adverse modification finding, the landowner'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.

For inclusion in a critical habitat designation, habitat within the geographical area occupied by the species at the time it was listed must contain the physical and biological features that are essential to the conservation of the species, and be included only if those features may require special management considerations or protection. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life-cycle needs of the species (i.e., areas on which are found the primary constituent elements laid out in the appropriate quantity and spatial arrangement essential to the conservation of the species).

Under the Act, we can designate an area outside the geographical area occupied by the species at the time of listing as critical habitat only when we determine that the best available scientific data demonstrate that the designation of that area is 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 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 our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas to designate as revised critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all habitat areas that we may eventually determine, based on scientific data not now available to the Service, are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions we implement under section 7(a)(1) of the Act. They 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 Federal 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 (PCEs)

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 by the species at the time of listing to designate as critical habitat, we consider the physical and biological features essential to the conservation of the species that may require special management considerations or protection to be the PCEs laid out in the appropriate quantity and spatial arrangement essential to the 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, or 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.

We derive the specific PCEs required for the California red-legged frog from its biological needs as described below; in the Background section of this final rule; in the proposed revised critical habitat designation (73 FR 53491; September 16, 2008); and in the final listing rule (61 FR 25813; May 23, 1996).

Aquatic Breeding Habitat

Aquatic breeding habitat is essential for providing space, food, and cover necessary to sustain all aquatic life stages of the California red-legged frog. It consists of low-gradient fresh water bodies, including natural and manmade (e.g., stock) ponds, backwaters within streams and creeks, marshes, lagoons, and dune ponds. It does not include deep lacustrine water habitat (e.g., deep lakes and reservoirs 50 ac (20 ha) or larger in size).

To be considered essential breeding habitat, the aquatic feature must have the capability to hold water for a minimum of 20 weeks in all but the driest of years. This is the approximate amount of time needed for egg and tadpole development and metamorphosis so that juveniles can become capable of surviving in upland habitats (Storer 1925, pp. 242-243; Wright and Wright 1949, p. 418; Jennings 1988, p. 63). Drying of the aquatic habitat after that time can be beneficial because it helps prevent the establishment of predators such as fish in the family Centrarchidae (bass), mosquito fish (*Gambusia affinis*), or bullfrogs (*Lithobates catesbeianus*) (Hayes and Jennings 1988, p. 152; Cook 1997, pp. ii, iii, 17–19; Scott 1998, p. 3; Lawler *et al.* 1999, pp. 613–622; Frost *et al.* 2006, p. 369; Cook and Jennings 2007, p. 438; Crother *et al.* 2008, p. 7). Water quality requirements for eggs and tadpoles include low salinity (below 4.5 parts per thousand (ppt) for eggs; up to 7.0 ppt for tadpoles) (Jennings and Hayes 1990, pp. 18, 19; Jennings 1994, p. 1), and temperatures below about 73 degrees Fahrenheit (23 degrees Celsius) (Cook 1997, p. 16; Nussbaum *et al.* 1983, p. 160). Water bodies free of bullfrogs and nonnative predatory fish are optimal, but California red-legged frog populations can persist in the presence of one or the other of these predators (Kiesecker and Blaustein 1998, pp. 776, 782; Lawler *et al.* 1999, pp. 613, 619–621; Cook and Jennings 2007, p. 438).

Adult California red-legged frogs can survive in moist upland areas after breeding habitat has dried, and can live up to 8 to 10 years to make new breeding attempts. Therefore, aquatic breeding habitat need not be available every year, but it must be available at least once within the frog's lifespan for breeding to occur. In addition, the aquatic features must have appropriate hydroperiods (ponded habitat during the appropriate aquatic phase of the species) in order to maintain a California red-legged frog population during most years. Without aquatic breeding habitats, the California red-legged frog would not survive, reproduce, develop juveniles, and grow into adult California red-legged frogs that can complete their life cycles.

Non-Breeding Aquatic and Riparian Habitat

Non-breeding aquatic and riparian habitat is essential for providing the space, food, and cover necessary to sustain the California red-legged frog. Non-breeding aquatic habitat consists of shallow (non-lacustrine) freshwater features not suitable as breeding habitat, such as streams, small seeps, and ponds that dry too quickly to support breeding. Riparian habitat consists of vegetation growing nearby, but not typically in, a body of water on which it depends, and usually extends from the bank of a pond or stream to the margins of the associated floodplain.

Other non-breeding aquatic features that the California red-legged frog is known to use include locations such as moist cracks at the bottom of dried ponds, seeps, springs, intermittent streams, and small ponds. Cracks in the bottom of dried ponds are used as refugia to maintain moisture and avoid heat and solar exposure (Alvarez 2004, p. 162). Fellers and Kleeman (2007, p. 279) found that most California red-legged frogs leave their breeding habitat once breeding is completed and disperse to non-breeding aquatic habitat locations such as those listed above. Without these non-breeding aquatic features, the California red-legged frog would not be able to survive drought periods or disperse to other breeding habitat.

Upland Habitat

Upland habitats associated with riparian and aquatic habitat are essential to maintain California red-legged frog populations. This habitat type provides food and shelter sites for the California red-legged frog and assists in maintaining the integrity of aquatic sites by protecting them from disturbance and supporting the normal functions of the aquatic habitat. Upland habitat associated with occupied wetland habitat often contains blackberry (*Rubus* spp.), poison oak (*Toxicodendron diversilobum*), coyote brush (*Baccharis pilularis*), oaks (*Quercus* sp.), grasses, and other upland species, and serves as foraging habitat and provides shelter from predatory species (Service 2002, pp. 12–14; Fellers and Kleeman 2007, pp. 276–277).

Upland habitat that contains the features essential to the conservation of the species consists of natural areas near the edge of the riparian vegetation or the edge of the watershed boundary, and includes the dispersal corridor between breeding and non-breeding aquatic habitat. This is based on the dispersal capabilities of the species (see the Dispersal Habitat section below), and research identifying the use of upland areas by the species (Rathbun *et al.* 1993, pp. 15, 16; Bulger *et al.* 2003, pp. 93, 94; Tatarian 2004, pp. 24, 25; Fellers and Kleeman 2007, p. 279). Tatarian (2004, p. 22) found the California red-legged frog inhabiting upland areas for 50 days at a distance of 302 ft (92 m) from aquatic habitat; Bulger *et al.* (2003, pp. 87, 88) found that the species is capable of inhabiting upland habitats within 200 ft (60 m) of aquatic habitat for continuous durations exceeding 20 days; and Rathbun *et al.* (1993, pp. 15, 16) observed California red-legged frogs inhabiting upland riparian habitat for durations up to 77 days. California red-

legged frogs often disperse from their breeding habitat to forage and seek suitable upland habitat if aquatic habitat is not available.

As stated above in the Background section, the California red-legged frog is documented to disperse from ponds and streams a distance over 2.0 mi (3.2 km) (Bulger *et al.* 2003, p. 90). However, based on a review of the most current literature and information gathered in development of the recovery plan and subsequent critical habitat designations for the species, we determined that the 2.0-mi (3.2-km) distance is near the maximum dispersal distance for the species during a single season, and that the 1-mi (1.6-km) distance is more reflective of the average dispersal distance for the California red-legged frog (Rathbun *et al.* 1993, pp. 15, 16; Wright 1999, pp. 1, 2; Bulger *et al.* 2003, p. 90; Tatarian 2004, table 9; Fellers and Kleeman 2005, pp. 14–16; Fellers and Kleeman 2007, pp. 276–286). In addition, upland habitat features will influence California red-legged frog movements in a particular landscape. For example, in an area that contains a riparian habitat surrounded by drier chaparral habitat you would expect the frog to avoid movements into the drier habitat and to use the riparian area as a corridor for movement. Based on the landscape characteristics within the species' range and the species' reported dispersal capabilities, the upland habitat surrounding the aquatic breeding and non-breeding habitat (PCEs 1 and 2) would be limited to 1 mi (1.6 km) in most cases depending on surrounding landscape and dispersal barriers.

Upland habitat used by the California red-legged frog includes structures that provide shade, moisture, and cooler temperatures. These structures may be natural, such as the spaces under boulders or rocks and organic debris (e.g., downed trees or logs), or they could be manmade, such as construction debris or agricultural features (e.g., concrete blocks, drains, watering troughs, spring boxes, abandoned sheds, stacks of hay or other vegetation). The California red-legged frogs will also use small mammal burrows and moist leaf litter as refugia (Jennings and Hayes 1994, p. 64; Fellers and Kleeman 2005, p. 12).

Dispersal Habitat

Dispersal habitat provides connectivity among California red-legged frog breeding (and associated upland) habitat patches. While the California red-legged frog can pass many obstacles, and does not require a particular type of habitat for dispersal, the habitat connecting breeding locations and other aquatic habitat must be free of barriers that prevent California red-legged frogs from dispersing.

Designated dispersal habitat consists of upland and riparian habitat contiguous with breeding and non-breeding aquatic habitat that is free of barriers, and connects two or more patches of aquatic habitat within 1 mi (1.6 km) of one another. Dispersal barriers include heavily traveled roads (Vos and Chardon 1998, pp. 44, 54; Glista *et al.* 2008, pp. 81–82) that possess no bridges or culverts, moderate- to high-density urban or industrial developments with large expanses of asphalt or concrete that do not contain the PCEs or features essential to conservation of the species, and large lakes or reservoirs over 50 ac (20 ha). Agricultural lands such as row crops, orchards, vineyards, and pastures do not constitute barriers to California red-legged frog dispersal.

The California red-legged frog is documented to travel as far as 2.2 mi (3.6 km) from non-breeding to breeding habitats (Bulger *et al.* 2003, p. 90). These long-distance movements are likely migrations rather than use of corridors for moving between habitats (Scott and Rathbun 1998, pp. 2, 3). Additionally, these movements occur with apparent disregard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003, pp. 93, 94; Fellers and Kleeman 2005, pp. 15, 16). Based on our review of the best scientific data available, we conclude that 2.2 mi (3.6 km) is likely near the upward limit of dispersal capability for the California red-legged frog within a single season and that a 1-mi (1.6-km) dispersal distance will, in most instances, provide for connectivity between breeding aquatic habitats, non-breeding aquatic habitats, and areas of non-aquatic (i.e., upland) habitat and can be used as a general guide for habitat use (Rathbun *et al.* 1993, pp. 15, 16; Wright 1999, pp. 1, 2; Bulger *et al.* 2003, p. 90; Tatarian 2004, table 9; Fellers and Kleeman 2005, pp. 14–16; Fellers and Kleeman 2007, pp. 276–286). However, we also concur with Fellers and Kleeman (2007, p. 279) in that the exact extent of habitat use by the California red-legged frog is influenced by habitat availability and the location of movement corridors.

Accessible dispersal habitat provides opportunities for the California red-legged frog to move freely across the landscape in search of adjacent breeding and non-breeding habitats. Accessible dispersal habitat is considered essential to the conservation of the species and provides for: (1) Movement and establishment of home ranges by juvenile recruits; (2) Maintenance of gene flow through the movement of juveniles and adults between populations; and (3) recruitment into new breeding habitat or recolonization of breeding habitat after local extirpations.

Primary Constituent Elements (PCEs) for the California Red-Legged Frog

Within the geographical area occupied by the California red-legged frog at the time of listing, we must identify the physical or biological features essential to the conservation of the species that may require special management considerations or protection. This final revised critical habitat designation encompasses those areas containing the PCEs that are necessary to support one or more of the species' life history functions and that are laid out in the appropriate quantity and spatial arrangement essential to the conservation of the species. As stated in the Criteria Used to Identify Critical Habitat section of this rule, we believe that we can conserve the California red-legged frog within its extant range, and we are therefore not including any areas outside the geographical area currently occupied by the species. Because not all life-history functions require all the PCEs, not all areas designated as critical habitat will contain all the PCEs.

Based on the above needs and our current knowledge of the life-history, biology, and ecology of the California red-legged frog, we determined the California red-legged frog's PCEs are:

(1) *Aquatic Breeding Habitat.* Standing bodies of fresh water (with salinities less than 4.5 ppt), including natural and manmade (e.g., stock) ponds, slow-moving streams or pools within streams, and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 20 weeks in all but the driest of years.

(2) *Aquatic Non-Breeding Habitat.* Freshwater pond and stream habitats, as described above, that may not hold water long enough for the species to complete its aquatic life cycle but which provide for shelter, foraging, predator avoidance, and aquatic dispersal of juvenile and adult California red-legged frogs. Other wetland habitats considered to meet these criteria include, but are not limited to: plunge pools within intermittent creeks, seeps, quiet water refugia within streams during high water flows, and springs of sufficient flow to withstand short-term dry periods.

(3) *Upland Habitat.* Upland areas adjacent to or surrounding breeding and non-breeding aquatic and riparian

habitat up to a distance of 1 mi (1.6 km) in most cases (i.e., depending on surrounding landscape and dispersal barriers) including various vegetational types such as grassland, woodland, forest, wetland, or riparian areas that provide shelter, forage, and predator avoidance for the California red-legged frog. Upland features are also essential in that they are needed to maintain the hydrologic, geographic, topographic, ecological, and edaphic features that support and surround the aquatic, wetland, or riparian habitat. These upland features contribute to: (1) Filling of aquatic, wetland, or riparian habitats; (2) maintaining suitable periods of pool inundation for larval frogs and their food sources; and (3) providing non-breeding, feeding, and sheltering habitat for juvenile and adult frogs (e.g., shelter, shade, moisture, cooler temperatures, a prey base, foraging opportunities, and areas for predator avoidance). Upland habitat should include structural features such as boulders, rocks and organic debris (e.g., downed trees, logs), small mammal burrows, or moist leaf litter.

(4) *Dispersal Habitat.* Accessible upland or riparian habitat within and between occupied or previously occupied sites that are located within 1 mi (1.6 km) of each other, and that support movement between such sites. Dispersal habitat includes various natural habitats, and altered habitats such as agricultural fields, that do not contain barriers (e.g., heavily traveled roads without bridges or culverts) to dispersal. Dispersal habitat does not include moderate- to high-density urban or industrial developments with large expanses of asphalt or concrete, nor does it include large lakes or reservoirs over 50 ac (20 ha) in size, or other areas that do not contain those features identified in PCE 1, 2, or 3 as essential to the conservation of the species.

Special Management Considerations or Protections

When designating critical habitat within the geographical area that is occupied at the time of listing, we identify the features that are essential to the conservation of the species and assess whether those features may require special management considerations or protection.

The area designated as revised critical habitat will require some level of management to address current and future threats to the California red-legged frog and maintain the physical and biological features essential to the conservation of the species. Special management will be required in all units to ensure that aquatic and upland habitats provide abundant breeding and non-breeding areas, prey species, shelter, and connectivity within the landscape. The designation of critical habitat does not imply that areas outside of the final revised critical habitat designation do not play an important role in the conservation of the California red-legged frog. Areas outside the final revised critical habitat designation will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act, regulatory protections afforded by the section 7(a)(2) jeopardy standard, and the prohibitions of section 9 of the Act. These protections and conservation tools will continue to contribute to recovery of the species.

A detailed discussion of threats to the California red-legged frog and its habitat can be found in the final listing rule (May 23, 1996; 61 FR 25813); the 2001 critical habitat designation (March 13, 2001; 66 FR 14626); the 2006 critical habitat designation (April 13, 2006; 71 FR 19243); the 2008 proposed revised critical habitat designation (September 16, 2008; 73 FR 53491); and the 2002 recovery plan (Service 2002, pp. 1-173). Threats that may warrant special management considerations or protection of those features that define essential habitat in the appropriate quantity and spatial arrangement for the California red-legged frog include, but are not limited to: disease; direct and indirect impacts from some human recreational activities; flood control maintenance activities; water diversions; mining; dredging; sedimentation; water chemistry or temperature alterations; pesticide application; overgrazing; competition and predation by nonnative animal species; and habitat removal and alteration by urbanization, timber activities, and nonnative plant introduction. These threats may cause habitat alteration, degradation, or fragmentation and the direct or indirect loss of California red-legged frog eggs, juveniles, or adults or their habitat.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available in determining within the geographical area occupied at the time of listing the specific areas on which are found the features essential to the conservation of the California red-legged frog which may require special management considerations or protection, as well as in determining if any specific areas outside the geographical area occupied by the species are essential for the conservation of the California red-legged frog. We are designating critical habitat for the California red-legged frog within areas that we determined were occupied at the time of listing and that contain the physical and biological features essential to the conservation of the species. Lands are designated based on sufficient essential features being present to support one or more life processes.

Based on the criteria used to identify critical habitat for the California red-legged frog, we believe those areas designated as critical habitat within the geographical area occupied by the species at the time of listing and those occupied areas identified subsequent to listing are sufficient to conserve the California red-legged frog. Our strategy for determining features essential to the conservation of the species was to target areas known to be occupied by the California red-legged frog at the time of listing, or known to possess high-quality habitat likely to be occupied based on proximity to known occurrences, contiguous habitat, and dispersal capabilities of the California red-legged frog. We included large blocks of contiguous habitat that: (1) provide geographic distribution across the range of the species; (2) represent the full range of habitat and environmental variability the species occupies; (3) avoid conflict with existing commercial and residential development; (4) focus on public land, where available; and (5) where possible, overlap with other critical habitat designations. We believe the areas designated provide for the conservation of the California red-legged frog because the areas support large stable populations throughout the range of the species. The areas selected represent a distribution across the species' range and incorporate the northern and southern extent of the species within the coastal, interior coast, interior valleys, and Sierra Nevada Mountains. We believe the critical habitat units provide for connectivity and dispersal opportunities within, and in most cases between, units. Such opportunities for dispersal assist in maintaining the population structure and distribution of the California red-legged frog. We realize that there are areas outside of the designation that are included in the recovery plan and past critical habitat designations as having California red-legged frog occurrences or containing some of the primary constituent elements and that these areas may be utilized by the California red-legged frog for breeding, non-breeding activities, movement, and dispersal. However, as stated above, we believe the areas

designated in this rule provide for the conservation of the California red-legged frog. Therefore, we do not believe that we need to designate unoccupied areas for the species.

We believe it is important to note that critical habitat designation is a different process than development of a recovery plan. A critical habitat designation is a specific regulatory action that defines specific areas as critical habitat in accordance with the statutory definition. A recovery plan is a guidance document, developed in cooperation with partners, which provides a roadmap with detailed, site-specific management actions to help conserve listed species and their ecosystems. The term "essential" as used in the recovery plan does not necessarily carry the same meaning as in the definition of critical habitat. The recovery plan provides important information about the species and the actions that are needed to bring about its recovery, while critical habitat identifies specific areas that are essential for the species' conservation.

As required by section 4(b)(1)(A) of the Act, we used the best scientific data available in determining areas that contain the features essential to the conservation of the California red-legged frog, including the California red-legged frog recovery plan (Service 2002, pp. 1–173), reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits, research published in peer-reviewed articles and presented in academic theses and agency reports, and regional Geographic Information Systems (GIS) coverages. We are not designating any areas outside the geographical area presently occupied by the species.

We examined the core areas identified in the recovery plan and used these to focus our analysis of which areas to include in our critical habitat designation. We included a distribution of critical habitat within each core area that contains areas that were occupied at the time of listing and additional occupied areas identified as such subsequent to the time of listing. We found that the majority of newer occurrence records were within areas already known to support the California red-legged frog. We identified critical habitat units that have the highest likelihood to contain populations of the California red-legged frog based on (1) The presence of the defined PCEs; (2) the density of the California red-legged frog occurrences; (3) the kind, amount, and quality of habitat associated with those occurrences; and (4) the reasonable likelihood of habitat connectivity within and between units. The units contain the physical and biological features, as identified by the PCEs, in the appropriate quantity and arrangement essential to the conservation of the species.

We considered several criteria in the selection of areas that contain the physical and biological features essential to the conservation of the California red-legged frog. We designated units throughout the geographical, elevational, and ecological distribution of the species that: (1) Maintain the current population structure across the species' range; (2) retain or provide for connectivity between breeding sites to allow for the continued existence of viable and essential metapopulations, despite fluctuations in the status of subpopulations; (3) possess large continuous blocks of occupied habitat, representing source populations or unique ecological characteristics; and (4) contain sufficient upland habitat around each breeding location to allow for sufficient survival and recruitment to maintain a breeding population over the long term. We then compared areas meeting these requirements to the core areas identified in the recovery plan for the species (Service 2002, pp. 1–173) and adjusted the number and distribution of units so that all core areas were represented in this final revised critical habitat designation.

We delineated critical habitat boundaries using the following steps. We examined the range of the species as identified in our 2002 recovery plan for the California red-legged frog (Service 2002, pp. 1-173). We then determined the occupancy status of areas on the basis of report data compiled by the California Department of Fish and Game (CDFG) (CNDDB 2009). Initially, we used the 1996 final listing rule to establish those areas occupied at the time of listing. Subsequently, we used information on California red-legged frog population size, demographics, and biology to determine that additional areas were also occupied at the time of listing. Our designation does not include all areas where the California red-legged frog is known to occur. When determining which occupied areas contain the physical and biological features essential to the conservation of the species or the specific areas essential for the conservation of the species identified subsequent to those areas identified at the time of listing, we considered theories of metapopulation persistence, on-the-ground survey data, and the California red-legged frog's longevity. Bulger *et al.* (2003, pp. 85, 92) found more than 75 percent of California red-legged frogs are resident at permanent aquatic habitats over the course of a year, thereby providing local population stability. Survey data provided to us during the development of this and previous critical habitat rules show an average persistence of 19 years for California red-legged frog populations. Additionally, California red-legged frogs are considered long-lived with a minimum longevity of male and female California red-legged frogs between 8 and 10 years respectively (Jennings *et al.* 1992, p. 3), which also contributes to generational and metapopulation stability. For the above reasons, we believe that California red-legged frog populations located after the time of listing were actually present at the time of listing. This is because not all information on species locations existed or were available at that time (1996), and because new populations were unlikely to have been established in the interim period.

We conducted a more detailed analysis of the occurrence data records by evaluating records where the exact site location was not identified or confirmed, and we removed those locations from our analysis. We then selected areas that were inhabited by source populations that are capable of maintaining their current population levels and providing individuals to recruit into subpopulations found in adjacent areas. We based this on the occurrence information or history for the site and persistence within the area. Additionally, we selected several areas that have ecological significance because of their unique features or settings, with the goal of representing the full range of the habitat variability and evolutionary adaptation in this species. These unique areas include locations on the periphery of the current range or that are representative of the varying habitats occupied by the California red-legged frog (i.e., coastal areas, interior coast, interior valleys, and montane habitats) to cover the full distribution of the species, and areas that provide connectivity among populations.

Critical habitat units were delineated by creating approximate areas for the units by screen-digitizing polygons (map units) using ArcMap (Environmental Systems Research Institute, Inc.), a GIS program. The polygons were created by overlaying a 1-mi (1.6-km) radius around locations with occurrence records. We then used this distance as a guide for mapping the physical and biological features essential to the conservation of the species around the locations of California red-legged frog populations (see Dispersal Habitat section). As stated

above, the California red-legged frog has been documented to disperse from ponds and streams a distance greater than 2.0 mi (3.2 km) (Bulger *et al.* 2003, p. 90). However, based on our review of the best scientific data available, we determined that the 2.0-mi (3.2-km) distance is likely near the maximum dispersal distance for the species during a single season, and that the 1-mi (1.6-km) distance is more reflective of the average dispersal distance for the California red-legged frog (Rathbun *et al.* 1993, pp. 15, 16; Wright 1999, pp. 1, 2; Bulger *et al.* 2003, p. 90; Tatarian 2004, Table 9; Fellers and Kleeman 2005, pp. 14–16; Fellers and Kleeman 2007, pp. 276-286). We recognize that upland habitat features will influence California red-legged frog movements in a particular landscape. As a result, we made adjustments to the upland areas of the critical habitat boundaries to include lands up to the watershed boundaries or habitat containing the PCEs beyond the 1-mi (1.6-km) distance (where appropriate) to aggregate clumps of occurrences and provide connectivity between occurrences. Whenever determinable, we removed areas not containing the PCEs from this revised designation, including agricultural, developed, disturbed, or fragmented lands.

We evaluated the resulting units and refined the boundaries of the units within each watershed if it could be determined that certain areas within the units did not contain the primary constituent elements, were developed, or had dispersal barriers. We did not designate some areas because: (1) They do not contain sufficient PCEs to support one or more of the species' life processes; (2) the habitat within the area is highly degraded and is likely not restorable; (3) the area is small, highly fragmented, or isolated and likely provides little or no long-term conservation value; or (4) we determined that a sufficient amount of critical habitat had already been designated for an area. We applied this last criterion by evaluating the number of occurrence records for an area, the area's habitat quality or uniqueness, and the likelihood of persistence of the occurrences for an area.

Finally, we focused on areas of high California red-legged frog abundance and areas needed to maintain connectivity between aquatic breeding habitats. We used the core areas identified in the recovery plan (Service 2002, pp.1–173) to assist in focusing the areas and extent of the critical habitat boundaries. We refined unit boundaries by using watershed boundaries from the State of California's CALWATER watershed classification system (version 2.2) using the smallest (planning watersheds) watershed designation. Visual inspection of mapped California red-legged frog occurrence records revealed un-surveyed regions surrounded by surveyed regions (mostly adjacent to highly developed areas). Rather than designating critical habitat in a development fringe (areas adjacent to development), we designated in areas where fewer surveys may have been conducted but where California red-legged frogs are likely to occur based on nearby records and on similarity of habitat and presence of the physical and biological features essential to the conservation of the species. In areas where planning watersheds were large or hydrology was significantly altered, we used alternative structural, political, or topographic boundaries (e.g., streams, roads, county boundaries, ridgeline features, elevation contour lines) as the critical habitat boundary. These landscape features were used as critical habitat boundaries in these planning watershed areas because using a watershed boundary would have incorporated areas outside the species' dispersal distance or areas of unknown conservation value for the California red-legged frog. We made every attempt to connect localized California red-legged frog populations into single critical habitat units, if sufficient PCEs were present, in an attempt to combine similar habitats and to provide for better management of the unit.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack essential features for the California red-legged frog. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this final revised critical habitat are excluded by text 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 destruction or adverse modification, unless the specific action may affect adjacent critical habitat.

Final Critical Habitat Designation

We are designating approximately 1,636,609 ac (662,312 ha) of critical habitat for the California red-legged frog in 48 units that we proposed as revised critical habitat. We have determined that all units were occupied at the time of listing. The critical habitat areas in Tables 1 and 2, and the unit descriptions below constitute our best assessment at this time of areas that meet the definition of critical habitat for the California red-legged frog. Table 1 lists those units we are excluding from critical habitat under section 4(b)(2) of the Act. Table 2 identifies the approximate area designated as critical habitat for the California red-legged frog by land ownership. Due to the conversion of GIS data from two different geographic projection zones (zone 10 and zone 11) and conversion of the data to acres and hectares, some rounding adjustments may be reflected in the area estimates.

TABLE 1. SUMMARY OF AREAS EXCLUDED FROM THE DESIGNATION OF CRITICAL HABITAT FOR THE CALIFORNIA RED-LEGGED FROG UNDER SECTION 4(B)(2) OF THE ACT.

Unit	Areas of Critical Habitat		Areas Excluded	
	ac	ha	ac	ha
ELD-1	5,525	2,236	54	22
CCS-2	138,858	56,194	90,394	36,581
SCZ-1	72,255	29,241	6	2
SLO-2	117,449	47,530	34,777	14,074

TABLE 1. SUMMARY OF AREAS EXCLUDED FROM THE DESIGNATION OF CRITICAL HABITAT FOR THE CALIFORNIA RED-LEGGED FROG UNDER SECTION 4(B)(2) OF THE ACT.—Continued

Unit	Areas of Critical Habitat		Areas Excluded	
	ac	ha	ac	ha
SLO-3	122,420	49,541	5,612	2,271
STB-2	36,004	14,570	23,912	9,684
STB-4	8,693	3,518	1,001	405
RIV-1	4,069	1,647	4,069	1,647
Total			159,825	64,686

TABLE 2. CRITICAL HABITAT UNITS DESIGNATED FOR THE CALIFORNIA RED-LEGGED FROG.

Unit/Subunit	Federal		State		Local/Tribal*		Private		Total	
	ac	ha	ac	ha	ac	ha	ac	ha		
BUT-1	3,256	1,318	281	114			1,757	711	5,294	2,142
YUB-1	2,494	1,009					3,828	1,549	6,322	2,558
NEV-1	3,171	1,283	12	5			5,102	2,065	8,285	3,353
PLA-1	814	329					430	174	1,243	503
ELD-1	705	285					4,766	1,929	5,471	2,214
CAL-1							2,764	1,119	2,764	1,119
MEN-1	86	35	296	120	92*	37*	21,340	8,636	21,814	8,828
SON-1			1,157	468			407	165	1,564	633
SON-2							4,932	1,996	4,932	1,996
SON-3					105	42	2,125	860	2,230	902
NAP-1							2,524	1,022	2,524	1,022
MRN-1			11	4			7,829	3,168	7,840	3,173
MRN-2					1,046	423	21,513	8,706	22,559	9,129
MRN-3	31,403	12,709	147	60			2,050	830	33,600	13,598
SOL-1							11,971	4,845	11,971	4,845
SOL-2							3,360	1,360	3,360	1,360
SOL-3					1,087	440	3,510	1,421	4,597	1,861
CCS-1					9,835	3,980	4,010	1,623	13,845	5,603
CCS-2A			3,006	1,217	277	112	944	382	4,227	1,711
CCS-2B			4,059	1,643	3,088	1,250	37,322	15,104	44,470	17,996
ALA-1A					603	244	3,047	1,233	3,650	1,477
ALA-1B					3,667	1,484	6,492	2,627	10,159	4,111
ALA-2	6,892	2,789	3,932	1,591	39,525	15,995	103,276	41,794	153,624	62,169
SNM-1			12	5	2,096	848	32,844	13,292	34,952	14,145
SNM-2	406	164	4,004	1,620	6,332	2,563	85,396	34,559	96,138	38,906
STC-1	37	15			8,451	3,420	43,795	17,723	52,283	21,158
STC-2	604	244	53,267	21,556	74	30	150,773	61,016	204,718	82,846

SCZ-1	226	92	20,562	8,321			51,460	20,825	72,249	29,238
SCZ-2	115	46					3,942	1,595	4,057	1,642
MNT-1							519	210	519	210
MNT-2	26,098	10,562	374	151	1,373	556	91,647	37,088	119,492	48,357
MNT-3	9,960	4,030	4,245	1,718			13,338	5,398	27,542	11,146
SNB-1	13	5	3,109	1,258			33,172	13,424	36,294	14,687
SNB-2							17,356	7,024	17,356	7,024
SNB-3	20,048	8,113					43,706	17,687	63,753	25,800
SLO-1	169	68					17,849	7,223	18,018	7,292
SLO-2	440	178	648	262			81,585	33,016	82,673	33,457
SLO-3	29,104	11,778	5,737	2,322			81,676	33,053	116,517	47,153
SLO-4	26,183	10,596					8,280	3,351	34,463	13,947
STB-1	20,896	8,456					4,269	1,727	25,164	10,184
STB-2	35	14					12,031	4,869	12,066	4,883
STB-3	40,148	16,247					7,411	2,999	47,559	19,246
STB-4	44	18					7,641	3,092	7,685	3,110
STB-5	1,547	626	2,074	839			9,267	3,750	12,888	5,216
STB-6	1,881	761	29	12			10,075	4,077	11,985	4,850
STB-7	124,831	50,517	8	3			20,282	8,208	145,121	58,728
VEN-1							2,915	1,180	2,915	1,180
VEN-2	8,363	3,384					474	192	8,837	3,576
VEN-3	56	23			2,048	830	2,896	1,171	5,000	2,024
LOS-1	3,909	1,582					322	130	4,231	1,712
Total	363,931	147,278	106,970	43,289	79,700	32,254	1,090,223	441,197	1,636,609	662,312

Note: Area estimates (ac, (ha)) reflect the entire area within the critical habitat unit boundaries; areas supporting PCEs may have been included inadvertently as a result of mapping limitations. Due to conversion and rounding unit totals may not sum.

Presented below are brief descriptions of the units we are designating as revised critical habitat for the California red-legged frog. The units are listed in order geographically north to south and west to east, with the exception of units in the Sierra Nevada foothills, which are listed first, north to south. For more information about the areas excluded from critical habitat, please see the "Exclusions Under Section 4(b)(2) of the Act" section of this final rule.

BUT-1, Hughes Place Pond

This unit consists of approximately 5,294 ac (2,142 ha) and is located in east-central Butte County, east of State Highway 70 and west of Oroville-Quincy Highway. This unit is mapped entirely from occurrences recorded subsequent to the time of listing, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The unit is essential for the conservation of the species because the area contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), contains upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is currently occupied by the species. This unit encompasses one of six extant Sierra Nevada foothill populations identified since the time of listing and is located in the easternmost portion of the species' historical range. This unit would form one of the core areas for the species and would assist in maintaining the distribution of the species within the Sierra Nevada Mountains. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological conditions, and contains high-quality habitat. Land ownership within this unit consists of approximately 3,256 ac (1,318 ha) of Federal land, 281 ac (114 ha) of State land, and 1,757 ac (711 ha) of private land.

The essential features in this unit may require special management considerations or protection due to necessary wildland fire suppression activities, which may dewater aquatic habitats and thereby result in the desiccation of egg masses or direct death of adults from water drafting; timber harvest activities; and predation by non-native species. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

YUB-1, Little Oregon Creek

This unit consists of approximately 6,322 ac (2,558 ha) of land and is located in northeastern Yuba County, north of Marysville Road and south of La Porte Road. YUB-1 is mapped entirely from records identified since the time of listing, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The unit is considered essential for the conservation of the species because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), contains upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is currently occupied by the species. YUB-1 is one of six known extant Sierra Nevada foothill populations and is located in the easternmost portion of the species' historical range. This unit would form one of the core areas for the species and would assist in maintaining the distribution of the species within the Sierra Nevada Mountains. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological conditions, is known to be occupied, and contains high-quality habitat. This unit consists of Federal (2,494 ac (1,009 ha)) and private (3,828 ac (1,549 ha)) lands.

The essential features in this unit may require special management considerations or protection due to necessary wildland fire suppression activities, which may dewater aquatic habitats and thereby result in the desiccation of egg masses or direct death of adults from water drafting; timber harvest activities; and predation by non-native species. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

NEV-1, Sailor Flat

This unit is comprised of approximately 8,285 ac (3,353 ha) of land and is located in central Nevada County, approximately 3 mi (5 km) northeast of Nevada City, south of Tyler Foote Road and north of State Highway 20. NEV-1 is mapped entirely from occurrences recorded subsequent to the time of listing, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The unit is considered essential for the conservation of the species because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), contains upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. NEV-1 is one of six known extant Sierra Nevada foothill populations and is located in the easternmost portion of the species' historical range. This unit would form one of the core areas for the species and would assist in maintaining the distribution of the species within the Sierra Nevada Mountains. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is currently known to be occupied, and contains high-quality habitat. This unit consists of Federal (3,171 ac (1,283 ha)), State (12 ac (5 ha)) and private (5,102 ac (2,065 ha)) lands.

The essential features in this unit may require special management considerations or protection due to necessary wildland fire suppression activities, which may dewater aquatic habitats and thereby result in the desiccation of egg masses or direct death of adults from water drafting; timber harvest activities; and predation by non-native species. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

PLA-1, Michigan Bluff

This unit is comprised of approximately 1,243 ac (503 ha) of land and is located in central Placer County Nevada County, approximately 4 mi (6 km) east northeast of Foresthill. Unit PLA-1 is mapped entirely from occurrences recorded subsequent to listing, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The unit is considered essential for the conservation of the species because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), contains upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. PLA-1 is one of six known extant Sierra Nevada foothill populations and is located in the easternmost portion of the species' historical range. This unit would form one of the core areas for the species and would assist in maintaining the distribution of the species within the Sierra Nevada Mountains. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is currently known to be occupied, and contains high-quality habitat. This unit

consists of Federal (814 ac (329 ha)) and private (430 ac (174 ha)) lands.

The essential features in this unit may require special management considerations or protection due to necessary wildland fire suppression activities, which may dewater aquatic habitats and thereby result in the desiccation of egg masses or direct death of adults from water drafting; timber harvest activities; and predation by non-native species. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

ELD-1, Spivey Pond

This unit is comprised of approximately 5,471 ac (2,214 ha) of land and is located in central El Dorado County, south of State Highway 50 and east of Newton Road. ELD-1 is mapped entirely from occurrences recorded subsequent to listing. However, records at this location were first reported 1 year after listing (1997). Based on the number of mature, reproducing adults and non-reproducing juveniles, we have determined that this site was occupied at the time of listing. This unit contains features essential for the conservation of the species, including aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. ELD-1 is 1 of 6 known extant Sierra Nevada foothill populations and is located in the easternmost portion of the species' historical range. This unit would form one of the core areas for the species and would assist in maintaining the distribution of the species within the Sierra Nevada Mountains. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is currently known to be occupied, and contains high-quality habitat. The unit consists of Federal (705 ac (285 ha)) land and private (4,766 ac (1,929 ha)) lands. The essential features in this unit may require special management considerations or protection due to necessary wildland fire suppression activities, which may dewater aquatic habitats and thereby result in the desiccation of egg masses or direct death of adults from water drafting; timber harvest activities; and predation by nonnative species. Snows Quarry does not contain the PCEs, and we have removed it from this final designation of revised critical habitat. However, due to technical mapping constraints we did not physically remove the area from the map depicting unit ELD-1. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit ELD-1 have been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

CAL-1, Young's Creek

This unit is comprised of approximately 2,764 ac (1,119 ha) of land and is located in northwestern Calaveras County, north of State Highway 26 and south of Paloma Road. CAL-1 is mapped entirely from occurrences recorded subsequent to the time of listing and based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The unit is essential for the conservation of the species because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. This unit encompasses one of six known extant Sierra Nevada foothill populations identified since the time of listing and is located in the easternmost portion of the species historical range. This unit would form one of the core areas for the species and would assist in maintaining the distribution of the species within the Sierra Nevada Mountains. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is currently known to be occupied, and contains high-quality habitat. The unit consists entirely of private land. The essential features in this unit may require special management considerations or protection due to necessary wildland fire suppression activities, which may dewater aquatic habitats and thereby result in the desiccation of egg masses or direct death of adults from water drafting; overgrazing of land; and predation by non-native species. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MEN-1, Mills Creek

This unit is comprised of approximately 21,814 ac (8,828 ha) of land and is located along the coast north and west of Manchester, California, including the majority of the Mills Creek watershed in Mendocino County. MEN-1 contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The records within the unit were identified subsequent to listing as northern Mendocino County was thought to be outside the known range of the species. Based on life history and populations dynamics of the species this area was most likely occupied at the time of listing. Subsequent genetic research has confirmed the species occurs in this part of Mendocino County (Shaffer *et al.* 2004, p. 2676). This unit is currently occupied and is essential to the conservation of the species because it contains permanent and ephemeral aquatic habitats consisting of streams and natural and manmade ponds surrounded by emergent vegetation and marshland with upland comprised of forested timber that provides for breeding and other upland areas for dispersal, shelter, and foraging. The unit also contains freshwater pond and stream habitats associated with upland dune complexes near the coast. Additionally, the unit represents the northernmost extent of the species' range along the coast of California and may be genetically significant to the species (Shaffer *et al.* 2004, p. 2676). The unit consists of approximately 86 acres (ac) (35 hectares (ha)) of Federal land; 296 ac (120 ha) of State land; 92 ac (37 ha) of Tribal land; and 21,340 ac (8,636 ha) of private land.

The physical and biological features essential to the conservation of California red-legged frog in the MEN-1 unit may require special management considerations or protection due to non-native animal species, habitat alteration from invasive plant species, timber harvesting which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification and predation. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SON-1, Annadel

This unit is comprised of approximately 1,564 ac (633 ha) of land, is located in Annadel State Park southeast of Santa Rosa, California, in Sonoma County, and contains features that are essential for the conservation of the species. SON-1 was known to be occupied at the time of listing and is currently occupied. SON-1 contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The unit contains permanent and ephemeral aquatic habitat consisting of

marshland ponds with emergent vegetation surrounded by bulrush (*Scirpus* spp.) and cattail (*Typha* spp.), annual and perennial grasslands, oak forest, and Douglas-fir forests, which allow for breeding and non-breeding pond activities. Upland areas in the unit provide for dispersal, shelter, and foraging. The unit provides for connectivity between populations farther south in the northbay area (area north of San Francisco Bay), and contains high-quality, protected habitat. The unit also represents the distribution of the California red-legged frog in the northern interior Coast Range. The unit consists of State (1,157 ac (468 ha)) and private (407 ac (165 ha)) lands and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the SON-1 unit may require special management considerations or protection due to nonnative animal species, habitat alteration from invasive plant species, and recreational use which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification and predation. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SON-2, Sonoma Mountain

This unit is comprised of approximately 4,932 ac (1,996 ha) of land and is located east of Petaluma, California, in the Sonoma Mountains in Sonoma County. SON-2 is mapped from occurrences recorded at the time and subsequent to the time of listing and is currently occupied. This unit is essential to the conservation of the species because it contains permanent and ephemeral breeding and non-breeding aquatic habitats (PCE 1 and PCE 2) consisting of natural and manmade ponds surrounded by emergent vegetation and marshland with appropriate upland areas for dispersal, shelter, and foraging (PCE 3 and PCE 4). The unit also provides for connectivity between populations farther north and south in the northbay (Counties North of San Francisco Bay), and contains high-quality habitat. The unit also represents the distribution of the California red-legged frog in the northern interior Coast Range. The unit consists entirely of private land.

The physical and biological features essential to the conservation of California red-legged frog in the SON-2 unit may require special management considerations or protection due to predation by nonnative species, and habitat alteration from invasive plant species, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SON-3, Petaluma

This unit is comprised of approximately 2,230 ac (902 ha) of land and is located southwest of Petaluma, California, near West Petaluma Regional Park in Sonoma County. SON-3 is mapped entirely from occurrences recorded subsequent to the time of listing, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The unit is essential for the conservation of the species because it provides for connectivity between populations farther west in the northbay, and contains high-quality habitat. The unit also represents the distribution of the California red-legged frog in the northern interior Coast Range. This unit also contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SON-3 is currently occupied and contains permanent and ephemeral aquatic habitats comprised of manmade ponds and connecting streams surrounded by riparian and grassland habitat that provide for breeding, and upland areas for dispersal, shelter, and foraging. The unit consists of local government lands (105 ac (42 ha)) and private lands (2,125 ac (860 ha)).

The physical and biological features essential to the conservation of California red-legged frog in the SON-3 unit may require special management considerations or protection due to non-native animal species, habitat alteration from invasive plant species, and recreational use which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification and predation. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

NAP-1, Wragg Creek

This unit is comprised of approximately 2,524 ac (1,022 ha) of land, is located in east-central Napa County, is bisected by State Highway 128, and lies largely to the west of State Highway 121. NAP-1 was known to be occupied at the time of listing, is currently occupied, and contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The unit contains permanent and ephemeral aquatic habitats suitable for breeding and upland areas for dispersal, shelter, and food. The unit provides for connectivity between populations northwest of the northbay; represents the northern extent of the species' range in the northern interior Coast Range; and contains high-quality habitat. The unit consists entirely of private land and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the NAP-1 unit may require special management considerations or protection due to predation by nonnative species and habitat disturbance, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MRN-1, Estero

This unit is comprised of approximately 7,840 ac (3,173 ha) of land and is located in northwestern Marin County, west of State Highway 1 along the Estero de San Antonio. MRN-1 is occupied and contains occurrences recorded at the time of listing and subsequent to the time of listing. The area is occupied by the species, and contains features essential to the conservation of the species because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). MRN-1 provides for connectivity between populations in the northbay region. The unit also represents the distribution of the California red-legged frog in the northbay coastal area. The unit contains permanent and ephemeral aquatic habitats, such as shallow and

deep pools, as well as ephemeral and permanent drainages surrounded by grasslands, emergent and other riparian vegetation that provide for aquatic breeding and non-breeding, and upland areas for dispersal, shelter, and foraging. The unit consists of 11 ac (4 ha) of State land and 7,829 ac (3,168 ha) of private land.

The physical and biological features essential to the conservation of California red-legged frog in the MRN-1 unit may require special management considerations or protection due to overgrazing of aquatic and riparian habitats, introduction of exotic vegetation, and urban development, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MRN-2, Salmon Creek

This unit is comprised of approximately 22,559 ac (9,129 ha) of land and is located in north-central Marin County, east of State Highway 1 and north of Point Reyes Petaluma Road. MRN-2 is occupied and contains occurrences recorded subsequent to the time of listing, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. The area is essential to the conservation of the species because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), contains upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. MRN-2 provides for connectivity between populations in the northbay region of the species' coastal range. The unit also represents the distribution of the California red-legged frog in the northbay coastal area. The unit contains permanent and ephemeral aquatic habitats suitable for breeding; upland areas for dispersal, shelter, and food; and high-quality habitat. The unit consists of 1,046 ac (423 ha) of local government land and 21,513 ac (8,706 ha) of private land.

The physical and biological features essential to the conservation of California red-legged frog in the MRN-2 unit may require special management considerations or protection due to non-native animal species, habitat alteration from invasive plant species, and recreational use which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification and predation. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MRN-3, Point Reyes Peninsula

This unit is comprised of approximately 33,600 ac (13,598 ha) of land and is located in western Marin County, west of State Highway 1. MRN-3 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). MRN-3 was known to be occupied at the time of listing and is currently occupied. The unit contains high-quality permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter, and food. The unit provides for connectivity between populations farther north and inland and represents the southern portion of the geographic range of the California red-legged frog within the northbay coastal region. The unit consists of Federal land (National Park Service) (31,403 ac (12,709 ha)), State land (147 ac (60 ha)), and private land (2,050 ac (830 ha)) and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the MRN-3 unit may require special management considerations or protection due to predation by non-native species and to overgrazing of aquatic and riparian habitats which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SOL-1, Sky Valley

This unit is comprised of approximately 11,971 ac (4,845 ha) of land and is located in southwestern Solano County and a portion of extreme southeastern Napa County, south of Interstate 80 and west of Interstate 680. SOL-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). Unit SOL-1 was known to be occupied at the time of listing and is currently occupied. The unit contains high-quality permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter, and food. The designation of this unit is expected to prevent further fragmentation of habitat in this portion of the species' range and represents the southern extent of the species in the interior Coast Range north of the Suisun Bay. The unit consists entirely of private land and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the SOL-1 unit may require special management considerations or protection due to overgrazing of aquatic and riparian habitats, and removal and alteration of habitat due to urbanization, which may alter or eliminate aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SOL-2, Jameson Canyon

This unit is comprised of approximately 3,360 ac (1,360 ha) of land and is located in southwestern Solano County and a portion of extreme southeastern Napa County, south of Interstate 80 and west of Interstate 680. SOL-2 is mapped entirely from records found subsequent to the time of listing and is currently occupied, but based on life history and population dynamics of the species the area was most likely occupied at the time of listing. SOL-2 is essential for the conservation of the species because it provides connectivity to adjacent units to the south in the interior Coast Range north of the Suisun Bay and is expected to prevent further fragmentation of habitat in this portion of the species' range. This unit also contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The unit contains high-quality permanent and ephemeral aquatic habitats consisting of stream and plunge pools as well as large freshwater marsh surrounded by open grassland, willow (*Salix* spp.), and oak (*Quercus agrifolia*) that provide for breeding, and upland areas for dispersal, shelter, and foraging. The unit consists entirely of private land.

The physical and biological features essential to the conservation of California red-legged frog in the SOL-2 unit may require special management considerations or protection due to non-native animal species, over grazing of habitat, urbanization, habitat alteration from invasive plant species, and recreational use which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification and predation. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SOL-3, American Canyon

This unit is comprised of approximately 4,597 ac (1,861 ha) of land and is located in southwestern Solano County and a portion of extreme southeastern Napa County, north of Interstate 80 and south of Highway 12. SOL-3 was known to be occupied at the time of listing and is currently occupied. SOL-3 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The unit contains high-quality permanent and ephemeral aquatic habitats consisting of pools, stream, and spring habitat surrounded by riparian tree species and annual grasslands that provide for breeding, and upland areas for dispersal, shelter, and foraging. The designation of this unit is expected to prevent further fragmentation of habitat in this portion of the species' range and provides connectivity to other units farther north and south in the interior Coast Range north of the Suisun Bay. The unit consists of 1,087 ac (440 ha) of local nonprofit ownership and 3,510 ac (1,421 ha) of private land and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the SOL-3 unit may require special management considerations or protection due to overgrazing of aquatic and riparian habitats, and loss and alteration of habitat due to urbanization, which may alter or eliminate aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

CCS-1, Berkeley Hills

This unit is comprised of approximately 13,845 ac (5,603 ha) of land and is located in western Contra Costa County, south of Alhambra Valley Road and north of Bear Creek Road. CCS-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). CCS-1 was known to be occupied at the time of listing, is currently occupied, and contains high-quality permanent and ephemeral aquatic habitats suitable for breeding and upland areas for dispersal, shelter, and food. The designation of this unit is expected to prevent further fragmentation of habitat in this portion of the species' range. The unit also represents the northern extent of the California red-legged frog in the eastbay region (area east of San Francisco Bay). The unit consists of private (4,010 ac (1,623 ha)) and local government (9,835 ac (3,980 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the CCS-1 unit may require special management considerations or protection due to predation by nonnative species, and removal and alteration of habitat due to urbanization, and overgrazing of aquatic and riparian habitats, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

CCS-2, Mount Diablo

This unit is comprised of two subunits (CCS-2A and CCS-2B), totals approximately 48,697 ac (19,707 ha) of land, and is located in eastern Contra Costa County and northeastern Alameda County, north of Highway 580. Unit CCS-2A (4,227 ac (1,711 ha)) and CCS-2B (44,470 ac (17,996 ha)) contain the features that are essential for the conservation of the species. The subunits contain aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). Subunits CCS-2A and CCS-2B were known to be occupied at the time of listing and are currently occupied. The subunits contain permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter, and food, and they provide for connectivity between populations farther south in the interior Coast Range. The Subunit CCS-2A also represents the northern extent of the California red-legged frog in the interior Coast Range. Subunit CCS-2B contains some of the highest concentrations of California red-legged frog and frog habitat and could serve as a source for potential reintroduction efforts. Subunit CCS-2A consists of State (3,006 ac (1,217 ha)), local government (277 ac (112 ha)), and private (944 ac (382 ha)) land, and subunit CCS-2B consists of State (4,059 ac (1,643 ha)), local government (3,088 ac (1,250 ha)), and private (37,322 ac (15,104 ha)) lands. Both subunits are mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in CCS-2 may require special management considerations or protection due to predation by nonnative species, urbanization, overgrazing of aquatic and riparian habitats, and erosion and siltation due to flooding, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit CCS-2 have been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

ALA-1A, Dublin Canyon

This subunit is one of two subunits for the Alameda County area and is comprised of approximately 3,650 ac (1,477 ha) of land and is located in northwestern Alameda County and southern Contra Costa County, north of Highway 580 and west of Dublin, California. Unit ALA-1A contains the features that are essential for the conservation of the species. The subunit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). ALA-1A was known to be occupied at the time of listing and is currently occupied. The subunit contains permanent and ephemeral aquatic habitats that provide for breeding that

are comprised of manmade stock ponds and natural streams with emergent vegetation, willows (*Salix* spp.), or are surrounded by riparian vegetation, grasslands and oak forest. These aquatic habitats also have adjacent upland areas for dispersal, shelter, and foraging opportunities. The subunit provides for connectivity between populations farther south in the eastbay foothills. The unit also represents the southern-most distribution of the California red-legged frog and its habitat in the east bay region. The subunit consists entirely of local government land (603 ac (244 ha)) and private land (3,047 ac (1,233 ha)) and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the ALA-1A subunit may require special management considerations or protection due to removal and alteration of habitat due to urbanization, alteration of aquatic and riparian habitats, dumping, and erosion and siltation of ponded habitat, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

ALA-1B, Cook Canyon

This subunit is the second of two subunits and is comprised of approximately 10,159 ac (4,111 ha) of land and is located in northwestern Alameda County, south of Highway 580. Unit ALA-1B contains the features that are essential for the conservation of the species. The subunit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). ALA-1B was known to be occupied at the time of listing and is currently occupied. The subunit contains permanent and ephemeral aquatic habitats comprised of manmade stock ponds and natural streams with emergent vegetation, willows (*Salix* spp.) surrounded by riparian vegetation, grasslands and oak forest that provide for breeding, and upland areas for dispersal, shelter, and foraging opportunities. The subunit provides for connectivity between populations farther north in the eastbay foothills. The subunit also represents the southern-most distribution of the California red-legged frog and its habitat in the east bay region. The subunit consists of local government land (3,667 ac (1,484 ha)) and private land (6,492 ac (2,627 ha)) and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the ALA-1B subunit may require special management considerations or protection due to removal and alteration of habitat due to urbanization, alteration of aquatic and riparian habitats, and erosion and siltation of ponded habitat, which may result in direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

ALA-2, Arroyo Valle

This unit is comprised of approximately 153,624 ac (62,169 ha) of land and is located in southwestern Alameda County, south of Highway 580 at Altamont Pass southeast into San Joaquin County and southwest into Santa Clara County near Arroyo Hondo and Calaveras Reservoir. Unit ALA-2 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). ALA-2 was known to be occupied at the time of listing and is currently occupied. The unit contains permanent and ephemeral aquatic habitats comprised of natural ponds and streams and manmade stock ponds with emergent vegetation, willows (*Salix* spp.) surrounded by riparian vegetation, grasslands and oak forest that provide for breeding, and upland areas for dispersal, shelter, and foraging opportunities. The unit provides for connectivity between populations farther north and south in the interior Coast Range. The unit consists of Federal (6,892 ac (2,789 ha)), State (3,932 ac (1,591 ha)), local government (39,525 ac (15,995 ha)), and private (103,276 ac (41,794 ha)) lands and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the ALA-2 unit may require special management considerations or protection due to urbanization, alteration of aquatic and riparian habitats, and erosion and siltation of ponded habitat, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SNM-1, Cahill Ridge

This unit is comprised of approximately 34,952 ac (14,145 ha) of land and is located in north central San Mateo County, west of Interstate 280 and south of Pacifica, California. SNM-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM-1 was known to be occupied at the time of listing and is currently occupied. The unit contains high-quality permanent and ephemeral aquatic habitats consisting of ponds and streams surrounded by riparian and emergent vegetation that provides for breeding and upland areas for dispersal, shelter, and food. The unit represents the only unit in the San Francisco peninsula, and would assist in maintaining the distribution of the California red-legged frog population within the San Francisco area, and provide connectivity to units farther south into Santa Cruz County. The unit consists of State (12 ac (5 ha)), private (32,844 ac (13,292 ha)), and local government (2,096 ac (848 ha)) lands and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the SNM-1 unit may require special management considerations or protection due to development and nonnative invasive plants, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SNM-2, Pescadero

This unit is comprised of approximately 96,138 ac (38,906) of land and is located in southwestern San Mateo County, south of Tunitas Creek, west of State Route 35 south into Santa Cruz County near Big Basin Redwoods State Park. Unit SNM-2 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and

PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM-2 was known to be occupied at the time of listing and is currently occupied. The unit contains high-quality permanent and ephemeral aquatic habitats consisting of ponds and streams surrounded by riparian and emergent vegetation that provides for breeding and upland areas for dispersal, shelter, and food. The unit provides connectivity to units farther north toward San Francisco and south into Santa Cruz County. The unit consists of Federal (406 ac (164 ha)), State (4,004 ac (1,620 ha)), local government (6,332 ac (2,563 ha)), and private (85,396 ac (34,559 ha)) lands and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the SNM-2 unit may require special management considerations or protection due to development and nonnative invasive plants, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STC-1, Cañada de Pala

This unit is comprised of approximately 52,283 ac (21,158 ha) of land and is located in north-central Santa Clara County, south of Calaveras Reservoir near Los Buellis Hills south along the ridgeline east of Santa Clara Valley to Anderson Lake and Henry Coe State Park. Unit STC-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STC-1 was known to be occupied at the time of listing, is currently occupied, and contains high-quality permanent and ephemeral aquatic habitats consisting of artificial and natural ponds and streams surrounded by emergent vegetation, grasslands and oak woodlands that provide for breeding, and upland areas for dispersal, shelter, and food. The designation of this unit is expected to assist in preventing further fragmentation of habitat in this portion of the species' range and represents a connectivity corridor between units farther north into Contra Costa County and south into Merced and San Benito Counties. This unit consists of Federal (37 ac (15 ha)), local government (8,451 ac (3,420 ha)), and private (43,795 ac (17,723 ha)) lands and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the STC-1 unit may require special management considerations or protection due to predation by nonnative species, urbanization, the presence of exotic species, siltation and erosion of ponded habitat, and overgrazing of aquatic and riparian habitats, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STC-2, Wilson Peak

This unit is comprised of approximately 204,718 ac (82,846 ha) of land and is located in southeastern Santa Clara County to western Stanislaus County down to northern San Benito County from Henry Coe State Park south to Mount Ararat (Merced County) and Mariposa Peak (San Benito County) to San Felipe (Santa Clara County). Unit STC-2 contains the features that are essential for the conservation of the species. The unit also contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STC-2 was known to be occupied at the time of listing and is currently occupied. The unit contains high-quality permanent and ephemeral aquatic habitats suitable for breeding and upland areas for dispersal, shelter, and food. The designation of this unit is expected to prevent further habitat fragmentation; provide connectivity to units farther north in Santa Clara, Alameda, and Contra Costa Counties; and represents the southern portion of the areas designated within Santa Clara County and east bay. The unit consists of Federal (604 ac (244 ha)), State (53,267 ac (21,556 ha)), local government (74 ac (30 ha)), and private (150,773 ac (61,016 ha)) lands and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing.

The physical and biological features essential to the conservation of California red-legged frog in the STC-2 unit may require special management considerations or protection due to predation by nonnative species, and habitat alteration from development activities which may affect aquatic habitats and thereby result in the direct or indirect loss of egg masses, juveniles, or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SCZ-1, North Coastal Santa Cruz County

This unit is comprised of approximately 72,249 ac (29,238 ha) of land and is located along the coastline of northern Santa Cruz County, plus a small area in southern San Mateo County, from approximately Green Oaks Creek to Wilder Creek. The unit includes the following watersheds: Green Oaks Creek, Waddell Creek, East Waddell Creek, Scott Creek, Big Creek, Little Creek, San Vicente Creek, Laguna Creek, and Majors Creek. The unit is mapped from occurrences recorded at the time of listing and subsequent to the time of listing and is currently occupied. SCZ-1 contains the features that are essential for the conservation of the species. The unit also contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SCZ-1 provides connectivity between occupied sites along the coast and farther inland. In addition, it contains high-quality habitat, indicated by high density of extant occurrences, permanent and ephemeral aquatic habitat suitable for breeding, and accessible upland areas for dispersal, shelter, and food. The unit represents one of two areas designated for critical habitat in Santa Cruz County and is the northern extent of the central coast recovery unit. The unit consists of Federal (226 ac (92 ha)), State (20,562 ac (8,321 ha)), and private (51,460 ac (20,825 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SCZ-1 unit may require special management considerations or protection due to water diversions, which may alter aquatic habitats and thereby result in the direct or indirect loss of egg masses, juveniles, or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit SCZ-

1 have been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

SCZ-2, Watsonville Slough

This unit is comprised of approximately 4,057 ac (1,642 ha) of land and is located along the coastal plain in southern Santa Cruz County, north of the mouth of the Pajaro River and seaward of California Highway 1. It includes locations in the Watsonville Slough system, including all or portions of Gallighan, Hanson, Harkins, Watsonville, Struve, and the West Branch of Struve sloughs. The unit includes portions of the Corralitos Lagoon and Mouth of the Pajaro River watersheds. The unit is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. SCZ-2 contains the features that are essential for the conservation of the species. This unit is currently occupied, and contains permanent and ephemeral aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and contains upland habitat for foraging, dispersal activities, and shelter (PCE 3 and PCE 4). SCZ-2 also provides connectivity between occupied sites along the coast and farther inland. The unit consists of Federal (115 ac (46 ha)) and private (3,942 ac (1,595 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SCZ-2 unit may require special management considerations or protection due predation by nonnative species, and due to urbanization and the presence of introduced invasive plants, both of which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MNT-1, Elkhorn Slough

This unit is comprised of approximately 519 ac (210 ha) of land and is located along the coastal plain in northern Monterey County, inland from the town of Moss Landing, and it is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. This unit is currently occupied. The unit includes the eastern edge of the Elkhorn Slough watershed and the western edge of the Strawberry Canyon watershed. MNT-1 contains the features that are essential for the conservation of the species. This unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The designation of MNT-1 is expected to prevent further fragmentation of habitat in this portion of the species' range, contains permanent and ephemeral aquatic habitats suitable for breeding, and contains upland areas for dispersal, shelter, and food. We have determined that these attributes are essential to the conservation of the species. Elkhorn Slough is unique in that it is a large estuary/freshwater slough system not typically found on the California coast. The unit consists entirely of private land.

The physical and biological features essential to the conservation of California red-legged frog in the MNT-1 unit may require special management considerations or protection due to pesticide exposure, trematode infestation, disease, and predation by nonnative species, which may affect aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MNT-2, Carmel River

This unit is comprised of approximately 119,492 ac (48,357 ha) of land, is located south and southeast of the city of Monterey, and includes locations in the Carmel River drainage and nearby San Jose Creek. The unit includes the following watersheds and portions of watersheds: the southern portion of Carmel Bay, Carmel Valley, Robinson Canyon, San Jose Creek, Las Garces Creek, Hitchcock Canyon, the western portion of Lower Tularcitos Creek, Klondike Canyon, Black Rock Creek, Pine Creek, Danish Creek, Cachagua Creek, Lower Finch Creek, Bear Canyon, Bruce Fork, and Miller Canyon. It is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. MNT-2 contains the features that are essential for the conservation of the species. The unit is currently occupied and contains permanent and ephemeral aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging, dispersal activities, and shelter (PCE 3 and PCE 4). The unit is the largest designated within Monterey County. The unit consists of Federal (26,098 ac (10,562 ha)), State (374 ac (151 ha)), local government (1,373 ac (556 ha)), and private (91,647 ac (37,088 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the MNT-2 unit may require special management considerations or protection due to predation by nonnative species, urbanization, and water pumping and diversions, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

MNT-3, Big Sur Coast

This unit is comprised of approximately 27,542 ac (11,146 ha) of land; is located along the Big Sur coastline in Monterey County, approximately from the mouth of the Little Sur River south to McWay Canyon; and includes locations in and around the Big Sur River drainage. The unit includes the following watersheds: Point Sur, Big Sur River, Ventana Creek, Sycamore Canyon, and Partington Creek. This unit was not known to be occupied at the time of listing, but surveys conducted subsequent to the time of listing show that this unit is currently occupied. Based on life history and population dynamics of the species we have determined that the area was most likely occupied at the time of listing. MNT-3 is essential for the conservation of the species because it contains the largest coastal habitat within Monterey Bay region and provides for connectivity to more interior units further north. MNT-3 also contains permanent and ephemeral aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging, dispersal activities, and shelter (PCE 3 and PCE 4). MNT-3 is currently occupied by the species. The unit consists of Federal (9,960 ac (4,030 ha)), State (4,245 ac (1,718 ha)), and private (13,338 ac (5,398 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the MNT-3 unit may require special management considerations or protection due to predation by non-native species, urbanization, and water pumping and diversions, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SNB-1, Hollister Hills/San Benito River

This unit is comprised of approximately 36,294 ac (14,687 ha) of land and is located in northwestern San Benito County in the San Benito River drainage. The unit includes the following watersheds and portions of watersheds: the southern portions of San Justo Reservoir, Northeast Hollister Hills, and Upper Bird Creek; Left Fork Bird Creek; Sulfur Canyon; and the western portions of Arroyo Hondo, Willow Grove School, Paicines Ranch, and Lower Pescadero Creek. It is mapped from occurrences recorded at the time of listing and subsequent to the time of listing near Saint Frances Retreat, San Juan Oaks, Azalea Canyon, Bird Creek, Hollister Hills State Vehicle Recreation Area, Paicines Reservoir, and Tres Pinos Creek. SNB-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNB-1 also provides essential connectivity between sites on the coast plain and inner Coast Range. SNB-1 is occupied by the species, is expected to prevent further fragmentation of habitat in this portion of the species' range, and contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter, and food. The unit consists of Federal (13 ac (5 ha)), State (3,109 ac (1,258 ha)), and private (33,172 ac (13,424 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SNB-1 unit may require special management considerations or protection due to predation by nonnative species, and habitat disturbance, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SNB-2, Antelope Creek/Upper Tres Pinos Creek

This unit is comprised of approximately 17,356 ac (7,024 ha) of land and is located in central San Benito County along the Tres Pinos Creek drainage within the Antelope Creek watershed. This unit was not known to be occupied at the time of listing, but surveys conducted subsequent to the time of listing show that this unit is currently occupied, and based on life history and population dynamics of the species we have determined that the area was most likely occupied at the time of listing. It is mapped from occurrence records in and along Tres Pinos Creek between the confluences of Boulder and Willow Springs Creeks. SNB-2 is essential for the conservation of the species because it provides aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNB-2 is occupied by the species, is expected to prevent fragmentation of habitat in this portion of the species' range, and contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter, and food. The unit consists entirely of private land.

The physical and biological features essential to the conservation of California red-legged frog in the SNB-2 unit may require special management considerations or protection due to predation by nonnative species, overgrazing and trampling of aquatic and upland habitat by feral pigs, and recreational activities, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SNB-3, Pinnacles National Monument

This unit is comprised of approximately 63,753 ac (25,800 ha) of land; is located in the Gabilan Range at Pinnacles National Monument, about 3.5 mi (5.6 km) west of the town of San Benito in southern San Benito County; and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit includes the following watersheds: Gloria Lake, Bickmore Canyon, Sulfur Creek, and George Hansen Canyon. SNB-3 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNB-3 is expected to prevent further fragmentation of habitat in this portion of the species' range; contains permanent and ephemeral aquatic habitat suitable for breeding; contains accessible upland areas for dispersal, shelter, and food; and is occupied by the species. The unit consists of Federal (20,048 ac (8,113 ha)) and private (43,706 ac (17,687 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SNB-3 unit may require special management considerations or protection due to predation by nonnative species, overgrazing and trampling of aquatic and upland habitat by feral pigs, and recreational activities, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SLO-1, Cholame

This unit is comprised of approximately 18,018 ac (7,292 ha) of land; and is located in northeastern San Luis Obispo, northwestern Kern, and southwestern Kings Counties; includes locations in the Cholame Creek drainage; and is mapped from occurrences recorded at time of listing and subsequent to the time of listing. The unit includes portions of the following watersheds: the southern portion of Blue Point, the western portion of Jack Canyon, and the eastern portion of Palo Prieto Canyon. SLO-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO-1 contains permanent and ephemeral aquatic habitats suitable for breeding; contains accessible upland areas for dispersal, shelter, and food; and is occupied by the species. SLO-1 consists of Federal (169 ac (68 ha)) and private (17,849 ac (7,223 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SLO-1 unit may require special management considerations or protection due to highway construction, overgrazing, and water diversions, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

SLO-2, Piedras Blancas to Cayucos Creek

This unit is comprised of approximately 82,673 ac (33,457 ha) of land and is located along the coast in northwestern San Luis Obispo County

from approximately Arroyo de Los Chinos southward to just before but not including Whale Rock Reservoir. The unit includes the following watersheds: Arroyo de los Chinos, Lower Arroyo de la Cruz, Arroyo del Corral, Oak Knoll Creek, Broken Bridge Creek, Pico Creek, Upper San Simeon Creek, Lower San Simeon Creek, Steiner Creek, Upper Santa Rosa Creek, Lower Santa Rosa Creek, and Lower Green Valley Creek. The unit is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. SLO-2 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO-2 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Range in San Luis Obispo County. This unit is occupied by the species. The unit contains high-quality habitat, indicated by high density of extant occurrences, permanent and ephemeral aquatic habitats suitable for breeding, and accessible upland areas for dispersal, shelter, and food. The unit consists of Federal (440 ac (178 ha)), State (648 ac (262 ha)), and private (81,585 ac (33,016 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SLO-2 unit may require special management considerations or protection due to predation by nonnative species, water diversion, overgrazing, and urbanization, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit SLO-2 has been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

SLO-3, Willow and Toro Creeks to San Luis Obispo

This unit is comprised of approximately 116,517 ac (47,153 ha) of land and is located near the coast in central San Luis Obispo County and extends about 1.9 mi (3 km) north of the town of Morro Bay southward to just north and east of the city of San Luis Obispo. The unit includes the following watersheds: Old Creek, Whale Rock Reservoir, the southern portion of Hale Creek, Morro Bay, San Luisito Creek, the western and southern portions of Santa Margarita Creek, Choro Reservoir, Stenner Lake, Reservoir Canyon, Trout Creek, and Big Falls Canyon. The unit is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. SLO-3 contains the features that are essential for the conservation of the species. The unit is currently occupied and contains permanent and ephemeral aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging, dispersal, and shelter (PCE 3 and PCE 4). SLO-3 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Range in San Luis Obispo County. This unit consists of Federal (29,104 ac (11,778 ha)), State (5,737 ac (2,322 ha)) and private (81,676 ac (33,053 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SLO-3 unit may require special management considerations or protection due to predation by nonnative species, water diversion, overgrazing, and urbanization, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit SLO-3 has been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

SLO-4, Upper Salinas River

This unit is comprised of approximately 34,463 ac (13,947 ha) of land, is located at the base of Garcia Mountain about 17 mi (27 km) east of the City of San Luis Obispo, is mapped from occurrences recorded subsequent to the time of listing, and is currently occupied by the species. Based on the life history and population dynamics of the species we have determined that the area was most likely occupied at the time of listing. The unit includes the following watersheds: Horse Mesa, Douglas Canyon, American Canyon, and Coyote Hole. This unit is essential for the conservation of the species because it is the only unit in San Luis Obispo County entirely within the interior Coast Range and provides connectivity between populations in the coastal areas and populations farther inland. SLO-4 also contains permanent and ephemeral aquatic habitats consisting of natural and manmade ponds surrounded by emergent vegetation and marshland with upland dispersal habitat comprised of riparian areas for dispersal, shelter, and foraging. This unit consists of Federal (26,183 ac (10,596 ha)) and private (8,280 ac (3,351 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the SLO-4 unit may require special management considerations or protection due to predation by nonnative species, and due to water diversion, overgrazing, and urbanization, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults due to habitat modification. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STB-1, La Brea Creek

This unit is comprised of approximately 25,164 ac (10,184 ha) of land, is located in Los Padres National Forest in northern Santa Barbara County, and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit includes the following watersheds: Bear Canyon, the southern portion of Smith Canyon, Rattlesnake Canyon, Lower South Fork La Brea Creek, and the eastern portion of Lower La Brea Creek. STB-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The unit consists of Federal (20,896 ac (8,456 ha)) and private (4,269 ac (1,727 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the STB-1 unit may require special management considerations or protection due to recreational activities, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STB-2, San Antonio Terrace

This unit is comprised of approximately 12,066 ac (4,883 ha) of land, is located in northwestern Santa Barbara County near the coast, extends from about Casmalia south to the Santa Lucia Canyon near the Purisima Hills, and is mapped from occurrences recorded subsequent to the time of listing. Based on the life history and population dynamics of the species we have determined that the area was most likely occupied at the time of listing. The unit includes the following watersheds: Graciosa Canyon and Lions Head. STB-2 provides connectivity between coastal populations and populations in the Transverse Ranges. STB-2 also contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). This unit is currently occupied by the species. The unit consists of Federal (35 ac (14 ha)) and private (12,031 ac (4,869 ha)) lands. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit STB-2 has been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

The physical and biological features essential to the conservation of California red-legged frog in the STB-2 unit may require special management considerations or protection due to recreational activities, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STB-3, Sisquoc River

This unit is comprised of approximately 47,559 ac (19,246 ha) of land and is located in northern Santa Barbara County and includes locations in the Sisquoc River drainage and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit contains the following watersheds: the southern portion of Tunnel Canyon, Burro Canyon, Sulphur Creek, Lower Manzano Creek, Middle Manzano Creek, Fir Canyon, Upper Cachuma Creek, and the northern portion of Happy Canyon. STB-3 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB-3 is occupied by the species, provides connectivity between locations along the coast and the Transverse Ranges, and is essential in stabilizing populations of the species in tributaries to the Santa Ynez River. The unit consists of Federal (40,148 ac (16,247 ha)) and private (7,411 ac (2,999 ha)) land.

The physical and biological features essential to the conservation of California red-legged frog in the STB-3 unit may require special management considerations or protection due predation by nonnative species, recreational activities, and poor water management practices which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STB-4, Jalama Creek

This unit is comprised of approximately 7,685 ac (3,110 ha) of land and is located along the coast in southwestern Santa Barbara County about 4.4 mi (7 km) south of the City of Lompoc, and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit includes the Casper Creek watershed. STB-4 contains the features that are essential for the conservation of the species. The unit includes aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB-4 is occupied by the species and provides connectivity between locations along the coast and the Santa Ynez River watershed. This unit consists of Federal (44 ac (18 ha)) and private (7,641 ac (3,092 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the STB-4 unit may require special management considerations or protection due to predation by nonnative species and habitat disturbance, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations. A portion of the lands containing features essential to the conservation of the California red-legged frog in Unit STB-4 has been excluded from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

STB-5, Gaviota Creek

This unit is comprised of approximately 12,888 ac (5,216 ha) of land, is located along the coast in southern Santa Barbara County about 3 mi (5 km) southwest of the town of Buellton, and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit includes the following watersheds: Cañada de las Cruces and Cañada de la Gavota. STB-5 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for shelter, foraging and dispersal activities (PCE 3 and PCE 4). STB-5 is occupied by the species and provides connectivity between locations along the coast and the Santa Ynez River watershed. The unit consists of Federal (1,547 ac (626 ha)), State (2,074 ac (839 ha)), and private (9,267 ac (3,750 ha) lands.

The physical and biological features essential to the conservation of California red-legged frog in the STB-5 unit may require special management considerations or protection due to predation by nonnative species and poor water management practices, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Populations in this unit may also require special management or protection due to their potential importance in stabilizing California red-legged frog populations in tributaries to the Santa Ynez River. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STB-6, Arroyo Quemado to Refugio Creek

This unit is comprised of approximately 11,985 ac (4,850 ha) of land, is located along the coast in southern Santa Barbara County about 5 mi (8 km) south of the town of Solvang, and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit includes the Tajiguas Creek watershed. STB-6 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal

activities (PCE 3 and PCE 4). STB-6 is occupied by the species, provides connectivity between locations along the coast and the Santa Ynez River watershed, and contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter, and food. The unit consists of Federal (1,881 ac (761 ha)), State (29 ac (12 ha)), and private (10,075 ac (4,077 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the STB-6 unit may require special management considerations or protection due to predation by nonnative species and poor water management practices, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Populations in this unit may also require special management or protection due to their potential importance in stabilizing California red-legged frog populations in tributaries to the Santa Ynez River. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

STB-7, Upper Santa Ynez River and Matilija Creek

This unit is comprised of approximately 145,121 ac (58,728 ha) of land, is located in southeastern Santa Barbara County about 5 mi (8 km) north of the City of Santa Barbara, and extends into western Ventura County at Matilija Creek. It is mapped from occurrences recorded at the time of listing and subsequent to the time of listing. The unit includes the following watersheds: Los Lauveles Canyon, Redrock Canyon, Oso Canyon, Buckhorn Creek, Camuesa Creek, Devils Canyon, Indian Creek Campground, Upper Mono Creek, Lower Mono Creek, Blue Canyon Upper Agua Caliente Canyon, Diablo Canyon, Lower Agua Caliente Canyon, Juncal Canyon, Lower Matilija Creek, North Fork Matilija Creek, and Cozy Dell Canyon. STB-7 contains the features that are essential for the conservation of the species. This unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB-7 is occupied by the species and provides connectivity between locations along the coast, in the Sierra Madre Mountains, and in the Ventura River watershed. It is important to species conservation and the persistence of the species in the Matilija watershed because it contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter, and food in that portion of the unit, which will provide connectivity between populations within the Transverse Ranges and will prevent further isolation of breeding locations near the limit of the geographic range of the species. The unit as a whole contains high-quality habitat, indicated by the high density of extant occurrences, permanent and ephemeral aquatic habitat suitable for breeding, and accessible upland areas for dispersal, shelter, and food. The unit consists of Federal (124,831 ac (50,517 ha)), State (8 ac (3 ha), and private (20,282 ac (8,208 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the STB-7 unit may require special management considerations or protection due to predation by nonnative species, flood control activities, road maintenance, and recreational activities, which may alter aquatic and upland habitats and thereby result in the direct or indirect loss of egg masses or direct death of adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

VEN-1, San Antonio Creek

This unit is comprised of approximately 2,915 ac (1,180 ha) of land, is located in western Ventura County at San Antonio Creek, and is mapped from occurrences recorded at the time of listing and subsequent to the time of listing, and is currently occupied. The unit includes portions of the following watersheds: a small southern portion of Upper San Antonio Creek, a small western portion of Lion Creek, and the eastern portion of Lower San Antonio Creek. VEN-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). Persistence of the species in this area will prevent further isolation of breeding locations near the limit of the geographic range of the species. The unit contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter, and food, and provides connectivity between populations within the Transverse Ranges. The unit consists entirely of private land.

The physical and biological features essential to the conservation of California red-legged frog in the VEN-1 unit may require special management considerations or protection due to predation by nonnative species, recreational activities, and sedimentation of aquatic habitats, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or adults. Please see the Special Management Considerations or Protection"section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

VEN-2, Piru Creek

This unit is comprised of approximately 8,837 ac (3,576 ha) of land, is located in eastern Ventura County and northwestern Los Angeles County, and is mapped from occurrences recorded at the time of listing at Piru Creek. The unit includes the Michael Creek watershed. VEN-2 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). VEN-2 is occupied by the species. Persistence of the species in this area is important to prevent further isolation of breeding locations near the limit of the geographic range of the species, and the unit contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter, and food. The unit consists of Federal (8,363 ac (3,384 ha)) and private (474 ac (192 ha)) land.

The physical and biological features essential to the conservation of California red-legged frog in the VEN-2 unit may require special management considerations or protection due to predation by nonnative species, off-road vehicle use, and conversion of native habitat by introduced invasive plant species, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or direct death of adults. Please see the "Special Management Considerations or Protection" section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

VEN-3, Upper Las Virgenes Canyon

This unit is comprised of approximately 5,000 ac (2,024 ha) of land, is located in southeastern Ventura County, and is mapped from occurrences recorded subsequent to the time of listing. Based on the life history

and population dynamics of the species we have determined that the area was most likely occupied at the time of listing. The unit includes the upper portion of Las Virgenes Creek watershed that is north of the Ventura County line. VEN-3 is considered an area that is essential for the conservation of the species because it is currently occupied by the species and provides connectivity between coastal populations and populations in the Transverse Ranges. Further, VEN-3 contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for shelter, foraging, and dispersal activities (PCE 3 and PCE 4). The unit consists of Federal (56 ac (23 ha)) and private (2,896 ac (1,171 ha)) land. Approximately 2,048 ac (830 ha) of land within the unit is managed by the Santa Monica Mountains Conservancy.

The physical and biological features essential to the conservation of California red-legged frog in the VEN-3 unit may require special management considerations or protection due to predation by nonnative species, off-road vehicle use, and conversion of native habitat by introduced invasive plant species, which may alter aquatic or upland habitats and thereby result in the direct or indirect loss of egg masses or direct death of adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

LOS-1, San Francisquito Creek

This unit is comprised of approximately 4,231 ac (1,712 ha) of land, is located in northwestern Los Angeles County, and is mapped from occurrences recorded at the time of listing and is currently occupied. LOS-1 contains the features that are essential for the conservation of the species. The unit contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for shelter, foraging, and dispersal activities (PCE 3 and PCE 4). The unit consists of Federal (3,909 ac (1,582 ha)) and private land (322 ac (130 ha)) lands.

The physical and biological features essential to the conservation of California red-legged frog in the LOS-1 unit may require special management considerations or protection due to predation by nonnative species on egg masses, tadpoles, juveniles, or adults. Please see the Special Management Considerations or Protection section of this final rule for a detailed discussion of the threats to California red-legged frog habitat and potential management considerations.

RIV-1, Cole Creek

We have excluded the lands containing features essential to the conservation of the California red-legged frog in Unit RIV-1 from critical habitat designation under section 4(b)(2) of the Act (see Application of Section 4(b)(2) of the Act section below).

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 jeopardize the continued existence of a listed species or destroy or adversely modify designated critical habitat. Decisions by the courts of appeals for the Fifth and Ninth Circuits 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, 442 (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 (or retain those physical and biological features that relate to the ability of the area to periodically support the species) to serve its intended conservation role for the species.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, 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 may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify 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:

(1) Can be implemented in a manner consistent with the intended purpose of the action;

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction;

(3) Are economically and technologically feasible; and

(4) Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, Federal agencies may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with may affect subsequently listed species or designated critical habitat.

Federal activities that may affect the California red-legged frog 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 (Corps) 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 examples of agency actions that may be 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, or would retain its current ability for the primary constituent element(s) to be functionally established. Activities that may destroy or adversely modify critical habitat are those that alter the physical and biological features to an extent that appreciably reduces the conservation value of critical habitat for California red-legged frog. Generally, the conservation role of California red-legged frog critical habitat units is to support viable populations representative of each geographic area where the frog exists, as identified in the 2002 recovery plan and other information available to the Service.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat, 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 California red-legged frog include, but are not limited to:

(1) Actions that significantly alter water chemistry or temperature. Such activities could include, but are not limited to: release of chemicals, biological pollutants, or heated effluents into the surface water or into connected groundwater at a point source or by dispersed release (non-point source). These activities alter water conditions beyond the tolerances of the California red-legged frog and result in direct or cumulative adverse effects to these individuals and their life cycles.

(2) Actions that would significantly increase sediment deposition within a stream channel or pond or disturb upland foraging and dispersal habitat. Such activities could include, but are not limited to: excessive sedimentation from livestock overgrazing; road construction; commercial or urban development; channel alteration; timber harvest; off-road vehicle or recreational use; and other watershed and floodplain disturbances. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of the California red-legged frog by increasing the sediment deposition to levels that would adversely affect a frog's ability to complete its life cycle.

(3) Actions that would significantly alter channel/pond morphology or geometry. Such activities could include, but are not limited to: channelization; impoundment; road and bridge construction; development; mining; dredging; and destruction of riparian vegetation. These activities may lead to changes to the hydrologic functioning of the stream or pond by altering flow timing or duration, or altering water levels, which would degrade or eliminate the California red-legged frog or its habitat. These actions can also lead to increased sedimentation and degradation in water quality to levels that are beyond the tolerances of the California red-legged frog.

(4) Actions that eliminate upland foraging or aestivating habitat, as well as dispersal habitat, for the California red-legged frog. Such activities could include, but are not limited to: road construction; commercial or urban development; timber harvest; off-road vehicle or recreational use; and other watershed and floodplain disturbances.

(5) Actions that result in the introduction, spread, or augmentation of nonnative aquatic species in stream segments or ponds used by the California red-legged frog. Possible actions could include, but are not limited to: introduction of chytrid fungus or other diseases; fish or bullfrog stocking for sport; nonnative aquatic plant species for aesthetics; or other related actions. These activities could affect the growth and reproduction of the California red-legged frog by subjecting eggs, larvae, tadpoles, and adult California red-legged frogs to increased predation pressure or could limit the amount of habitat available for the species, which would adversely affect the California red-legged frog's ability to complete its life cycle.

Note that the scale of these activities is a crucial factor in determining whether they may directly or indirectly alter critical habitat to the extent that the value of the critical habitat for the survival and recovery of California red-legged frog would be appreciably diminished.

If you have questions regarding whether specific activities may constitute adverse modification of critical habitat, contact the Field Supervisor of the appropriate Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources 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 670a of this title, if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

INRMPs developed by military installations located within the range of the California red-legged frog and which contain those features essential to the species' conservation were analyzed for exemption under the authority of section 4(a)(3) of the Act.

Previous Application of Section 4(a)(3) of the Act for Camp San Luis Obispo (Unit SLO-2) and Vandenberg Air Force Base (Units STB-2 and STB-4)

In the previous final critical habitat designation for the California red-legged

frog (71 FR 19243; April 13, 2006), we exempted Camp San Luis Obispo (CSLO) in San Luis Obispo County, and Vandenberg Air Force Base (VAFB) in Santa Barbara County, from the designation of critical habitat under section 4(a)(3) of the Act. Currently CSLO and VAFB do not have Service-approved INRMPs in place. Section 4(a)(3)(B)(i) of the Act requires that an approved INRMP be in place in order to qualify for an exemption. As a result of CSLO and VAFB not having Service approved INRMPs, we have reevaluated our previous decision and are not exempting CSLO and VAFB from portions of Unit SLO-2, Unit STB-2, and Unit STB-4 under section 4(a)(3)(B)(i) of the Act. However, we have determined to exclude CSLO and VAFB from designated critical habitat under section 4(b)(2) of the Act (see "Application of Section 4(b)(2) – Impacts to National Security" section below).

Exclusions Under Section 4(b)(2) 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, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless 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 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.

In the following sections, we address a number of general issues that are relevant to the exclusions we are considering. In addition, we have 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. Based on public comment on that document and the proposed designation itself, as well as the information in the final economic analysis, the Secretary may exclude from critical habitat areas different from those identified for possible exclusion in the proposed rule under the provisions of section 4(b)(2) of the Act, up to and including all areas proposed for designation. This is also addressed in our implementing regulations at 50 CFR 424.19.

Benefits of Designating Critical Habitat

The process of designating critical habitat as described in the Act requires that the Service identify those lands within the geographical area occupied by the species at the time of listing 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 those areas outside the geographical area occupied by the species at the time of listing that are essential to the conservation of the species. In identifying those lands, the Service must consider the recovery needs of the species, such that, on the basis of the best scientific data available at the time of designation, the habitat that is identified, if protected or managed appropriately, could provide for the survival and recovery of the species.

The identification of areas that contain features essential to the conservation of the species and that if managed or protected, can provide for the recovery of a species, is beneficial. The process of proposing and finalizing a critical habitat rule provides the Service with the opportunity to determine the physical and biological features essential to the conservation of the species within the geographical area occupied by the species at the time of listing, as well as to determine other areas essential for the conservation of the species. The designation process includes peer review and public comment on the identified physical and biological features and areas. This process is valuable to land owners and managers in developing conservation management plans for identified areas, as well as any other occupied habitat or suitable habitat that may not be included in the areas the Service identifies as meeting the definition of critical habitat.

The consultation provisions under section 7(a)(2) of the Act constitute the regulatory benefits of critical habitat. As discussed above, Federal agencies must consult with the Service on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species, and in some locations, the outcome of these analyses will be similar, because effects to habitat will often result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact on survival and recovery of the species, while the adverse modification analysis investigates the action's effects on the designated habitat's contribution to conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater regulatory benefits to the recovery of a species than would listing alone.

There are two limitations to the regulatory effect of critical habitat. First, a consultation is required only where there is a Federal nexus (an action authorized, funded, or carried out by any Federal agency)—if there is no Federal nexus the designation of private lands as critical habitat itself does not restrict any actions that destroy or adversely modify critical habitat. Second, the designation only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure that the conservation role and function of those areas that contain the physical and biological features essential to the conservation of the species or of unoccupied areas that are essential for the conservation of the species are not appreciably reduced. Critical habitat designation alone, however, does not require property owners to undertake specific steps toward recovery of the species.

Once an agency determines that consultation under section 7(a)(2) of the Act is necessary, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect critical habitat. However, if we determine through informal consultation that adverse impacts are likely to occur, then formal consultation is initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to result in destruction or adverse modification of critical habitat.

For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not suggest the

implementation of any reasonable and prudent alternative. We suggest reasonable and prudent alternatives to the proposed Federal action only when our biological opinion results in an adverse modification conclusion.

As stated above, the designation of critical habitat does not require that any management or recovery actions take place on the lands included in the designation. Even in cases where consultation is initiated under section 7(a)(2) of the Act, the end result of consultation is to avoid jeopardy to the species and/or adverse modification of its critical habitat, but not necessarily to manage critical habitat or institute recovery actions on critical habitat. Conversely, voluntary conservation efforts implemented through management plans institute proactive actions over the lands they encompass and are put in place to remove or reduce known threats to a species or its habitat and, therefore, implement recovery actions.

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. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for the affected species. In general, critical habitat designation always has educational benefits; however, in some cases, they may be redundant with other educational effects. For example, HCPs have significant public input and may largely duplicate the educational benefits of a critical habitat designation. Including lands in critical habitat also would inform State agencies and local governments about areas that could be conserved under State laws or local ordinances.

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without cooperation of non-Federal landowners. More than 60 percent of the United States is privately owned (National Wilderness Institute 1995, pp. 1–2), and at least 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse *et al.* 2002, p. 720). Stein *et al.* (1995, p. 400) found that only about 12 percent of listed species were found almost exclusively on Federal lands (90 to 100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-Federal landowners (Wilcove and Chen 1998, p. 1407; Crouse *et al.* 2002, p. 720; James 2002, p. 271). Building partnerships and promoting voluntary cooperation of landowners are essential to understanding the status of species on non-Federal lands, and are necessary to implement recovery actions such as reintroducing listed species, habitat restoration, and habitat protection.

Many non-Federal landowners derive satisfaction from contributing to endangered species recovery. We promote these private-sector efforts through the Department of the Interior's Cooperative Conservation philosophy. Conservation agreements with non-Federal landowners (HCPs, safe harbor agreements, other conservation agreements, easements, and State and local regulations) enhance species conservation by extending species protections beyond those available through section 7 consultations. We encourage non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species conservation on non-Federal land through such partnerships than we can through regulatory methods (61 FR 63854).

Many private landowners, however, are wary of the possible consequences of encouraging endangered species to their property. Mounting evidence suggests that some regulatory actions by the government, while well intentioned and required by law, can (under certain circumstances) have unintended negative consequences for the conservation of species on private lands (Wilcove *et al.* 1996, pp. 5–6; Bean 2002, pp.2–3; Conner and Mathews 2002, pp.1–2; James 2002, pp. 270–271; Koch 2002, pp. 2–3; Brook *et al.* 2003, pp. 1639–1643). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability. This perception results in anti-conservation incentives because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999, pp. 1264–1265; Brook *et al.* 2003, pp. 1644–1648).

According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999, p. 1263; Bean 2002, p. 2; Brook *et al.* 2003, pp. 1644–1648). The magnitude of this negative outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, and control of invasive species) are necessary for species conservation (Bean 2002, pp. 3–4). We believe that the judicious exclusion of specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7(a)(2) of the Act, can sometimes be counterproductive to its intended purpose on non-Federal lands. Thus the benefits of excluding areas that are covered by partnerships or voluntary conservation efforts can, in specific circumstances, be high.

Benefits of Excluding Lands with HCPs or other Management Plans

The benefits of excluding lands with HCPs or other approved long-term management plans from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed as a result of the critical habitat designation. Many HCPs and other conservation plans take many years to develop, and upon completion, are consistent with the recovery objectives for listed species that are covered within the plan area. Many conservation plans also provide conservation benefits to unlisted sensitive species.

A related benefit of excluding lands covered by approved HCPs and management plans that cover listed species from critical habitat designation is that it can make it easier for us to seek new partnerships with future plan participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. HCPs often cover a wide range of species, including species that are not State and

Federally listed, and that would otherwise receive little protection from development. By excluding these lands, we preserve our current partnerships and encourage additional future conservation actions.

We also note that permit issuance in association with HCP and Natural Communities Conservation Plan (NCCP)-HCP applications requires consultation under section 7 and section 10 of the Act, which would include the review of the effects of all HCP-covered activities that might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of "harm" at 50 CFR 17.3), even without the critical habitat designation. Additionally, all other Federal actions that may affect the listed species still require consultation under section 7(a)(2) of the Act, and we review these actions for possibly significant habitat modification in accordance with the definition of harm referenced above.

Information provided in the previous sections applies to all the following discussions of benefits of inclusion or exclusion of critical habitat.

Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. In compliance with section 4(b)(2) of the Act, we have prepared an economic analysis (EA) of this final designation of critical habitat for the California red-legged frog. The final EA considers the potential economic effects of actions relating to the conservation of the California red-legged frog, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the California red-legged frog in essential habitat areas. The EA 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 (for example, lost economic opportunities associated with restrictions on land use). The EA 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. The information in the EA can be used by the Service and the Secretary to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the EA considers those costs that may occur in the 22 years following the designation of critical habitat. The EA estimates the foreseeable economic impacts and the potential incremental costs as a result of the revised critical habitat designation; these are those costs attributed to critical habitat over and above those baseline costs coextensive with listing. The EA described economic impacts of California red-legged frog conservation efforts associated with the following categories of activity: (1) Residential and Commercial Development; (2) Water Management; (3) Agriculture; (4) Ranching/Grazing; (5) Timber Harvest; (6) Transportation; (7) Fire Management; (8) Utility and Oil and Gas Pipeline Construction and Maintenance; and (9) Habitat and Vegetation Management.

The pre-critical habitat designation (baseline) (1996–2008) costs associated with species conservation activities are estimated at $44 to $113 million on an annualized basis discounted at 7 percent. The EA estimated the total potential incremental economic impacts likely to result from the designation over the next 22 years (2009 to 2030) to be $159 million to $500 million ($14.4 to $45.2 million annualized) in present value terms using a 7 percent discount rate. Impacts to urban development represent approximately 90 percent of the incremental impacts. Impacts to agriculture activities account for 10 percent of the incremental costs due to the assumed establishment of no-pesticide use areas as part of the stipulated injunction as established by the Northern District Court of California for use of 66 pesticides (*Center for Biological Diversity* v. U.S. Environmental Protection Agency *et al.*, Case No. C-02-1580-JSW (ND Ca. 2006)). This injunction and order will remain in effect for each of the 66 pesticides listed in the settlement until the Environmental Protection Agency (EPA) completes formal section 7(a)(2) consultation with the Service on the effects of each of the 66 active ingredients on the California red-legged frog.

The EA did identify areas within the designation that had disproportionate costs when compared to other areas within the designation. We have reviewed the units that were associated with the disproportionate costs and have determined that only two units have the majority (over 30 percent) of the costs identified in the EA. Those units are Unit SLO-3 in San Luis Obispo County and Unit ALA-2 in Alameda County. However, due to the methodologies used in determining the costs to development that are associated with the designation of critical habitat, we are unable to specifically identify the exact areas where those costs may occur. Because the areas within the units where the high costs are attributed cannot be specifically identified, we have determined that it would be inappropriate to exercise our discretion under section 4(b)(2) of the Act to exclude portions of Unit SLO-3, and Unit ALA-2 from the designation. Because the EA did not identify any disproportionate costs that are likely to result from the remainder of the designation outside Unit SLO-3 and Unit ALA-2, we did not consider exercising our discretion to exclude any other areas from this designation of critical habitat for the California red-legged frog based on economic impacts. A copy of the final EA with supporting documents is included in our administrative record and may be obtained by contacting the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**) or by downloading from the Internet at *www.regulations.go/*.

Application of Section 4(b)(2) – Impacts to National Security

Section 4(b)(2) of the Act allows the Secretary to exercise his discretion to exclude areas from critical habitat for reasons of national security if he determines the benefits of such an 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.

Camp San Luis Obispo

Camp San Luis Obispo (CSLO) is a 5,612 ac (2,271 ha) State-owned training site managed by the California Army National Guard, which provides training grounds for National Guard, U.S. Army Reserve, and other Department of Defense troops, as well as law enforcement agencies and the U.S. State Department. CSLO currently trains approximately 100,000 soldiers annually and supports overseas deployments to Iraq, Afghanistan, Kosovo, and other theaters.

An Integrated Natural Resource Management Plan (INRMP) for CSLO was adopted by the California Army National Guard in 2001, but has not

been approved and signed by the Service. The Endangered Species Management Plan for California red-legged frogs, included as part of the INRMP, specifies conservation measures including: annual monitoring of California red-legged frog populations on CSLO lands; monitoring of grazing and training impacts on riparian and upland habitats; installation of cattle exclusion fencing to protect riparian habitat; bank stabilization and revegetation, and nonnative/invasive plant removal; a 3:1 mitigation ratio for riparian vegetation lost during construction and maintenance projects; and actively seeking funding for habitat improvement and conservation projects. California red-legged frog management efforts would continue to be implemented regardless of whether we designate CSLO as critical habitat.

The Department of the Army, the National Guard Bureau, and the California Army National Guard stated in their comments that critical habitat designation on CSLO lands would impact national security. Designation of these lands could limit or restrict the amount of natural infrastructure available for ongoing and future mission execution and training needed for national security. The California Army National Guard expressed concern that critical habitat designation would impede troop readiness by requiring consultation for activities that may affect California red-legged frog critical habitat, and that delays or limitations to mission-essential training at CSLO directly affect the ability of soldiers to perform mission-essential tasks when deployed abroad or when assigned to National, State, local, and Homeland Security missions.

Benefits of Inclusion – Camp San Luis Obispo

The benefit of including CSLO lands in this critical habitat designation is that designation can serve to educate the public regarding potential conservation value of the area and help focus conservation efforts. The California Army National Guard is well aware of the presence of California red-legged frogs on CSLO and the value of CSLO lands to the conservation of the California red-legged frog. The California Army National Guard currently implements management measures to conserve California red-legged frogs and their habitat. The California Army National Guard is actively working with the Service and the CDFG to develop an approved INRMP that will ensure conservation of this species on CSLO lands. Furthermore, we included all CSLO lands in the proposed designation, which itself reached a wide audience. Therefore, the educational benefits that might follow critical habitat designation (such as providing information to the California Army National Guard on areas important to the long-term conservation of this species) may have been already provided by consultation, development of the INRMP including the Endangered Species Management Plan, and proposing these areas as critical habitat.

In light of the continued commitment by the California Army National Guard to manage their lands in a manner that promotes conservation of the California red-legged frog and because we will continue to complete consultations on activities that may impact California red-legged frogs, we believe designation of critical habitat would provide few, if any, additional regulatory and conservation benefits to the species beyond those that will result from continued species consultations.

Benefits of Exclusion – Camp San Luis Obispo

The benefits of excluding approximately 5,612 ac (2,271 ha) of California Army National Guard lands are significant. The CSLO lands are used for realistic, intensive military training that provides soldiers with essential war-fighting skills that they utilize on the battlefield. As described above, designation of CSLO lands could limit or restrict the amount of natural infrastructure available for ongoing and future training needed for national security. Excluding these California Army National Guard lands from critical habitat designation will remove the potential impact that a designation of critical habitat could have on the military's ability to maintain our national security.

Benefits of Exclusion Outweigh Benefits of Inclusion – Camp San Luis Obispo

We have determined that approximately 5,612 ac (2,271 ha) of the Camp San Luis Obispo National Guard Training Site (CSLO), located in Unit SLO-3, contain features essential to the conservation of the California red-legged frog, thereby meeting the definition of critical habitat under the Act. In the revised proposed rule to designate critical habitat we incorrectly identified approximately 5,902 ac (2,388 ha) owned by CSLO. On further review of the ownership of the lands for this designation within Unit SLO-3, we now correctly identify approximately 5,612 ac (2,271 ha) of land owned by CSLO that is subject to exclusion. In making our final decision with regard to CSLO lands, we considered several factors, including potential impacts to national security associated with a critical habitat designation as described by the Department of the Army, the National Guard Bureau, and the California Army National Guard; existing consultations; and conservation measures in place at this facility that benefit the California red-legged frog. We reviewed and evaluated the benefits of inclusion and benefits of exclusion for California Army National Guard lands in Unit SLO-3. We believe the benefits of designating these lands as California red-legged frog critical habitat are small, whereas the benefits of excluding these lands from critical habitat will result in the removal of potential impacts to national security. Therefore, we determined the benefits identified above of excluding approximately 5,612 ac (2,271 ha) of CSLO lands from the critical habitat designation outweigh the benefits of including these lands. Under section 4(b)(2) of the Act, the Secretary is exercising his discretion to exclude all CSLO lands in SLO-3 from this final revised critical habitat designation as a result of impacts to national security.

Exclusion Will Not Result in Extinction of the Species – Camp San Luis Obispo

We have determined that the exclusion of the CSLO lands from the final revised designation of critical habitat for the California red-legged frog will not result in the extinction of the species. The benefits of excluding 5,612 ac (2,271 ha) of lands from critical habitat are more significant than the benefits of inclusion and include the removal of impacts to national security. While some loss of habitat for the California red-legged frog may occur with the continued activities on CSLO lands, we conclude that, due to the measures outlined in the California red-legged frog management component of the pending INRMP, and the continued commitment from the California Army National Guard to consult with us on projects that may adversely impact California red-legged frogs, these continued activities will not result in extinction of this species. The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process provide assurances that the species will not go extinct as a result of this exclusion.

Vandenberg Air Force Base

Vandenberg Air Force Base (VAFB) operates a 99,100 ac (40,104 ha) missile test base and aerospace center supporting west coast launch activities for the United States Air Force (Air

Force). The base extends along approximately 42 miles (68 km) of Santa Barbara County coastline and includes variable elevations and unique habitats that contribute to VAFB's distinct biological diversity. VAFB provides airspace for space launches, ballistic missile tests, aeronautical operations and military exercises.

An INRMP for VAFB was developed by the Air Force, but has not been approved and signed by the Service. The draft INRMP has served as the foundation for implementation of conservation measures including: periodic surveys of California red-legged frog populations on VAFB, coordination with VAFB water quality staff to prevent degradation and contamination of California red-legged frog habitat, protection of various sites from human activities and grazing, prohibition of non-native fish introduction into VAFB water bodies, and consultation with the Service on all actions that may affect California red-legged frogs on VAFB.

The Air Force expressed concern that critical habitat designation on VAFB lands would impact national security and believes that designation of these lands as critical habitat would generally reduce the availability of unencumbered, natural infrastructure to support space and missile operations and essential maintenance activities. Additionally, the Air Force expressed concern that critical habitat designation would potentially delay short-notice, mission-critical activities that had not been previously analyzed in a consultation with the Service and that may affect critical habitat that has not been observed to be occupied by California red-legged frogs.

Benefits of Inclusion – Vandenberg Air Force Base

One benefit of including VAFB lands in this critical habitat designation is the designation can educate the public regarding potential conservation value of the installation and may help focus conservation efforts. The Air Force is aware of the value of VAFB lands to the conservation of the California red-legged frog and currently implements management measures to conserve California red-legged frogs and their habitat. The Air Force is actively working with the Service and the CDFG to develop a revised INRMP that will ensure conservation of this species on VAFB lands. Further, we included all VAFB lands in the proposed designation, which itself reached a wide audience. Therefore, the educational benefits that might follow critical habitat designation (such as providing information to the military on areas important to the long-term conservation of this species) may have been already provided by consultation, development of the INRMP, and proposing VAFB as critical habitat.

In light of the continued commitment by the Department of the Air Force to manage their lands in a manner that promotes conservation of the California red-legged frog and because we will continue to complete consultations on activities that may impact California red-legged frogs, we believe designation of critical habitat would provide few, if any, additional regulatory and conservation benefits to the species beyond those that will result from continued species consultations.

Benefits of Exclusion – Vandenberg Air Force Base

The benefits of excluding approximately 24,913 ac (10,090 ha) of Air Force lands are significant. The VAFB lands are used to provide restricted airspace for space launches, ballistic missile tests, aeronautical operations, and military exercises. Designation of VAFB lands as critical habitat for California red-legged frogs would generally reduce the availability of unencumbered, natural infrastructure to support space missile operations and essential maintenance activities, and may potentially delay short-notice, mission-critical activities that were not previously analyzed in a consultation with the Service. Excluding these Air Force lands from the critical habitat designation will remove the potential impact that a designation of critical habitat could have on the military's ability to maintain our national security.

Benefits of Exclusion Outweigh Benefits of Inclusion – Vandenberg Air Force Base

We determined that approximately 24, 913 ac (10,090 ha) of Air Force lands at VAFB, 23,912 ac (9,684 ha) located in Unit STB-2 and 1,001 ac (405 ha) in STB-4, contain the features essential to the conservation of the California red-legged frog, and therefore meet the definition of critical habitat under the Act. In the unit description for Unit STB-2 in the revised proposed rule, we erroneously identified only 4,992 ac (1,992 ha) as being part of VAFB (73 FR 53510). We corrected this error, and we now identify approximately 24,913 ac (10,090 ha) as being part of VAFB and as a result subject to exclusion. In making our final decision with regard to these Air Force lands, we considered several factors including potential impacts to national security associated with critical habitat designation as described by the Air Force, existing consultations, and conservation measures in place at VAFB that benefit the California red-legged frog.

We reviewed and evaluated the benefits of inclusion and benefits of exclusion for Air Force lands in Unit STB-2 and STB-4. We believe the benefits of designating these lands as California red-legged frog critical habitat are small, whereas the benefits of excluding these lands from critical habitat will result in the removal of potential impacts to national security. Therefore, we determined the benefits identified above of excluding approximately 24,913 ac (10,090 ha) of VAFB lands from the critical habitat designation outweigh the benefits of including these lands. Under section 4(b)(2) of the Act, we are excluding all Air Force lands in Unit STB-2 and STB-4 from this final revised critical habitat to prevent impacts to national security.

Exclusion Will Not Result in Extinction of the Species – Vandenberg Air Force Base

We determined that the exclusion of the VAFB lands from the final revised critical habitat designation for the California red-legged frog will not result in the extinction of the species. The benefits of excluding 24,913 ac (10,090 ha) of lands from critical habitat are more significant than the benefits of inclusion and include the prevention of impacts to national security as determined by the Air Force. While some loss of habitat for the California red-legged frog may occur with the continued activities on VAFB lands, we conclude that, due to the measures outlined in the draft INRMP, and the continued commitment from the Air Force to consult with us on projects that may adversely impact California red-legged frogs, these continued activities would not jeopardize the continued existence of this species. The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process provide assurances that the species will not go extinct as a result of this exclusion.

Application of Section 4(b)(2) – Other Relevant Impacts – Conservation Partnerships

Section 4(b)(2) of the Act allows the Secretary to exclude areas from critical habitat for other relevant impacts if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of 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. As discussed above in the Conservation Partnerships on Non-Federal Lands section, we believe that designation can negatively impact the working relationships and conservation partnerships we have formed with private landowners. The Service recognizes that 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse *et al.* 2002, p. 270), and we will only achieve recovery of federally listed species with the cooperation of private landowners.

In making the following exclusions, we evaluated the benefits of designating these non-Federal lands that may not have a Federal nexus for consultation while considering if our existing partnerships have resulted, or will result, in greater conservation benefits to the California red-legged frog and the physical or biological features essential to its conservation than a critical habitat designation. As discussed in the "Benefits of Designating Critical Habitat" section above, conservation partnerships that result in implementation of an HCP or other management plan that considers enhancement or recovery as the management standard often provide as much or more benefit than consultation on projects that may affect critical habitat (the primary benefit of a designation).

In considering the benefits of including lands in a designation that are covered by a current HCP or other management plan, we evaluate a number of factors to help us determine the conservation benefit that the plan or program provides the species or its habitat:

(1) Whether the plan is complete and provides protection from destruction or adverse modification of areas proposed as critical habitat;

(2) Whether there is a reasonable expectation the conservation management strategies and actions will be implemented for the foreseeable future, based on past practices, written guidance, or regulations; and

(3) Whether the plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology.

We balance the benefits of inclusion against the benefits of exclusion by considering the benefits that may accrue from consultations versus the benefits of preserving partnerships and encouraging development of additional HCPs and other conservation plans in the future.

After consideration under section 4(b)(2) of the Act, the Secretary has determined to exercise his discretion to exclude the following specific areas from the final revised critical habitat for the California red-legged frog: Bonnie Doon Quarries Settlement Ponds HCP in Santa Cruz County (6 ac (3 ha)) (Unit SCZ-1); East Contra Costa County HCP and Natural Community Conservation Plan (NCCP) in Contra Costa County (75,767 ac (30,662 ha)) (Unit CCS-2); Western Riverside Multi-species HCP in Riverside County (4,069 ac (1,647 ha)) (Unit RIV-1); East Bay Regional Park District lands in Contra Costa County (14,627 ac (5,919 ha)) (Unit CCS-2); Spivey Pond Management Area (BLM) in El Dorado County (54 ac (22 ha)) (Unit ELD-1); and Hearst Ranch Conservation Easement in San Luis Obispo County (34,777 ac (14,074 ha)) (Unit SLO-2).

Bonny Doon Quarries Settlement Ponds Habitat Conservation Plan (Bonny Doon HCP) (Unit SCZ-1)

The Bonny Doon HCP encompasses approximately 6 ac (3 ha) of privatelyowned lands in the Santa Cruz Mountains near the town of Davenport, Santa Cruz County, California. California red-legged frogs are present in both of the watersheds (San Vicente Creek and Liddell Creek) where seven settlement ponds were constructed at the Bonny Doon Quarries. The Bonny Doon HCP was completed and finalized in 1998, concurrently with a final environmental assessment on the HCP under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We issued a non-jeopardy biological opinion under section 7 of the Act on the Bonny Doon HCP on July 29, 1999 (Service, 1-8-99-FW-70, 1999, pp. 1-13). The Bonny Doon HCP contains measures to minimize and mitigate impacts to the California red-legged frog and its habitat from the quarry's operations, maintenance, and possible reclamation activities. The primary components of the minimization and mitigation include: developing and implementing an employee training program and community outreach program; conducting annual breeding and pre-activity surveys for California red-legged frogs at all settlement and mitigation ponds; avoiding or relocating California red-legged frog adults, tadpoles, and egg masses during maintenance activities; minimizing impacts of water releases to breeding populations of California red-legged frogs; inspecting the ground for California red-legged frogs that may be under vehicles prior to use; establishing a speed limit of 10 mi/hour (16 km/hour) on roads within the operational area; using pesticides and herbicides that do not affect aquatic organisms and applying them in accordance with label precautions; disposing of all food-related trash in closed containers; controlling nonnative predators; and enhancing habitat suitability of the mitigation ponds and Settlement Pond 1 for the California red-legged frog. The Bonny Doon HCP and its accompanying implementing agreement, which delineates the responsibilities of the Service and the permittee for the implementation of the HCP, are designed to allow the operation and maintenance activities of up to seven settlement ponds and the reclamation of two additional settlement ponds totaling 4.9 ac (2 ha) in a manner that will result in conservation of the California red-legged frog and its habitat.

Based on the reasoning below, the Secretary has determined to exercise his discretion to exclude approximately 6 ac (3 ha) of land from unit SCZ-1 in Santa Cruz County under section 4(b)(2) of the Act.

Benefits of Inclusion - Bonny Doon HCP

The inclusion of approximately 6 ac (3 ha) of lands within the Bonny Doon HCP could be beneficial because it identifies lands that require management for conservation of California red-legged frogs. The process of proposing and finalizing the revised critical habitat rule provided the Service with the opportunity to evaluate and refine the features essential to the conservation of the species within the geographical area occupied by it at the time of listing, as well as to evaluate whether there are other areas essential for the conservation of the species. The designation process included peer review and public comment on the identified features and areas. This process is valuable to landowners and managers in developing conservation management plans for identified areas, as well as any other occupied habitat or suitable habitat that may not have been included in the Service's determination of essential habitat.

The educational benefits of designation are small and largely redundant to those derived through conservation efforts currently being implemented in the approximately 6 ac (3 ha) of lands within the Bonny Doon HCP. The educational benefits of critical habitat designation derived through informing landowners and other members of the public of areas important for the long-term conservation of the California red-legged frog may have been and continue to be achieved through: (1) Development and implementation of the Bonny Doon HCP, (2) the original critical habitat designation process in 2001 (66 FR

14626), and (3) publication of the revised critical habitat designation in 2006 (71 FR 19244).

The consultation provisions under section 7 of the Act constitute the regulatory benefits of inclusion for critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. There is some, albeit limited, potential for future activities within the lands we are excluding having a Federal nexus for the California red-legged frog as a result of actions by Federal agencies, such as the Army Corps of Engineers. Therefore, including this area may provide some regulatory benefits under section 7 of the Act.

However, the Bonny Doon HCP addresses conservation issues from a coordinated, integrated perspective rather than a piecemeal, project-by-project approach (as would occur on these lands under sections 7 of the Act absent this plan) and will arguably achieve more California red-legged frog conservation within the Bonny Doon HCP Plan Area than through section 7 consultations involving consideration of critical habitat. The PCEs required by California red-legged frogs will benefit from the conservation objectives and required measures outlined in the Bonny Doon HCP.

In light of the conservation planning used in the development of the Bonny Doon HCP and the conservation that will occur under the HCP, we conclude that the potential regulatory benefit of designating this area in Unit SCZ-1 as critical habitat is minimal.

Benefits of Exclusion - Bonny Doon HCP

HCPs foster a cooperative, coordinated approach to species protection and habitat conservation. The benefits of excluding HCP lands are: (1) Retaining and fostering the existing partnership and working relationship with the landowner(s) and other entities, and (2) encouraging future HCP development or development of other species/habitat conservation plans. The benefits of excluding lands within approved plans that specifically benefit listed or sensitive species from critical habitat discussed above applies fully to the Bonny Doon HCP. Additionally, exclusion of an HCP (such as the Bonny Doon HCP) demonstrates our good faith effort and collaborative working relationships, which should encourage initiation and completion of other HCPs.

We developed close partnerships with all participating entities through the development of the Bonny Doon HCP, which incorporates appropriate protections and management for the California red-legged frog, its habitat, and the features essential to the conservation of this species. By excluding 6 ac (3 ha) of lands in Unit SCZ-1 from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the Bonny Doon HCP, helping to preserve our ongoing partnership with the plan participants, and encouraging new partnerships with other landowners and jurisdictions. These partnerships are critical for the conservation of California red-legged frog.

Benefits of Exclusion Outweigh the Benefits of Inclusion -Bonny Doon HCP

As discussed in the "Benefits of Inclusion - Bonny Doon HCP" section above, we believe the regulatory benefit of designating critical habitat on lands covered by the Bonny Doon HCP would be low. The Bonny Doon HCP addresses conservation issues from a coordinated, integrated perspective rather than a piecemeal project-by-project approach and will achieve more California red-legged frog conservation than we would achieve through multiple site-by-site, project-by- project, section 7 consultations involving consideration of critical habitat. We believe the conservation benefits for California red-legged frogs that would occur as a result of designating those 6 ac (3 ha) in Unit SCZ-1 as critical habitat (e.g., protection afforded through the section 7(a)(2) consultation process) is minimal compared to the overall conservation benefits for the species that will be realized through the implementation of the Bonny Doon HCP.

Furthermore, the educational benefits of critical habitat designation, including informing the public of areas important for the long-term conservation of the species, are accomplished from material provided on our website and through notices of public comment periods associated with the original California red-legged frog critical habitat rule (66 FR 14626), the first revised critical habitat rule (71 FR 19244), and the Bonny Doon HCP (Service 1998, pp. 1-23). Further, many educational benefits of critical habitat designation will be achieved through the overall designation, and will occur whether or not this particular location is designated. For these reasons, we believe that designating critical habitat has little benefit in areas covered by the Bonny Doon HCP.

The exclusion of the Bonny Doon HCP lands from California red-legged frog critical habitat will help preserve the partnerships that we developed for this HCP, which provides for California red-legged frog conservation. It may also help encourage new partnerships with other landowners and jurisdictions. These partnerships are critical for the conservation of California red-legged frog.

We reviewed and evaluated the exclusion of 6 ac (3 ha) of private lands within the Bonny Doon HCP plan area from the final revised critical habitat designation for the California red-legged frog and determined that the benefits of excluding these lands in Unit SCZ-1 outweigh the benefits of including them. As discussed above, the HCP will provide for preservation and management of habitat for and features essential to the conservation of the species.

Exclusion Will Not Result in Extinction of the Species - Bonny Doon HCP

In keeping with our analysis and conclusion detailed in our biological opinion for the Bonny Doon HCP (Service, 1-8-99-FW-70, 1999, pp 1-13), we determined the exclusion of 6 ac (3 ha) of permittee-owned lands within the Bonny Doon HCP from this final critical habitat designation will not result in the extinction of the species. The amount of habitat we are excluding within the Bonny Doon HCP is only a minute fraction (less than 0.001 percent) of the amount of designated critical habitat in Unit SCZ-1. Additionally, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process provide assurances that the species will not go extinct as a result of this exclusion.

Western Riverside County Multiple Species Habitat Conservation Plan (Western Riverside County MSHCP) (Unit RIV-1)

The Western Riverside County MSHCP is a large-scale, multijurisdictional HCP encompassing 1.26 million ac (510,000 ha) in western Riverside County and addresses 146 listed and unlisted "covered species," including the California red-legged frog. Participants in the Western Riverside County MSHCP include 14 cities in western Riverside County; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency (County Flood Control), Riverside County Transportation Commission, Riverside County Parks and Open Space District (County Parks), and Riverside County Waste Department; California Department of Parks and Recreation (State Parks); and the California Department of Transportation (Caltrans).

The Western Riverside County MSHCP was designed to establish a multi-species conservation program that minimizes and mitigates the expected loss of habitat and associated incidental take of covered species. The Service issued an incidental take permit (TE–088609–0) under section 10(a)(1)(B) of the Act on June 22, 2004, to 22 permittees under the Western Riverside County MSHCP for a period of 75 years. This HCP requires establishment of approximately 153,000 ac (61,916 ha) of new conservation lands (Additional Reserve Lands) to complement the approximately 347,000 ac (140,426 ha) of pre-existing natural and open space areas defined by the Western Riverside County MSHCP as Public/Quasi-Public (PQP) lands. These PQP lands include those under Federal ownership, primarily managed by the Forest Service and BLM, and also permittee-owned, open-space areas, primarily managed by State and County Parks. Collectively, the Additional Reserve Lands and PQP lands form the overall Western Riverside County MSHCP Conservation Area. The configuration of the 153,000 ac (61,916 ha) of Additional Reserve Lands is not mapped or precisely identified in the Western Riverside County MSHCP, but rather is based on textual descriptions within the bounds of a 310,000-ac (125,453-ha) Criteria Area and is interpreted as implementation of the Western Riverside County MSHCP takes place. All lands in Unit RIV-1 are located within the Western Riverside County MSHCP Plan Area.

To address the primary threats to the California red-legged frog (i.e., habitat destruction and alteration) (61 FR 25813; May 23, 1996), the Western Riverside County MSHCP provides enhancement of habitat by removing or reducing these threats. Conservation objectives specific to the California red-legged frog in the MSHCP include the conservation of occupied and historical breeding habitat, and the conservation of intervening lands that provide for movement between core areas and upland habitat adjacent to occupied or suitable breeding habitat (Dudek and Associates, Inc. 2003, pp. A19–A20).

The only known population of California red-legged frogs in the boundaries of the Western Riverside County MSCHP occurs along Cole Creek on the Santa Rosa Plateau. The occupied area along Cole Creek is entirely within the Santa Rosa Plateau Ecological Reserve, which is owned and managed by the CDFG. The management of the Santa Rosa Plateau Ecological Reserve includes measures that protect the habitat of the California red-legged frog and focus on restoration activities that benefit this species (Service 2004, p. 54). This area is included in Unit RIV-1, which consists of 4,069 ac (1,647 ha) of lands owned or controlled by the permittees. A total of 3,997 ac (1,618 ha) of these lands are currently conserved and referred to as PQP lands in the analysis of the Western Riverside County MSHCP, and 72 ac (29 ha) of lands that are privately owned. The provisions of the Western Riverside County MSHCP strengthen the management for the California red-legged frog and ensure that any projects that take place on the private land will not reduce the viability of the population within Unit RIV-1.

Specifically, in the area proposed as critical habitat, the Western Riverside County MSHCP directs reserve managers of the PQP lands to maintain ecological processes within occupied habitat and appropriate new areas for the California red-legged frog (Dudek and Associates, Inc. 2003, pp. 5–13). Private lands included in Unit RIV-1 are in the survey area for the California red-legged frog, where 90 percent of areas that provide long-term conservation value for the species will be avoided until the conservation objectives for the California red-legged frog are met (Dudek and Associates, Inc. 2003, pp. 6-65–6-71). The Western Riverside County MSHCP indicates that the PQP reserve lands within Unit RIV-1 will be monitored to determine if successful reproduction is occurring (Dudek and Associates, Inc. 2003, p. 5–13). These lands will be managed to ensure that the threats to this species from altered hydrology, flood control, nonnative plant species, mining, human collecting, and predation will not negatively impact the population and that ecological processes necessary for the California red-legged frog breeding populations will be maintained (Dudek and Associates, Inc. 2003, p. 5–13). The Western Riverside County MSHCP preserves the habitat that supports identified core population(s) of this species and therefore contributes to recovery of this species in the Western Riverside County MSHCP area. The conservation objectives, required surveys, and adaptive management program for the California red-legged frog (and its PCEs) provided by the Western Riverside County MSHCP may exceed any conservation value provided as a result of regulatory protections that have been or may be afforded through critical habitat designation. Projects in these areas conducted or approved by Western Riverside County MSHCP permittees are subject to the conservation requirements of the Western Riverside County MSHCP. The Secretary has determined to exercised his discretion to exclude the entire approximately 4,069 ac (1,647 ha) of permittee-owned PQP and private lands from revised critical habitat designation within Unit RIV-1 (Cole Creek) under section 4(b)(2) of the Act.

Benefits of Inclusion - Western Riverside County MSHCP

The benefits of inclusion in a critical habitat designation will provide little additional benefit to the California red-legged frog within the boundaries of the approved Western Riverside County MSHCP. The principal benefit of any designated critical habitat is that federally funded, permitted, or authorized activities that may affect critical habitat will require consultation under section 7 of the Act. Such consultations ensure that adequate protection is provided to avoid adverse modification or destruction of critical habitat. The approved Western Riverside County MSHCP covers the California red-legged frog and is designed to ensure the conservation of the species within the Plan area and incorporates special management and protection measures for California red-legged frog habitat within Plan boundaries. The Western Riverside County MSHCP's measures to protect the California red-legged frog and its habitat have undergone thorough evaluation in the section 7 consultation prior to approval of the Plan, and, therefore, there is no benefit of section 7 consultation by including these areas in critical habitat. Development and implementation of the Western Riverside County MSHCP has provided other important conservation benefits for the California red-legged frog, including the development of biological information to guide conservation efforts and assist in the species' recovery within the Plan area. The educational benefits of designating critical habitat, including informing the public of areas that are important to the conservation of listed species, are essentially the same as those that have occurred during the process of reviewing and approving the Western Riverside County MSHCP. Specifically, the Western Riverside County MSHCP involved public participation through public notices and public comment periods, prior to being approved. For these reasons, we believe that designation of critical habitat would provide little additional benefit in areas covered by the approved Western Riverside County MSHCP. Federal actions that may affect the California

red-legged frog will still require consultation under section 7 of the Act.

Benefits of Exclusion — Western Riverside County MSHCP

The benefits of excluding the Western Riverside County MSHCP from critical habitat designation include relieving landowners, communities, and portions of Riverside County of any additional regulatory burden that might be imposed by critical habitat. Many HCPs, particularly large regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the Plan area. Additionally, many of these HCPs provide conservation benefits to unlisted sensitive species. Imposing an additional regulatory review after an HCP is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas. In fact, it could result in the loss of species' benefits if participants abandon the voluntary HCP process. Designation of critical habitat within the boundaries of approved HCPs could also be viewed as a disincentive to those entities currently developing HCPs or contemplating them in the future. The benefits of excluding lands within approved plans that specifically benefit listed or sensitive species from critical habitat discussed above applies fully to the Western Riverside County MSHCP. A related benefit of excluding lands within approved HCPs that cover the California red-legged frog from the critical habitat designation is the continued ability to seek new partnerships with future HCP participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved HCP plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop HCPs, particularly large regional HCPs that involve numerous participants and address landscape-level conservation of the California red-legged frog and its habitat. By excluding the lands covered within the Western Riverside County MSHCP, we preserve our current partnerships and encourage additional conservation actions in the future.

Benefits of Exclusion Outweigh the Benefits of Inclusion - Western Riverside County MSHCP

We believe that the regulatory benefit of designating critical habitat on private lands covered by the Western Riverside County MSHCP would be low and may hinder the effective implementation of the Plan. The Western Riverside County MSHCP addresses conservation issues from a coordinated, integrated perspective and will achieve better California red-legged frog conservation than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. The Western Riverside County MSHCP provides for the proactive monitoring and management of conserved lands (as previously described), reducing known threats to California red-legged frog and its habitat.

Conservation and management of California red-legged frog habitat is essential to the survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The Western Riverside County MSHCP provides as much or more conservation benefit to the species than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore, educational benefits that may be derived from a critical habitat designation are low in this case and largely redundant to the educational benefits achieved through the significant public, State, and local government input solicited and received during the development of the Western Riverside County MSHCP.

We have developed close partnerships with the 22 Western Riverside County MSHCP permittees through the development of this regional HCP that incorporates appropriate protections and management of the physical and biological features essential to the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating a largely redundant layer of regulatory review for a limited set of projects on non-Federal lands that are addressed by the Western Riverside County MSHCP, and we are helping to preserve our ongoing partnerships with the permittees and encouraging new partnerships with other landowners and jurisdictions. Those partnerships, and the landscape-level, multiple-species conservation planning efforts they promote, are critical for the conservation of the California red-legged frog. Designating critical habitat on non-Federal lands within the Western Riverside County MSHCP could have a detrimental effect on our partnerships with the 22 Western Riverside County MSHCP permittees and could be a significant disincentive to the establishment of future partnerships and HCPs with other partners.

We reviewed and evaluated the exclusion of 4,069 ac (1,647 ha) of private lands within the Western Riverside County MSHCP area from the final revised critical habitat designation for the California red-legged frog and determined that the benefits of excluding these lands in Unit RIV-1 outweigh the benefits of including them. As discussed above, the HCP will provide for preservation and management of habitat for and features essential to the conservation of the species.

Exclusion Will Not Result in Extinction of the Species - Western Riverside County MSHCP

In keeping with our analysis and conclusion detailed in our biological opinion for the Western Riverside County MSHCP (Service 2004, p. 334), we do not believe that the exclusion of non-Federal lands that meet the definition of critical habitat within the Western Riverside County MSHCP plan area from the final designation of critical habitat for the California red-legged frog will result in the extinction of the species. Additionally, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct as a result of this exclusion.

East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (East Contra Costa County HCP/NCCP) (Unit CCS-2)

The East Contra Costa County HCP/NCCP was finalized on July 25, 2007 (Service 2007b, pp. 1-6). Participants in this HCP/NCCP include the County of Contra Costa; the cities of Brentwood, Clayton, Oakley, and Pittsburg, California; and the Contra Costa Water District. The East Contra Costa County HCP encompasses the eastern portion of Contra Costa County from approximately west of Concord to Sand

Mound Slough and Clifton Court Forebay on the east. The East Contra Costa County HCP/NCCP is also a subregional plan under the State's NCCP process and was developed in cooperation with the CDFG. The East Contra Costa County HCP/NCCP includes areas where urban growth and development are expected to occur and has identified the California red-legged frog as a covered species. The East Contra Costa County HCP/NCCP specifically seeks to provide management and protection of the California red-legged frog through several conservation measures including: (1) Preserve between 24,455 to 29,467 ac (9,897 to 11,925 ha) of upland foraging and dispersal habitat (not including additional lands identified in open space and parks); (2) preserve between 28 to 36 wetted ac (11 to 15 wetted ha) of non-stream breeding habitat and between 85 to 98 mi (137 to 158 km) of stream breeding habitat; (3) create approximately 33 wetted ac (13 wetted ha) of ponds; (4) restore approximately 85 ac (34 ha) of perennial wetland complex; (5) preserve major habitat connections linking existing public lands; (6) incorporate a range of habitat and population management and enhancement measures; (7) fully mitigate the impacts of covered species and species, including the California red-legged frog; (8) maintain ecosystem processes; and (9) contribute to the recovery of covered species and species. These conservation measures will benefit California red-legged frog conservation by preserving and restoring existing wetland and upland habitat and creating new wetland habitat for the species. We expect the East Contra Costa County HCP/NCCP to provide substantial protection of the physical and biological features essential to the conservation of the species and provide special management considerations and protection of conservation lands. This will provide a greater level of management for the California red-legged frog on these private lands than would designation of critical habitat.

Benefits of Inclusion - East Contra Costa County HCP/NCCP

Critical habitat designation will provide little additional benefit to the California red-legged frog within the boundaries of the approved East Contra Costa County HCP/NCCP through the section 7 consultation process. The principal benefit of any designated critical habitat is that federally funded, permitted, or authorized activities that may affect critical habitat will require consultation under section 7 of the Act. Such consultations ensure that adequate protection is provided to avoid adverse modification or destruction of critical habitat. The approved East Contra Costa County HCP/NCCP covers the California red-legged frog and is designed to ensure the conservation of the species within the Plan area and incorporates special management and protection measures for California red-legged frog habitat within Plan boundaries. The adequacy of the East Contra Costa County HCP/NCCP measures to protect the California red-legged frog and its habitat has undergone thorough evaluation in the section 7 consultation completed prior to approval of the Plan, and, therefore, there is no benefit of including these areas in critical habitat. Development and implementation of the East Contra Costa County HCP/NCCP has provided other important conservation benefits for the California red-legged frog, including the development of biological information to guide conservation efforts and assist in the species' recovery within the Plan area. The educational benefits of designating critical habitat, including informing the public of areas that are important to the conservation of listed species, are essentially the same as those that have occurred during the process of reviewing and approving the East Contra Costa County HCP/NCCP. Specifically, the East Contra Costa County HCP/NCCP involved public participation through public notices and public comment periods, prior to being approved. For these reasons, we believe that designation of critical habitat would provide little additional benefit in areas covered by the approved East Contra Costa County HCP/NCCP. Federal actions that may affect the California red-legged frog will still require consultation under section 7 of the Act.

Benefits of Exclusion — East Contra Costa County HCP/NCCP

The benefits of excluding the East Contra Costa County HCP/NCCP from critical habitat designation include relieving landowners, communities, and portions of eastern Contra Costa County of any additional regulatory burden that might be imposed by critical habitat. Many HCPs, particularly large regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the Plan area. Additionally, many of these HCPs provide conservation benefits to unlisted sensitive species. Imposing an additional regulatory review after a HCP is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas. In fact, it could result in the loss of species' benefits if participants abandon the voluntary HCP process. Designation of critical habitat within the boundaries of approved HCPs could also be viewed as a disincentive to those entities currently developing HCPs or contemplating them in the future. The benefits of excluding lands within approved plans that specifically benefit listed or sensitive species from critical habitat discussed above applies fully to the East Contra Costa County HCP/NCCP. A related benefit of excluding lands within approved HCPs that cover the California red-legged frog from the critical habitat designation is the continued ability to seek new partnerships with future HCPs participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved HCPs plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop HCPs, particularly large regional HCPs that involve numerous participants and address landscape level conservation of the California red-legged frog and its habitat. By excluding the lands covered within the East Contra Costa County HCP/NCCP, we preserve our current partnerships and encourage additional conservation actions in the future.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We believe that the regulatory benefit of designating critical habitat on private lands covered by the East Contra Costa County HCP/NCCP would be low and may hinder the effective implementation of the plan. The East Contra Costa County HCP/NCCP addresses conservation issues from a coordinated, integrated perspective and will achieve better California red-legged frog conservation than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. East Contra Costa County HCP/NCCP provides for the proactive monitoring and management of conserved lands (as previously described), reducing known threats to California red-legged frog and its habitat.

Conservation and management of California red-legged frog habitat is essential to the survival and recovery of this species. Such conservation needs

are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The East Contra Costa County HCP/NCCP provides as much or more conservation benefit to the species than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore, educational benefits that may be derived from a critical habitat designation are low in this case and largely redundant to the educational benefits achieved through the significant public, State, and local government input solicited and received during the development of the East Contra Costa County HCP/NCCP.

We have developed close partnerships with the eight East Contra Costa County HCP/NCCP permittees through the development of this regional HCP/NCCP that incorporates appropriate protections and management of the physical and biological features essential to the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating a largely redundant layer of regulatory review for a limited set of projects on non-Federal lands that are addressed by the East Contra Costa County HCP/NCCP, and we are helping to preserve our ongoing partnerships with the permittees and encouraging new partnerships with other landowners and jurisdictions. Those partnerships, and the landscape-level, multiple-species conservation planning efforts they promote, are critical for the conservation of the California red-legged frog. Designating critical habitat on non-Federal lands within the East Contra Costa County HCP/NCCP could have a detrimental effect to our partnerships with the eight East Contra Costa County HCP/NCCP permittees and could be a significant disincentive to the establishment of future partnerships and HCPs with other partners.

As a result of the specific conservation measures in the Plan being implemented for the California red-legged frog, the Secretary has determined to exercise his discretion under section 4(b)(2) of the Act to exclude approximately 75,767 ac (30,662 ha) of land that will receive protection and the special management they require through funding mechanisms that will be implemented under the East Contra Costa County HCP/NCCP.

Exclusion Will Not Result in Extinction of the Species

In keeping with our analysis and conclusion detailed in our biological opinion for the East Contra Costa County HCP/NCCP (Service 2007c, pp. 1–189), we do not believe that the exclusion of non-Federal lands that meet the definition of critical habitat within the East Contra Costa County HCP/NCCP plan area from the final designation of critical habitat for the California red-legged frog will result in the extinction of the species. Additionally, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct as a result of this exclusion.

Other Conservation Plans

East Bay Regional Park District Lands (EBRPD) (Unit CCS-2)

The East Bay Regional Park District (EBRPD) manages 65 regional parks, recreation areas, wilderness, shorelines, preserves, and land bank areas covering over 95,000 ac (34,446 ha) in Alameda and Contra Costa Counties. The EBRPD Board of Directors adopted the EBRPD Plan on December 17, 1996, under Resolution Number 1996–12–349 (EBRPD 1997, pp. 1–87). The EBRPD Plan provides for monitoring and conservation of rare, threatened, and endangered taxa, including the California red-legged frog. The Service issued an incidental take permit (817400) under section 10(a)(1)(B) of the Act to the EBRPD and they have been actively conducting California red-legged frog surveys and research over the last 15 years. In 1996, 2000, 2004, and most recently in 2007 (Bobzien and DiDonato 2007, pp. 1–87), EBRPD staff conducted California red-legged frog surveys across all park lands for the purpose of population trend monitoring and habitat assessment. Research conducted by EBRPD has also focused on California red-legged frog habitat requirements, tolerances related to water quality, adult and juvenile movements, and the effect of livestock grazing on habitat and frog reproduction. EBRPD provides educational outreach through park interpretive programs and presentation of California red-legged frog research findings at scientific conferences and in peer-reviewed journals. Habitat restoration and nonnative predator control are special management actions the EBRPD uses for the conservation of the California red-legged frog. The majority of the EBRPD land holdings are protected and managed as natural parklands, thereby providing protection for the physical and biological features essential to the conservation of the California red-legged frog. Conservation efforts including conserving, enhancing, and restoring rare, threatened, endangered, or locally important species of plants and animals and their habitats take precedence over other park activities if EBRPD activities are determined to have a significant adverse effect (change in any of the physical conditions within the area affected by a potential activity) on these resources (EBRPD 1997, pp. 1-83). As identified in their Master Plan, the EBRPD will accomplish this by using scientific research, field experience, and other proven methodologies. Populations of listed species will be monitored through periodic observations of their condition, size, habitat, reproduction, and distribution (EBRPD 1997, p. 20).

We expect the EBRPD to provide substantial protection of the physical and biological features essential to the conservation of the California red-legged frog on EBRPD lands within unit CCS-2. We expect the EBRPD to provide a greater level of management for the California red-legged frog on EBRPD lands than would designation of critical habitat on private lands. Moreover, inclusion of these non-Federal lands as critical habitat would not necessitate additional management and conservation activities over and above those already in place by the EBRPD. We do not anticipate any action on these lands would destroy or adversely modify the areas that meet the definition of critical habitat. Therefore, we do not expect that including those areas in the final designation will lead to any changes to actions on the conservation lands to avoid destroying or adversely modifying that habitat.

Benefits of Inclusion - East Bay Regional Park District Lands

Critical habitat designation will provide little additional benefit to the California red-legged frog within the areas owned and managed by the EBRPD. The principal benefit of any designated critical habitat is that federally-\ funded, permitted, or authorized activities that may affect critical habitat will require consultation under section 7 of the Act. Such consultations ensure that adequate protection is provided to avoid adverse modification or destruction of critical habitat. The approved EBRPD Master Plan covers the California red-legged

frog and is designed to ensure the conservation of the species within the Plan area and incorporates special management and protection measures for California red-legged frog habitat within Plan boundaries. The adequacy of the EBRPD measures to protect the California red-legged frog and its habitat has undergone thorough public evaluation prior to approval of the Plan. Development and implementation of the EBRPD Master Plan has provided other important conservation benefits for the California red-legged frog, including the development of biological information to guide conservation efforts and assist in the species' recovery within the Plan area. The educational benefits of designating critical habitat, including informing the public of areas that are important to the conservation of listed species, are essentially the same as those that have occurred during the public involvement process of reviewing and approving the EBRPD Master Plan. Specifically, the EBRPD Master Plan involved public participation through public notices and public comment periods, active participation of the District's citizen-based Park Advisory Committee (PAC) and with extensive review and comment from the community prior to being approved. For these reasons, we believe that designation of critical habitat would provide little additional benefit in areas covered by the approved EBRPD Master Plan. Any actions that may affect the California red-legged frog will still require consultation under section 7 or section 10 of the Act.

Benefits of Exclusion — East Bay Regional Park District Lands

The benefits of excluding the EBRPD Master Plan from critical habitat designation include relieving landowners, communities, and portions of eastern Contra Costa County of any additional regulatory burden that might be imposed by critical habitat. Many such plans, particularly large regional plans such as this, take many years to develop and, upon completion, are consistent with the recovery objectives for listed species that are covered within the plan area. Additionally, many of these plans provide conservation benefits to unlisted sensitive species. Imposing an additional regulatory review after such as plan that specifically identifies measures to protect and conserve listed and other sensitive species is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas. In fact, it could result in the loss of species' benefits if participants abandon currently implemented conservation activities. Designation of critical habitat within the boundaries of approved plan could also be viewed as a disincentive to those entities currently developing similar plans or contemplating them in the future. The benefits of excluding lands within approved plans that specifically benefit listed or sensitive species from critical habitat discussed above applies fully to the EBRPD Master Plan. A related benefit of excluding lands within approved plans that cover the California red-legged frog from the critical habitat designation is the continued ability to seek new partnerships with future participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop other such plans or HCPs, particularly large regional plans or HCPs that involve numerous participants and address landscape level conservation of the California red-legged frog and its habitat. By excluding the lands covered within the EBRPD Master Plan within eastern Contra Costa County, we preserve our current partnerships and encourage additional conservation actions in the future.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We believe that the regulatory benefit of designating critical habitat on lands managed and owned by the EBRPD would be low and may hinder the effective implementation of the 1997 EBRPD Master Plan. The EBRPD Master Plan addresses conservation issues from a coordinated, integrated perspective and will achieve better California red-legged frog conservation than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. The EBRPD Master Plan provides for the proactive monitoring and management of conserved lands (as previously described), reducing known threats to California red-legged frog and its habitat.

Conservation and management of viable California red-legged frog habitat is essential to the survival and recovery of this species. Such conservation needs are typically not addressed through the action-by-action application of the statutory prohibition on adverse modification or destruction of critical habitat. The implementation of the EBRPD Master Plan provides as much or more conservation benefit to the species than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore, educational benefits that may be derived from a critical habitat designation are low in this case and largely redundant to the educational benefits achieved through the significant public, State, and local government input solicited and received during the development of the EBRPD Master Plan.

For these reasons, we believe that designating critical habitat has little benefit in areas covered by the identified EBRPD lands. As a result, the Secretary has determined to exercise his discretion to exclude those EBRPD lands totaling approximately 14,627 ac (5,919 ha) within Unit CCS-2 from the designation of critical habitat under section 4(b)(2) of the Act.

Exclusion Will Not Result in Extinction of the Species

The exclusion of East Bay Regional Park lands within Unit CCS-2 would not result in the extinction of the California red-legged frog. Actions that may adversely affect the species are expected to have a Federal nexus, and would thus undergo a consultation with the Service under section 7 of the Act. The jeopardy standard of section 7 of the Act, and routine implementation of conservation measures through the section 7 process, provide assurance that the species will not go extinct. Additionally, the species is protected from the take prohibitions under section 9 of the Act. The exclusion leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

We do not believe that this exclusion would result in the extinction of the species because: (1) The species occurs on lands protected and managed either explicitly for the species, or indirectly through more general objectives to protect natural values. This factor along with the other protections provided under the Act for these lands absent designating them as critical habitat, combined with protections afforded the species by the remaining critical habitat designation for the species, leads us to find that exclusion of these lands will not result in extinction of the California red-legged frog; and (2) the species is found in other areas and the EBRPD Plan provides for monitoring and conservation of rare, threatened, and endangered taxa, including the California red-legged frog. EBRPD has been actively conducting California red-

legged frog surveys and research over the last 15 years. Nearly 90 percent of the EBRPD land holdings are protected and managed as natural parklands, thereby providing protection for the PCEs (Bobzien 2005, pp. 1-2), and conservation efforts take precedence over other park activities if EBRPD activities are determined to have a significant adverse effect on rare, threatened, or endangered taxa (EBRPD 1997, pp. 1-83).

Spivey Pond Management Area (SPMA) (Unit ELD-1)

The SPMA encompasses 54 ac (22 ha) of BLM-owned lands surrounding Spivey Pond in El Dorado County, California. Spivey Pond is one of five known extant California red-legged frog breeding populations in the Sierra Nevada foothills. In 1997, a population of reproducing California red-legged frogs was discovered in Spivey Pond on the north fork of Webber Creek. The previously confirmed sightings of a California red-legged frog in the Webber Creek watershed were in 1972 and 1975. At the time of discovery, the Spivey Pond parcel was privately owned and slated for timber harvest and subdivision development. The Service urged the American River Conservancy (ARC) to initiate negotiations with the owners of the Spivey Pond for purchase of the property. With financial assistance from the Service and the U.S. Bureau of Reclamation (USBR), ARC succeeded in purchasing the 54 ac (22 ha) Spivey Pond parcel on April 28, 1998. Additional grant funding from the National Fish and Wildlife Foundation was received on September 15, 1998, which allowed for initial pond stabilization and restoration work.

On May 3, 1999, all preliminary acquisition and restoration activities were completed, and the parcel was transferred to the BLM to be managed as a wildlife reserve specifically for the benefit of the California red-legged frog. We issued a non-jeopardy biological opinion for development of a new breeding pond for the species (Service File 1-1-03-F-0289) on March 4, 2004. A management plan for the California red-legged frog was finalized by BLM, the Service, Forest Service (El Dorado National Forest), USBR, CDFG, ARC, El Dorado County, and the El Dorado Irrigation District in July 2004 (BLM 2004, pp. 1-26). The Management Plan for the SPMA consists of six management objectives specifically for the conservation of the California red-legged frog including: (1) Control of bullfrogs and predatory fish; (2) monitoring of water quality for potential contaminants; (3) maintenance of the pond's integrity and habitat/water quality; (4) creation and management of additional California red-legged frog breeding habitat; (5) promotion of research and maintenance of a GIS database; (6) and providing input for watershed level planning and activities that may benefit Spivey Pond (BLM 2004, pp. 1-26).

Benefits of Inclusion - Spivey Pond Management Area

The approved Spivey Pond Management Plan covers the California red-legged frog and is designed to ensure the conservation of the species within the Plan area and incorporates special management and protection measures for California red-legged frog habitat within Plan boundaries. The Spivey Pond Management Plan's measures to protect the California red-legged frog and its habitat underwent thorough evaluation by the Service and other stakeholders prior to approval of the Plan. Development and implementation of the Spivey Pond Management Plan has provided other important conservation benefits for the California red-legged frog, including the development of biological information to guide conservation efforts and assist in the species' recovery within the Plan area. The educational benefits of designating critical habitat, including informing the public of areas that are important to the conservation of listed species, are essentially the same as those that have occurred during the public involvement process of designating critical habitat in 2006, and again within this designation in 2009. In addition, Federal actions that may affect the California red-legged frog will still require consultation under section 7 of the Act. For these reasons, we believe that designation of critical habitat would provide little additional benefit in areas covered by the approved Spivey Pond Management Plan.

Benefits of Exclusion - Spivey Pond Management Area

The benefits of excluding the Spivey Pond Management Plan from critical habitat designation include relieving the BLM of any additional regulatory burden that might be imposed by critical habitat. Imposing an additional regulatory review after such a plan that specifically identifies measures to protect and conserve the California red-legged frog is completed, solely as a result of the designation of critical habitat, may undermine the conservation efforts and partnerships developed during the development and implementation of this Plan. In fact, it could result in the loss of species' benefits if participants abandon currently implemented conservation activities. Designation of critical habitat within the boundaries of the approved Plan could also be viewed as a disincentive to those entities currently developing similar plans or contemplating them in the future. The previously discussed benefits of excluding lands within approved plans that specifically benefit listed or sensitive species from critical habitat apply fully to the Spivey Pond Management Plan. A related benefit of excluding lands within approved plans that cover the California red-legged frog from the critical habitat designation is the continued ability to seek new partnerships with future participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop other such plans or HCPs that involve numerous participants. By excluding the lands covered within the Spivey Pond Management Plan within El Dorado County, we preserve our current partnerships and encourage additional conservation actions in the future.

Benefits of Exclusion Outweigh the Benefits of Inclusion - Spivey Pond Management Area (SPMA)

We believe that the benefits of excluding the entire 54-ac (22-ha) SPMA from the designation of critical habitat for the California red-legged frog outweigh the benefits of including the SPMA in critical habitat. We find that including the SPMA would result in very minimal, if any, additional benefits to the California red-legged frog as explained above. The critical habitat designation would remain on lands surrounding the SPMA, thereby providing a measure of protection for the PCEs outside the area, while the management plan would protect the PCEs and provide additional benefits of nonnative predator control, habitat management and creation, and pollution monitoring within the Plan area. We have worked cooperatively with the BLM and other agencies and assisted in development of the SPMA Plan. We believe that utilizing the Secretary's discretion in excluding the portions of this unit managed under the SPMA will encourage other willing landowners in the unit to continue their conservation activities and allow the Service to

expand interest of other private landowners in the unit into conservation partnerships for conserving additional frog habitat. The benefits of exclusion include providing an incentive for continued conservation and restoration on private lands where landowners have shown a willingness to participate in such activities.

Exclusion Will Not Result in Extinction of the Species - SPMA

We find that the exclusion of these lands will not lead to the extinction of the species, nor hinder its recovery because the management emphasis of the SPMA is to protect and enhance habitat for the California red-legged frog. The SPMP consists of six management objectives specifically designed for the conservation of the California red-legged frog. Additionally, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct as a result of this exclusion. As a result of ongoing management and protection of California red-legged frogs and their habitat at Spivey Pond through the development and implementation of the 2004 Management Plan for the Spivey Pond Management Area, the Secretary has determined to exercise his discretion to exclude the entire 54 ac (22 ha) of land owned by the Bureau of Land Management from Unit ELD-1 at Spivey Pond from critical habitat under section 4(b)(2) of the Act.

Hearst Ranch Conservation Easement

The Hearst Ranch Conservation Easement (Easement), held by the California Rangeland Trust, encompasses 81,000 ac (33,000 ha) of privately owned lands near the town of San Simeon in northern San Luis Obispo County of which 34,777 ac (14,074 ha) occur within Unit SLO-2. The Easement was signed on February 18, 2005, and the Hearst Ranch San Simeon Conservation Easement Management Plan (Plan) was put into place on February 17, 2006. The Easement and Plan provide protective measures for California red-legged frogs, which occur in several drainages within the boundaries of the Easement. The Easement and Plan also include: (1) Protective measures for the diverse communities and habitats, including wetlands, marshes, riparian areas, grasslands, and stock ponds, that collectively constitute California red-legged frog habitat; and (2) connectivity both within the boundaries of the Easement and connectivity to other open spaces surrounding the Easement, which is important for California red-legged frog dispersal. The Easement allows for grazing, farming, and development to occur in some areas. Future development is limited to an inn at Old San Simeon Village, limited employee housing, and a maximum of 27 new owner homesites. However, the Plan provides management directives that protect California red-legged frogs and their habitat including: maintaining cross fencing and livestock water systems to achieve good cattle distribution and to keep cattle from damaging riparian areas; locating salt blocks at least 0.25 mi (0.4 km) from water sources to encourage good cattle distribution and prevent salt from entering riparian areas; preventing overgrazing by establishing limits on residual dry matter; maintaining a residual dry matter cushion during drought conditions by reducing the size of the cattle herd or using a supplemental forage mix; selecting homesite locations to avoid impacts to conservation values, including California red-legged frogs and their habitat; and in farmed areas, mechanically managing weeds, preventing all irrigation water from entering flowing water courses and ponds, and mandating setbacks to buffer riparian areas from farming operations. Monitoring is conducted to ensure that the Plan continually provides sufficient protection of the Easement conservation values. Monitoring that provides information about the status of California red-legged frog habitat includes: annual photo point monitoring of Pico Creek, Little Pico Creek, Arroyo Laguna, San Carpoforo Creek, representative stock ponds, and representative wetland plant communities; annual residual dry matter monitoring; proper stream function evaluations of Pico Creek, Little Pico Creek, Arroyo Laguna, Arroyo de la Cruz, and San Carpoforo Creek every 5 years; and rangeland and habitat health evaluations every 5 years. Monitoring results are summarized and made available to the public by the California Rangeland Trust. If drainages show impairment

due to the operations of the ranch, corrective actions will be taken and may include: deferred grazing; changing the seasonality or length of grazing; reducing cattle grazing numbers near stream corridors; changing rotational grazing patterns; installing additional riparian pasture fencing; installing additional off-stream water troughs; placing salt and supplements farther away from impacted areas; removing noxious plants within the riparian area; installing additional erosion control structures; and/or instituting greater cropland setbacks from stream corridors. At least once every 5 years, the property is audited by a committee consisting of the Director of the California Rangeland Trust, the Executive Director of the Wildlife Conservation Board (a board under the California Department of Fish and Game with the authority and funding to conduct wildlife conservation programs and acquisitions), and a Certified Range Manager, for compliance with the Conservation Easement.

Based on the reasoning below, the Secretary has determined to exercise his discretion to exclude approximately 34,777 ac (14,074 ha) of land from Unit SLO-2 in San Luis Obispo County under section 4(b)(2) of the Act.

Benefits of Inclusion – Hearst Ranch

One benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure actions they fund, authorize, or carry out are not likely to result in destruction or adverse modification of designated critical habitat, which is one of the regulatory standards under which consultation is completed. Unlike a jeopardy analysis, which looks at an action's impact on survival and recovery of the species, an adverse modification analysis looks at the action's effects on the designated habitat's contribution to the species' conservation. If, through consultation, the Service determines that a project may result in adverse modification, the Service will suggest reasonable and prudent alternatives that can be taken by the Federal agency or applicant to avoid adversely modifying the designated critical habitat while implementing the proposed action. Consultations that conclude that a proposed action is not likely to result in adverse modification may recommend additional conservation measures, but such measures would be discretionary on the part of the Federal agency.

Another benefit of including lands in a critical habitat designation is the designation can serve to educate the public regarding the potential conservation value of an area, and may help focus conservation efforts to designated areas of high conservation value for certain species. The process of proposing and finalizing the revised critical habitat rule provided the Service with the opportunity to evaluate and refine the features essential to the conservation of the species within the geographical area occupied by it at the time of listing, as well as to evaluate

whether there are other areas essential for the conservation of the species. The designation process included peer review and public comment on the identified features and areas. This process is valuable to landowners and managers in developing conservation management plans for identified areas, as well as any other occupied habitat or suitable habitat that may not have been included in the Service's determination of essential habitat. However, the educational benefits of designating lands within the Hearst Ranch Conservation Easement are small because, as discussed above, Hearst Ranch is aware of the value of its lands to the conservation of the California red-legged frog, and currently implements management measures to conserve California red-legged frogs and their habitat. Further, much of Hearst Ranch was included in the proposed designation, which itself reached a wide audience. The educational benefits that might follow critical habitat designation (such as providing information to Hearst Ranch managers on areas important to the long-term conservation of this species) were already provided by: (1) Developing the Easement and Plan, (2) the original designation process in 2001 (66 FR 14626), and (3) publication of the revised critical habitat designation in 2006 (71 FR 19244).

In light of the continued commitment by Hearst Ranch to manage their lands in a manner that promotes conservation of the California red-legged frog and because monitoring is conducted and reviewed by a third party to ensure the Easement and Plan are being complied with, we believe designation of Easement lands within Unit SLO-2 as critical habitat would provide few, if any, additional regulatory and conservation benefits to the species.

Benefits of Exclusion – Hearst Ranch

The benefits of excluding approximately 34,777 ac (14,074 ha) of Hearst Ranch Easement lands are significant. Benefits include relieving landowners from any additional regulatory burden that might be imposed by a critical habitat designation. The Easement took years to develop in cooperation with several State agencies and non-governmental organizations, and is consistent with conservation objectives for California red-legged frogs. Furthermore, the Easement and Plan provide conservation benefits for unlisted sensitive species. Imposing additional regulatory review as a result of the designation may undermine conservation efforts and partnerships that would otherwise benefit the California red-legged frog as well as other species. Designation of critical habitat within the boundaries of a conservation easement that provides conservation measures for a species could be viewed as a disincentive to those entities currently developing these plans or contemplating them in the future, because one of the incentives for undertaking conservation is greater ease of permitting where listed species are affected. Excluding Easement lands will also preserve a partnership between the Service and Hearst Ranch, which may encourage other conservation partnerships between our two entities in the future.

Benefits of Exclusion Outweigh Benefits of Inclusion – Hearst Ranch

As discussed in the "Benefits of Inclusion – Hearst Ranch" section above, we believe the regulatory benefit of designating critical habitat on lands covered by the Hearst Ranch Conservation Easement and Plan would be low. The Easement and Plan address conservation issues from a coordinated, integrated perspective rather than a piecemeal project-by-project approach and will achieve more California red-legged frog conservation than we would achieve through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. We believe the conservation benefits for California red-legged frogs that would occur as a result of designating those 34,777 ac (14,074 ha) in Unit SLO-2 as critical habitat (e.g., protection afforded through the section 7(a)(2) consultation process) is minimal compared to the overall conservation benefits for the species that will be realized through the Hearst Ranch Conservation Easement and Plan.

Furthermore, the educational benefits of critical habitat designation, including informing the public of areas important for the long-term conservation of the species, are accomplished from material provided on our website and through notices of public comment periods associated with the original California red-legged frog critical habitat rule (66 FR 14626), the first revised critical habitat rule (71 FR 19244), and the development of the Easement and Plan. Further, many educational benefits of critical habitat designation will be achieved through the overall designation, and will occur whether or not this particular location is designated. For these reasons, we believe that designating critical habitat has little benefit in areas covered by the Hearst Ranch Easement and Plan.

The exclusion of the Hearst Ranch lands from California red-legged frog critical habitat will help preserve the partnerships that we developed with Hearst Ranch. It may also help encourage new partnerships with other landowners and jurisdictions. These partnerships are critical for the conservation of California red-legged frogs.

We reviewed and evaluated the exclusion of 34,777 ac (14,074 ha) of private lands within the Hearst Ranch Easement area from the final revised critical habitat designation for the California red-legged frog and determined that the benefits of excluding these lands in Unit SLO-2 outweigh the benefits of including them. As discussed above, the Easement and Plan will provide for preservation and management of habitat for and features essential to the conservation of the species.

Exclusion Will Not Result in Extinction of the Species – Hearst Ranch

We do not believe that this exclusion would result in the extinction of the species because the Hearst Ranch Conservation Easement and Plan provides for conservation of the species in this area through the detailed management practices and monitoring described above.

Special Rule Under Section 4(d) of the Act

In the April 13, 2006, **Federal Register** (71 FR 19244), we finalized a special rule for the California red-legged frog as defined under section 4(d) of the Act to ease the general take prohibitions for routine ranching activities by non-Federal entities on private and tribal lands. Under section 4(d) of the Act, the Secretary may publish a special rule that modifies the standard protections for threatened species under the Service's regulations implementing section 9 of the Act at 50 CFR 17.31 with special measures tailored to the conservation of the species that are determined to be necessary and advisable. We reviewed the special rule at 50 CFR 17.43(d), and we determined that the special rule is appropriate and will remain in place for the California red-legged frog. For more information on the "Special Rule Under Section 4(d) for Routine Livestock Ranching Activities" see the April 13, 2006, **Federal Register** (71 FR 19244).

Required Determinations

Regulatory Planning and Review – Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant under E.O. 12866. OMB

bases its determination upon the following four criteria:

(1) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(2) Whether the rule will create inconsistencies with other Federal agencies' actions.

(3) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(4) Whether the rule raises novel legal or policy issues.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act amended the Regulatory Flexibility Act to require Federal agencies to provide a certification 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 the California red-legged frog 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, 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; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the revised designation of critical habitat for the California red-legged frog would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as residential and commercial development. We apply the "substantial number" test individually to each industry or category to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and thus will not be affected by the designation of critical habitat.

Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation. In 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 California red-legged frog (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)

In the DEA of the proposed revision of critical habitat, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the proposed revision of critical habitat for the California red-legged frog. The analysis is based on the estimated incremental impacts associated with the rulemaking as described in section 2 of the analysis. In the FEA, we evaluated the potential economic effects on small business entities resulting from implementation of conservation actions related to the proposed revision to critical habitat for the California red-legged frog. The economic analysis identifies the estimated incremental impacts associated with the proposed rulemaking as described in chapters 4 through 12, and evaluates the potential for economic impacts related to activity categories including: urban development; water management; agricultural crop farming; grazing and ranching; timber harvest activities; transportation; utility and oil and gas pipeline construction and maintenance and mining activities; fire management activities; and habitat and vegetation management activities. The analysis concludes that incremental impacts to development and agriculture may affect small entities. However, for urban development, less than 1 percent (0.04) (19 out of 46,240) of small developers are anticipated to be impacted in the next 22 years. Similarly, for agriculture, only 1.6 percent (198 out of 12,060) of small farms are expected to be affected. Please refer to our final economic analysis of critical habitat designation for the California red-legged frog for a more detailed discussion of potential economic impacts.

In summary, we considered whether the final rule to revise critical habitat would result in a significant economic impact 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.

Energy Supply, Distribution, or Use – Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This revision to critical habitat for the California red-legged frog is not considered a significant regulatory action under E.O. 12866. OMB has provided guidance for implementing E.O. 13211 that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared without the regulatory action under consideration. The economic analysis finds that none of these criteria are relevant to this designation of critical habitat. Thus, based on information in the economic analysis (Appendix A), energy-related impacts associated with California red-legged frog conservation activities within the areas included in this final designation of critical habitat are not expected. As such, this final designation of revised critical habitat is not expected to significantly affect energy supplies, distribution, or use,

and a Statement of Energy Effects is not required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, the Service makes the following findings:

(1) 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 [T]ribal 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 [T]ribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or Tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities who receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order (E.O.) 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for the California red-legged frog in a takings implications assessment. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. The takings implications assessment concludes that this final designation of revised critical habitat for California red-legged frog does not pose significant takings implications for lands within or affected by the designation.

Federalism – Executive Order 13132

In accordance with E.O. 13132 (Federalism), the final rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this critical habitat designation with appropriate State resource agencies in California. During the public comment periods, we contacted appropriate State and local agencies and jurisdictions, and invited them to comment on the proposed revised critical habitat designation for the California red-legged frog. We used the comments we received to help us refine this final designation. We received one comment letter from the State of California, Military Department Office of the Adjutant General (see "Summary of Comments and Recommendations" section). The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat 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 local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Civil Justice Reform – Executive Order 12988

In accordance with E.O. 12988 (Civil Justice Reform), it has been determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are revising critical habitat in accordance with the provisions of the Act. This final rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the California red-legged frog.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995. 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.

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.

As a result of changing the extent of Unit MEN-1 in Mendocino County, the proposed revised critical habitat designation contained approximately 92 ac (37 ha) of Tribal land. We contacted the Bureau of Indian Affairs and the Manchester Point Arena Band of Pomo Indians regarding our proposed revision of critical habitat (Service File 81420-2009-TA-0751). As of the date of this notice, we have not received any concerns from or been contacted by the Bureau of Indian Affairs or the Manchester Point Arena Band of Pomo Indians regarding the designation of critical habitat on the tribal lands identified in Unit MEN-1. Therefore, we have designated the tribal lands within Unit MEN-1 as critical habitat for the California red-legged frog.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et. seq.)

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 NEPA 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)).

References Cited

A complete list of all references cited in this rulemaking is available on *http://www.regulations.gov* and upon request from the Field Supervisor, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author(s)

The primary authors of this notice are staff from the Sacramento, Ventura, Arcata, and Carlsbad Fish and Wildlife Offices (see **FOR FURTHER INFORMATION CONTACT** section).

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 § 17.11(h), revise the entry for "Frog, California red-legged," under "AMPHIBIANS," to read as follows:

§ 17.11 **Endangered and threatened wildlife.**

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
AMPHIBIANS							
*	*	*	*	*	*	*	
Frog, California red-legged	*Rana draytonii*	U.S.A. (CA), Mexico	Entire	T	583	17.95(d)	17.43
*	*	*	*	*	*	*	

■ 3. In § 17.95(d), revise the entry for "California Red-legged Frog (*Rana aurora draytonii)*" to read as follows:

§ 17.95 **Critical Habitat—Fish and Wildlife.**

* * * * *

(d) *Amphibians.*

* * * * *

California Red-legged Frog (*Rana draytonii*)

(1) Critical habitat units are depicted for Alameda, Butte, Calaveras, Contra Costa, El Dorado, Kern, Kings, Los Angeles, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Placer, Riverside, San Benito, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Ventura, and Yuba Counties, California, on the maps below.

(2) Within these areas, the primary constituent elements for the California red-legged frog consist of four components:

(i) *Aquatic Breeding Habitat.* Standing bodies of fresh water (with salinities less than 4.5 ppt), including natural and manmade (e.g., stock) ponds, slow-moving streams or pools within streams, and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 20 weeks in all but the driest of years.

(ii) *Aquatic Non-Breeding Habitat.* Freshwater pond and stream habitats, as described in paragraph (2)(i) of this entry, that may not hold water long enough for the species to complete its aquatic life cycle but which provide for shelter, foraging, predator avoidance, and aquatic dispersal of juvenile and adult California red-legged frogs. Other wetland habitats considered to meet these criteria include, but are not limited to: plunge pools within intermittent creeks, seeps, quiet water refugia within streams during high water flows, and springs of sufficient flow to withstand short-term dry periods.

(iii) *Upland Habitat.* Upland areas adjacent to or surrounding breeding and non-breeding aquatic and riparian habitat up to a distance of 1 mi (1.6 km) in most cases (i.e., depending on surrounding landscape and dispersal barriers) including various vegetational

series such as grassland, woodland, forest, wetland, or riparian areas that provide shelter, forage, and predator avoidance for the California red-legged frog. Upland habitat should include structural features such as boulders, rocks and organic debris (e.g., downed trees, logs), small mammal burrows, or moist leaf litter. Upland features are also essential in that they are needed to maintain the hydrologic, geographic, topographic, ecological, and edaphic features that support and surround the aquatic, wetland, or riparian habitat. These upland features contribute to:

(A) Filling of aquatic, wetland, or riparian habitats;

(B) Maintaining suitable periods of pool inundation for larval frogs and their food sources; and

(C) Providing non-breeding, feeding, and sheltering habitat for juvenile and adult frogs (e.g., shelter, shade, moisture, cooler temperatures, a prey base, foraging opportunities, and areas for predator avoidance).

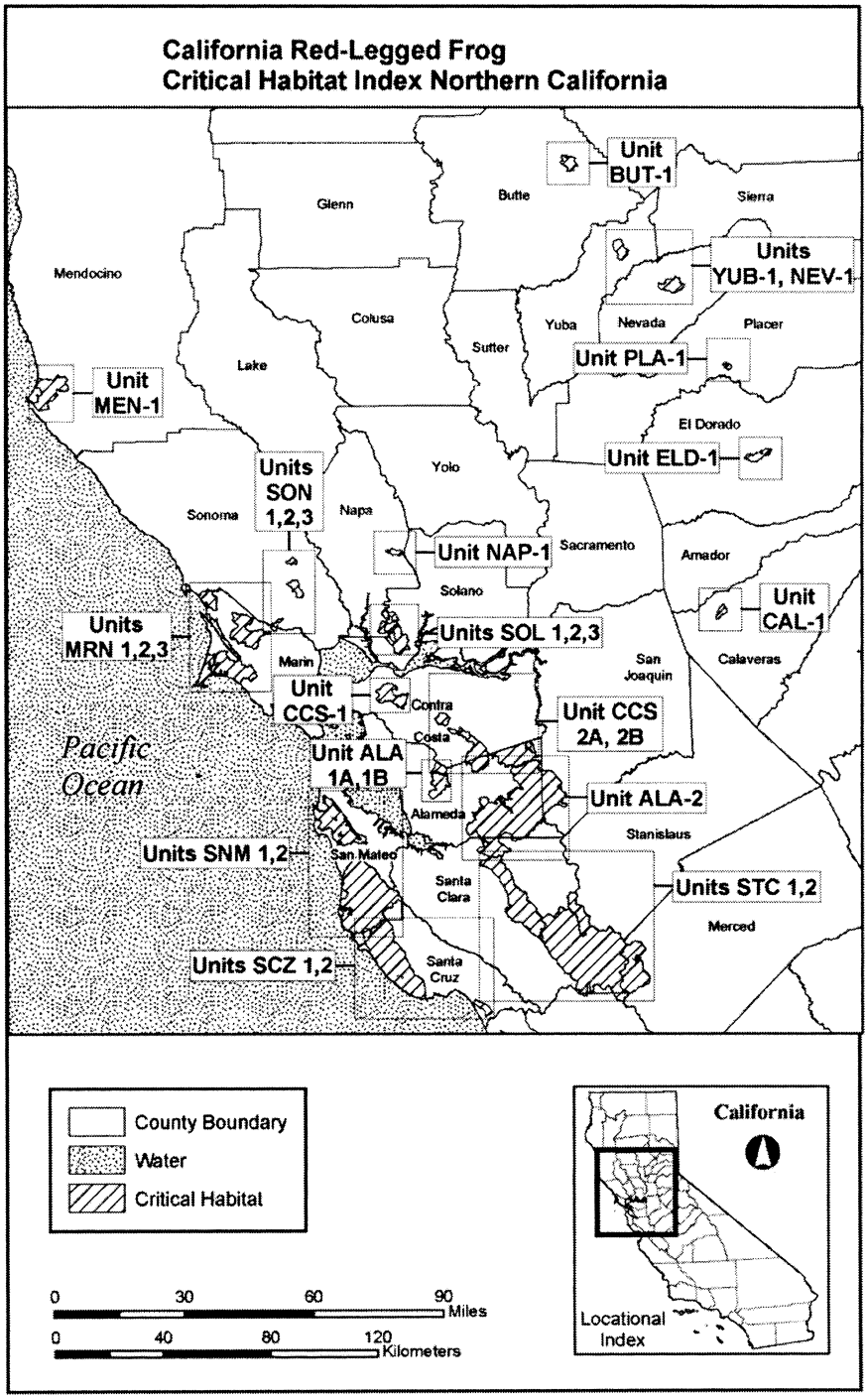
(iv) *Dispersal Habitat.* Accessible upland or riparian habitat within and between occupied locations within a minimum of 1 mi (1.6 km) of each other and that support movement between such sites. Dispersal habitat includes various natural habitats, and altered habitats such as agricultural fields, that do not contain barriers (e.g., heavily traveled roads without bridges or culverts) to dispersal. Dispersal habitat does not include moderate- to high-density urban or industrial developments with large expanses of asphalt or concrete, nor does it include large lakes or reservoirs over 50 ac (20 ha) in size, or other areas that do not contain those features identified in paragraphs (2)(i), (2)(ii), and (2)(iii) of this entry as essential to the conservation of the species.

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the land on which such structures are located.

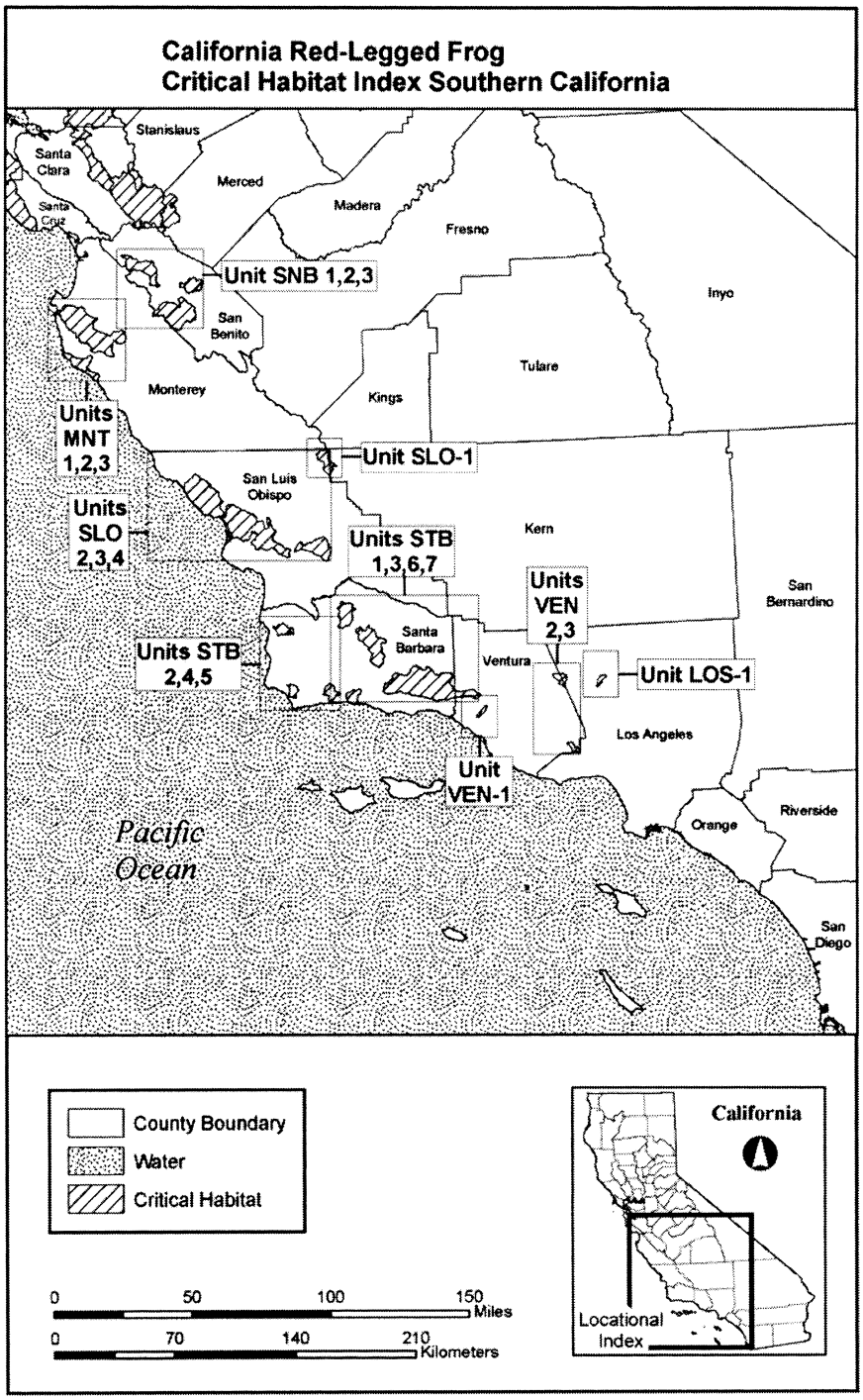
(4) *Critical habitat map units.* Data layers defining map units were created on a base of USGS 7.5′ quadrangles using USDA National Agricultural Imagery Program (NAIP) county-wide MrSID compressed mosaics of 1 meter resolution and natural color aerial photography from summer 2005. Critical habitat units were then mapped using Universal Transverse Mercator (UTM) zone 10 and zone 11, North American Datum (NAD) 1983 coordinates.

(5) *Note*: Index map for California red-legged frog critical habitat units in northern California follows:

BILLING CODE 4310–55–S


California Red-Legged Frog
Critical Habitat Index Northern California
Unit BUT-1
Butte
Sierra
Glenn
Mendocino
Units YUB-1, NEV-1
Colusa
Yuba
Nevada
Placer
Sutter
Unit PLA-1
Lake
Unit MEN-1
El Dorado
Unit ELD-1
Yolo
Units SON 1,2,3
Napa
Sonoma
Unit NAP-1
Sacramento
Amador
Solano
Unit CAL-1
Units MRN 1,2,3
Units SOL 1,2,3
Marin
San Joaquin
Calaveras
Unit CCS-1
Contra Costa
Unit CCS 2A, 2B
Pacific Ocean
Unit ALA 1A 1B
Unit ALA-2
Alameda
Stanislaus
Units SNM 1,2
San Mateo
Santa Clara
Units STC 1,2
Merced
Units SCZ 1,2
Santa Cruz
County Boundary
Water
Critical Habitat
0 30 60 90 Miles
0 40 80 120 Kilometers
California
Locational Index

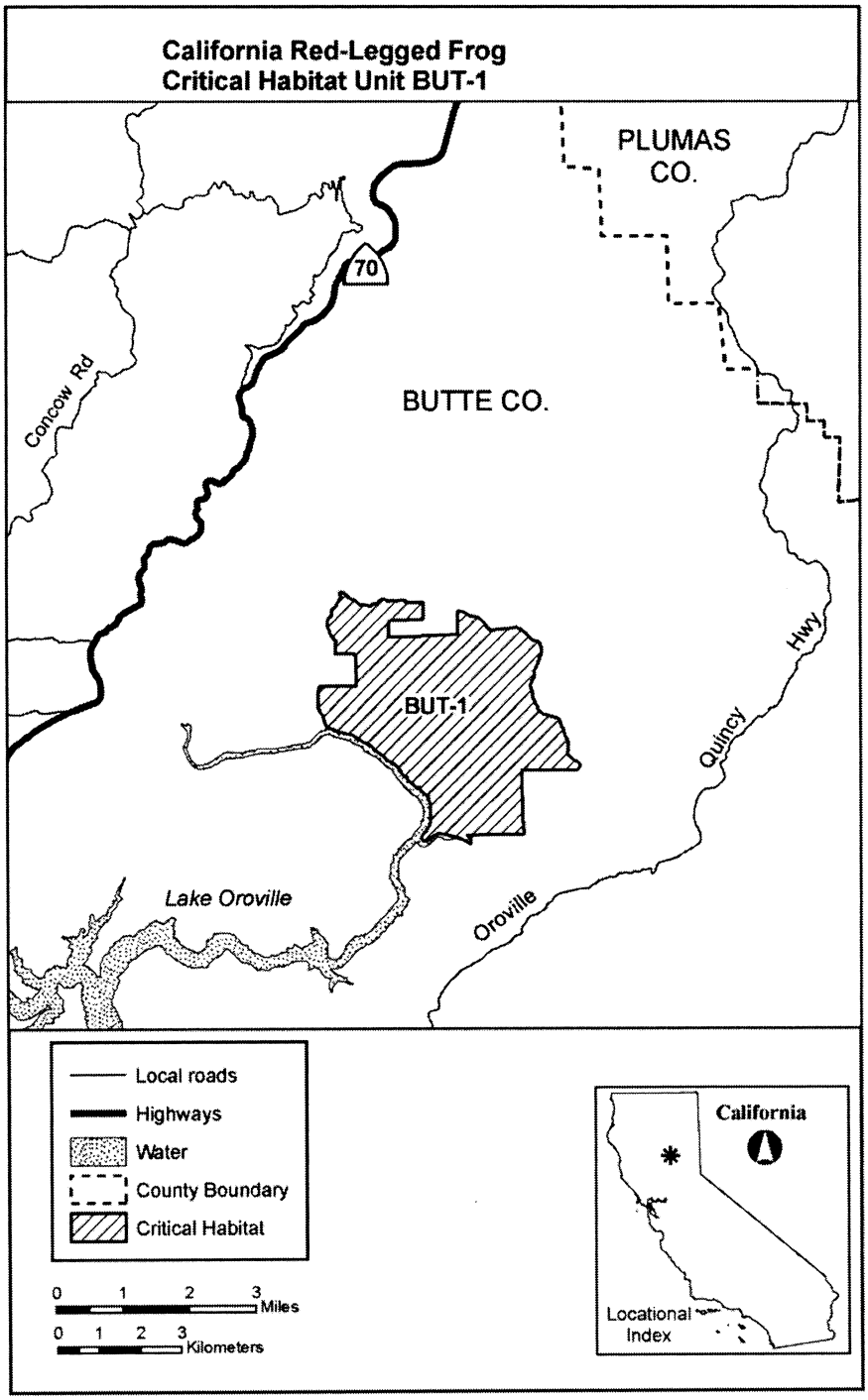
(6) *Note*: Index map for California red-legged frog critical habitat units in southern California follows:



(7) Unit BUT-1: Butte County, California. From USGS 1:24,000 scale quadrangles Pulga, Berry Creek and Brush Creek.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 635284, 4400926; 635453, 4400907; 635539, 4400870; 635603, 4400930; 635726, 4400934; 635749, 4400994; 635820, 4401042; 635906, 4401042; 635992, 4400997; 636377, 4401020; 636414, 4401012; 636415, 4400967; 636836, 4400961; 636840, 4400584; 636819, 4400561; 636032, 4400541; 636000, 4400474; 635993, 4400141; 637654, 4400205; 637658, 4400775; 637782, 4400748; 637961, 4400640; 638164, 4400598; 638444, 4400303; 639062, 4400378; 639174, 4400326; 639318, 4400212; 639414, 4400098; 639616, 4400002; 639664, 4399875; 639667, 4399772; 639609, 4399578; 639492, 4399337; 639498, 4399218; 639397, 4398995; 639477, 4398627; 639628, 4398345; 640086, 4398179; 640120, 4398056; 640189, 4397932; 640243, 4397727; 640310, 4397601; 640281, 4397365; 640293, 4397311; 640545, 4397124; 640596, 4397057; 640533, 4396958; 639179, 4396957; 639206, 4395692; 639231, 4395681; 639236, 4395406; 637864, 4395379; 637968, 4395351; 637962, 4395169; 637764, 4395285; 637655, 4395303; 637710, 4395306; 637686, 4395325; 637232, 4395428; 637143, 4395417; 636893, 4395251; 636845, 4395236; 636813, 4395252; 636787, 4395300; 636787, 4395375; 636949, 4395589; 636995, 4395733; 637000, 4396105; 636934, 4396262; 636952, 4396314; 636898, 4396328; 636885, 4396372; 636786, 4396417; 636724, 4396549; 636677, 4396526; 636439, 4396726; 636424, 4396791; 636347, 4396812; 636254, 4396975; 636152, 4397085; 636057, 4397151; 635947, 4397190; 635885, 4397279; 635630, 4397454; 635579, 4397526; 635070, 4397817; 634758, 4397876; 634647, 4397940; 634514, 4397948; 634391, 4398277; 634290, 4398434; 634290, 4398815; 634318, 4398953; 635222, 4398966; 635190, 4399731; 634716, 4399737; 634701, 4399998; 634738, 4400050; 634701, 4400050; 634614, 4400166; 634510, 4400417; 634517, 4400544; 634570, 4400623; 634618, 4400645; 634629, 4400803; 634730, 4400889; 634843, 4401080; 634817, 4401226; 634899, 4401218; 635086, 4401053; 635180, 4401035; returning to 635284, 4400926.

(ii) *Note*: Map of Unit BUT-1 for the California red-legged frog follows:

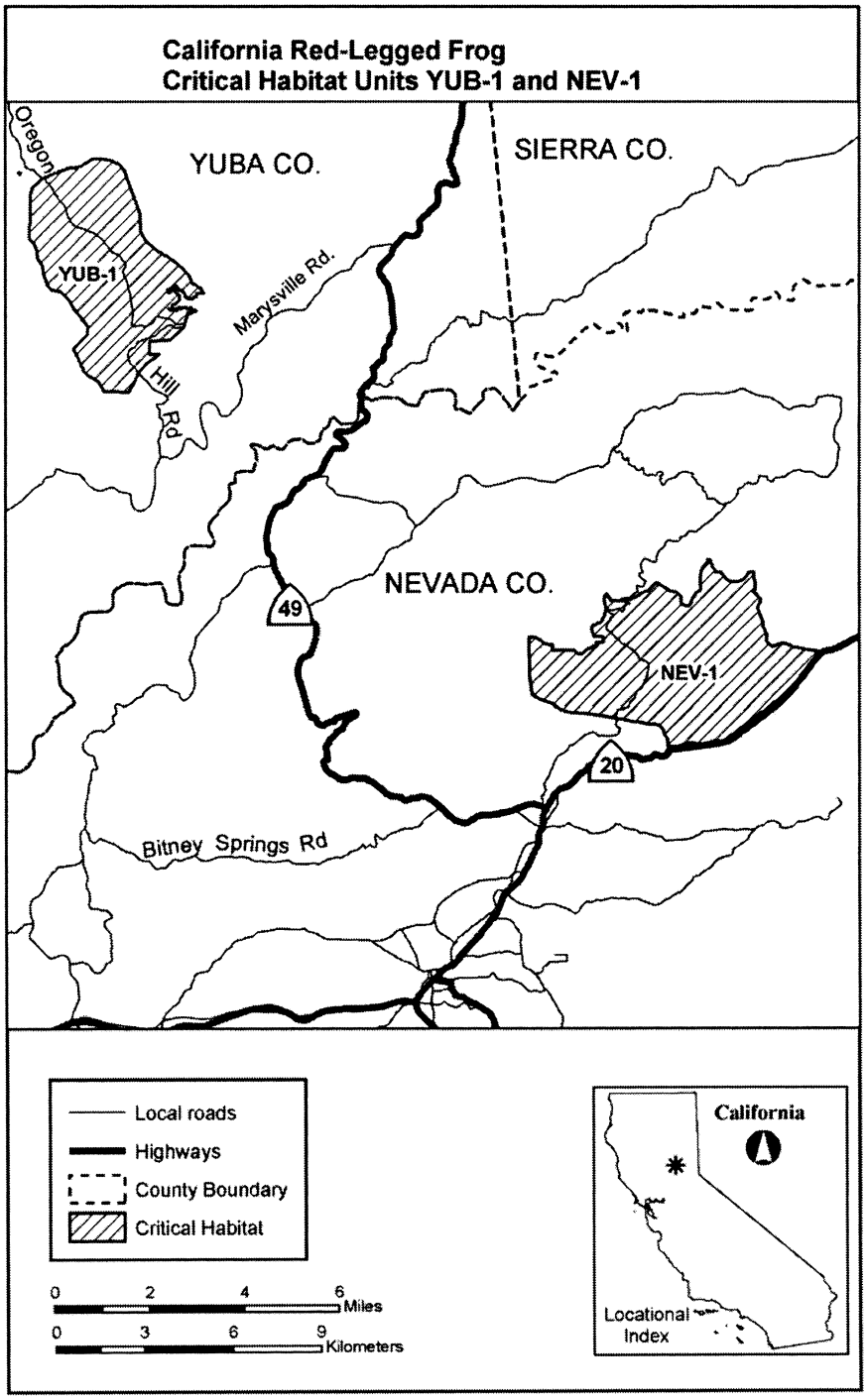

California Red-Legged Frog
Critical Habitat Unit BUT-1
PLUMAS CO.
70
Concow Rd
BUTTE CO.
BUT-1
Hwy
Quincy
Lake Oroville
Oroville
Local roads
Highways
Water
County Boundary
Critical Habitat
0 1 2 3 Miles
0 1 2 3 Kilometers
California
Locational Index

(8) Unit YUB-1: Yuba County, California. From USGS 1:24,000 scale quadrangle Challenge.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

656776,4370030; 656932,4369825; 657462,4368370; 657481,4367769; 657672,4367445; 658105,4367098; 658503,4366871; 658905,4366554; 659124,4366290; 659222,4366053; 659528,4365883; 659624,4365706; 659383,4365704; 659384,4365583; 659340,4365600; 659261,4365537; 659101,4365527; 659061,4365567; 658998,4365584; 658985,4365687; 658888,4365790; 658764,4365830; 658726,4365936; 658579,4365929; 658490,4365853; 658400,4365837; 658396,4365782; 658421,4365733; 658465,4365719; 658581,4365826; 658634,4365834; 658674,4365736; 658794,4365641; 658794,4365469; 658552,4365295; 658524,4365193; 658427,4365180; 658431,4365157; 658564,4365144; 658659,4365199; 658707,4365123; 658730,4365136; 658747,4365240; 658809,4365247; 658850,4365176; 658882,4365226; 658947,4365220; 658998,4365252; 659078,4365182; 659147,4365239; 659181,4365235; 659238,4365207; 659273,4365132; 659332,4365140; 659368,4365118; 659105,4365028; 659020,4364875; 658939,4364572; 658531,4364168; 658410,4364131; 657788,4364103; 657792,4363648; 658106,4363673; 657655,4363358; 657395,4363049; 657087,4362405; 656227,4362436; 656051,4362735; 655683,4362963; 655558,4363109; 655202,4363849; 655669,4364315; 655690,4364586; 655218,4365202; 655027,4365526; 654779,4365758; 654445,4365837; 654319,4366013; 654187,4366370; 654149,4366639; 653990,4366874; 653952,4367143; 653883,4367381; 653710,4367531; 653696,4367950; 653744,4368109; 653740,4369028; 653836,4369294; 653990,4369404; 654143,4369566; 654687,4369794; 655104,4369939; 655245,4369920; 655453,4369987; 655896,4370242; 656198,4370221; 656470,4370170; returning to 656776,4370030.

(ii) *Note*: Map of Unit YUB-1 and NEV-1 for the California red-legged frog follows:


California Red-Legged Frog
Critical Habitat Units YUB-1 and NEV-1
Oregon
YUBA CO.
SIERRA CO.
YUB-1
Marysville Rd.
Hill Rd
NEVADA CO.
49
NEV-1
20
Bitney Springs Rd
Local roads
Highways
County Boundary
Critical Habitat
0 2 4 6 Miles
0 3 6 9 Kilometers
California
Locational Index

(9) Unit NEV-1: Nevada County, California. From USGS 1:24,000 scale quadrangle Nevada City and North Bloomfield.

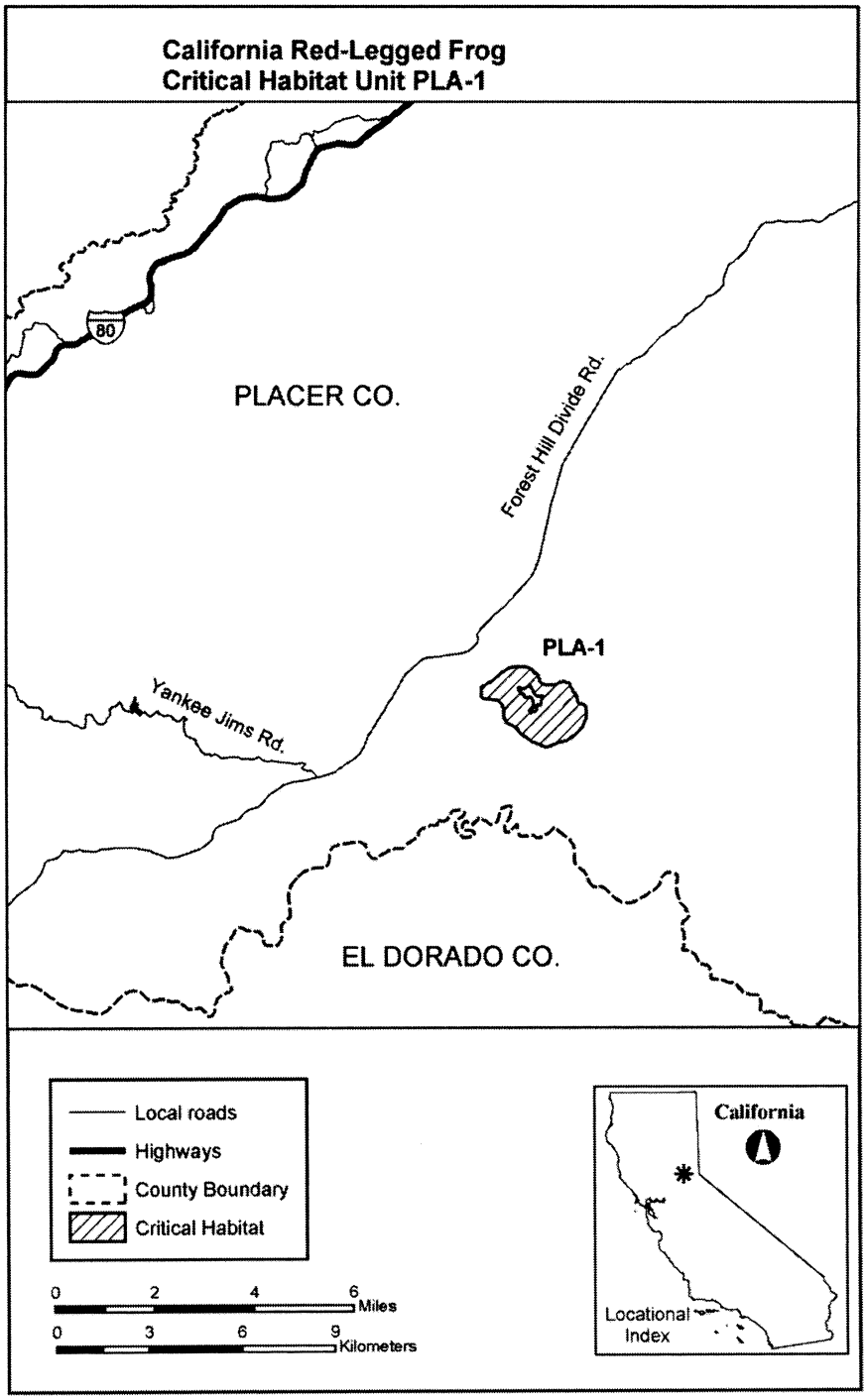
(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 676906,4356394; 676962,4356305; 677130,4356317; 677131,4356238; 677181,4356231; 677306,4356068; 677485,4355987; 677670,4355985; 677882,4356056; 678051,4356296; 678231,4356310; 678224,4356187; 678277,4355825; 678274,4355759; 678217,4355664; 678229,4355623; 678444,4355409; 678448,4355341; 678354,4355125; 678356,4355083; 678510,4354644; 678540,4354482; 678642,4354231; 678650,4353980; 678734,4353879; 678852,4353796; 679227,4353902; 679563,4353782; 680349,4353649; 680352,4353517; 679422,4352362; 679148,4352080; 677270,4350680; 677199,4350636; 676807,4350614; 676812,4350531; 676440,4350485; 676117,4350571; 675995,4350556; 675686,4350459; 675457,4350453; 675325,4350412; 675325,4350616; 675293,4350711; 675206,4350862; 675166,4350990; 675063,4351133; 674920,4351180; 674673,4351196; 672710,4351546; 672074,4351586; 671684,4351705; 671438,4351872; 670969,4352039; 670738,4352158; 670668,4352774; 670633,4354099; 670847,4354102; 670960,4354053; 671174,4353907; 671435,4353852; 671437,4353664; 672180,4353672; 672287,4353562; 672450,4353566; 672716,4353754; 672817,4353800; 672938,4353818; 672900,4353937; 673158,4353946; 673148,4354137; 672855,4354130; 672783,4354295; 672757,4354434; 672842,4354522; 672941,4354578; 673021,4354593; 673117,4354665; 673119,4354745; 673191,4354837; 673253,4355088; 673175,4355379; 673188,4355465; 673283,4355581; 673402,4355344; 673616,4355327; 673903,4355380; 674072,4355387; 674378,4355543; 674440,4355612; 674698,4355703; 674907,4355945; 675027,4355928; 675092,4355868; 675414,4355681; 675647,4355612; 675763,4355477; 675773,4355263; 675827,4355213; 676036,4355164; 676143,4355418; 676255,4355555; 676269,4355603; 676400,4355681; 676445,4355779; 676405,4355981; 676456,4356381; 676693,4356744; 676751,4356738; returning to 676906,4356394.

(ii) *Note*: Unit NEV-1 for California red-legged frog is depicted on the map in paragraph (8)(ii) of this entry.

(10) Unit PLA-1: Placer County, California. From USGS 1:24,000 scale quadrangles Forest Hill and Michigan Bluff.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 696102,4324325; 696269,4324238; 696581,4324246; 696792,4324349; 696895,4324349; 697034,4324294; 697148,4324059; 697227,4323980; 697317,4323673; 697571,4323570; 697601,4323365; 697577,4323190; 697456,4322900; 697239,4322683; 696979,4322484; 696678,4322393; 696303,4322242; 695802,4322441; 695501,4322665; 695350,4322846; 695229,4322942; 695006,4323045; 694933,4323220; 694909,4323498; 694849,4323636; 694740,4323745; 694233,4323817; 694197,4323884; 694209,4324180; 694577,4324391; 694831,4324626; 695096,4324795; 695374,4324837; 695615,4324825; 695748,4324795; 695881,4324708; 695908,4324628; 695996,4324611; 696033,4324574; returning to: 696102,4324325. Excluding: 695636,4324153; 695563,4324116; 695471,4324147; 695380,4324137; 695482,4323950; 695575,4323941; 695636,4323824; 695782,4323867; 695815,4323840; 695885,4323710; 695875,4323548; 695757,4323455; 695789,4323364; 695821,4323355; 695847,4323389; 695974,4323437; 695975,4323571; 696121,4323615; 696178,4323884; 696037,4323867; 695941,4323923; 695775,4324220; returning to 695636,4324153.

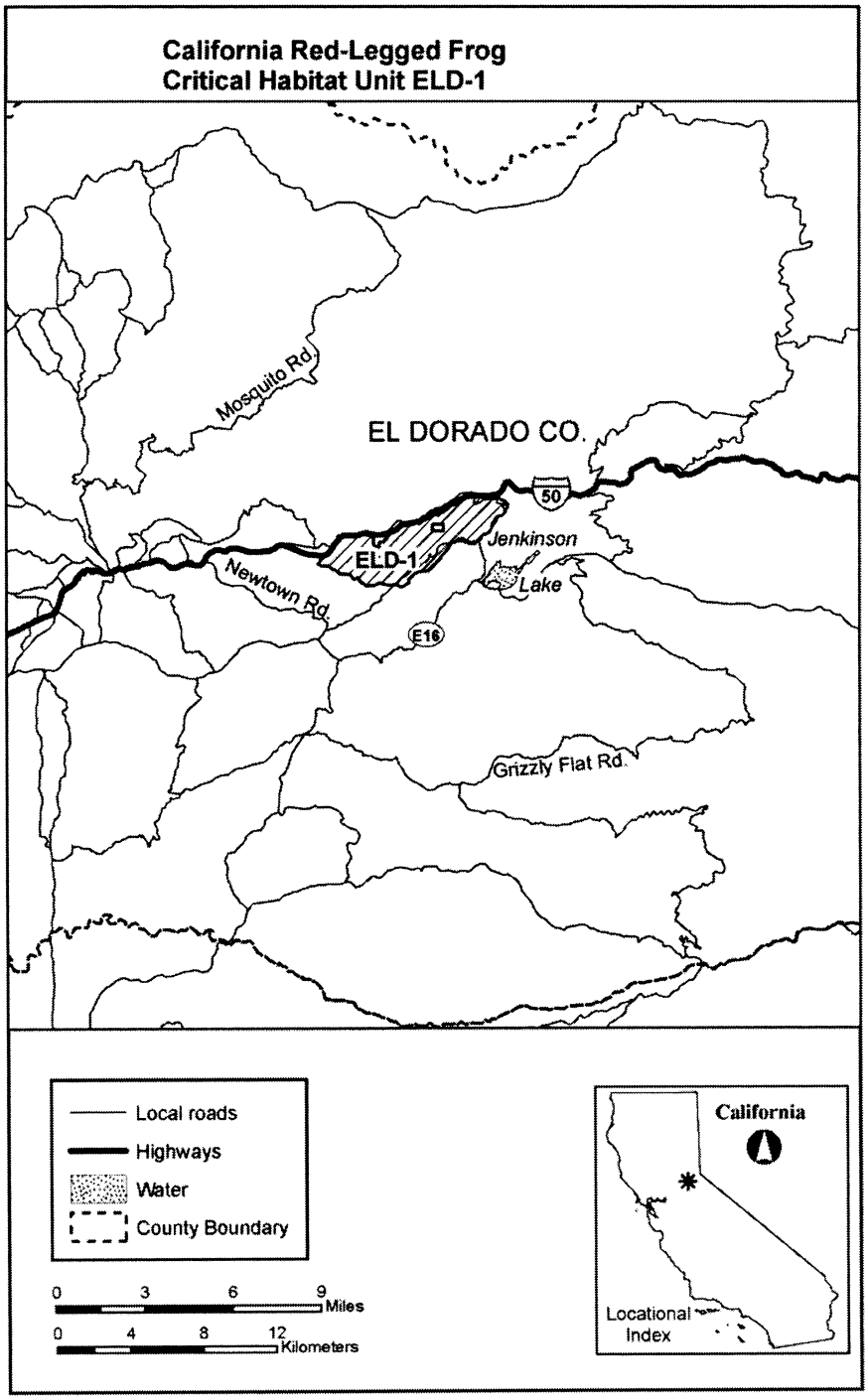
(ii) *Note*: Map of Unit PLA-1 for the California red-legged frog follows:


California Red-Legged Frog
Critical Habitat Unit PLA-1
80
PLACER CO.
Forest Hill Divide Rd.
PLA-1
Yankee Jims Rd.
EL DORADO CO.
Local roads
Highways
County Boundary
Critical Habitat
0 2 4 6 Miles
0 3 6 9 Kilometers
California
Locational Index

(11) Unit ELD-1: El Dorado County, California. From USGS 1:24,000 scale quadrangles Camino, Pollock Pines and Sly Park.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 712042,4292979; 712243,4292856; 712419,4292796; 712540,4292683; 712511,4292523; 712319,4292151; 712259,4292082; 711866,4291905; 711680,4291585; 711650,4291319; 711576,4291195; 711182,4290958; 710956,4290705; 710718,4290490; 710400,4290528; 710054,4290648; 709815,4290648; 709523,4290568; 708926,4289838; 708873,4289705; 708661,4289533; 708515,4289347; 708143,4289015; 707771,4289015; 707493,4288896; 707400,4288789; 707161,4288617; 707148,4288404; 706922,4288245; 706715,4288156; 706471,4288294; 706007,4288251; 705507,4288398; 705231,4288234; 704826,4288214; 704683,4288368; 704536,4288381; 704329,4288707; 704126,4288577; 703960,4288838; 703439,4288864; 702684,4289323; 702371,4289290; 702165,4289393; 702324,4289643; 702406,4289714; 702744,4289897; 702829,4289991; 703050,4290362; 703106,4290570; 703147,4290632; 703210,4290691; 703248,4290770; 703486,4290934; 704423,4290921; 704732,4291034; 704878,4291038; 704899,4290959; 705129,4290959; 705154,4290925; 705217,4290699; 705221,4290478; 705267,4290369; 705355,4290336; 705497,4290340; 705522,4290361; 705522,4290423; 705493,4290545; 705522,4290574; 705761,4290578; 705798,4290616; 705811,4290733; 705911,4290733; 706007,4290942; 706112,4291025; 706162,4291113; 706262,4291122; 706379,4291172; 706634,4291402; 706902,4291506; 707291,4291531; 707379,4291577; 707659,4291644; 708236,4291933; 708554,4292134; 708989,4292267; 709302,4292489; 709674,4292706; 709766,4292736; 709775,4292665; 709816,4292639; 710126,4292920; 710327,4293012; 711141,4293016; 711258,4292972; 711367,4292964; 711830,4293033; returning to 712042,4292979. Excluding: 708426, 4291544; 708412,4291176; 709003,4291194; 709025,4291561; returning to 708426,4291544.

(ii) *Note*: Map of Unit ELD-1 for the California red-legged frog follows:

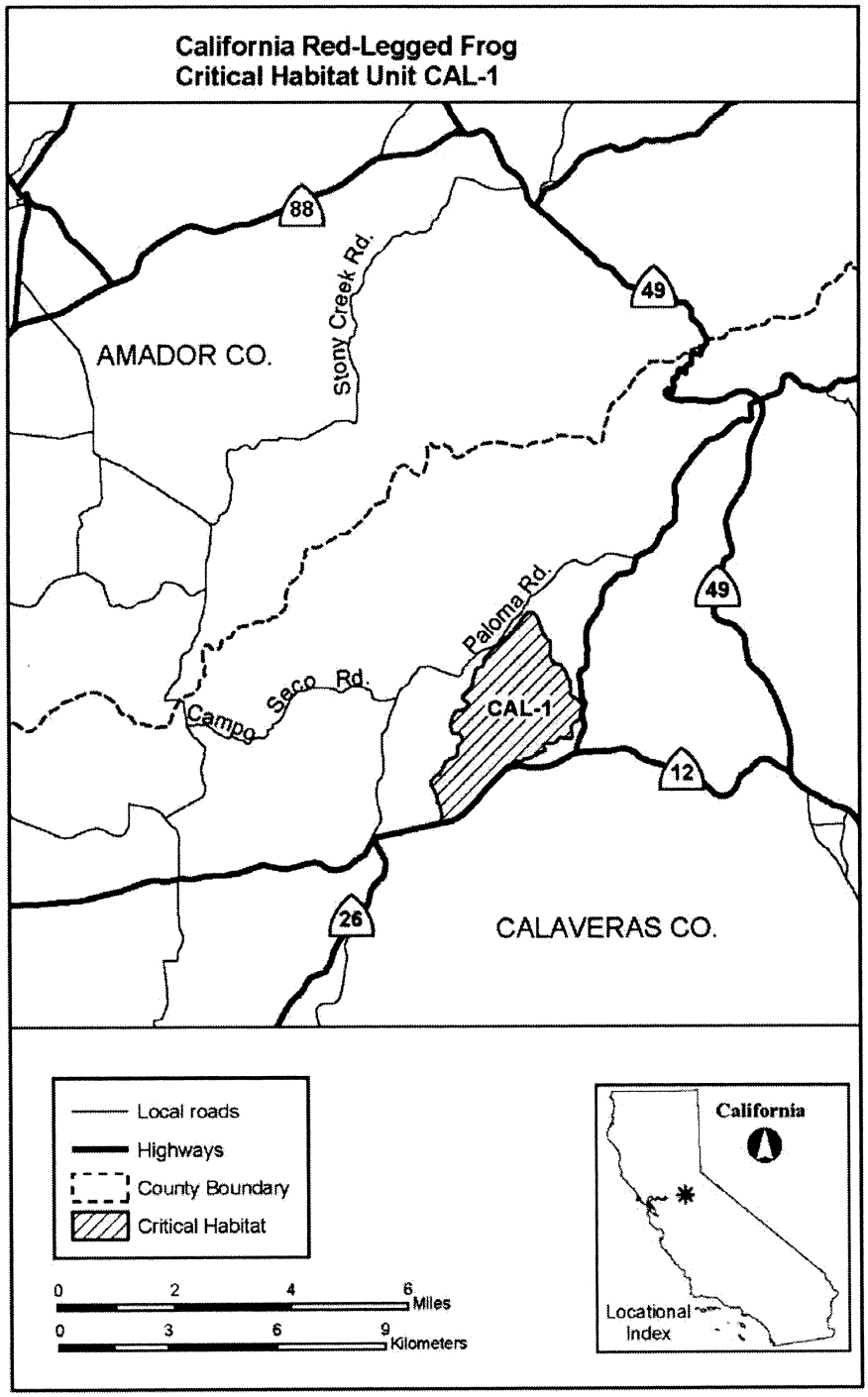

California Red-Legged Frog
Critical Habitat Unit ELD-1
Mosquito Rd.
EL DORADO CO.
50
Jenkinson
Lake
ELD-1
Newtown Rd.
E16
Grizzly Flat Rd.
Local roads
Highways
Water
County Boundary
0 3 6 9 Miles
0 4 8 12 Kilometers
California
Locational Index

(12) Unit CAL-1: Calaveras County, California. From USGS 1:24,000 scale quadrangles Jackson, Valley Springs and Mokelumne Hill.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

695574,4232384; 695607,4232132; 695588,4232071; 695277,4232108; 695111,4231955; 695024,4231930; 694907,4231961; 694835,4231923; 694824,4231874; 694873,4231770; 694707,4231700; 694580,4231609; 694379,4231528; 694281,4231528; 694211,4231471; 694118,4231465; 694033,4231489; 694012,4231420; 693863,4231366; 693739,4231289; 693654,4231174; 693651,4231132; 693252,4230731; 693004,4230419; 692634,4230055; 692359,4229874; 691998,4229785; 692018,4230045; 691947,4230296; 691889,4230367; 691886,4230503; 691709,4230866; 691720,4230928; 691815,4231060; 691913,4231097; 692029,4231237; 692120,4231471; 692443,4231627; 692450,4231851; 692565,4231990; 692585,4232062; 692511,4232208; 692327,4232231; 692290,4232293; 692259,4232435; 692310,4232683; 692368,4232737; 692368,4232782; 692402,4232822; 692684,4232917; 692752,4233002; 692752,4233057; 692596,4233165; 692596,4233216; 692630,4233298; 692823,4233484; 692884,4233603; 692871,4233695; 692959,4233892; 692959,4233939; 693010,4234004; 693129,4234041; 693163,4234079; 693215,4234298; 693464,4234572; 693847,4234885; 694412,4235538; 694500,4235538; 694564,4235506; 694660,4235397; 694853,4234891; 695013,4234718; 695006,4234379; 695032,4234257; 695153,4234123; 695281,4234110; 695397,4233969; 695531,4233649; 695559,4233627; 695562,4233280; 695729,4233158; 695863,4233013; 695875,4232870; 695807,4232615; 695598,4232462; returning to 695574,4232384.

(ii) *Note*: Map of Unit CAL-1 for the California red-legged frog follows:



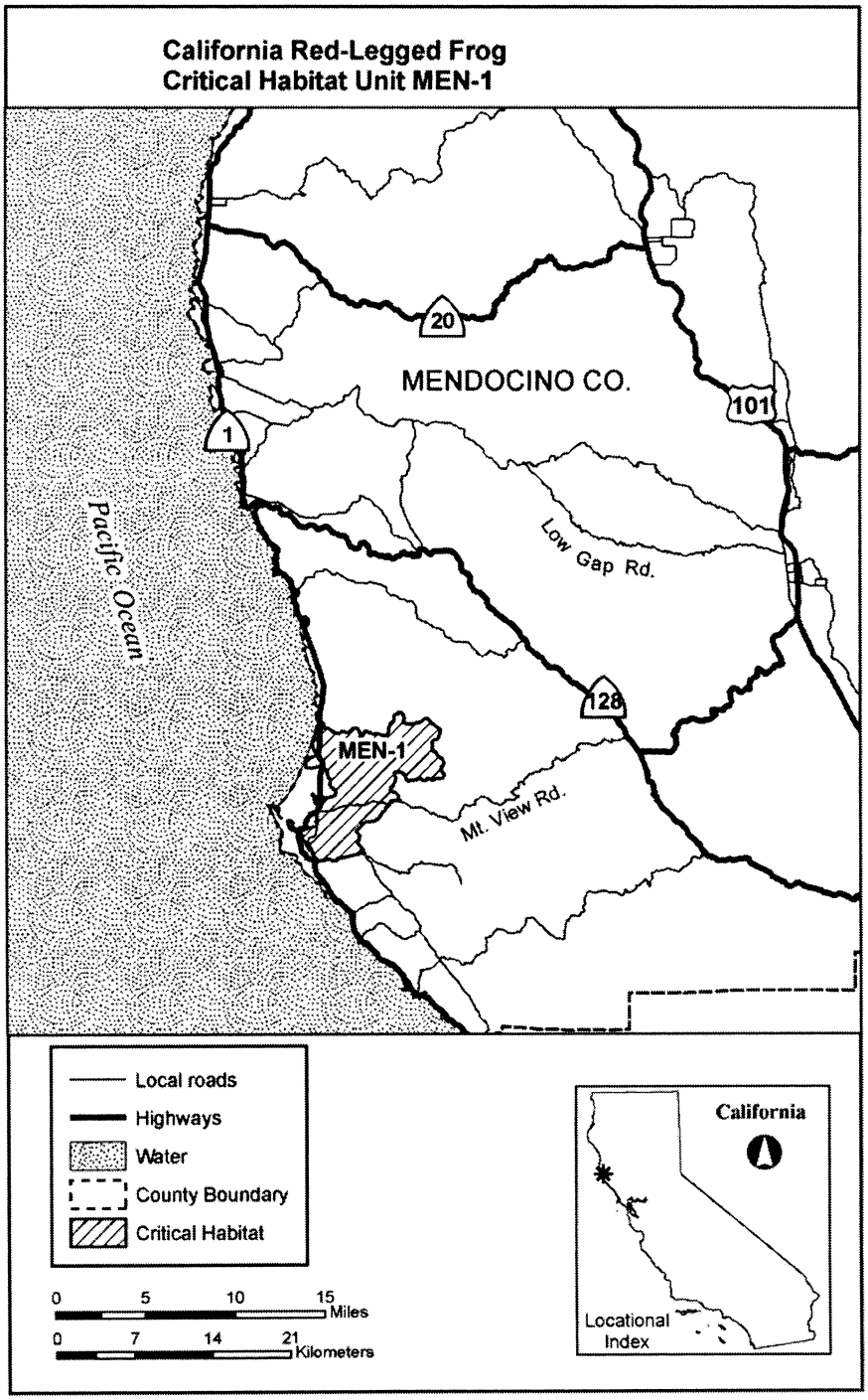
BILLING CODE 4310–55–C

(13) Unit MEN-1: Mendocino County, California. From USGS 1:24,000 scale quadrangles Cold Spring, Eureka Hill, Mallo Pass Creek, and Point Arena.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 447886,4320218; 447951,4320066; 447983,4319889; 447958,4319651; 447916,4319542; 447922,4319483; 447971,4319445; 448196,4319365; 448430,4319368; 448547,4319333; 448853,4319365; 449490,4319517; 449733,4319755; 449789,4319784; 450035,4319807; 450150,4319759; 450210,4319703; 450420,4319414; 450504,4319347; 450635,4319305; 450810,4319130; 451092,4318916; 451162,4318828; 451226,4318719; 451042,4318062; 450935,4317981; 450714,4317937; 450597,4317880; 450510,4317818; 450481,4317760; 450521,4317204; 450486,4317057; 450570,4316902; 450786,4316828; 450855,4316749; 450925,4316588; 451352,4316246; 451467,4316018; 451510,4315844; 451502,4315781; 451442,4315626; 451328,4315533; 451284,4315450; 451251,4315220; 451407,4315001; 451584,4314832; 451501,4314714; 451453,4314558; 451352,4314505; 451151,4314476; 450897,4314504; 450723,4314445; 450591,4314336; 450524,4314325; 450307,4314414; 450136,4314528; 450080,4314502; 450050,4314395; 449837,4314281; 449646,4314320; 449478,4314469; 449346,4314504; 449277,4314477; 449180,4314383; 448930,4314388; 448748,4314292; 448552,4314343; 448395,4314250; 448291,4314293; 448159,4314397; 448041,4314742; 447804,4315012; 447535,4315087; 447379,4315047; 447121,4315049; 447112,4314819; 447229,4314525; 447228,4314463; 447143,4314230; 447092,4314181; 446968,4313845; 446785,4313679; 446746,4313591; 446742,4313514; 446885,4313345; 447133,4313254; 447301,4313116; 447441,4312938; 447582,4312493; 447147,4312559; 447023,4312509; 446876,4312524; 446701,4312427; 446660,4312227; 446554,4312026; 446346,4311900; 446289,4311794; 446259,4311663; 446182,4311580; 446019,4311506; 445891,4311224; 445615,4310903; 445416,4310807; 445267,4310672; 445095,4310678; 444754,4310641; 444565,4310659; 444408,4310515; 444184,4310425; 444141,4310311; 444029,4310153; 443818,4309984; 443679,4309807; 443673,4309764; 443988,4309404; 443936,4309239; 443919,4308998; 443738,4308891; 443825,4308738; 444132,4308361; 444318,4308088; 444424,4307816; 444304,4307845; 444112,4307837; 443601,4307714; 443377,4307684; 442745,4307493; 442148,4307413; 441776,4307182; 441681,4307145; 441575,4307166; 441248,4307317; 441024,4307329; 440921,4307226; 440624,4307211; 440402,4307138; 440274,4307148; 440225,4307257; 440122,4307360; 439886,4307499; 439886,4307571; 439735,4307898; 439729,4308019; 439584,4308086; 439433,4308285; 439251,4308467; 439221,4308667; 439166,4308818; 439100,4308909; 438888,4309018; 438858,4309151; 438652,4309447; 438573,4309526; 438513,4309641; 438410,4309732; 437964,4309936; 437707,4310146; 437526,4310621; 437526,4310749; 437635,4310785; 437738,4310785; 438041,4310567; 438022,4310240; 438228,4310016; 438585,4309938; 438652,4309956; 438670,4310022; 439039,4310016; 439136,4310113; 439469,4310113; 439796,4310174; 439838,4310204; 440032,4310204; 440165,4310392; 440056,4310730; 440074,4310779; 440135,4310827; 440159,4311027; 440147,4311366; 440237,4311505; 440244,4311699; 440449,4312026; 440371,4312134; 440262,4312207; 440116,4312207; 440038,4312231; 439989,4312310; 439983,4312419; 439947,4312498; 439874,4312582; 439911,4312697; 439893,4312812; 439759,4313012; 439741,4313115; 439790,4313121; 439941,4313066; 440086,4312915; 440116,4312818; 440092,4312758; 440189,4312721; 440135,4312649; 440153,4312576; 440213,4312498; 440310,4312552; 440546,4312479; 440643,4312534; 440667,4312619; 440764,4312740; 440915,4312812; 441218,4312818; 441648,4312927; 441775,4313042; 441884,4313224; 441811,4313399; 441660,4313545; 441617,4313660; 441424,4313684; 441381,4313847; 441290,4314029; 441363,4314125; 441369,4314392; 441351,4314440; 441212,4314555; 441169,4314628; 441157,4314815; 441054,4314973; 441054,4315154; 440885,4315336; 440824,4315499; 440697,4315548; 440116,4315536; 439941,4315457; 439566,4315421; 439215,4315481; 439172,4315838; 439318,4316238; 439414,4316365; 439729,4316371; 440050,4316516; 440038,4316698; 439959,4316952; 439826,4317127; 439820,4317315; 439771,4317424; 439971,4318374; 440143,4319025; 440350,4318995; 440659,4319045; 441220,4318935; 441393,4318859; 441630,4318649; 441938,4318577; 442062,4318514; 442160,4318520; 442408,4318660; 442467,4318672; 442885,4318606; 443037,4318624; 443458,4318958; 443570,4318994; 443736,4318986; 443817,4318930; 443942,4318700; 444130,4318174; 444206,4318204; 444488,4318702; 444560,4318739; 444613,4318738; 444781,4318655; 444885,4318566; 445107,4318524; 445246,4318439; 445439,4318513; 445542,4318514; 445685,4318482; 445803,4318417; 446226,4318336; 446298,4318348; 446424,4318418; 446549,4318578; 446661,4319187; 446707,4319293; 446880,4319476; 447042,4319552; 447098,4319734; 447056,4319893; 447068,4320031; 447180,4320199; 447351,4320194; 447394,4320214; 447485,4320382; 447722,4320332; returning to 447886,4320218.

(ii) *Note*: Map of Unit MEN-1 for the California red-legged frog follows:

BILLING CODE 4310–55–S

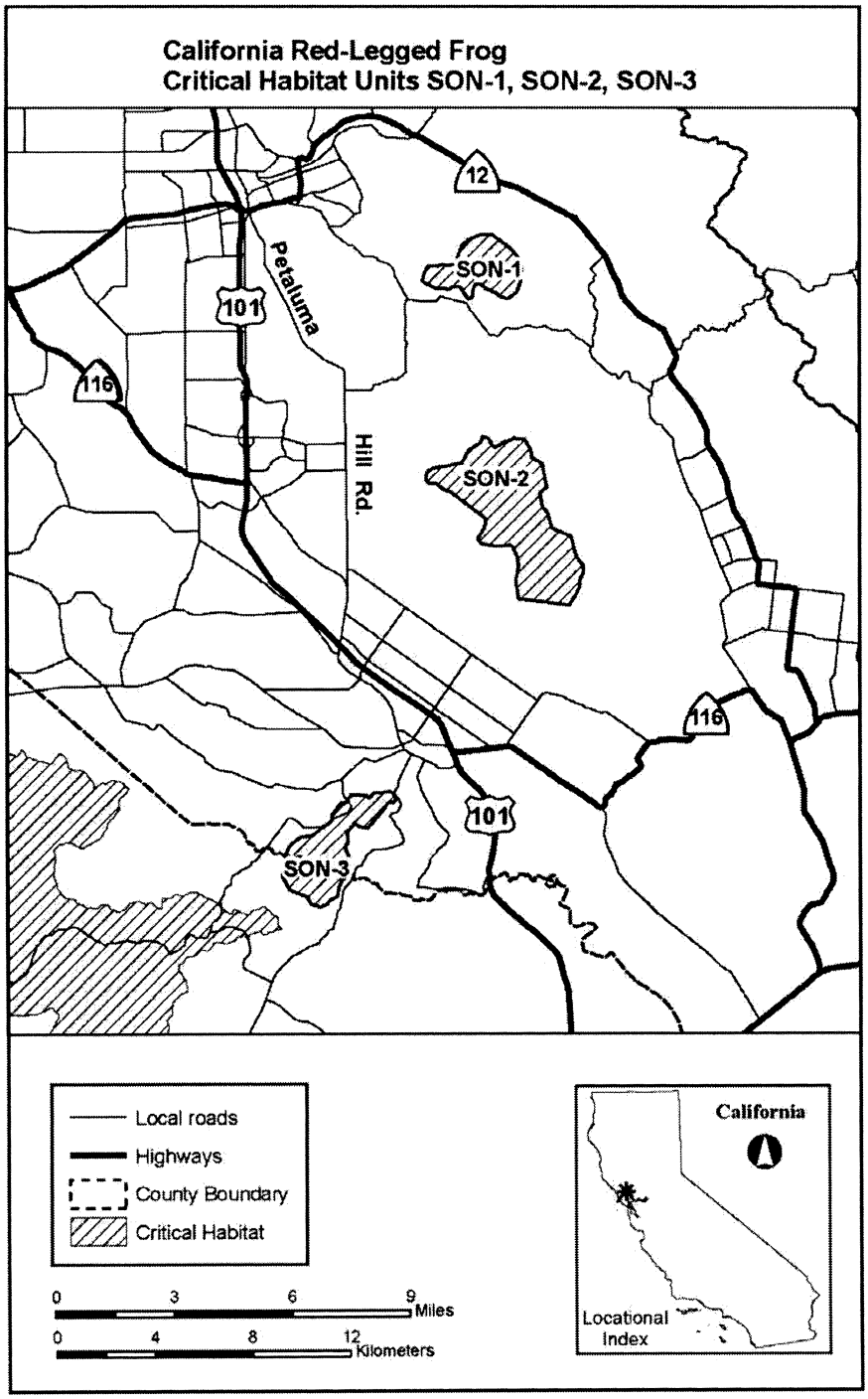

California Red-Legged Frog
Critical Habitat Unit MEN-1
20
MENDOCINO CO.
101
1
Pacific Ocean
Low Gap Rd.
128
MEN-1
Mt. View Rd.
Local roads
Highways
Water
County Boundary
Critical Habitat
0 5 10 15 Miles
0 7 14 21 Kilometers
California
Locational Index

(14) Unit SON-1: Sonoma County, California. From USGS 1:24,000 scale quadrangles Santa Rosa and Kenwood.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

536171,4251731; 536307,4251324; 536231,4250750; 536103,4250388; 535718,4250087; 535462,4250177; 535251,4250336; 534851,4250494; 534579,4250705; 534389,4250676; 534308,4250419; 534298,4250194; 534123,4250079; 533794,4250578; 533501,4250593; 533472,4250583; 533452,4250531; 533276,4250470; 533146,4250524; 532957,4250539; 532814,4250509; 532248,4250796; 532309,4250962; 532316,4251120; 532497,4251422; 532905,4251407; 533025,4251475; 533327,4251437; 533608,4251509; 533772,4252033; 533885,4252267; 534180,4252501; 534602,4252689; 535068,4252700; 535824,4252154; returning to 536171,4251731.

(ii) *Note*: Map of Units SON-1, SON-2 and SON-3 for the California red-legged frog follows:


California Red-Legged Frog
Critical Habitat Units SON-1, SON-2, SON-3
12
101
Petaluma
SON-1
116
Hill Rd.
SON-2
116
101
SON-3
Local roads
Highways
County Boundary
Critical Habitat
0 3 6 9 Miles
0 4 8 12 Kilometers
California
Locational Index

(15) Unit SON-2: Sonoma County, California. From USGS 1:24,000 scale quadrangles Cotati and Glen Ellen.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

535134,4244142; 535187,4244062; 535622,4244348; 535838,4244353; 535971,4244499; 536040,4244436; 536393,4244436; 536655,4243995; 536702,4243674; 537129,4243407; 537300,4242457; 537009,4242237; 537121,4241673; 537315,4241438; 537510,4240808; 538274,4240465; 538488,4239638; 538778,4239243; 538778,4238977; 538645,4238790; 538605,4238404; 538446,4238045; 538180,4237686; 536152,4237939; 536037,4238617; 536157,4239291; 536104,4239642; 535917,4240041; 535829,4240117; 535319,4240068; 534653,4240161; 534496,4240364; 534786,4240840; 534813,4241186; 533414,4242273; 533056,4242396; 532833,4242624; 532537,4242609; 532391,4242756; 532418,4243049; 532604,4243222; 533841,4243454; 534135,4243980; 534633,4244287; 534706,4244539; 534912,4244479; returning to 535134,4244142.

(ii) *Note*: Unit SON-2 for California red-legged frog is depicted on the map in paragraph (14)(ii) of this entry.

(16) Unit SON-3: Sonoma and Marin Counties, California. From USGS 1:24,000 scale quadrangle Petaluma.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

530959,4230115; 531149,4229843; 531149,4229781; 531041,4229699; 530868,4229705; 530792,4229641; 530642,4229379; 529979,4228622; 529625,4228730; 529454,4228860; 529138,4228447; 529190,4228085; 529057,4227870; 529301,4227268; 529301,4226775; 528922,4226523; 528796,4226223; 528732,4225860; 528463,4225746; 528322,4225545; 528070,4225434; 527675,4225545; 527499,4225858; 526791,4226136; 526503,4226700; 526618,4227501; 526791,4227912; 527227,4228272; 527718,4228328; 528554,4228970; 528535,4229182; 528890,4229679; 529111,4229695; 529317,4230021; 529918,4229965; 530079,4229860; 530210,4230039; 530275,4230068; 530354,4230068; 530421,4230102; 530542,4230070; 530681,4230122; returning to 530959,4230115.

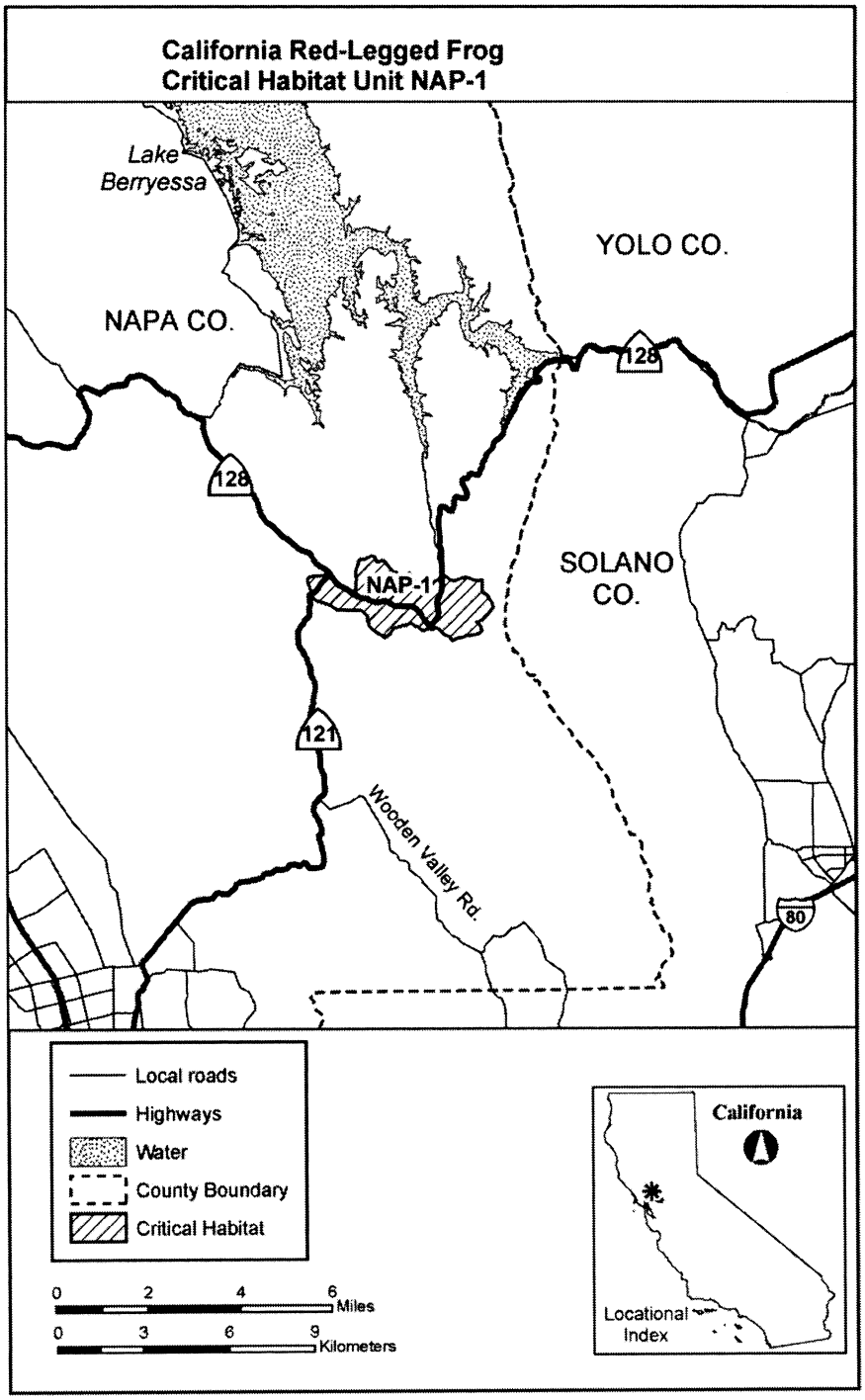
(ii) *Note*: Unit SON-3 for California red-legged frog is depicted on the map in paragraph (14)(ii) of this entry.

(17) Unit NAP-1: Napa County, California. From USGS 1:24,000 scale quadrangle Capell Valley.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

571668,4256238; 571744,4256065; 571928,4256108; 572003,4256097; 572230,4255795; 572479,4255665; 572879,4255676; 573030,4255503; 573063,4255384; 573495,4255265; 573603,4255200; 573798,4255395; 573895,4255427; 573949,4255535; 574100,4255568; 574187,4255535; 574327,4255427; 574468,4255395; 574835,4255535; 575278,4255406; 575408,4255427; 575430,4255244; 575408,4255017; 575592,4254887; 575765,4254649; 575808,4254465; 575581,4254195; 575408,4254033; 575214,4253957; 575333,4253892; 575419,4253676; 575321,4253562; 574972,4253480; 574899,4253535; 574781,4253445; 574508,4253381; 574411,4253302; 574367,4253332; 574279,4253463; 574146,4253508; 573831,4253776; 573715,4253702; 573552,4253734; 573386,4253663; 573186,4253794; 573088,4253822; 572972,4253911; 572909,4253921; 572820,4253898; 572740,4253845; 572582,4253833; 572328,4253749; 572104,4253461; 572027,4253479; 572020,4253414; 571495,4253784; 571420,4254011; 571420,4254184; 571204,4254368; 570339,4254400; 570079,4254573; 569593,4254725; 569474,4254865; 569431,4255060; 569290,4255416; 569344,4255525; 569463,4255568; 569669,4255568; 569852,4255600; 570015,4255676; 570207,4255556; 570241,4255438; 570458,4255211; 570641,4255200; 570804,4255060; 570966,4255049; 571020,4255211; 571009,4255330; 571031,4255449; 571009,4255752; 571031,4255870; 571085,4255968; 571117,4256141; 571301,4256141; 571560,4256281; returning to 571668,4256238.

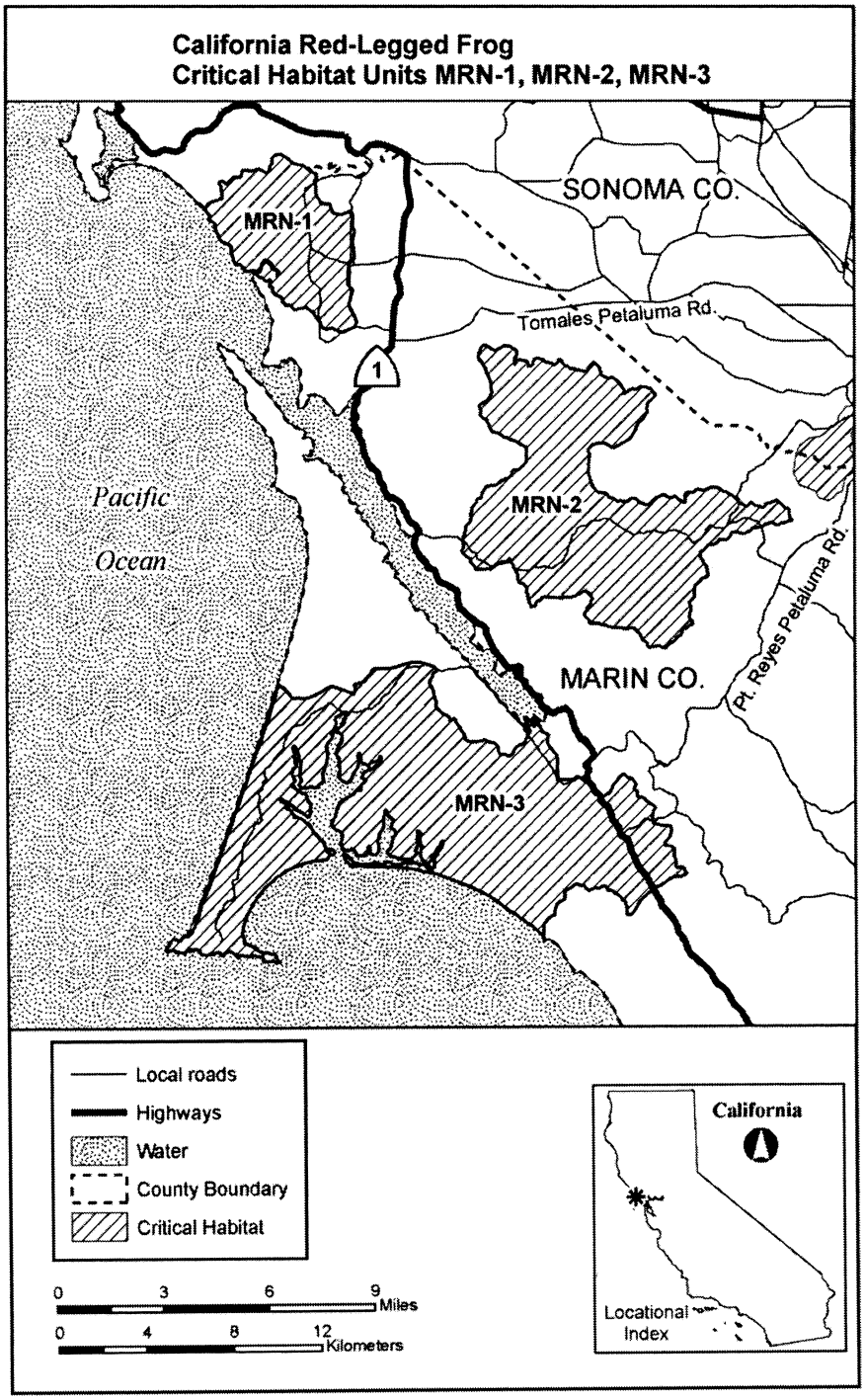
(ii) *Note*: Map of Unit NAP-1 for the California red-legged frog follows:


California Red-Legged Frog
Critical Habitat Unit NAP-1
Lake Berryessa
NAPA CO.
YOLO CO.
SOLANO CO.
128
128
NAP-1
121
Wooden Valley Rd.
80
Local roads
Highways
Water
County Boundary
Critical Habitat
0 2 4 6 Miles
0 3 6 9 Kilometers
California
Locational Index

(18) Unit MRN-1: Marin County, California. From USGS 1:24,000 scale quadrangles Valley Ford and Tomales.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 503193,4241015; 503294,4241015; 503446,4240937; 503876,4240603; 504256,4240551; 504408,4240473; 504433,4240421; 504484,4240396; 504584,4240395; 504545,4240350; 504587,4240298; 504674,4240281; 504733,4240225; 504875,4240159; 504851,4240030; 504874,4239956; 504766,4239840; 504829,4239728; 504862,4239600; 504835,4239306; 504896,4239139; 504977,4239052; 505087,4238842; 505172,4238850; 505319,4238813; 505493,4238806; 505516,4238668; 505626,4238434; 505673,4238392; 506091,4238339; 506140,4238393; 506448,4238501; 506551,4238326; 506504,4237813; 506618,4237620; 506517,4237109; 506625,4236375; 506329,4236129; 506284,4235230; 506524,4234994; 506343,4234300; 506695,4233557; 506620,4233316; 506090,4233083; 506024,4233103; 505937,4233091; 505855,4233143; 505762,4233160; 505672,4233255; 505316,4233212; 505140,4233280; 505088,4233359; 505061,4233502; 504853,4233737; 504730,4233985; 504594,4234030; 504488,4234115; 504418,4234208; 504373,4234221; 504244,4234161; 503885,4234079; 503816,4234126; 503687,4234290; 503645,4234307; 503492,4234276; 503439,4234355; 503308,4234448; 503306,4234629; 503108,4234736; 502977,4234755; 502885,4234906; 502888,4235086; 502871,4235112; 502733,4235138; 502717,4235160; 502784,4235437; 502764,4235462; 502661,4235385; 502555,4235379; 502381,4235521; 502256,4235562; 502146,4235673; 501997,4235752; 502182,4235744; 502251,4235776; 502356,4235907; 502405,4236072; 502480,4236149; 502493,4236237; 502526,4236262; 502696,4236169; 502907,4235905; 503090,4235814; 503103,4235727; 503078,4235649; 503097,4235618; 503146,4235709; 503147,4235834; 502966,4235913; 502896,4235997; 502848,4236145; 502693,4236274; 502563,4236320; 502474,4236284; 502354,4236108; 502304,4235881; 502188,4235785; 502104,4235813; 502031,4235871; 501753,4235794; 501647,4235813; 501648,4235849; 501527,4235955; 501544,4236012; 501498,4236014; 501409,4236114; 501183,4236116; 501128,4236244; 501074,4236286; 501097,4236453; 501048,4236477; 500968,4236596; 500991,4236836; 500972,4236920; 500902,4236997; 500660,4237080; 500559,4237170; 500458,4237221; 500395,4237383; 500401,4237476; 500279,4237575; 500302,4237634; 500287,4237695; 500227,4237771; 500253,4237811; 500238,4237936; 500164,4238003; 499987,4238094; 500014,4238175; 499962,4238343; 499796,4238588; 499601,4238795; 499742,4238649; 499813,4238660; 499948,4238829; 500076,4238905; 500483,4239029; 500560,4239079; 500586,4239129; 500587,4239256; 500537,4239409; 500539,4239562; 500438,4239717; 500464,4239818; 500541,4239843; 500642,4239816; 500768,4239714; 500871,4239788; 500922,4239864; 501127,4240016; 501203,4240015; 501203,4239990; 501254,4240014; 501406,4240013; 501458,4240090; 501484,4240267; 501535,4240317; 501688,4240315; 501713,4240341; 501815,4240289; 501916,4240288; 502120,4240363; 502298,4240388; 502349,4240335; 502602,4240208; 502730,4240307; 502756,4240485; 502834,4240586; 502867,4240891; 502964,4240992; returning to 503193,4241015.

(ii) *Note*: Map of Units MRN-1, MRN-2 and MRN-3 for the California red-legged frog follows:



BILLING CODE 4310–55–C

(19) Unit MRN-2: Marin County, California. From USGS 1:24,000 scale quadrangles Point Reyes NE, Inverness, and Petaluma.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 512634,4232438; 512942,4232244; 513098,4232298; 513362,4232450; 513497,4232455; 513734,4232386; 513918,4232251; 513953,4232187; 513939,4232023; 513849,4231832; 513855,4231619; 513876,4231594; 513952,4231792; 514067,4231818; 514387,4231769; 514431,4231744; 514482,4231533; 514514,4231516; 514663,4231619; 514738,4231830; 514879,4231915; 514984,4231862; 515164,4231822; 515265,4231703; 515413,4231696; 515480,4231654; 515682,4231600; 515773,4231673; 515857,4231825; 515889,4231847; 516011,4231747; 516087,4231574; 516258,4231510; 516369,4231437; 516551,4231414; 516624,4231372; 516733,4231367; 517058,4231285; 517107,4231304; 517391,4231679; 517463,4231696; 517588,4231597; 517667,4231496; 517768,4231273; 517772,4231173; 517811,4231094; 517939,4231058; 518083,4230966; 518200,4231014; 518308,4231014; 518391,4230977; 518538,4230841; 518822,4230448; 518810,4230285; 518942,4230355; 519137,4230506; 519237,4230507; 519320,4230466; 519549,4230605; 519594,4230608; 519685,4230581; 519829,4230580; 519999,4230511; 520091,4230394; 520239,4230269; 520162,4230139; 519882,4229855; 519840,4229621; 519867,4229461; 519849,4229396; 519739,4229280; 519592,4229059; 519476,4228998; 519454,4228924; 519378,4228818; 519315,4228630; 519042,4228213; 518464,4227912; 518370,4227840; 518322,4227831; 518197,4227891; 517943,4228049; 517694,4228069; 517400,4227982; 517268,4227880; 517186,4227771; 517199,4227646; 517250,4227548; 517224,4227253; 517185,4227094; 517202,4227018; 517172,4226789; 517183,4226684; 517345,4226172; 517540,4225917; 517664,4225822; 517996,4225774; 518119,4225599; 518363,4225531; 518498,4225403; 518610,4225441; 518768,4225408; 518968,4225411; 519092,4225528; 519190,4225560; 519233,4225531; 519388,4225502; 519507,4225352; 519594,4225350; 519749,4225266; 519810,4225258; 520064,4225362; 520184,4225514; 520277,4225592; 520630,4225713; 520910,4225546; 520992,4225569; 521097,4225648; 521150,4225647; 521266,4225514; 521483,4225374; 521560,4225362; 521593,4225446; 521576,4225682; 521628,4225793; 521667,4225821; 521971,4225822; 522029,4225860; 522041,4225912; 522179,4225963; 522417,4225897; 522749,4226030; 523034,4226041; 523183,4225960; 523305,4225859; 523473,4225826; 523554,4225753; 523698,4225705; 523900,4225560; 523999,4225413; 524219,4225251; 524366,4225189; 524417,4225181; 524508,4225322; 524595,4225339; 524810,4225202; 524934,4225191; 525064,4225131; 525135,4225139; 525269,4225297; 525386,4225307; 525742,4225446; 525981,4225301; 526083,4225122; 526277,4225058; 526307,4225022; 526328,4224957; 526330,4224726; 526452,4224537; 526214,4224486; 526042,4224410; 525929,4224415; 525873,4224347; 525811,4224326; 525748,4224320; 525586,4224443; 525534,4224449; 525296,4224366; 525206,4224371; 525133,4224279; 525087,4224261; 524966,4224252; 524839,4224204; 524671,4224229; 524546,4224086; 524230,4223937; 523845,4224016; 523743,4223997; 523685,4223952; 523498,4223688; 523434,4223663; 523161,4223685; 522965,4223495; 522819,4223448; 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(ii) *Note*: Unit MRN-2 for California red-legged frog is depicted on the map in paragraph (18)(ii) of this entry.

(20) Unit MRN-3: Marin County, California. From USGS 1:24,000 scale quadrangles Drakes Bay and Inverness.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

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518260,4212635; 518544,4212979; 518683,4213112; 518803,4213102; 518927,4212967; 519118,4212921; 519159,4212887; 519291,4212649; 519280,4212589; 519210,4212517; 519196,4212418; 519336,4212358; 519353,4212325; 519335,4212205; 519349,4212132; 519401,4212089; 519504,4212103; 519628,4212046; 520171,4211644; 520055,4211392; 520030,4211190; 520097,4210910; 520586,4210785; 520815,4210783; 520850,4210769; 520892,4210704; 520861,4210397; 520721,4210162; 520600,4210028; 520590,4209949; 520646,4209898; 520887,4209871; 521006,4209793; 521031,4209751; 521041,4209527; 521004,4209454; 521114,4209240; 521104,4208959; 521141,4208913; 521339,4208949; 521419,4208921; 521461,4208889; 521598,4208620; 521501,4208595; 521346,4208500; 520950,4208483; 520727,4208354; 520374,4208079; 520220,4208045; 519885,4207813; 519438,4207400; 519240,4207065; 519025,4206781; 518852,4206795; 518859,4206992; 518825,4207242; 518779,4207341; 518633,4207493; 518590,4207597; 518303,4207765; 518255,4207851; 518165,4207884; 518049,4207875; 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(ii) *Note*: Unit MRN-3 for California red-legged frog is depicted on the map in paragraph (18)(ii) of this entry.

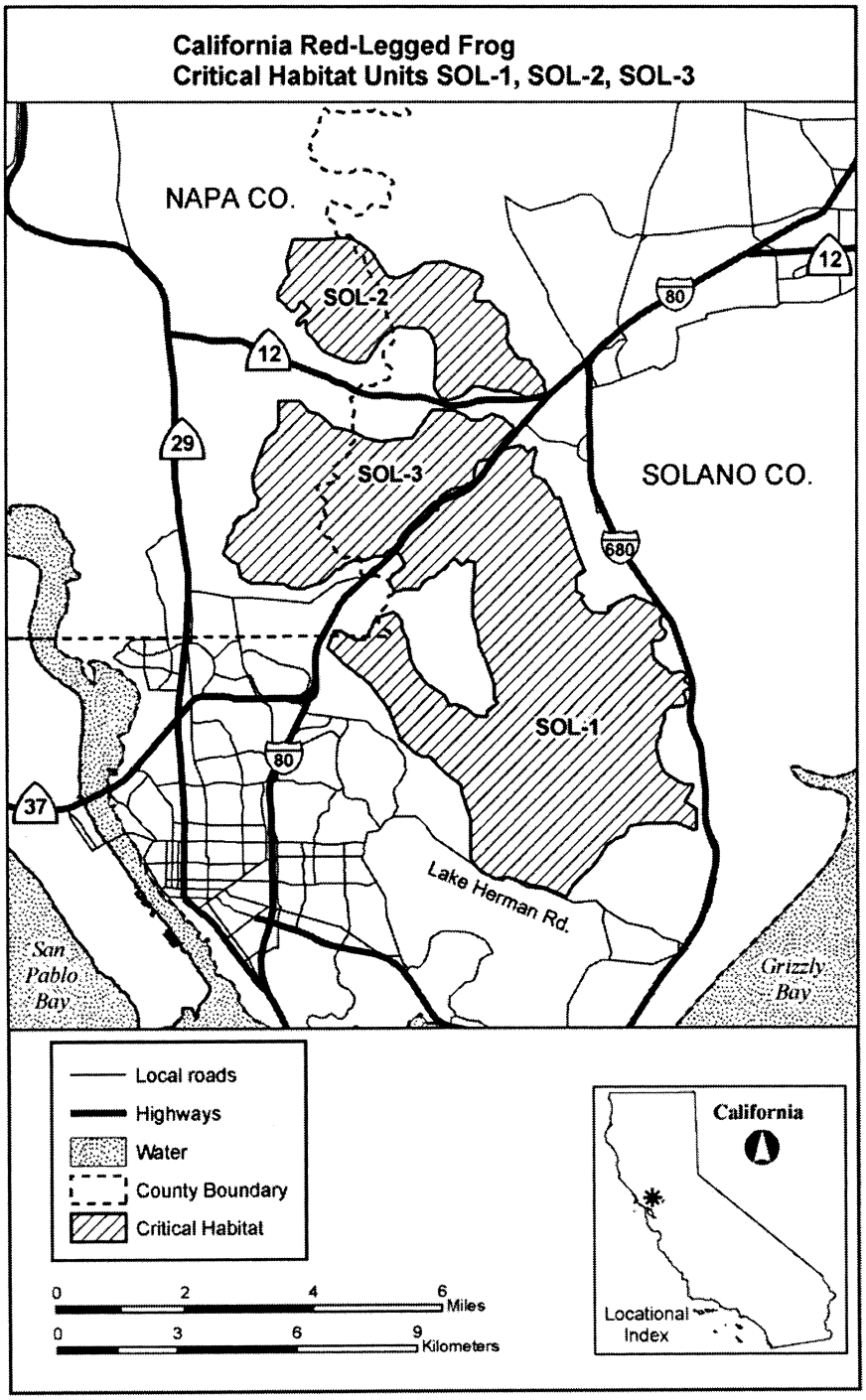
(21) Unit SOL-1: Solano and Napa Counties, California. From USGS 1:24,000 scale quadrangles Cordelia, Benecia, Fairfield South and Vine Hill.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 573848,4228015; 573903,4227912; 573977,4227914; 574101,4228001; 574144,4227996; 574168,4227924; 574108,4227756; 574045,4227438; 574091,4227308; 574369,4227183; 574607,4226770; 574709,4226724; 574710,4226757; 574752,4226739; 575176,4225375; 575367,4224934; 575363,4224914; 575154,4224811; 575156,4224422; 575340,4224312; 575272,4224261; 575277,4224221; 575430,4223998; 575543,4223916; 575898,4223882; 575951,4223933; 575956,4224042; 576548,4224315; 576613,4224309; 577094,4224080; 577185,4224072; 577294,4223874; 577241,4223622; 577294,4223503; 577394,4223421; 577361,4223317; 577276,4223227; 577093,4223198; 577026,4223148; 577088,4222761; 577231,4222620; 577424,4222494; 577487,4222409; 577764,4222437; 577901,4222389; 577908,4222309; 577823,4222231; 578000,4222065; 577976,4222018; 577851,4221975; 577819,4221920; 577874,4221749; 577847,4221604; 577479,4221571; 577347,4221465; 577347,4221267; 577254,4221042; 577263,4220963; 577240,4220963; 577232,4220845; 577157,4220753; 577148,4220519; 577207,4220260; 577340,4219959; 577708,4219717; 577833,4219667; 578061,4219640; 578022,4219507; 577850,4219230; 578141,4219044; 578141,4218548; 578071,4218516; 577638,4218687; 576844,4218674; 576474,4218621; 576315,4218370; 576130,4218317; 575892,4218145; 575693,4217814; 575535,4217616; 575045,4217139; 574873,4216862; 574304,4217100; 574026,4217139; 573391,4217351; 573100,4217311; 572730,4217510; 572550,4217698; 572484,4217823; 572498,4218787; 572276,4219425; 572241,4219668; 571809,4219995; 571486,4220345; 571285,4220358; 571097,4220460; 570722,4220804; 570712,4220888; 570467,4221496; 569971,4222168; 569322,4222661; 569141,4222871; 568932,4223029; 569100,4223446; 569287,4223455; 569617,4223245; 569859,4223239; 569998,4223461; 570161,4223803; 570212,4223793; 570589,4223923; 570713,4223831; 570802,4223659; 570802,4223501; 570936,4223240; 571008,4222761; 571145,4222466; 571240,4222370; 571367,4222173; 571848,4221869; 571964,4221615; 572129,4221634; 572415,4221529; 572618,4221361; 572912,4221346; 572919,4221484; 573182,4221670;

573101,4221744; 573080,4222159; 572894,4222695; 572719,4223078; 572686,4223384; 572555,4223800; 572555,4224434; 572609,4224828; 572596,4225163; 572424,4225185; 572290,4225081; 572133,4225232; 572065,4225225; 571881,4225001; 571574,4224781; 571484,4224773; 571338,4224672; 571231,4224490; 570850,4224490; 570733,4224439; 570602,4224420; 570585,4224503; 570453,4224690; 570576,4224852; 570722,4224934; 570875,4225093; 570763,4225322; 570670,4225406; 570879,4225740; 571040,4225925; 571358,4226168; 571485,4226295; 571618,4226478; 571663,4226445; 571710,4226470; 571678,4226529; 571802,4226631; 571975,4226718; 572345,4226851; 572506,4226954; 572764,4227177; 573262,4227884; 573371,4227967; 573657,4228044; 573766,4228055; returning to 573848,4228015.

(ii) *Note*: Map of Units SOL-1, SOL-2 and SOL-3 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(22) Unit SOL-2: Solano and Napa Counties, California. From USGS 1:24,000 scale quadrangle Cordelia.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

570458,4232242; 570722,4232209; 571086,4232374; 571367,4232573; 571880,4232606; 572552,4232394; 572809,4232259; 572809,4232155; 572756,4231996; 572637,4231837; 572637,4231639; 573009,4231625; 573192,4231413; 573390,4231275; 573441,4231119; 573467,4230836; 573406,4230775; 573470,4230566; 573705,4230214; 573992,4230187; 574036,4230088; 574120,4230009; 574352,4229667; 574403,4229391; 574344,4229350; 573890,4229241; 573760,4229329; 573519,4229412; 573113,4229431; 572770,4229520; 572598,4229533; 572300,4229291; 571970,4229190; 571766,4229253; 571606,4229514; 571658,4230168; 571639,4230536; 571519,4230834; 571360,4230968; 571023,4230968; 570750,4231012; 570560,4230936; 570294,4230699; 569918,4230136; 569626,4230110; 569334,4230180; 568858,4230392; 568747,4230511; 568604,4230722; 568466,4230826; 568420,4230947; 568427,4231151; 568370,4231153; 568241,4231036; 568170,4231061; 568251,4231202; 568522,4231421; 568329,4231625; 568273,4231618; 568199,4231461; 568133,4231392; 568051,4231386; 567956,4231463; 567912,4231543; 567727,4231690; 567729,4231878; 567994,4232292; 567944,4232639; 568093,4233152; 568821,4233152; 569151,4233185; 569548,4233185; 569846,4233019; 570061,4232854; returning to 570458,4232242.

(ii) *Note*: Unit SOL-2 for California red-legged frog is depicted on the map in paragraph (21)(ii) of this entry.

(23) Unit SOL-3: Solano and Napa Counties, California. From USGS 1:24,000 scale quadrangle Cordelia.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

567740,4229171; 568267,4229171; 568477,4228910; 568712,4228853; 568966,4228656; 569087,4228510; 569334,4228485; 569607,4228396; 569918,4228237; 570276,4228164; 571071,4228258; 571556,4228946; 572117,4228927; 572376,4228815; 572535,4228688; 572789,4228707; 573052,4228841; 573309,4228751; 573595,4228530; 573591,4228489; 572973,4227712; 572720,4227679; 572641,4227523; 572604,4227377; 572604,4227200; 572266,4227009; 572043,4226973; 571747,4226787; 571739,4226736; 571691,4226684; 571607,4226655; 571371,4226453; 571252,4226308; 570965,4226045; 570780,4225806; 570606,4225519; 570453,4225433; 570323,4225316; 570088,4225297; 569929,4225225; 569754,4225196; 569569,4225199; 569376,4225109; 569270,4225000; 569119,4224961; 569074,4224876; 568960,4224768; 568745,4224634; 568523,4224574; 568380,4224504; 568010,4224527; 567864,4224622; 567019,4224654; 566765,4224802; 566704,4225101; 566522,4225215; 566353,4225363; 566462,4225788; 566610,4226015; 566604,4226126; 566731,4226294; 566877,4226326; 567175,4226542; 567232,4226739; 567105,4226948; 567076,4227307; 567417,4228231; 567664,4228428; 567740,4228580; returning to 567740,4229171.

(ii) *Note*: Unit SOL-3 for California red-legged frog is depicted on the map in paragraph (21)(ii) of this entry.

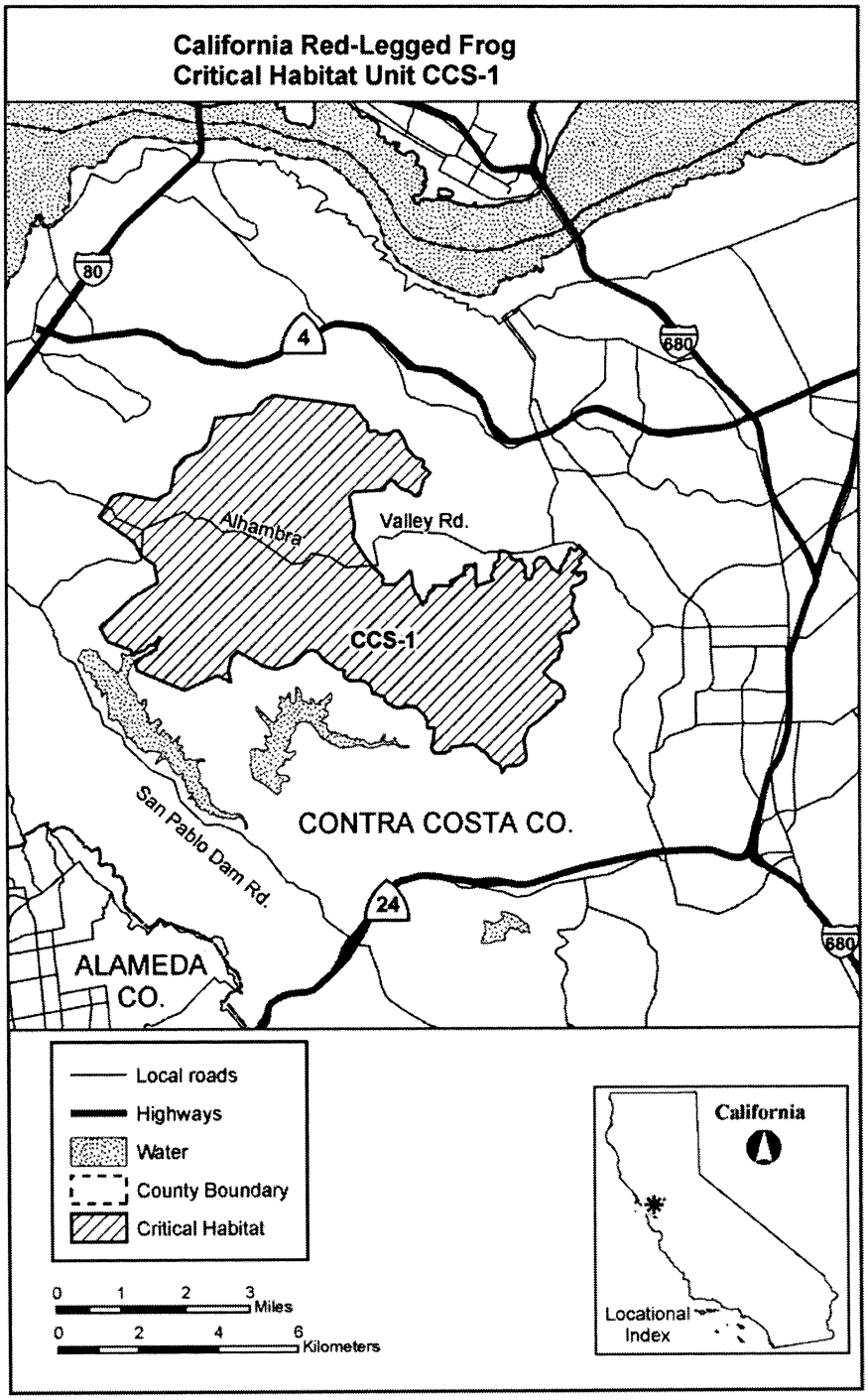
(24) Unit CCS-1: Contra Costa County, California. From USGS 1:24,000 scale quadrangles Richmond, Benecia, Briones Valley and Walnut Creek.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 572162,4205268; 572327,4205277; 572442,4205195; 572582,4205195; 572788,4205283; 572909,4205274; 573122,4204829; 573298,4204638; 573495,4204549; 573519,4204473; 573487,4204382; 573594,4204332; 573672,4204255; 573639,4204185; 573520,4204083; 573424,4203726; 573355,4203671; 573267,4203695; 573150,4203787; 572928,4203867; 572737,4204064; 572574,4203972; 572526,4203835; 571765,4203776; 571660,4203656; 571783,4202972; 571741,4202650; 571991,4202253; 572214,4201968; 572486,4201677; 572471,4201544; 572497,4201511; 572614,4201480; 572794,4201502; 572878,4201552; 573135,4201820; 573168,4201827; 573218,4201660; 573237,4201425; 573292,4201268; 573364,4201222; 573484,4200970; 573443,4201046; 573544,4201047; 573651,4201342; 573748,4201343; 573742,4201477; 574217,4201456; 574155,4201560; 574504,4201744; 574537,4201730; 574501,4201794; 574535,4201949; 574691,4201984; 574719,4201926; 574749,4201918; 574771,4201939; 574774,4202005; 574799,4202006; 574807,4201453; 575241,4201597; 575195,4201668; 575198,4201759; 575232,4201791; 575271,4201928; 575242,4201927; 575276,4202021; 575390,4202092; 575386,4202303; 575527,4202304; 575672,4202256; 575687,4202126; 575729,4202104; 575803,4202084; 575955,4202109; 575936,4202055; 576042,4201903; 575989,4201793; 576046,4201771; 576025,4201654; 576171,4201610; 576222,4201746; 576282,4201829; 576248,4201881; 576272,4201920; 576235,4201988; 576381,4202154; 576452,4202128; 576537,4202156; 576696,4201885; 576871,4201782; 576922,4201934; 577022,4202086; 577036,4202077; 577059,4202163; 577129,4202252; 577122,4202327; 577165,4202394; 577286,4202312; 577377,4202449; 577553,4202269; 577370,4202080; 577433,4202019; 577181,4201778; 577331,4201778; 577332,4201711; 577396,4201713; 577394,4201778; 577538,4201779; 577538,4201608; 577375,4201499; 577180,4201413; 577177,4201270; 577253,4201191; 577192,4200992; 577204,4200806; 577331,4200562; 577350,4200480; 577311,4200435; 577192,4200372; 577162,4200287; 577028,4200293; 576947,4200268; 576858,4200184; 576906,4200083; 576929,4199888; 576926,4199829; 576851,4199719; 576847,4199627; 576744,4199595; 576480,4199299; 576670,4199097; 576790,4199053; 576934,4198944; 577000,4198816; 576998,4198671; 576909,4198588; 576860,4198575; 576798,4198592; 576812,4198531; 576357,4198119; 576106,4197955; 575987,4197664; 576046,4197240; 576005,4197111; 575797,4196993; 575587,4196999; 575432,4196824; 575436,4196897; 575386,4197011; 575161,4197151; 575066,4197298; 574718,4197534; 574156,4197457; 574162,4197390; 573973,4197317; 573757,4197318; 573683,4197437; 573738,4197634; 573750,4197950; 573599,4197933; 573543,4198199; 573353,4198414; 573281,4198460; 573166,4198456; 573063,4198504; 573022,4198458; 572836,4198432; 572610,4198534; 572532,4198601; 572485,4198723; 572417,4198723; 572221,4198785; 572141,4198998; 572010,4199081; 571881,4199118; 571670,4199102; 571566,4199147; 571524,4199202; 571507,4199310; 571533,4199362; 571350,4199393; 571009,4199625; 570836,4199835; 570696,4199866; 570536,4199789; 570280,4199549; 569826,4199391; 569478,4199475; 568851,4199841; 568699,4199671; 568627,4199387; 568691,4199069; 568353,4199245; 567529,4198875; 566350,4199375; 566284,4199599; 566341,4199604; 566737,4199831; 566760,4199874; 566841,4199875; 566833,4199961; 566930,4200163; 566919,4200201; 566776,4200022; 566657,4200001; 566562,4199885; 566296,4199802; 566239,4199753; 566203,4199876; 565621,4200086; 565429,4200430; 565511,4200537; 565521,4200525; 566258,4201186;

566869,4201553; 566786,4201997; 566461,4202226; 566270,4202570; 565402,4203167; 565751,4203676; 566022,4203755; 566817,4203589; 567187,4203774; 567307,4204369; 567551,4204653; 567971,4204786; 568162,4205016; 568316,4205601; 569243,4205726; 569500,4206028; 569786,4206162; 571795,4205888; 571822,4205812; 572102,4205486; 572129,4205309; returning to 572162,4205268.

(ii) *Note*: Map of Unit CCS-1 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(25) Unit CCS-2: Contra Costa and Alameda Counties, California.

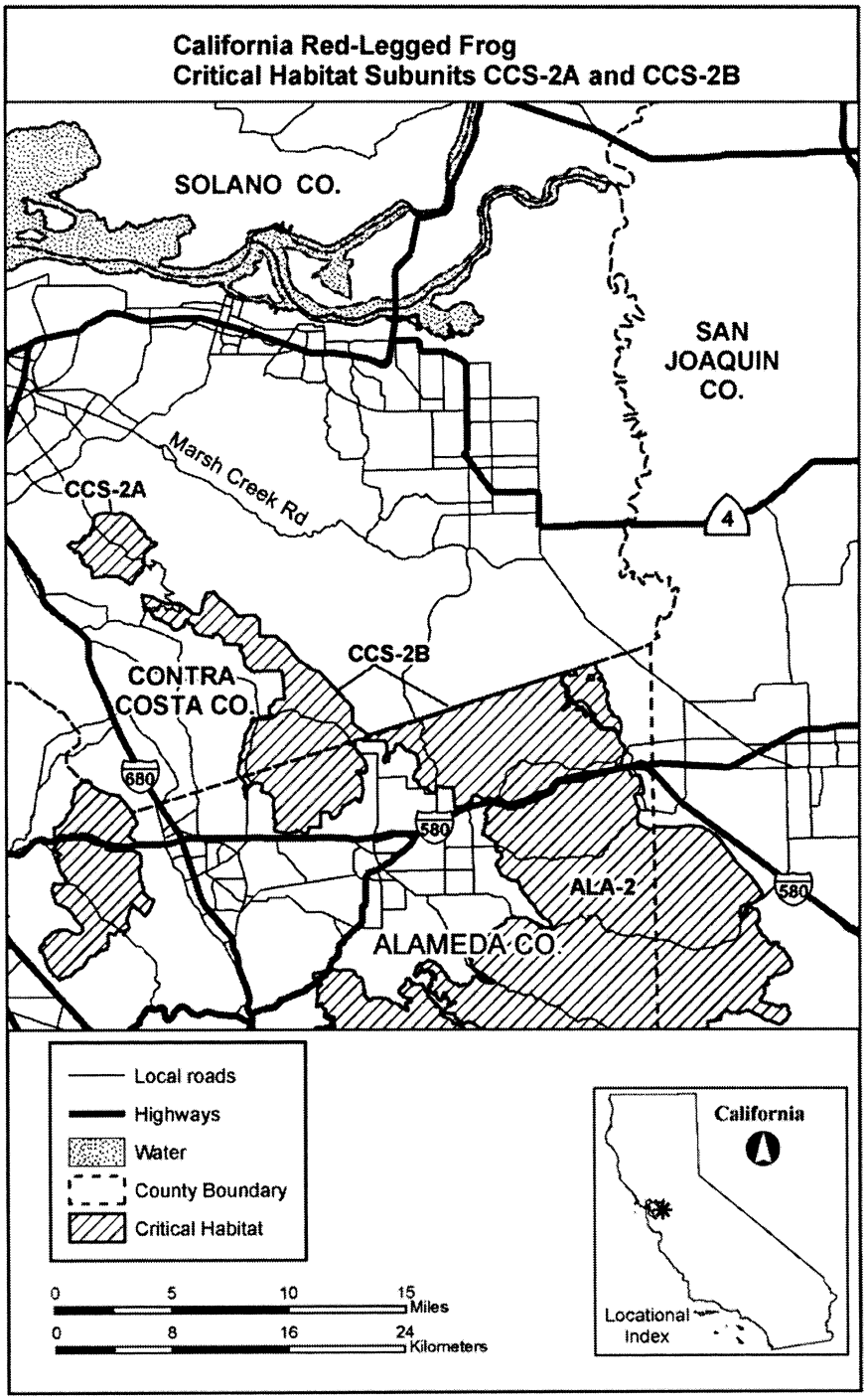
(i) Subunit CCS-2A. From USGS 1:24,000 scale quadrangles Walnut Creek, Clayton, and Diablo. Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 590966,4195381; 591584,4195077; 591596,4194986; 591659,4194914; 591743,4194903; 591896,4194623; 592141,4194355; 592189,4194330; 592235,4194205; 592329,4194137; 592442,4194139; 592470,4194106; 592527,4193846; 592688,4193638; 592834,4193634; 592942,4193372; 593298,4193329; 593278,4193189; 592898,4193026; 592464,4192592; 592410,4192158; 592410,4191723; 592301,4191397; 591867,4191017; 591595,4190529; 591495,4190495; 591457,4190511; 591447,4190592; 591142,4190699; 591124,4190836; 590955,4190873; 590648,4191074; 589965,4191056; 589873,4191079; 589807,4191148; 589751,4191159; 589656,4191120; 589656,4191026; 589428,4191042; 589293,4190997; 588928,4190974; 588851,4191280; 588891,4191357; 588857,4191474; 588834,4191480; 588831,4191683; 588477,4191754; 588478,4191791; 588335,4191796; 588267,4191865; 588296,4191958; 588224,4192037; 588213,4192087; 588248,4192180; 588129,4192225; 588074,4192281; 588047,4192349; 588100,4192405; 588063,4192545; 587986,4192680; 587925,4192733; 587796,4192729; 587701,4192678; 587606,4192858; 587356,4193019; 587222,4193159; 587396,4193281; 587505,4193429; 587711,4193321; 588016,4193393; 588207,4193552; 588289,4193768; 588378,4193831; 588728,4193850; 588804,4194250; 588982,4194638; 589026,4194983; 589108,4195198; 589323,4195327; 589882,4195381; 590548,4195274; returning to 590966,4195381.

(ii) Subunit CCS-2B. From USGS 1:24,000 scale quadrangles Diablo, Tassajara, Byron Hot Springs, Dublin, Livermore, Altamont, Midway, and Clifton Court Forebay. Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 599361,4176006; 599341,4176048; 599341,4176174; 599284,4176237; 599339,4176375; 599328,4176394; 599351,4176409; 599193,4176675; 599350,4177063; 599085,4177291; 598887,4177526; 598831,4177784; 598883,4178009; 598893,4178237; 598946,4178300; 598936,4178389; 599076,4178612; 599001,4178659; 598939,4178780; 598982,4178937; 599256,4179309; 599170,4179461; 599348,4180125; 599348,4180303; 599494,4180570; 599710,4180868; 599735,4181179; 599932,4181459; 600465,4181344; 601189,4181433; 601265,4181573; 601010,4181785; 601010,4182167; 601038,4182207; 601226,4182275; 601305,4182383; 601321,4182514; 601408,4182609; 601544,4182684; 601770,4182693; 602052,4182635; 601992,4183824; 601846,4184616; 600555,4184616; 600399,4184565; 600269,4184571; 600243,4184637; 600179,4184639; 600087,4184579; 599915,4184539; 599359,4184962; 599227,4185769; 598974,4186032; 599082,4186368; 597914,4186452; 597879,4186793; 597685,4186967; 597681,4187031; 597633,4187076; 597562,4187077; 597525,4187112; 597176,4187118; 597174,4186906; 597046,4186902; 596844,4187007; 596646,4187013; 596172,4187079; 595987,4187174; 595752,4187566; 595813,4187685; 595746,4187785; 595523,4187813; 595445,4188105; 595352,4188108; 595240,4188044; 595240,4187971; 595198,4187857; 595210,4187761; 595151,4187633; 595069,4187629; 594873,4187497; 594601,4187391; 594459,4187434; 594459,4187518; 594309,4187529; 594261,4187722; 594233,4187736; 594223,4187841; 594131,4187785; 593748,4187977; 593705,4188078; 593606,4188042; 593474,4188081; 593410,4188204; 593240,4188182; 593132,4188217; 593036,4188421; 592987,4188416; 592913,4188598; 592625,4188865; 592566,4188841; 592547,4188887; 592579,4188947; 592403,4189055; 592432,4189145; 592389,4189312; 592346,4189373; 592327,4189556; 592289,4189590; 592283,4189782; 592464,4189714; 593007,4189660; 593441,4189388; 594039,4189171; 594364,4189225; 594907,4189225; 595342,4188900; 595722,4188520; 596211,4188465; 596428,4188845; 596482,4189334; 596699,4189931; 597242,4189986; 597514,4189551; 597894,4189334; 598165,4189117; 598491,4188791; 598871,4188302; 599577,4188411; 600012,4188411; 600336,4188087; 600351,4186962; 601470,4186982; 601695,4186728; 602129,4186456; 602944,4185370; 603650,4184936; 603867,4184719; 604410,4184556; 606690,4182112; 606690,4181081; 607776,4180266; 621397,4184549; 621470,4184429; 621507,4184287; 621983,4184349; 621788,4184672; 623318,4185153; 623256,4185109; 623331,4184969; 623311,4184795; 623520,4184478; 623692,4184338; 623735,4184117; 623472,4184116; 623479,4183966; 623791,4183970; 623813,4183913; 623940,4183799; 623890,4183477; 623954,4183316; 624056,4183260; 624119,4183134; 624022,4182579; 624054,4182471; 624181,4182344; 624213,4182236; 624206,4182046; 624323,4181863; 624472,4181801; 624471,4181577; 624777,4181462; 624962,4181261; 625001,4181120; 625034,4180699; 624946,4180302; 624892,4180389; 624579,4180724; 624473,4180770; 623882,4180767; 623692,4180833; 623559,4181043; 623364,4181183; 623224,4181383; 623257,4181585; 623226,4181707; 623107,4181751; 623051,4181839; 622963,4181907; 622678,4182332; 622560,4182376; 622472,4182442; 622425,4182514; 622328,4182564; 621806,4182439; 621645,4182584; 621674,4182640; 621703,4182642; 621709,4182689; 621528,4182836; 621453,4182808; 621431,4182743; 621406,4182776; 621381,4182923; 621490,4183263; 621445,4183403; 621342,4183538; 621098,4183711; 621050,4183843; 621031,4184097; 621241,4184338; 621139,4184357; 621006,4184237; 620949,4184103; 620949,4183835; 620983,4183702; 621309,4183387; 621332,4183208; 621247,4183062; 621234,4182871; 621347,4182624; 621380,4182609; 621400,4182556; 621389,4182512; 621238,4182326; 621169,4182277; 621146,4182237; 621203,4182212; 621140,4182070; 621049,4181958; 621071,4181920; 621203,4181983; 621390,4182187; 621500,4182201; 621508,4182234; 621462,4182320; 621555,4182405; 621608,4182406; 621772,4182312; 622035,4182252; 622121,4182186; 622129,4182128; 622076,4182055; 621966,4181995; 621990,4181963; 622087,4181953; 622193,4182005; 622344,4182150; 622373,4182150; 622324,4181968; 622489,4182014; 622512,4181967; 622438,4181807; 622507,4181784; 622607,4181864; 622646,4181844; 622646,4181772; 622586,4181578; 622576,4181510; 622593,4181479; 622690,4181578; 622756,4181595; 622746,4181709; 622829,4181733; 622898,4181650; 623013,4181402; 622971,4181220; 623021,4181194; 623122,4181313; 623190,4181189; 623441,4180906; 623501,4180763; 623628,4180649; 624135,4180591; 624429,4180624; 624619,4180516; 624856,4180172; 624907,4179859; 625025,4179696; 625203,4179620; 625248,4179512; 625271,4179192; 625357,4179099; 625221,4179013; 625094,4178683; 624999,4178137; 624186,4177959; 623602,4177870; 623284,4177769; 622719,4177737; 621971,4177625; 621163,4177429; 621071,4177365; 621001,4177389; 620839,4177350; 620531,4177175; 620338,4176956; 620073,4176555; 619557,4176372;

619398,4176387; 618445,4175921; 617741,4175699; 617214,4175661; 616985,4175845; 616827,4175893; 616726,4176023; 616595,4176069; 616465,4175916; 616300,4175916; 616199,4175967; 615952,4175987; 615645,4175956; 615550,4175968; 615445,4176022; 615277,4176155; 615204,4176187; 615014,4176190; 614869,4176077; 614818,4175888; 614818,4175781; 614758,4175694; 614621,4175571; 614115,4175445; 613667,4175272; 613613,4176416; 613543,4176702; 612845,4176702; 612559,4176794; 612400,4176791; 612405,4176585; 612468,4176496; 612180,4176347; 612010,4176352; 612010,4176485; 611878,4176498; 611851,4176683; 611698,4176683; 611670,4176703; 611263,4176692; 611257,4176915; 611178,4176961; 611109,4177229; 610888,4177229; 610888,4177496; 611059,4177908; 611149,4177904; 611195,4177958; 611343,4178037; 611193,4178156; 611193,4178602; 611068,4178930; 610967,4179021;610819,4179105; 610460,4179200; 610330,4179268; 609942,4179653; 609884,4179675; 609747,4179649; 609678,4179584; 609502,4179091; 609208,4179078; 609149,4178483; 608938,4178402; 608889,4178405; 608832,4178467; 608803,4178607; 608865,4178832; 608944,4178926; 609022,4179100; 609060,4179514; 608923,4179877; 607783,4179877; 607783,4180239; 607592,4180175; 607605,4179870; 607484,4179865; 607370,4179978; 606881,4179934; 606870,4179354; 607316,4178848; 607596,4178386; 607665,4178177; 607653,4177923; 607603,4177779; 607537,4177711; 607502,4177695; 607417,4177711; 607172,4177871; 607079,4177880; 606952,4177811; 607119,4177617; 607167,4177594; 607178,4177547; 607313,4177374; 607361,4177193; 607383,4176794; 607422,4176549; 607376,4176262; 607269,4175975; 607245,4175797; 607203,4175727; 607089,4175779; 606953,4175988; 606888,4175970; 606501,4175670; 606083,4175437; 605976,4175309; 605778,4174901; 605660,4174762; 605340,4174590; 605260,4174590; 605062,4175042; 604508,4175020; 604524,4174007; 603715,4173996; 603645,4173682; 603510,4173621; 603327,4173595; 603249,4173617; 603170,4173716; 602842,4173817; 602840,4173677; 602595,4173680; 602368,4173630; 602125,4173622; 601350,4173736; 601331,4173978; 601403,4174098; 601431,4174282; 601370,4174292; 601409,4174480; 601336,4174586; 601270,4174580; 601326,4174955; 601262,4175552; 601290,4175975; 601215,4176027; 601041,4176273; 600792,4176312; 600663,4176411; 600507,4176407; 600411,4176520; 600516,4176742; 600494,4176951; 600239,4177033; 600094,4177043; 599730,4176899; 599700,4176852; 599576,4176774; 599452,4176577; 599452,4176098; 599402,4176098; returning to 599361,4176006. Excluding: 622742,4184043; 622742,4183973; 623170,4183986; 623154,4184309; 622828,4184300; 622828,4184064; returning to 622742,4184043.

(iii) *Note*: Map of Unit CCS-2, subunits CCS-2A and CCS-2B, for the California red-legged frog follows:

BILLING CODE 4310–55–S

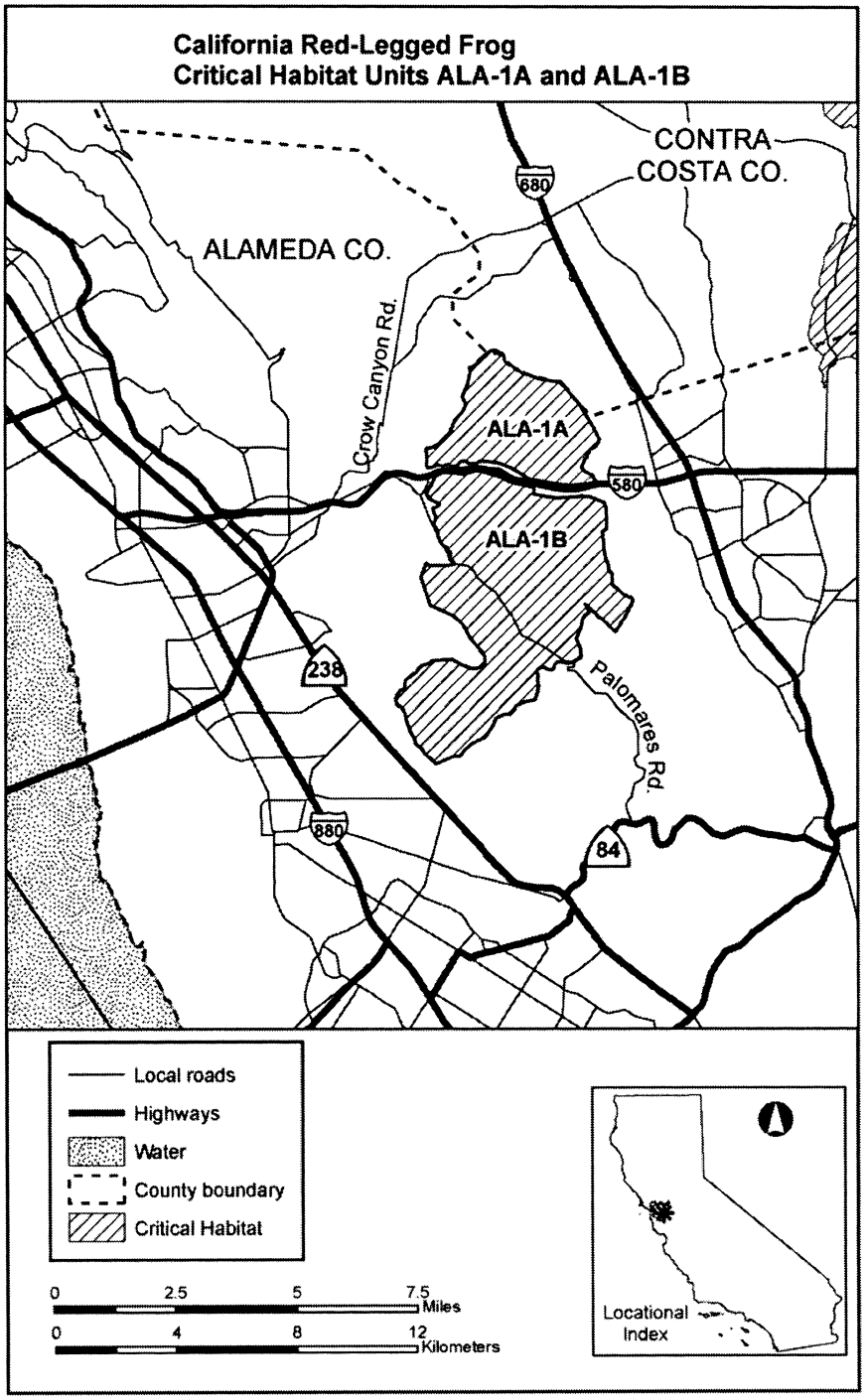

California Red-Legged Frog
Critical Habitat Subunits CCS-2A and CCS-2B
SOLANO CO.
SAN JOAQUIN CO.
Marsh Creek Rd
CCS-2A
CCS-2B
CONTRA COSTA CO.
ALA-2
ALAMEDA CO.
680
580
4
Local roads
Highways
Water
County Boundary
Critical Habitat
0 5 10 15 Miles
0 8 16 24 Kilometers
California
Locational Index

(26) Unit ALA-1: Alameda and Contra Costa Counties, California.

(i) Subunit ALA-1A. From USGS 1:24,000 scale quadrangles Hayward and Dublin. Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 589322,4176556; 589405,4176494; 589496,4176505; 589924,4176319; 589935,4176295; 590430,4176229; 590671,4176222; 591266,4175498; 591719,4174774; 591948,4174305; 591853,4174108; 591642,4173986; 591604,4173865; 591542,4173820; 591545,4173707; 591486,4173693; 591355,4173389; 591499,4173241; 591694,4173149; 591840,4172933; 591448,4172833; 590725,4172829; 589688,4172994; 589054,4173369; 588658,4173519; 588382,4173575; 588034,4173607; 587897,4173519; 587616,4173529; 587503,4173596; 587361,4173580; 587265,4173454; 587091,4173433; 586954,4173495; 586775,4173449; 586544,4173495; 586531,4173449; 586293,4173369; 586242,4173425; 586242,4173859; 586210,4173945; 586247,4174005; 586500,4174070; 586630,4174164; 587008,4174540; 587167,4174927; 587446,4175244; 587548,4175454; 587414,4175727; 587586,4176114; 587681,4176546; 587654,4176671; 587794,4176717; 587912,4176814; 588009,4176960; 588352,4177224; 588496,4177249; 588745,4177130; 588812,4177013; 588827,4176886; 588916,4176782; 589103,4176705; returning to 589322,4176556.

(ii) Subunit ALA-1B. From USGS 1:24,000 scale quadrangles Hayward, Newark, Dublin and Niles. Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 588321,4173181; 588639,4173092; 589000,4172905; 589752,4172727; 589798,4172674; 589766,4172519; 590315,4172407; 590489,4172393; 591221,4172426; 591396,4172458; 591606,4172445; 592102,4172231; 592172,4172044; 592189,4171371; 592042,4171279; 592151,4170380; 592223,4170274; 592266,4169980; 592295,4169974; 592376,4169868; 592356,4169776; 592382,4169675; 592366,4169540; 592758,4169210; 592904,4169127; 593012,4169114; 593047,4169002; 592837,4168532; 592484,4168000; 592339,4168097; 592026,4168424; 591967,4168457; 591926,4168450; 591490,4168898; 591583,4168715; 591600,4168604; 591552,4168555; 591445,4168506; 591391,4168384; 591375,4168229; 591314,4168047; 591180,4167755; 591302,4167480; 591364,4167166; 591324,4167114; 590985,4166944; 590847,4166939; 590568,4166990; 590483,4166904; 590440,4166758; 590366,4166722; 590240,4166746; 590127,4166801; 590009,4166810; 589907,4166736; 589879,4166634; 589923,4166536; 589913,4166354; 589951,4166210; 589925,4166027; 589834,4165738; 589459,4165656; 589211,4165548; 589046,4165281; 588824,4165281; 588533,4165134; 588437,4164907; 588163,4164532; 587725,4164310; 587497,4164106; 587332,4163903; 587131,4163906; 586555,4163647; 586163,4163992; 586062,4164145; 585877,4164291; 585839,4164456; 585687,4164710; 585560,4165078; 585538,4165286; 585395,4165510; 585247,4165573; 585201,4165782; 585288,4165951; 585380,4166061; 585520,4166085; 585508,4166256; 585528,4166374; 585693,4166513; 585897,4166640; 585970,4166766; 586129,4166878; 586344,4166952; 586414,4167028; 587090,4167066; 587119,4167029; 587158,4167029; 587452,4166869; 587732,4166767; 587973,4166786; 588170,4166970; 588155,4167200; 587681,4167758; 587459,4168183; 587133,4168507; 586360,4168839; 586047,4169778; 586218,4170240; 586313,4170161; 586909,4170161; 587125,4170201; 587109,4170285; 586997,4170377; 586969,4170461; 587015,4170485; 587041,4170593; 586953,4170669; 586905,4170757; 586805,4170789; 586701,4170933; 586613,4171125; 586609,4171265; 586467,4171532; 586545,4171729; 586438,4172049; 586603,4172104; 586673,4172189; 586317,4172358; 586229,4172533; 586556,4173120; 586809,4173225; 587468,4173169; 587883,4173268; 588111,4173240; returning to 588321,4173181.

(iii) *Note*: Map of Unit ALA-1, subunits ALA-1A and ALA-1B, for the California red-legged frog follows:



BILLING CODE 4310–55–C

(27) Unit ALA-2: Alameda, Santa Clara and San Joaquin Counties, California. From USGS 1:24,000 scale quadrangles Niles, La Costa Valley, Calaveras Reservoir, Altamont, Mendenhall Springs, Mt. Day, Midway, Cedar Mtn., Tracy, Lone Tree Creek and Eylar Mountain.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 612040,4142329; 612012,4142381; 611689,4142634; 611459,4142899; 611408,4142925; 611372,4142893; 611151,4142845; 610999,4142707; 610789,4142438; 610751,4142259; 610676,4142133; 610614,4142075; 610415,4141989; 610315,4141978; 610194,4142032; 610088,4142027; 610012,4142113; 609851,4142170; 609797,4142102; 609743,4141951; 609564,4141864; 609511,4141864; 609375,4141928; 609329,4141976; 609302,4142219; 609083,4142211; 608996,4142296; 608848,4142388; 608741,4142579; 608679,4142620; 608587,4142636; 608300,4142611; 607907,4142380; 607725,4142387; 607382,4142516; 607250,4142594; 607141,4142701; 606927,4142780; 606795,4142870; 606679,4142882; 606543,4142829; 606416,4142871; 606314,4142929; 606224,4143019; 606057,4143065; 605791,4143243; 605701,4143423; 605554,4143520; 605210,4143551; 605067,4143500; 604810,4143466; 604716,4143478; 604622,4143530; 604624,4143653; 604557,4143790; 604374,4143877; 604337,4143986; 604155,4144066; 603854,4144086; 603712,4144172; 603514,4144160; 603469,4144204; 603430,4144299; 603248,4144436; 603200,4144536; 603197,4144624; 603256,4144680; 603339,4144934; 603197,4145061; 603314,4145117; 603550,4145109; 603669,4145241; 603714,4145425; 603787,4145493; 603795,4145566; 603837,4145620; 604148,4145841; 604353,4145949; 604472,4145956; 604495,4145903; 604643,4145908; 604707,4145860; 604790,4145919; 605318,4145910; 605495,4145971; 605524,4145952; 605593,4145960; 605658,4145913; 605722,4145903; 605837,4146012; 605829,4146068; 605639,4146251; 605594,4146337; 605663,4146343; 605738,4146225; 605845,4146183; 605916,4146229; 605801,4146507; 605762,4146550; 605428,4146660; 605483,4146707; 605416,4146780; 605464,4146836; 605387,4146944; 605365,4147079; 605394,4147165; 605442,4147212; 605552,4147114; 605551,4147218; 605593,4147302; 605336,4147373; 605322,4147431; 605352,4147500; 605277,4147575; 605329,4147701; 605256,4147690; 605245,4147738; 605214,4147753; 605096,4147703; 605044,4147733; 605034,4147773; 605096,4147840; 605096,4147871; 604965,4147973; 604914,4148051; 604845,4148083; 604885,4148277; 604991,4148413; 605033,4148434; 605095,4148424; 605127,4148265; 605251,4148083; 605431,4148129; 605537,4148188; 605655,4148273; 605818,4148448; 606075,4148398; 606331,4148228; 606492,4148189; 606493,4148131; 606428,4148018; 606466,4147818; 606599,4147772; 606755,4147834; 606834,4147825; 606980,4147710; 607100,4147683; 607329,4147689; 607345,4147608; 607317,4147567; 607349,4147443; 607255,4147276; 607243,4147215; 607251,4147137; 607316,4147026; 607487,4147002; 607524,4147018; 607557,4147061; 607569,4147349; 607611,4147397; 607996,4147308; 608117,4147213; 608174,4147074; 608207,4147072; 608169,4147104; 608103,4147246; 608026,4147319; 607940,4147361; 607568,4147455; 607508,4147378; 607463,4147091; 607430,4147073; 607361,4147095; 607345,4147122; 607361,4147285; 607416,4147398; 607414,4147743; 607371,4147778; 607304,4147790; 607048,4147807; 606761,4147977; 606612,4147924; 606576,4147974; 606641,4148036; 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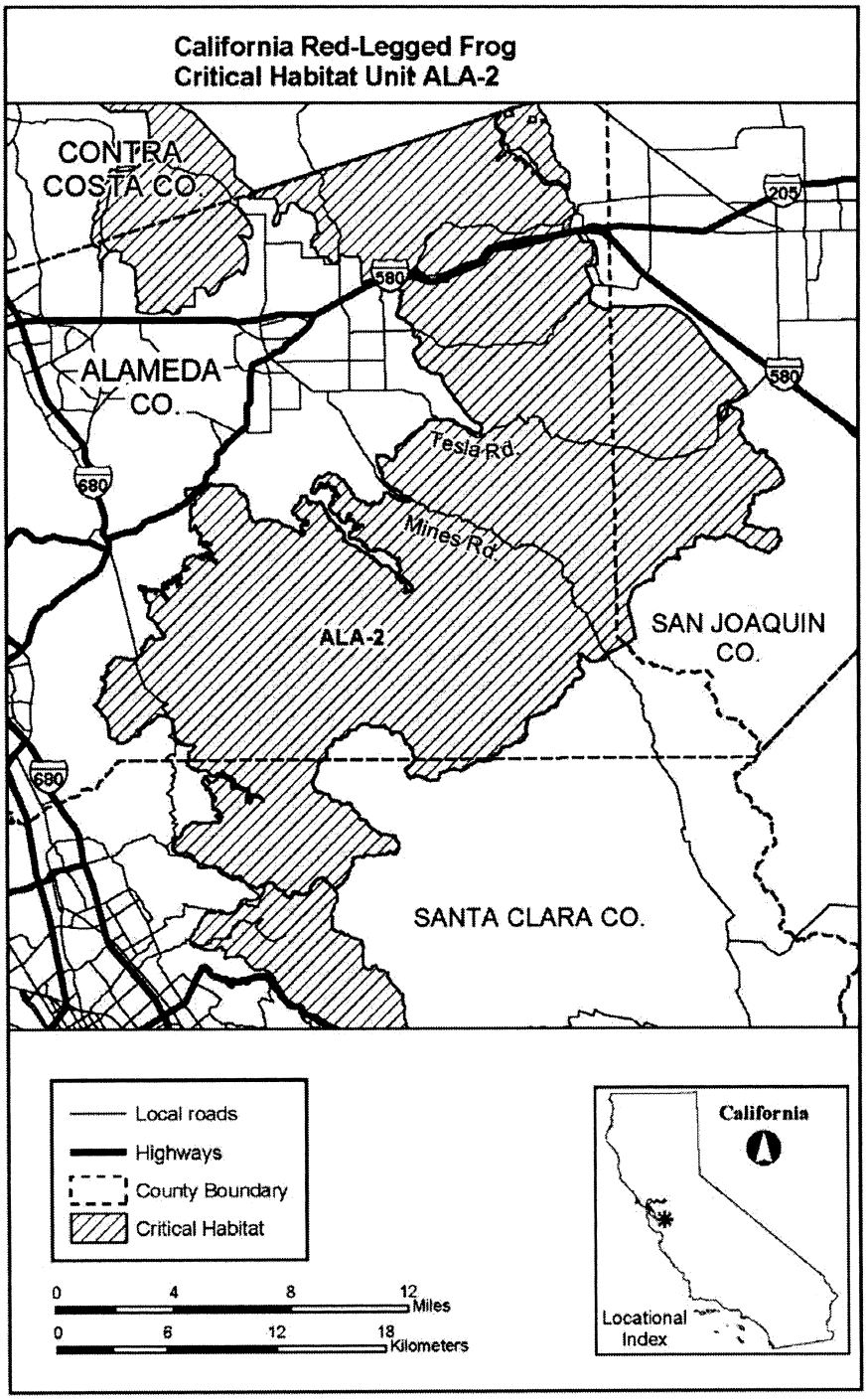
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(ii) *Note*: Map of Unit ALA-2 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(28) Unit SNM-1: San Mateo County, California. From USGS 1:24,000 scale quadrangles Montara Mountain, Half Moon Bay, San Mateo and Woodside.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 547630,4164045; 547744,4163977; 547818,4163983; 547963,4163840; 548003,4163821; 548075,4163840; 548154,4163787; 548153,4163732; 548244,4163618; 548399,4163493; 548584,4163581; 548727,4163782; 549022,4163842; 549445,4163265; 549662,4163019; 549773,4162861; 549895,4162605; 550021,4162446; 550354,4162086; 550600,4161758; 551542,4160713; 551788,4160393; 551799,4160319; 551944,4160134; 552084,4160038; 552243,4159834; 552407,4159687; 552523,4159489; 552902,4158657; 553256,4158186; 553696,4157816; 553834,4157670; 553823,4157626; 553845,4157594; 553929,4157579; 554007,4157453; 554066,4157221; 554201,4157191; 554220,4157113; 554166,4157054; 554193,4156993; 554257,4156937; 554333,4156948; 554427,4156913; 554508,4156694; 554629,4156541; 554593,4156418; 554660,4156373; 554607,4156236; 554715,4156157; 554745,4156059; 554851,4155898; 554808,4155832; 554829,4155792; 555118,4155748; 555222,4155647; 555357,4155646; 555636,4155305; 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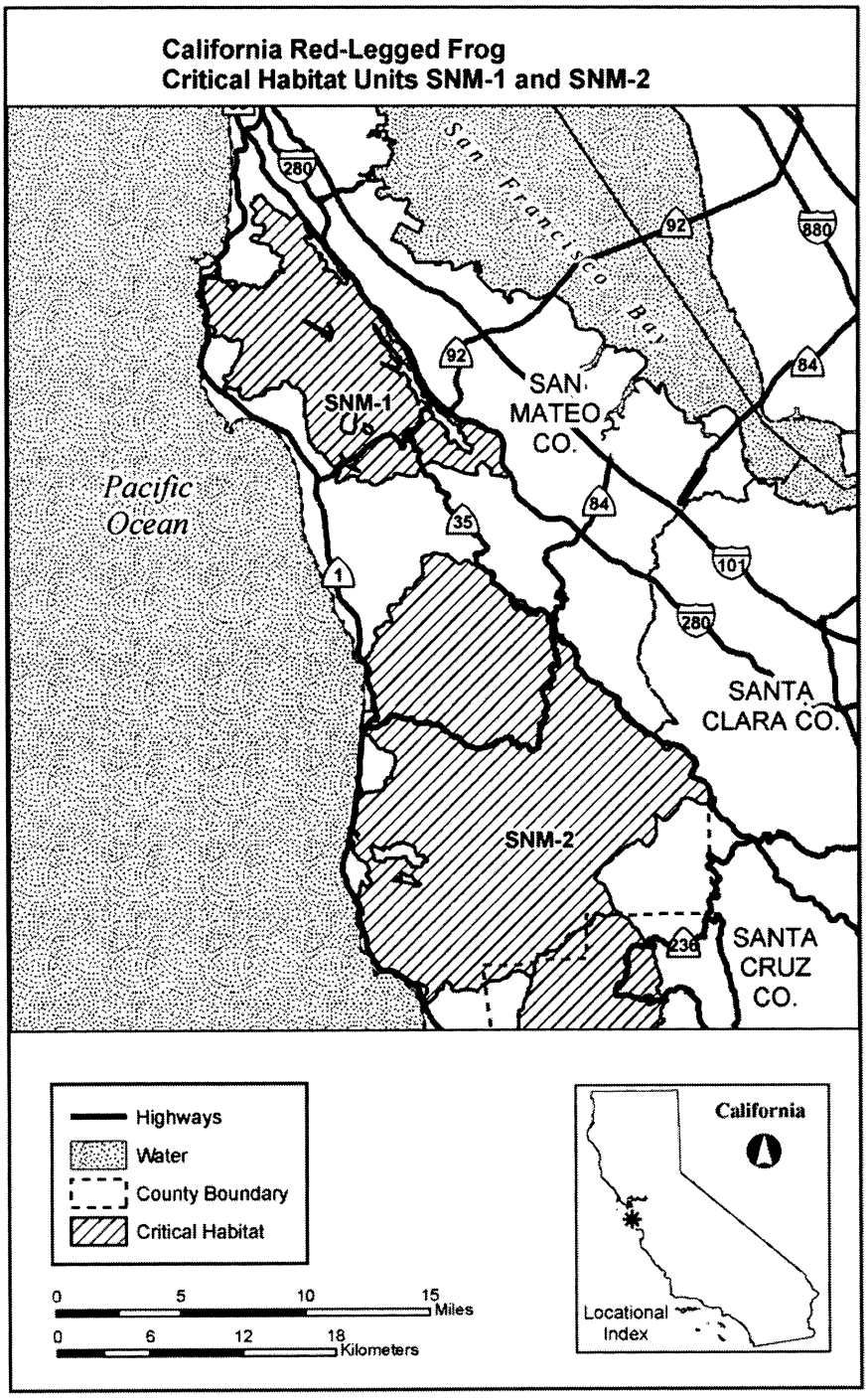
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(ii) *Note*: Map of Units SNM-1 and SNM-2 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(29) Unit SNM-2: San Mateo and Santa Cruz Counties, California. From USGS 1:24,000 scale quadrangles Half Moon Bay, San Gregorio, Pigeon Point, Woodside, La Honda, Franklin Point, Mindego Hill and Big Basin.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 569250,4119121; 569151,4119022; 568939,4118954; 568881,4118980; 568788,4118975; 568652,4118929; 568430,4118898; 568274,4118928; 568169,4118976; 567965,4119114; 567911,4119100; 567778,4119012; 567704,4118933; 567699,4118870; 567746,4118785; 567733,4118731; 567590,4118548; 567499,4118333; 567262,4118281; 567036,4118184; 566576,4117892; 566404,4117833; 566304,4117724; 566110,4117736; 566051,4117615; 565927,4117536; 565921,4117260; 565894,4117190; 565809,4117126; 565671,4117091; 565425,4116788; 565262,4116712; 565091,4116711; 564995,4116680; 564832,4116671; 564749,4116592; 564742,4116504; 564701,4116455; 564644,4116464; 564501,4116430; 564414,4116466; 564140,4116453; 564134,4116372; 564048,4116217; 564045,4116048; 563964,4115960; 563895,4115727; 563887,4115633; 563931,4115559; 563879,4115420; 563915,4115297; 563902,4115237; 563662,4115064; 563528,4115090; 563379,4115163; 563229,4115336; 562888,4115441; 562826,4115435; 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Excluding: 556092,4122063; 556218,4122107; 556645,4122069; 556727,4122152; 556746,4122317; 556816,4122418; 557032,4122456; 557089,4122533; 556873,4122695; 556861,4122837; 556467,4122821; 556281,4123125; 556289,4123256; 556226,4123422; 555497,4123687; 555358,4123614; 555261,4123663; 555032,4123593; 554691,4123369; 554690,4123310; 554656,4123262; 554596,4123352; 554359,4123364; 554270,4123180; 553600,4123504; 553555,4123410; 553375,4123390; 553635,4122920; 553644,4122708; 553715,4122548; 553839,4122460; 554062,4122505; 554165,4122407; 554289,4122418; 554447,4122645; 555312,4122656; 555578,4122761; 555705,4122761; 555756,4122507; 556003,4122317; returning to 556092,4122063.

(ii) *Note*: Unit SNM-2 for California red-legged frog is depicted on the map in paragraph (28)(ii) of this entry.

(30) Unit STC-1: Santa Clara County, California. From USGS 1:24,000 scale quadrangles Calaveras Reservoir, San Jose East, Mt. Day, Lick Observatory, Morgan Hill, Isabel Valley and Mt. Sizer.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

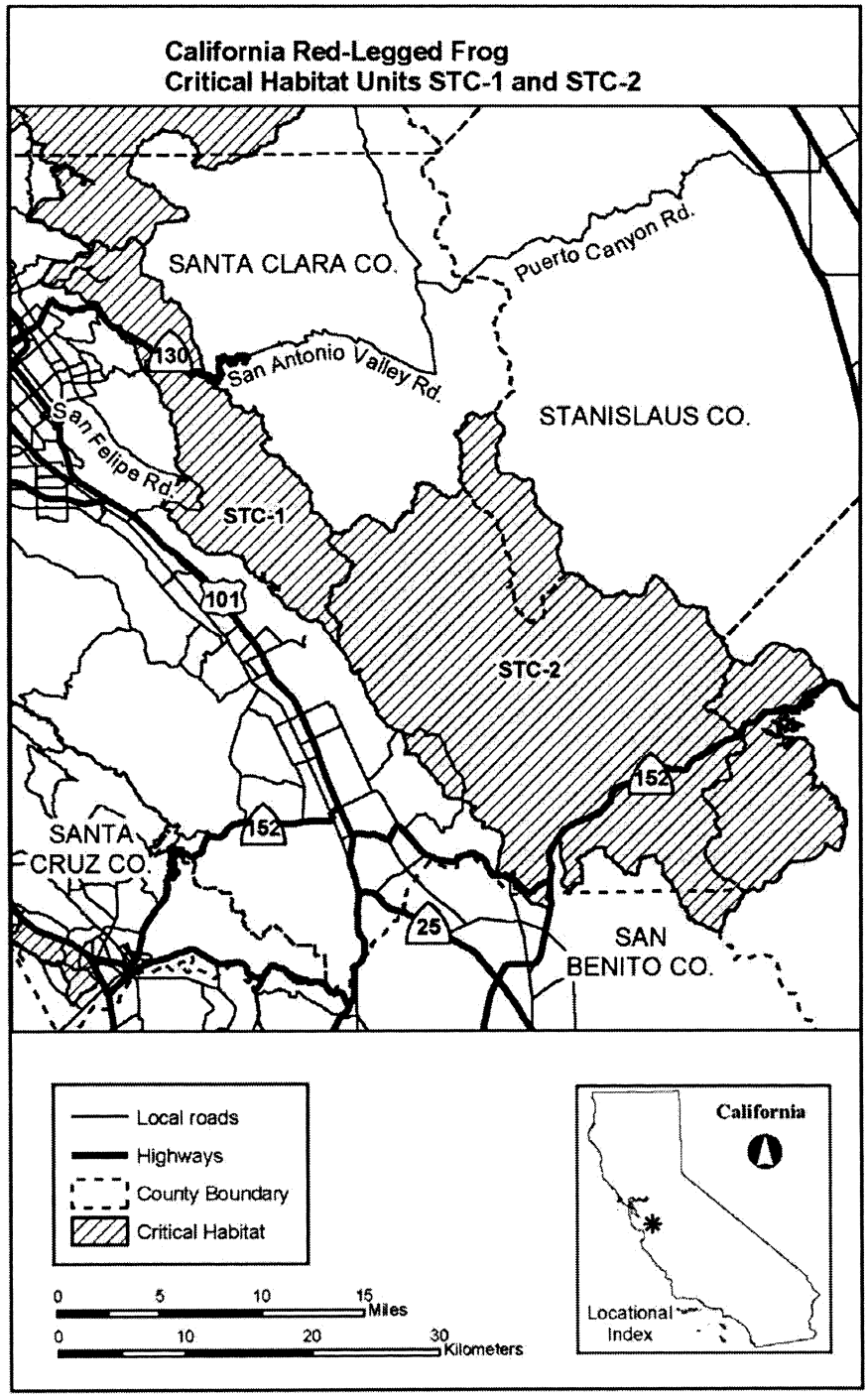
612040,4142329; 612059,4142174; 612136,4142137; 612243,4141962; 612198,4141726; 612203,4141589; 612088,4141439; 612041,4141311; 612049,4141259; 611960,4141119; 611893,4140940; 611969,4140675; 611942,4140491; 611944,4140135; 611962,4140096; 612052,4140065; 612152,4139946; 612275,4139957; 612334,4139915; 612459,4139974; 612507,4139882; 612554,4139865; 612630,4139772; 612695,4139756; 612795,4139794; 613168,4139551; 613274,4139569; 613392,4139510; 613498,4139495; 613570,4139450; 613586,4139411; 613566,4139244; 613666,4139098; 613611,4138948; 613591,4138643; 613645,4138499; 613605,4138264; 613625,4138154; 613708,4137981; 613803,4137917; 614063,4137873; 614140,4138041; 614249,4138124; 614319,4138132; 614354,4138114; 614382,4137991; 614504,4137865; 614553,4137838; 614650,4137844; 614894,4137745; 614981,4137741; 614951,4137541; 614963,4137477; 615053,4137385; 615187,4137120; 615536,4136826; 615623,4136654; 615694,4136571; 615811,4136523; 615823,4136452; 615764,4136335; 615810,4136000; 615822,4135962; 615914,4135902; 615928,4135865; 615873,4135230; 615957,4135094; 616080,4134655; 616156,4134516; 616247,4134483; 616360,4134378; 616464,4134099; 616515,4133842; 616638,4133676; 616670,4133559; 616644,4133379; 616652,4133124; 616668,4133048; 616729,4132973; 616798,4132770; 616852,4132690; 616866,4132313; 616973,4132054; 617051,4131999; 617114,4131990; 617158,4131944; 617172,4131872; 617143,4131780; 617178,4131687; 617302,4131573; 617591,4131501; 617635,4131459; 617692,4131243; 617760,4131146; 617872,4131197; 618059,4131081; 618145,4130995; 618281,4131037; 618511,4131004; 618693,4131033; 618729,4130991; 618729,4130940; 618624,4130736; 618668,4130675; 618718,4130655; 618787,4130644; 618878,4130668; 619015,4130511; 618895,4130412; 618867,4130338; 618871,4130263; 618965,4130041; 618965,4129916; 619031,4129801; 619135,4129762; 619298,4129777; 619591,4129713; 619800,4129796; 619819,4129775; 619824,4129621; 619925,4129584; 619976,4129526; 619994,4129332; 620075,4129282; 620163,4129300; 620342,4129194; 620451,4129228; 620734,4129474; 620830,4129720; 620871,4129653; 620969,4129299; 621072,4129096; 621167,4129040; 621462,4129008; 621485,4128960; 621419,4128672; 621449,4128541; 621515,4128408; 621545,4128096; 621521,4127932; 621824,4127708; 621825,4127609; 621904,4127423; 622072,4127349; 622113,4127288; 622112,4127201; 621723,4127166; 621691,4127088; 621697,4126941; 621650,4126898; 621435,4126877; 621355,4126773; 621352,4126717; 621480,4126534; 621560,4126366; 621611,4126292; 621701,4126238; 621758,4126104; 621817,4126034; 621915,4125991; 622028,4125979; 622113,4125901; 622192,4125876; 622370,4125910; 622527,4125851; 622683,4125916; 622744,4125886; 622816,4125749; 622945,4125721; 622982,4125621; 623173,4125332; 623145,4125105; 623239,4125034; 623411,4124996; 623593,4124887; 623692,4124722; 623802,4124609; 623880,4124572; 623985,4124559; 624046,4124365; 624145,4124286; 624195,4124252; 624361,4124256;

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628588,4117465; 628623,4117388; 628615,4117346; 628459,4117262; 628356,4117170; 628395,4116980; 628325,4116853; 628335,4116718; 628278,4116490; 628286,4116352; 628103,4116255; 628031,4116109; 627889,4115942; 627682,4115852; 627576,4115719; 627167,4115669; 627060,4115683; 626925,4115642; 626870,4115565; 626869,4115368; 626923,4115263; 626960,4115056; 626726,4114762; 626787,4114534; 626784,4114467; 626690,4114262; 626423,4114125; 626434,4114068; 626578,4113887; 626623,4113725; 626719,4113599; 626903,4113417; 627132,4113270; 627201,4113193; 627261,4113097; 627291,4112961; 627358,4112811; 627557,4112743; 627638,4112652; 627614,4112518; 627418,4112146; 627426,4111910; 627385,4111753; 627480,4111507; 627394,4111334; 627391,4111261; 627490,4111114; 627388,4110977; 627171,4111318; 627031,4111456; 626862,4111748; 626633,4111951; 626547,4112092; 626333,4112335; 626231,4112677; 626140,4112823; 625896,4112885; 625823,4112986; 625726,4113043; 625560,4113050; 625410,4112881; 625270,4112901; 624926,4113024; 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604159,4139363; 604133,4139467; 604133,4139623; 604367,4139882; 604382,4140096; 604429,4140118; 604574,4140118; 604608,4140376; 604783,4140578; 604789,4140721; 605055,4141023; 605226,4141041; 605536,4141023; 605648,4141059; 605764,4141137; 605993,4141092; 606071,4140988; 606145,4140955; 606317,4140970; 606545,4141045; 606686,4141124; 606832,4141464; 606985,4141659; 607076,4141722; 607213,4141750; 607541,4141680; 607785,4141734; 608014,4141870; 608137,4142008; 608199,4142141; 608199,4142276; 608300,4142611; 608587,4142636; 608715,4142602; 608815,4142474; 608848,4142388; 608996,4142296; 609083,4142211; 609302,4142219; 609329,4141976; 609375,4141928; 609532,4141860; 609743,4141951; 609797,4142102; 609851,4142170; 610012,4142113; 610088,4142027; 610194,4142032; 610315,4141978; 610415,4141989; 610614,4142075; 610676,4142133; 610751,4142259; 610789,4142438; 610999,4142707; 611151,4142845; 611372,4142893; 611408,4142925; 611459,4142899; 611689,4142634; 612012,4142381; returning to 612040,4142329.

(ii) *Note*: Map of Units STC-1 and STC-2 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(31) Unit STC-2: Santa Clara, Merced, Stanislaus and San Benito Counties, California. From USGS 1:24,000 scale quadrangles Mt. Sizer, Gilroy, Mt. Stakes, Mississippi Creek, Gilroy Hot Springs, San Felipe, Mustang Peak, Pacheco Peak, Three Sisters, Crevision Peak, Pacheco Pass and Mariposa Peak.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 639546,4129203; 639759,4129165; 639715,4128997; 639730,4128920; 639814,4128811; 639800,4128684; 640076,4128375; 640247,4128258; 640263,4128178; 640404,4128055; 640398,4127894; 640352,4127793; 640370,4127736; 640463,4127644; 640411,4127495; 640289,4127468; 640187,4127396; 640115,4127138; 640124,4127070; 639872,4126828; 639790,4126628; 639781,4126566; 639822,4126533; 639919,4126303; 639913,4126193; 639952,4126120; 639995,4125882; 639899,4125877; 639810,4125750; 639783,4125652; 639802,4125436; 639768,4125214; 639801,4125194; 639938,4124903; 639862,4124823; 639908,4124715; 640051,4124535; 640220,4124484; 640333,4124420; 640499,4124474; 640725,4124443; 640792,4124455; 640856,4124419; 641092,4124427; 641107,4124382; 641204,4124290; 641271,4124249; 641408,4124238; 641528,4124098; 641601,4124055; 641721,4124007; 641859,4123990; 642059,4123895; 642176,4123971; 642274,4124076; 642566,4124008; 642555,4123944; 642576,4123896; 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(ii) *Note*: Unit STC-2 for California red-legged frog is depicted on the map in paragraph (30)(ii) of this entry.

(32) Unit SCZ-1: Santa Cruz and San Mateo Counties, California. From USGS 1:24,000 scale quadrangles Franklin Point, Ano Nuevo, Big Basin, Davenport, Felton and Santa Cruz.

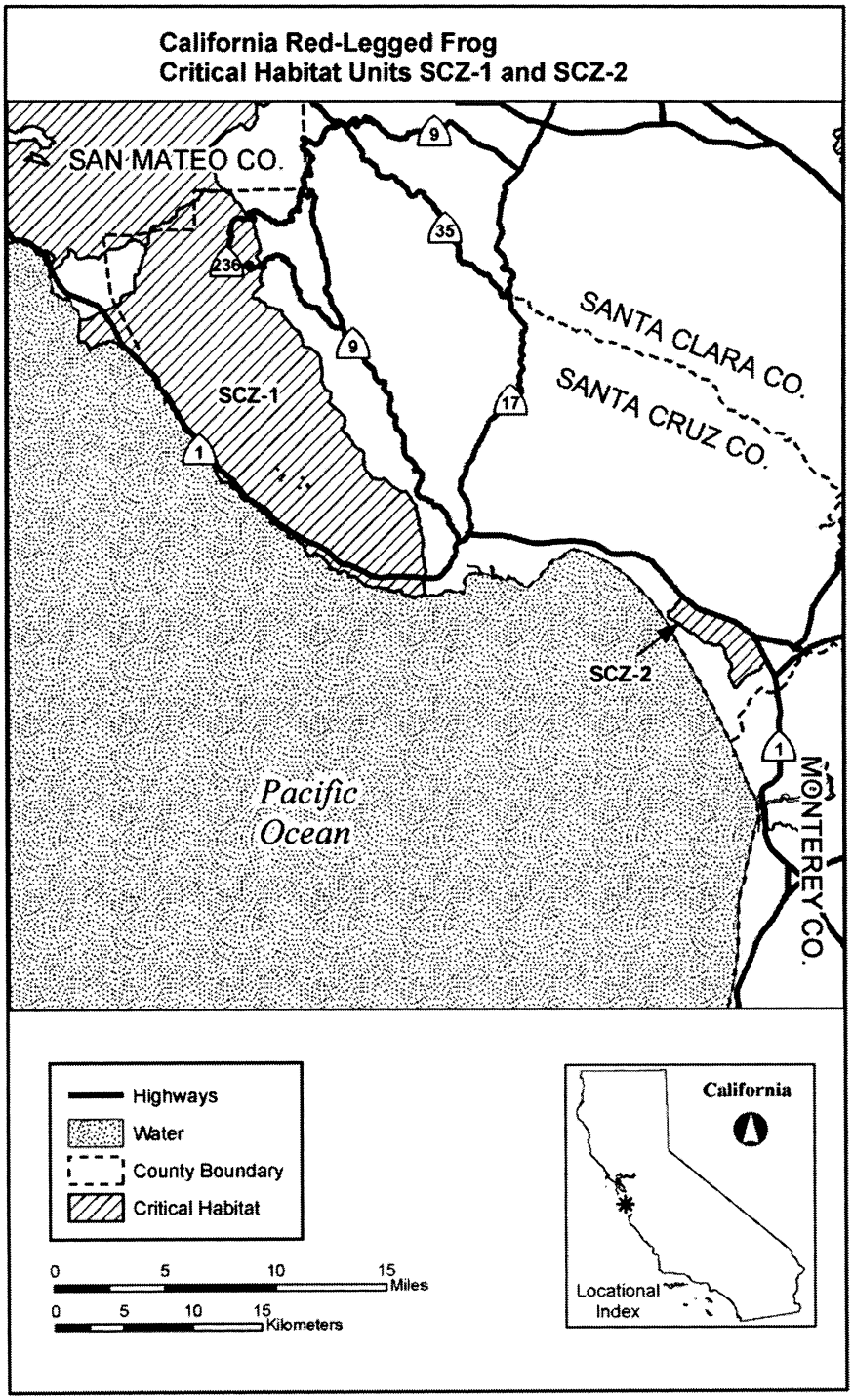
(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 563662,4115064; 563902,4115237; 563915,4115297; 563879,4115420; 563931,4115559; 563887,4115633; 563895,4115727; 563964,4115960; 564045,4116048; 564048,4116217; 564134,4116372; 564140,4116453; 564414,4116466; 564501,4116430; 564644,4116464; 564701,4116455; 564742,4116504; 564749,4116592; 564832,4116671; 564995,4116680; 565091,4116711; 565262,4116712; 565425,4116788; 565671,4117091; 565809,4117126; 565894,4117190; 565921,4117260; 565927,4117536; 566051,4117615; 566110,4117736; 566304,4117724; 566404,4117833; 566576,4117892; 567036,4118184; 567262,4118281; 567499,4118333; 567590,4118548; 567733,4118731; 567746,4118785; 567699,4118870; 567704,4118933; 567778,4119012; 567942,4119114; 568006,4119097; 568067,4119030; 568274,4118928; 568430,4118898; 568652,4118929; 568788,4118975; 568881,4118980; 568939,4118954; 569151,4119022; 569218,4119108; 569260,4119124; 569422,4119083; 569476,4119040; 569571,4118885; 569845,4118763; 569977,4118646; 570191,4118236; 570505,4118044; 570662,4117740; 570849,4117476; 570922,4117312; 571458,4117009; 571527,4116831; 571510,4116573; 571552,4116437; 571546,4116349; 571667,4116105; 571672,4115971; 571624,4115844; 571834,4115456; 572014,4114800; 571999,4114663; 571958,4114557; 571724,4114348; 571686,4114278; 571692,4114244; 571770,4114100; 571872,4114050; 571891,4113944; 571928,4113887; 572145,4113691; 572238,4113541; 572410,4113497; 572422,4113471; 572383,4113428; 572275,4113380; 572190,4113291; 571991,4112934; 571986,4112755; 572028,4112600; 571938,4112494; 571948,4112437; 572018,4112345; 572159,4112277; 572180,4112230; 572014,4112052; 571788,4111956; 571722,4111803; 571522,4111664; 571456,4111512; 571426,4111382; 571432,4111298; 571556,4111218; 571831,4111207; 571945,4111012; 572126,4110986; 572296,4110916; 572355,4110861; 572400,4110669; 572449,4110629; 572665,4110563; 573032,4110522; 573210,4110425; 573396,4110412; 573515,4110339; 573552,4110252; 573551,4110105; 573581,4110001; 574046,4109512; 574309,4109172; 574432,4109053; 574685,4108907; 574846,4108732; 574881,4108547; 574995,4108383; 575066,4107912; 575127,4107794; 575247,4107709; 575542,4107691; 575616,4107666; 576142,4107244; 576342,4106833; 576364,4106472; 576456,4106126; 576449,4106015; 576491,4105706; 576374,4105368; 576464,4105110; 576710,4104644; 576898,4104558; 577006,4104480; 577078,4104398; 577093,4104337; 577074,4104056; 576991,4103801; 576995,4103644; 577561,4103149; 577688,4103089; 578028,4102717; 578146,4102420; 578061,4102291; 578030,4102169; 578091,4102066; 578087,4101987; 577874,4101885; 577887,4101790; 578067,4101506; 578161,4101440; 578273,4101407; 578410,4101243; 578482,4101025; 578546,4100957; 578637,4100917; 578682,4100701; 578804,4100569; 578865,4100465; 579150,4100310; 579322,4100254; 579434,4100153; 579480,4100023; 579488,4099773; 579469,4099660; 579410,4099528; 579426,4099493; 579516,4099446; 579530,4099383;

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(ii) *Note*: Map of Units SCZ-1 and SCZ-2 for the California red-legged frog follows:

BILLING CODE 4310–55–S


California Red-Legged Frog
Critical Habitat Units SCZ-1 and SCZ-2
SAN MATEO CO.
SANTA CLARA CO.
SANTA CRUZ CO.
MONTEREY CO.
SCZ-1
SCZ-2
Pacific Ocean
1
9
35
236
17
Highways
Water
County Boundary
Critical Habitat
0 5 10 15 Miles
0 5 10 15 Kilometers
California
Locational Index

(33) Unit SCZ-2: Santa Cruz County, California. From USGS 1:24,000 scale quadrangle Watsonville West.

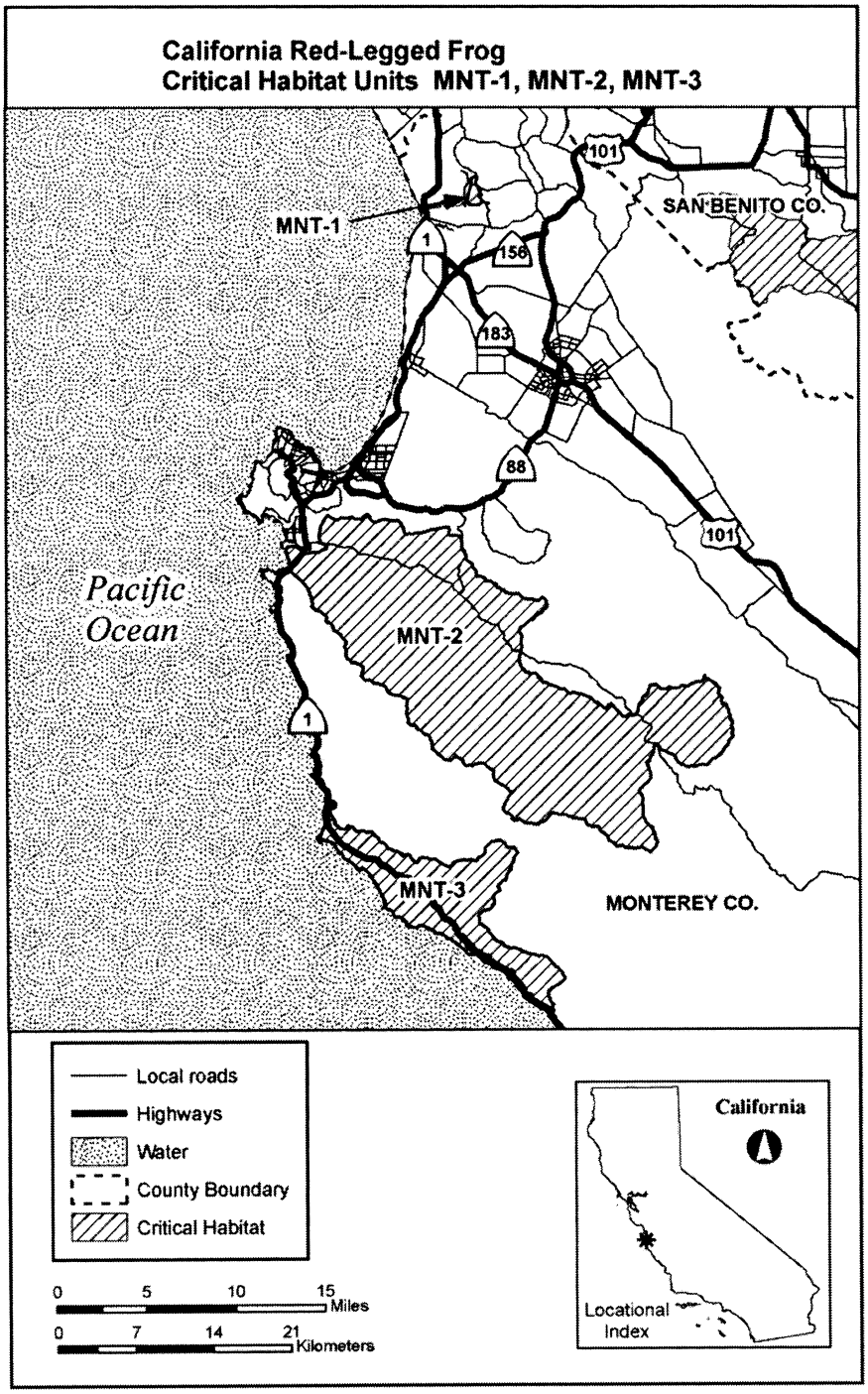
(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 607874,4086411; 608701,4084860; 608605,4084937; 608520,4084844; 608271,4084560; 608221,4084334; 607164,4083847; 606471,4082967; 606324,4083005; 605956,4083724; 605973,4084135; 606148,4084358; 606145,4084654; 605804,4085090; 605562,4085868; 605307,4086095; 604763,4086054; 604698,4086167; 604132,4086258; 603520,4086848; 603133,4087000; 602103,4087771; 601519,4088060; 601570,4088484; 602074,4088759; 602064,4088910; 602395,4089247; 602360,4089344; 602512,4089607; 603336,4088906; 604761,4088286; 606286,4087760; 607611,4086748; returning to 607874,4086411.

(ii) *Note*: Unit SCZ-2 for California red-legged frog is depicted on the map in paragraph (32)(iii) of this entry.

(34) Unit MNT-1: Monterey County, California. From USGS 1:24,000 scale quadrangle Prunedale.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 613002,4076673; 613380,4076378; 613142,4076444; 613147,4076371; 613064,4076368; 613366,4076130; 613249,4075818; 613416,4075763; 613219,4075623; 613496,4075230; 613600,4075201; 613180,4074959; 612571,4074924; 612260,4075009; 612080,4075185; 612505,4076777; 612513,4077290; 612970,4077581; 613035,4077429; 612824,4076812; returning to 613002,4076673.

(ii) *Note*: Map of Units MNT-1, MNT-2, and MNT-3 for the California red-legged frog follows:



BILLING CODE 4310–55–C

(35) Unit MNT-2: Monterey County, California. From USGS 1:24,000 scale quadrangles Monterey, Soberanes Point, Seaside, Mt. Carmel, Big Sur, Spreckles, Carmel Valley, Ventana Cones, Rana Creek, Chews Ridge, Palo Escrito Peak and Sycamore Flat.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 603442,4046923; 603634,4046726; 603827,4046640; 604472,4046893; 604714,4046944; 605564,4046793; 605712,4046847; 605926,4046833; 606069,4046665; 606157,4046466; 606345,4046146; 606452,4045750; 606540,4045608; 606636,4045570; 606841,4045661; 607122,4045606; 607261,4045631; 607468,4045737; 608030,4045720; 608776,4045973; 609217,4046057; 609446,4046061; 609863,4046205; 610192,4046221; 610407,4046185; 610485,4045965; 610423,4045760; 610412,4045576; 610466,4045473; 611386,4045442; 611541,4045144; 611589,4044840; 611518,4044364; 611959,4043678; 611994,4043566; 612003,4043265; 612175,4043133; 612308,4043088; 612387,4042971; 612478,4042972; 612536,4042934; 612508,4042779; 612596,4042586; 612760,4042422; 612861,4042201; 612877,4042127; 612845,4042022; 612944,4041748; 613081,4041815; 613348,4041756; 613487,4041676; 613625,4041668; 613673,4041573; 613676,4041527; 613631,4041448; 613654,4041417; 613773,4041356; 614082,4041366; 614257,4041330; 614298,4041299; 614340,4041165; 614382,4041122; 614460,4041143; 614615,4041129; 614653,4041057; 614608,4040970; 614716,4040830; 614844,4040739; 615002,4040742; 615036,4040710; 615041,4040639; 615102,4040569; 615163,4040569; 615284,4040647; 615344,4040596; 615413,4040347; 615451,4040326; 616150,4040222; 616494,4040253; 616619,4040237; 616706,4040177; 616870,4039959; 617177,4039761; 617246,4039782; 617424,4039744; 617840,4039742; 618201,4039619; 618329,4039619; 618508,4039714; 618668,4039905; 618722,4039906; 618758,4039902; 619018,4039723; 619077,4039603; 619164,4039232; 619154,4039095; 619090,4038964; 619029,4038906; 618864,4038851; 618726,4038618; 618633,4038522; 618078,4038260; 618036,4038179; 618028,4038060; 617998,4038000; 617586,4037827; 617334,4037641; 617132,4037387; 616875,4037268; 616722,4037104; 616657,4036932; 616646,4036839; 616856,4036613; 616918,4036460; 616859,4036232; 616878,4035933; 616842,4035706; 616910,4035453; 616908,4035384; 616811,4034976; 616709,4034737; 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(ii) *Note*: Unit MNT-2 for California red-legged frog is depicted on the map in paragraph (34)(ii) of this entry.

(36) Unit MNT-3: Monterey County, California. From USGS 1:24,000 scale quadrangles Point Sur, Big Sur, Pfeiffer Point, Ventana Cones and Partington Ridge.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 599824,4020540; 600160,4020013; 600076,4019744; 600415,4019570; 600658,4019298; 601003,4019253; 601097,4019279; 601189,4019357; 601271,4019618; 601335,4019536; 601395,4019503; 601491,4019514; 601773,4019469; 601816,4019444; 601850,4019407; 601902,4019246; 602079,4019037; 602174,4019087; 602354,4019075; 602498,4019123; 602702,4019137; 602825,4019084; 602973,4018931; 603092,4018962; 603245,4019046; 603482,4019006; 603567,4018867; 603840,4018617; 604071,4018329; 604181,4018122; 604235,4018085; 604468,4018037; 604574,4017974; 604688,4017843; 604803,4017638; 604926,4017503; 605196,4017452; 605294,4017407; 605379,4017319; 605744,4017255; 605813,4017227; 605965,4017095; 606124,4017066; 606155,4017030; 606166,4016909; 606220,4016829; 606378,4016938; 606473,4016954; 606596,4017019; 606806,4016941; 607037,4016541; 607312,4016334; 607422,4016280; 607466,4016273; 607542,4016318; 607672,4016600; 607730,4016676; 607972,4016737; 608190,4016668; 608333,4016691; 608446,4016682; 608613,4016563; 608672,4016546; 608817,4016537; 609038,4016561; 609237,4016506; 609444,4016311; 609763,4016093; 610060,4016011; 610232,4015866; 610291,4015914; 610533,4015955; 610580,4015993; 610629,4016131; 610706,4016228; 611088,4016419; 611215,4016453; 611713,4016508; 611928,4016439; 612229,4016515; 612755,4016386; 612872,4016555; 612904,4016695; 613198,4016801; 613349,4016887; 613426,4016961; 613551,4017247; 613574,4017598; 613666,4017774; 613921,4017893; 614131,4018132; 614441,4018132; 614554,4018208; 614737,4018259; 615012,4018206; 615190,4018072; 615310,4018040; 615329,4017912; 615409,4017705; 615429,4017664; 615508,4017610; 615985,4017571; 616026,4017571; 616123,4017631; 616153,4017610; 616300,4017463; 616340,4017345; 616421,4017224; 616429,4017144; 616304,4016940; 616254,4016812; 616135,4016696; 616044,4016297; 615879,4016083; 615857,4015992; 615876,4015718; 615853,4015622; 615696,4015504; 615510,4015239; 615494,4015109; 615414,4014960; 615376,4014673; 615249,4014662; 615109,4014616; 615036,4014560; 614950,4014399; 614781,4014347; 614752,4014291; 614655,4014099; 614739,4014004; 614855,4013821; 614855,4013785; 614785,4013714; 614438,4013524; 614323,4013384;

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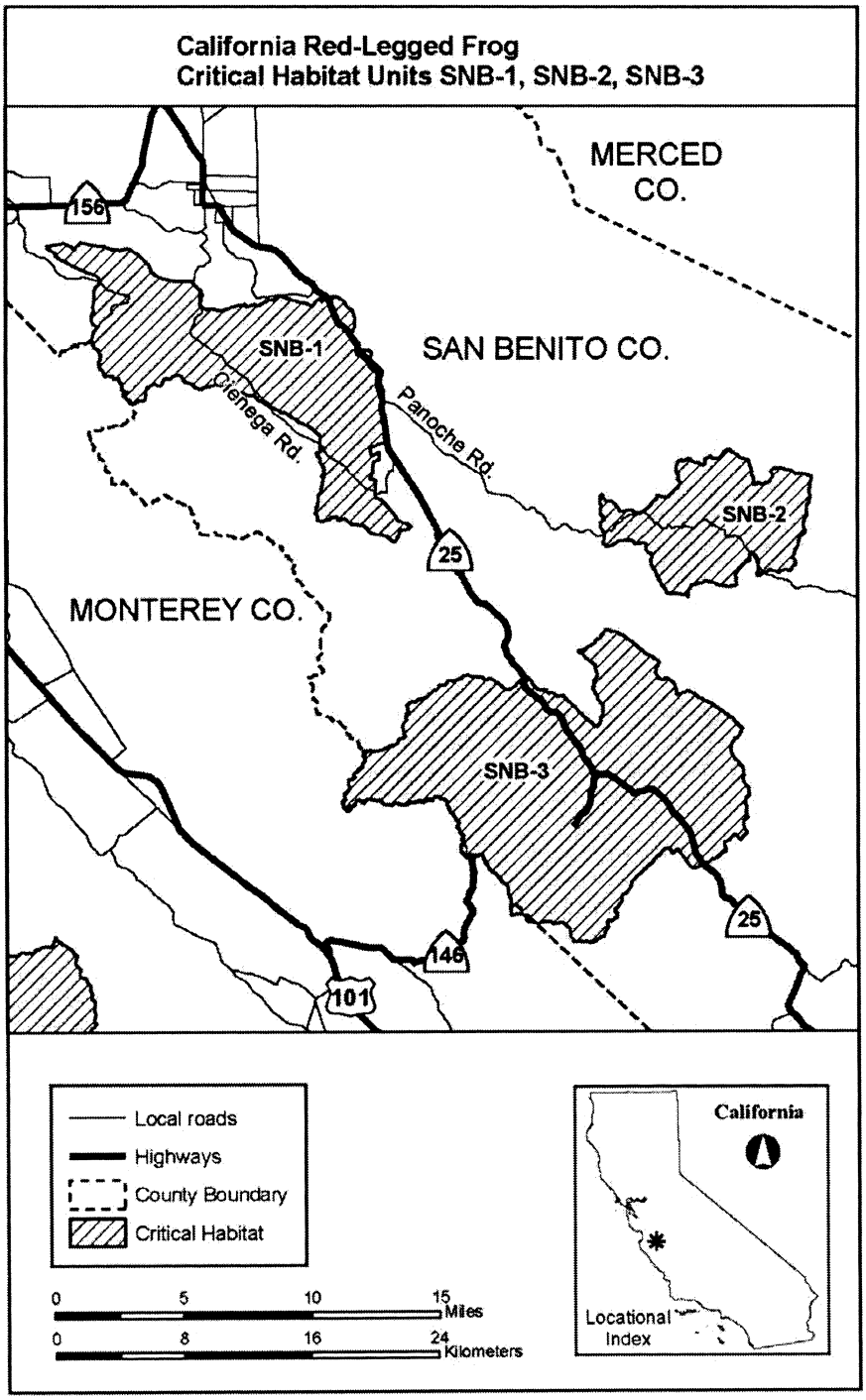
(ii) *Note*: Unit MNT-3 for California red-legged frog is depicted on the map in paragraph (34)(ii) of this entry.

(37) Unit SNB-1: San Benito County, California. From USGS 1:24,000 scale quadrangles San Juan Bautista, Hollister, Mt. Harlan, Tres Pinos and Pacines.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 635964,4075794; 636333,4075764; 636809,4075566; 637368,4075520; 637770,4075623; 638436,4075288; 639151,4074594; 639270,4074217; 639547,4073979; 640024,4073740; 640877,4073582; 641790,4073621; 642345,4072947; 642286,4072173; 642484,4071954; 642762,4071855; 643099,4071915; 643635,4071756; 644786,4072133; 645168,4072165; 645182,4072089; 645215,4072050; 645297,4072025; 645689,4072165; 645970,4072109; 646564,4072409; 646718,4072467; 646868,4072460; 646951,4072481; 647085,4072584; 647187,4072702; 647313,4072739; 648149,4072394; 648592,4072283; 648891,4072233; 649177,4072132; 649265,4072094; 649320,4072027; 649574,4072372; 649804,4072538; 649950,4072309; 650247,4072695; 650886,4072656; 651305,4072378; 651525,4072011; 651845,4071771; 652028,4071278; 652022,4070800; 651786,4070356; 651865,4070144; 651782,4070129; 652109,4069671; 652194,4069177; 652486,4069355; 652823,4069355; 653041,4069196; 652962,4068740; 653765,4068035; 653589,4067442; 653597,4067238; 653815,4066736; 653668,4066229; 653679,4065476; 653994,4063632; 652942,4063283; 653031,4062765; 653530,4062965; 653541,4062532; 653207,4062386; 653110,4062128; 653103,4061717; 652942,4061338; 653312,4061251; 653249,4060324; 653353,4060150; 653604,4060053; 653896,4059774; 654593,4058960; 654628,4058800; 654725,4058716; 655240,4058549; 655507,4058397; 655372,4058208; 655192,4058144; 654903,4058122; 654808,4058074; 654771,4058036; 654773,4057912; 654719,4057732; 654495,4057373; 654408,4057408; 654191,4057584; 654109,4057612; 653950,4057808; 653623,4057838; 653469,4057893; 653343,4057879; 652921,4058001; 652855,4058037; 652805,4058100; 652756,4058251; 652559,4058403; 652489,4058406; 652398,4058455; 652215,4058434; 652118,4058516; 652009,4058520; 651772,4058471; 651708,4058559; 651512,4058709; 651442,4058801; 651354,4058847; 651244,4058860; 651121,4058794; 650965,4058759; 650906,4058835; 650871,4058956; 650779,4058975; 650548,4058948; 650439,4058814; 650333,4058793; 650227,4058820; 649962,4058666; 649849,4058672; 649713,4058741; 649644,4058825; 649655,4058975; 649636,4059012; 649490,4059171; 649577,4059272; 649600,4059590; 649670,4059721; 649688,4059816; 649698,4060285; 649822,4060420; 649874,4060527; 649860,4060682; 649961,4060946; 649961,4061111; 650024,4061281; 649952,4061533; 650024,4061641; 650089,4061931; 649996,4062080; 649966,4062184; 649831,4062318; 649807,4062398; 649832,4062527; 649811,4062612; 649655,4062746; 649590,4062864; 649599,4062910; 649922,4063061; 649992,4063123; 649750,4063250; 649827,4063402; 649827,4063977; 649132,4064573; 648418,4064893; 648368,4065024; 648317,4065022; 648117,4065116; 648001,4065215; 647583,4065483; 647454,4065430; 647394,4065447; 647285,4065554; 647116,4065618; 646912,4065745; 646608,4065846; 646285,4066090; 645890,4066269; 645802,4066404; 645728,4066467; 645205,4066564; 645059,4066674; 644800,4066725; 644714,4066864; 644542,4066904; 644324,4067042; 644165,4067088; 644110,4067045; 643674,4067190; 643421,4067144; 643165,4067133; 642961,4067068; 642635,4067037; 642422,4066906; 642330,4066899; 642247,4066922; 642010,4067039; 641735,4067265; 641420,4067377; 641253,4067521; 641226,4067664; 640958,4067776; 640877,4067786; 640729,4067743; 640417,4067543; 640304,4067596; 640247,4067603; 640191,4067576; 640033,4067428; 639981,4067234; 639935,4067174; 639865,4067138; 639778,4067110; 639705,4067121; 639549,4067218; 639471,4067237; 639342,4067194; 639081,4067022; 638984,4066910; 638921,4066756; 638947,4066568; 638881,4066391; 638891,4066275; 638850,4066215; 638511,4066154; 638256,4066043; 638012,4066018; 637966,4066036; 637979,4066180; 637766,4066284; 637719,4066357; 637576,4066468; 637525,4066563; 637527,4066631; 637723,4066757; 637471,4066841; 637448,4066886; 637469,4067042; 637440,4067180; 637470,4067249; 637302,4067389; 637268,4067461; 637261,4067559; 637113,4067596; 637001,4067532; 636959,4067533; 636925,4067569; 636870,4067747; 636753,4067684; 636659,4067737; 636425,4067735; 636317,4067811; 636291,4067957; 636197,4068139; 636158,4068159; 636073,4068136; 635961,4068564; 635992,4068667; 636093,4068804; 636145,4068950; 636128,4069061; 636102,4069118; 636022,4069185; 635904,4069401; 635755,4069435; 635690,4069477; 635678,4069594; 635583,4069708; 635592,4069830; 635531,4069880; 635662,4070360; 635762,4070572; 635979,4070786; 635805,4070815; 635638,4070940; 635518,4071208; 635534,4071479; 635648,4071712; 635628,4072017; 635727,4072560; 635705,4073010; 635815,4073223; 635999,4073422; 636117,4073620; 636042,4073785; 635831,4073954; 635602,4074066; 635336,4074121; 634457,4074523; 633815,4074869; 633538,4074975; 633367,4075131; 633270,4075185; 633260,4075316; 633189,4075401; 633021,4075473; 632885,4075595; 632764,4075650; 632775,4075748; 632735,4075795; 633860,4075970; 634467,4075645; 634857,4075991; returning to 635964,4075794.

(ii) *Note*: Map of Units SNB-1, SNB-2, and SNB-3 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(38) Unit SNB-2: San Benito County, California. From USGS 1:24,000 scale quadrangles Cherry Peak, Panoche Pass, San Benito and Cerro Colorado.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 676029,4062601; 676230,4062578; 676483,4062490; 676510,4062448; 676554,4062204; 676704,4061886; 676692,4061546; 676790,4061442; 676820,4061061; 676804,4060981; 676862,4060922; 676974,4060952; 677119,4061055; 677323,4061004; 677447,4061014; 677774,4061125; 677852,4061182; 678022,4061438; 678008,4061572; 677919,4061760; 677918,4061809; 677972,4061873; 678139,4061952; 678262,4061930; 678408,4061970; 678512,4061969; 678766,4061884; 679155,4061826; 679258,4061780; 679420,4061646; 679485,4061625; 679889,4061630; 680240,4061551; 680325,4061484; 680444,4061474; 680422,4061242; 680338,4061037; 680335,4060777; 680268,4060568; 680276,4060473; 680347,4060282; 680344,4060098; 680278,4059853; 680117,4059594; 680160,4059059; 680016,4058815; 679949,4058582; 679944,4058267; 679972,4058198; 680064,4058089; 679986,4057901; 679769,4057775; 679691,4057687; 679627,4057447; 679640,4057235; 679455,4056952; 679404,4056741; 679241,4056434; 679254,4056369; 679417,4056236; 679456,4056006; 679273,4055833; 679122,4055575; 679023,4055587; 678850,4055678; 678685,4055607; 678587,4055601; 678445,4055503; 678383,4055500; 678173,4055561; 678035,4055573; 677873,4055670; 677800,4055642; 677692,4055517; 677375,4055399; 677213,4055301; 677058,4055273; 677034,4055411; 677123,4055589; 677082,4055816; 677080,4055937; 677128,4056087; 677110,4056228; 677021,4056448; 676918,4056569; 676645,4056729; 676541,4056588; 676603,4056341; 676570,4056235; 676487,4056162; 676356,4056126; 676047,4055850; 675931,4055727; 675857,4055548; 675714,4055436; 675690,4055386; 675698,4055277; 675758,4055161; 675723,4054930; 675770,4054773; 675766,4054697; 675169,4054557; 675036,4054641; 674682,4054689; 674510,4054761; 674416,4054839; 674252,4054834; 674085,4054870; 673922,4054945; 673772,4054946; 673664,4054828; 673621,4054810; 673503,4054822; 673276,4054751; 673053,4054732; 673005,4054709; 672759,4054349; 672728,4054251; 672763,4053963; 672594,4054069; 672241,4054145; 672092,4054148; 671925,4054184; 671643,4054153; 671402,4054228; 671332,4054433; 671105,4054658; 671026,4054901; 670928,4055057; 670847,4055121; 670721,4055533; 670663,4055653; 670482,4055860; 670445,4056154; 670393,4056277; 670502,4056463; 670493,4056600; 670462,4056643; 670249,4056743; 670126,4056907; 670109,4056970; 670131,4057085; 670107,4057225; 670068,4057295; 670019,4057322; 669844,4057338; 669602,4057302; 669506,4057253; 669459,4057264; 669389,4057380; 669177,4057496; 668976,4057461; 668834,4057516; 668659,4057467; 668447,4057459; 668086,4057206; 667912,4057169; 667789,4057106; 667618,4057125; 667416,4057334; 667469,4057389; 667516,4057510; 667542,4057751; 667499,4057953; 667312,4058286; 667287,4058459; 667323,4058648; 667507,4058762; 667531,4058809; 667486,4058914; 667298,4059118; 667285,4059361; 667327,4059662; 667320,4059715; 667248,4059838; 667276,4060161; 667420,4060361; 667588,4059980; 667749,4059922; 667984,4059900; 668141,4059803; 668305,4059585; 668442,4059453; 668427,4059331; 668450,4059302; 668559,4059267; 668726,4059286; 669161,4059410; 669258,4059375; 669320,4059286; 669377,4059247; 669746,4059144; 670294,4059563; 670453,4059748; 670531,4059889; 670773,4060050; 670815,4060223; 670881,4060249; 670961,4060245; 671185,4060195; 671331,4060210; 671460,4060163; 671547,4060207; 671576,4060307; 671940,4060616; 671995,4060719; 672085,4060743; 672152,4060888; 672221,4060958; 672258,4061070; 672099,4061294; 672094,4061394; 672125,4061545; 672046,4061649; 671976,4061960; 672066,4062276; 672210,4062447; 672317,4062472; 672421,4062400; 672612,4062462; 672694,4062576; 672743,4062612; 672792,4062606; 672999,4062387; 673187,4062313; 673395,4062325; 673460,4062242; 673677,4062114; 673786,4062217; 673794,4062345; 673763,4062494; 673843,4062570; 674152,4062720; 674205,4062627; 674437,4062581; 674638,4062578; 674766,4062660; 675068,4063046; 675164,4063105; 675321,4063155; 675373,4063154; 675452,4062990; 675541,4062940; 675616,4062860; 675844,4062782; 675926,4062673; returning to 676029,4062601.

(ii) *Note*: Unit SNB-2 for California red-legged frog is depicted on the map in paragraph (37)(ii) of this entry.

(39) Unit SNB-3: San Benito and Monterey Counties, California. From USGS 1:24,000 scale quadrangles Mount Johnson, Bickmore Canyon, North Chalone Peak, San Benito and Topo Valley.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 667961,4051790; 668106,4051812; 668286,4051788; 668405,4051734; 668529,4051611; 668730,4051545; 668794,4051501; 668881,4051383; 669289,4051134; 669464,4050957; 669575,4050880; 669623,4050812; 669742,4050747; 670106,4050415; 670363,4050329; 670573,4050143; 670845,4050005; 670906,4049872; 670752,4049571; 670742,4049485; 670673,4049309; 670676,4049267; 670761,4049165; 670856,4048941; 670931,4048872; 671080,4048830; 671193,4048831; 671345,4048914; 671408,4048916; 671785,4048650; 671892,4048493; 671889,4048376; 671989,4048203; 671980,4048026; 672031,4047891; 672069,4047870; 672119,4047880; 672582,4048045; 672695,4048107; 672752,4048122; 672795,4048106; 672960,4047995; 673123,4047927; 673288,4047775; 673445,4047669; 674242,4047306; 674399,4047188; 674466,4047097; 675044,4046732; 675311,4046480; 675502,4046420; 675673,4046166; 675794,4046074; 675874,4045960; 676119,4045781; 676078,4045736; 676029,4045554; 675891,4045303; 675802,4045226; 675588,4045108; 675460,4044844; 675366,4044549; 675429,4044427; 675420,4044259; 675510,4044072; 675702,4043860; 675873,4043724; 676022,4043469; 676125,4043365; 676186,4042894; 676150,4042557; 676179,4042466; 676326,4042244; 676460,4042121; 676516,4041635; 676478,4041577; 676340,4041478; 676285,4041379; 676314,4041108; 676367,4040942; 676327,4040655; 676328,4040487; 676353,4040393; 676427,4040314; 676424,4040257; 676276,4040145; 676166,4040095; 676151,4040034; 676153,4039774; 676245,4039545; 676371,4039361; 676379,4039310; 676343,4039253; 676176,4039111; 675991,4038844; 675900,4038970; 675749,4039119; 675660,4039176; 675588,4039194; 675558,4039176; 675289,4038881; 675003,4038721; 674969,4038682; 674974,4038537; 675065,4038307; 675059,4038204; 675025,4038154; 674866,4038054; 674741,4037929; 674550,4037791; 674388,4037719; 674240,4037693; 673997,4037470; 673695,4037422; 673521,4037324; 673336,4037169; 673138,4037115; 673030,4037113; 672780,4037264; 672552,4037674; 672401,4037820; 672208,4038098; 672058,4038263; 671998,4038293; 671947,4038274;

671879,4038120; 671724,4038008; 671635,4038205; 671507,4038385; 671357,4038342; 671187,4038241; 671074,4038139; 670967,4037982; 670793,4037860; 670598,4037653; 670434,4037429; 670240,4037291; 669864,4036914; 669527,4036650; 669388,4036434; 669214,4036273; 669160,4036025; 669126,4035957; 669075,4035923; 668981,4035746; 668756,4035520; 668595,4035459; 668527,4034981; 668439,4034908; 668297,4034707; 668190,4034629; 668124,4034500; 668278,4034256; 668253,4034044; 668222,4034002; 668061,4033952; 667958,4033874; 667828,4033860; 667711,4033876; 667681,4033845; 667654,4033718; 667713,4033572; 667720,4033441; 667556,4033219; 667480,4032952; 667442,4032910; 667271,4032863; 666975,4032619; 666832,4032603; 666753,4032494; 666585,4032485; 666436,4032574; 666092,4032562; 665986,4032580; 665680,4032536; 665616,4032553; 665554,4032611; 665469,4032750; 665427,4032772; 665393,4032867; 665368,4033081; 665321,4033199; 665298,4033401; 665178,4033485; 665064,4033647; 665003,4033697; 664800,4033749; 664632,4033710; 664319,4033689; 664236,4033713; 664161,4033806; 664107,4033810; 663652,4033789; 663442,4033723; 663280,4033713; 662986,4033790; 662763,4033807; 662623,4033932; 662588,4034146; 662267,4034294; 662008,4034306; 661907,4034272; 661793,4034199; 661746,4034200; 661709,4034260; 661635,4034658; 661707,4035056; 661690,4035158; 661489,4035541; 661526,4035890; 661410,4036077; 661231,4036171; 661106,4036282; 661052,4036373; 660950,4036471; 660867,4036645; 660789,4036744; 660478,4036933; 660395,4037013; 660261,4037211; 660210,4037355; 660078,4037516; 659899,4037938; 659754,4038008; 659614,4037855; 659565,4037841; 659456,4037977; 659296,4037977; 659230,4037948; 659203,4037845; 659161,4037789; 659105,4037775; 659061,4037796; 658987,4037768; 658814,4037927; 658769,4038012; 658630,4038115; 658571,4038395; 658530,4038479; 658551,4038517; 658629,4038552; 658747,4038697; 658748,4038725; 658654,4038859; 658706,4038991; 658729,4039162; 658517,4039362; 658454,4039570; 658338,4039634; 658341,4039702; 658468,4039922; 658467,4039964; 658286,4040094; 658266,4040188; 658156,4040398; 657990,4040522; 657915,4040617; 657806,4040906; 657749,4040980; 657659,4041366; 657498,4041432; 657311,4041415; 657159,4041562; 657073,4041538; 656954,4041583; 656933,4041519; 656788,4041430; 656756,4041317; 656595,4041436; 656536,4041444; 656265,4041221; 656119,4041302; 655915,4041325; 655751,4041245; 655570,4041203; 655490,4041252; 655421,4041245; 655350,4041209; 655279,4041109; 655204,4041057; 655129,4041067; 655042,4041034; 654801,4041055; 654747,4041137; 654588,4041162; 654420,4041156; 654326,4041093; 654140,4041047; 653783,4041106; 653659,4041227; 653588,4041406; 653456,4041371; 653389,4041304; 653238,4041382; 653052,4041368; 652959,4041442; 652759,4041452; 652563,4041309; 652515,4041200; 652379,4041252; 652239,4041389; 652098,4041367; 652045,4041307; 652007,4041186; 651862,4041108; 651839,4041009; 651675,4040963; 651545,4040697; 651499,4040667; 651424,4040706; 651386,4040820; 651287,4040863; 651262,4040899; 651194,4041019; 651161,4041252; 651205,4041323; 651353,4041394; 651348,4041464; 651267,4041680; 651299,4041804; 651392,4041812; 651482,4041906; 651498,4041967; 651608,4042074; 651602,4042262; 651554,4042334; 651548,4042498; 651580,4042610; 651823,4042693; 651912,4042762; 651924,4042796; 651879,4042853; 651950,4043006; 652047,4043116; 652160,4043159; 652147,4043248; 652167,4043283; 652328,4043355; 652421,4043430; 652463,4043510; 652463,4043625; 652504,4043690; 652593,4043756; 652540,4044007; 652443,4044098; 652501,4044186; 652448,4044367; 652864,4044432; 653134,4044389; 653613,4044440; 653910,4044555; 654260,4044754; 654396,4044748; 654472,4044774; 654568,4044864; 654632,4044871; 654666,4044900; 654692,4045074; 654774,4045161; 655117,4045283; 655019,4045442; 655012,4045625; 654950,4045852; 655027,4046199;655145,4046256; 655177,4046306; 655164,4046576; 655277,4046794; 655223,4047256; 655236,4047279; 655479,4047444; 655594,4047473; 655745,4047425; 655941,4047572; 656406,4047728; 656477,4047732; 656585,4047830; 656675,4047974; 656781,4048017; 656933,4048176; 657046,4048165; 657124,4048205; 657266,4048487; 657297,4048510; 657605,4048503; 657703,4048554; 657707,4048650; 657791,4048739; 657956,4048770; 658173,4048741; 658299,4048822; 658374,4048847; 658461,4048840; 658653,4048961; 658762,4049086; 659023,4049113; 659286,4049021; 659600,4049040; 659677,4048990; 659823,4049043; 660116,4048831; 660244,4048828; 660318,4048878; 660427,4048890; 660688,4048763; 660742,4048645; 660913,4048582; 661149,4048433; 661265,4048292; 661560,4048228; 661690,4048291; 661863,4048334; 662393,4048927; 662507,4049019; 662618,4049053; 662957,4048782; 663147,4048419; 663401,4048230; 663534,4048164; 663696,4048213; 663818,4048193; 663858,4048175; 664064,4047958; 664212,4048004; 664340,4048005; 664593,4047746; 664625,4047777; 664762,4047778; 664912,4047853; 664944,4047844; 665193,4047538; 665285,4047462; 665348,4047445; 666403,4046360; 666738,4046119; 666885,4045932; 667099,4045921; 667285,4046172; 667291,4046459; 667382,4046613; 667424,4046795; 667398,4046955; 667437,4047135; 667424,4047203; 667362,4047288; 667241,4047378; 667202,4047480; 667108,4047580; 667078,4047635; 667081,4047810; 666953,4047917; 666899,4048099; 666774,4048291; 666864,4048549; 666830,4048677; 666846,4048727; 667077,4049080; 666957,4049470; 666936,4049730; 666331,4050181; 666286,4050223; 666217,4050378; 665899,4050557; 665885,4050586; 666238,4050687; 666655,4050936; 666764,4051033; 666857,4051048; 666893,4051082; 666963,4051260; 667016,4051308; 667105,4051351; 667240,4051372; 667340,4051578; 667492,4051738; 667615,4051971; 667711,4051907; 667868,4051881; returning to 667961,4051790.

(ii) *Note*: Unit SNB-3 for California red-legged frog is depicted on the map in paragraph (37)(ii) of this entry.

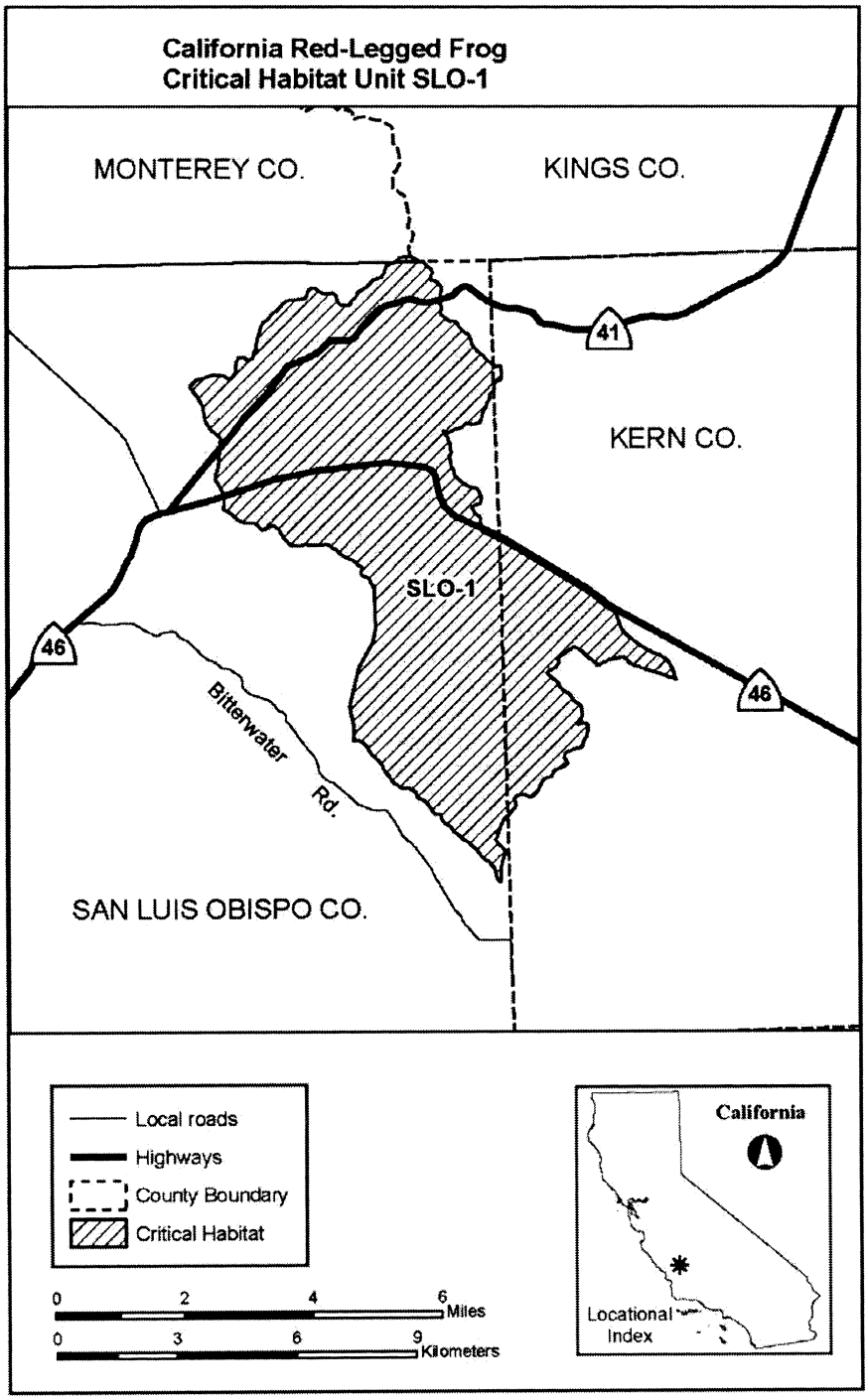
(40) Unit SLO-1: San Luis Obispo, Kings and Kern Counties, California. From USGS 1:24,000 scale quadrangles Cholame Valley, Tent Hills, Cholame and Orchard Peak.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 752130,3963634; 752268,3963595; 752394,3963470; 752407,3963405; 752337,3963122; 752346,3963062; 752406,3962984; 752361,3962832; 752393,3962782; 752588,3962626; 752678,3962626; 752775,3962577; 752826,3962473; 753072,3962276; 753155,3962031; 753511,3961661; 753685,3961512; 753754,3961493; 753848,3961519; 753876,3961497; 753898,3961262; 753879,3961211; 753853,3961149; 753726,3961118; 753700,3960932; 753593,3960808; 753587,3960682; 753454,3960429; 753346,3960103; 753157,3960041; 753037,3960096; 752873,3959964; 752717,3959922;

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(ii) *Note*: Map of Unit SLO-1 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

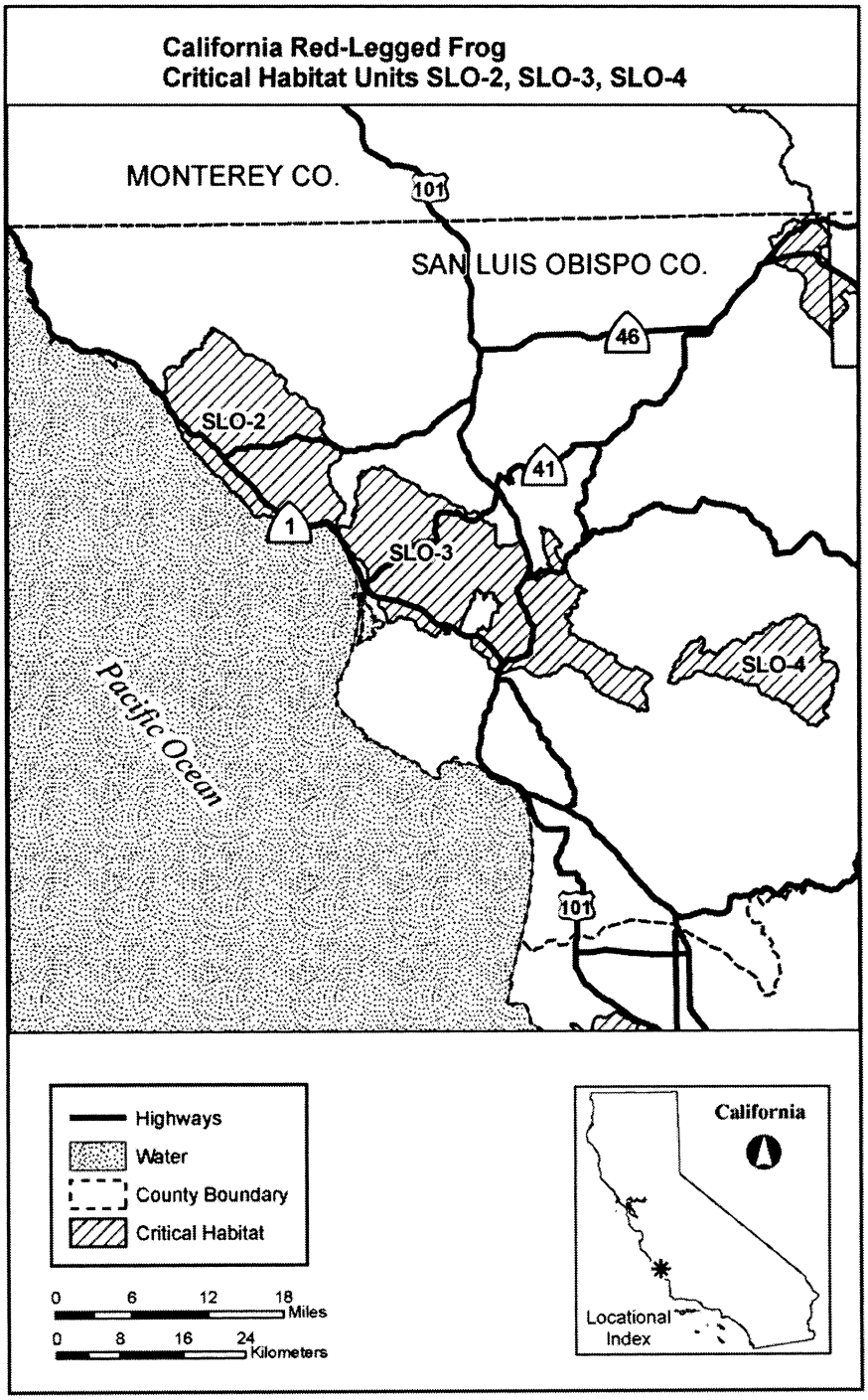
(41) Unit SLO-2: San Luis Obispo County, California. From USGS 1:24,000 scale quadrangles San Simeon, Pico Creek, Pebblestone Shut-In, Cambria, Cypress Mountain and Cayucos.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 667646,3942846; 667780,3942944; 667819,3942909; 667893,3942946; 667863,3943128; 668006,3943148; 668053,3943117; 668518,3942425; 668370,3942341; 669215,3941495; 669881,3942053; 669872,3943315; 669526,3944081; 669634,3944182; 669652,3944280; 669742,3944335; 669742,3944420; 669809,3944552; 669930,3944597; 669960,3944696; 670083,3944774; 670218,3944786; 670393,3944860; 670453,3944967; 670457,3944943; 670864,3944950; 670962,3944935; 671010,3944900; 671119,3944931; 671156,3944924; 671248,3944833; 671398,3944889; 671471,3944841; 671517,3944846; 671585,3944915; 671564,3944989; 671863,3944992; 671926,3945102; 671935,3945574; 671795,3945579; 671863,3945651; 671914,3945929; 671994,3946030; 672170,3946174; 672407,3946184; 672634,3946417; 672754,3946748; 672983,3946940; 673302,3947046; 673390,3947116; 674383,3947130; 674368,3947933; 674770,3947939; 674755,3948747; 675161,3948754; 675154,3949156; 675557,3949162; 675547,3949793; 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(ii) *Note*: Map of Units SLO-2, SLO-3, and SLO-4 for the California red-legged frog follows:

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

(42) Unit SLO-3: San Luis Obispo County, California. From USGS 1:24,000 scale quadrangles Cayucos, York Mountain, Morro Bay North, Morro Bay South, Atascadero, San Luis Obispo, Santa Margarita, Lopez Mtn., Arroyo Grande NE, Santa Margarita Lake and Tar Spring Ridge.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N):

708480,3909559; 708441,3910955; 708953,3910998; 708951,3911126; 709014,3911173; 709031,3911248; 709149,3911331; 709196,3911523; 709379,3911869; 709720,3911825; 709690,3911905; 709706,3912082; 709833,3912190; 709970,3912204; 710064,3912127; 710369,3911710; 710470,3911835; 710784,3911745; 711191,3913933; 711878,3913934; 711797,3914739; 712191,3914739; 712179,3915142; 711735,3915125; 711736,3915563; 711304,3915547; 711301,3916366; 710414,3916357; 710425,3915951; 710147,3915940; 710047,3915494; 710036,3916362; 709640,3916335; 709639,3916723; 708842,3916668; 708873,3915470; 708430,3915467; 708224,3914469; 708040,3914512; 706756,3911363; 706360,3911808; 706227,3911922; 706084,3911995; 705844,3912068; 705722,3911621; 705700,3911440; 705722,3911307; 705134,3911225; 705096,3911346; 705495,3911457; 705535,3911575; 704722,3911846; 704376,3911393; 704274,3911458; 703953,3910861; 703639,3911003; 703480,3911034; 703382,3911091; 703163,3911297; 703032,3911484; 702959,3911529; 702676,3911598; 702245,3911808; 702081,3911796; 701929,3911752; 701839,3911772; 701727,3911897; 701655,3912079; 701528,3912248; 701357,3912809; 701276,3912913; 701072,3912981; 701034,3913017; 700904,3913017; 700792,3913073; 700488,3913155; 700314,3913091; 700217,3913101; 700116,3913173; 699882,3913217; 699835,3913247; 699721,3913403; 699336,3913304; 699129,3913322; 699054,3913306; 699021,3913245; 699016,3913056; 698990,3912989; 698913,3912885; 698739,3912799; 698225,3912640; 697879,3912645; 697856,3912906; 697714,3913241; 697639,3913667; 697463,3914010; 697354,3914345; 697145,3914487; 696811,3914604; 696660,3914964; 696760,3915332; 696986,3915834; 696505,3915981; 696019,3916362; 695814,3916551; 695600,3916847; 695394,3917201; 695295,3917588; 695312,3917736; 695411,3917835; 695279,3919493; 694899,3919905; 694734,3920136; 694668,3920318; 694420,3920565; 694255,3920582; 694156,3920631; 693760,3920747; 693694,3920846; 693694,3921192; 693595,3921324; 693397,3921423; 693034,3921704; 692886,3922084; 692886,3922331; 692556,3922744; 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(ii) *Note*: Unit SLO-3 for California red-legged frog is depicted on the map in paragraph (41)(ii) of this entry.

(43) Unit SLO-4: San Luis Obispo County, California. From USGS 1:24,000 scale quadrangles Santa Margarita Lake, Pozo Summit, Caldwell Mesa, La Panza and Los Machos Hills.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 749907,3913538; 750002,3913543; 750128,3913449; 750319,3913415; 750490,3913308; 750641,3913287; 750712,3913239; 750794,3913147; 750835,3913058; 750922,3912754; 751060,3912628; 751101,3912530; 751221,3912434; 751273,3912405; 751444,3912377; 751664,3912250; 751802,3912230; 751957,3912259; 751996,3912205; 752062,3911964; 752230,3911722; 752364,3911453; 752356,3911404; 752251,3911305; 752262,3911239; 752358,3911103; 752442,3910835; 752446,3910382; 752573,3910109; 752526,3909867; 752560,3909649; 752605,3909602; 752790,3909551; 753037,3909383; 753180,3909384; 753255,3909454; 753407,3909398; 753470,3909334; 753311,3909007; 753069,3908811; 752884,3908789; 752810,3908758; 752572,3908334; 752562,3908291; 752675,3908051; 752782,3907694; 752823,3907652; 752921,3907655; 753101,3907721; 753320,3907685; 753530,3907732; 753702,3907727; 753920,3907683; 754044,3907566; 754247,3907555; 754484,3907365; 754482,3907173; 754569,3907001; 754615,3906821; 754725,3906553; 754701,3906327; 754614,3906193; 754667,3905923; 754588,3905557; 754619,3905438; 754610,3905350; 754549,3905235; 754369,3905270; 754182,3905177; 754112,3904920; 753979,3904798; 753954,3904740; 753956,3904595; 754119,3904319; 754060,3904215; 753994,3903997; 754040,3903708; 753956,3903558; 753871,3903284; 753829,3903239; 753826,3902991; 753763,3902926; 753600,3902856; 753536,3902799; 753435,3902578; 753506,3902482; 753528,3902392; 753394,3902280; 753250,3902082; 753203,3902052; 753108,3902044; 753057,3902009; 752996,3901873; 752981,3901741; 752924,3901603; 752920,3901473; 753012,3901277; 753148,3901091; 753360,3900956; 753429,3900857; 753444,3900768; 753352,3900652; 753160,3900670; 752897,3900587; 752822,3900504; 752775,3900352; 752686,3900236; 752533,3900243; 752480,3900225; 752337,3900019; 752208,3899942; 752182,3899738; 752132,3899578; 752105,3899557; 751924,3899589; 751610,3899752; 751389,3899731;

751189,3899746; 751065,3899718; 750964,3899769; 750934,3899819; 750857,3900160; 750665,3900271; 750626,3900350; 750471,3900376; 750382,3900434; 750349,3900500; 750282,3900543; 750209,3900688; 750124,3900728; 750000,3900718; 749877,3900774; 749682,3901061; 749382,3901213; 749260,3901313; 749177,3901338; 748884,3901682; 748920,3901927; 748877,3902111; 748835,3902149; 748687,3902166; 748448,3902277; 748180,3902541; 748108,3902533; 747951,3902442; 747864,3902438; 747663,3902536; 747627,3902669; 747516,3902788; 747152,3902956; 747070,3902986; 746746,3902918; 746574,3902921; 746410,3902963; 746251,3903088; 746081,3903296; 745991,3903320; 745896,3903308; 745712,3903361; 745569,3903443; 745413,3903584; 745219,3903524; 745169,3903525; 745107,3903563; 744979,3903744; 744861,3903832; 744798,3903936; 744795,3904065; 744720,3904350; 744497,3904711; 744449,3904751; 744375,3904777; 744063,3904723; 743688,3904760; 743419,3904715; 743243,3904822; 743013,3904854; 742926,3904904; 742803,3904918; 742676,3904893; 742711,3904973; 742673,3905196; 742626,3905286; 742596,3905294; 742476,3905218; 742409,3905213; 742343,3905238; 742182,3905238; 742114,3905274; 741988,3905239; 741878,3905244; 741849,3905256; 741711,3905511; 741608,3905563; 741497,3905662; 741283,3905727; 741120,3905669; 740989,3905505; 740897,3905505; 740794,3905414; 740744,3905420; 740294,3905673; 740118,3905737; 739997,3905754; 739685,3905901; 739602,3906049; 739520,3906103; 739255,3906082; 739220,3906050; 739169,3906044; 739077,3906055; 738965,3905991; 738784,3906000; 738673,3905949; 738595,3905952; 738363,3906104; 738033,3906224; 737757,3906404; 737383,3906506; 737241,3906485; 736986,3906510; 736802,3906437; 736607,3906298; 736545,3906220; 736491,3906087; 736367,3906001; 736263,3905828; 736195,3905762; 735997,3905718; 735767,3905603; 735702,3905595; 735598,3905643; 735549,3905609; 735370,3905578; 734922,3905593; 734659,3905354; 734433,3905034; 734196,3904906; 734095,3904890; 733902,3904938; 733829,3904986; 733604,3905013; 733343,3905169; 733401,3905374; 733478,3905494; 733763,3905679; 733801,3905725; 733813,3905774; 733793,3905806; 733594,3905863; 733554,3905901; 733542,3905992; 733679,3906178; 733707,3906287; 733774,3906383; 733967,3906496; 734130,3906652; 734154,3906705; 734065,3906902; 734057,3907080; 734071,3907152; 734192,3907341; 734205,3907548; 734288,3907668; 734620,3907865; 734770,3908026; 734933,3908282; 735187,3908977; 735513,3909188; 735579,3909254; 735841,3909818; 736009,3909934; 736085,3910027; 736233,3910096; 736259,3910138; 736248,3910221; 736296,3910263; 736401,3910275; 736454,3910235; 736576,3910253; 736687,3910234; 736865,3910310; 736967,3910281; 737076,3910217; 737122,3910218; 737142,3910241; 737170,3910485; 737221,3910584; 737512,3910812; 737809,3910554; 737867,3910471; 737880,3910367; 737839,3909987; 737860,3909731; 737793,3909596; 737718,3909518; 737640,3909341; 737300,3908933; 737303,3908909; 737373,3908891; 737487,3908803; 738037,3908768; 738113,3908799; 738236,3908932; 738389,3908985; 738534,3909120; 738597,3909125; 738706,3909077; 738768,3908903; 738802,3908864; 739136,3908784; 739303,3908616; 739463,3908625; 739597,3908667; 739820,3908802; 739812,3908974; 739831,3909034; 740090,3909098; 740192,3909165; 740220,3909196; 740236,3909371; 740264,3909401; 740424,3909492; 740561,3909461; 740682,3909500; 740740,3909546; 740795,3909637; 740811,3909852; 740928,3909862; 741190,3910104; 741281,3910150; 741351,3910302; 741407,3910358; 741670,3910357; 741959,3910441; 742199,3910443; 742306,3910395; 742377,3910329; 742528,3910268; 742672,3910122; 742859,3910036; 742896,3909995; 742970,3910001; 743092,3910090; 743153,3910228; 743318,3910376; 743394,3910551; 743835,3910776; 744032,3910815; 744050,3910885; 744009,3911070; 744070,3911249; 744166,3911293; 744245,3911252; 744345,3911264; 744407,3911307; 744507,3911289; 744587,3911245; 744689,3911315; 744954,3911234; 745095,3911242; 745158,3911200; 745181,3911213; 745284,3911320;745273,3911537; 745306,3911578; 745449,3911665; 745708,3911877; 745889,3911958; 746028,3912124; 746184,3912386; 746363,3912491; 746552,3912551; 746747,3912476; 746855,3912400; 747016,3912347; 747185,3912330; 747337,3912369; 747613,3912532; 747712,3912640; 747890,3912758; 748104,3913019; 748410,3913078; 748671,3913080; 748921,3913126; 748964,3913154; 749120,3913374; 749162,3913394; 749336,3913362; 749471,3913395; 749607,3913604; 749649,3913628; 749718,3913621; returning to 749907,3913538.

(ii) *Note*: Unit SLO-4 for California red-legged frog is depicted on the map in paragraph (41)(ii) of this entry.

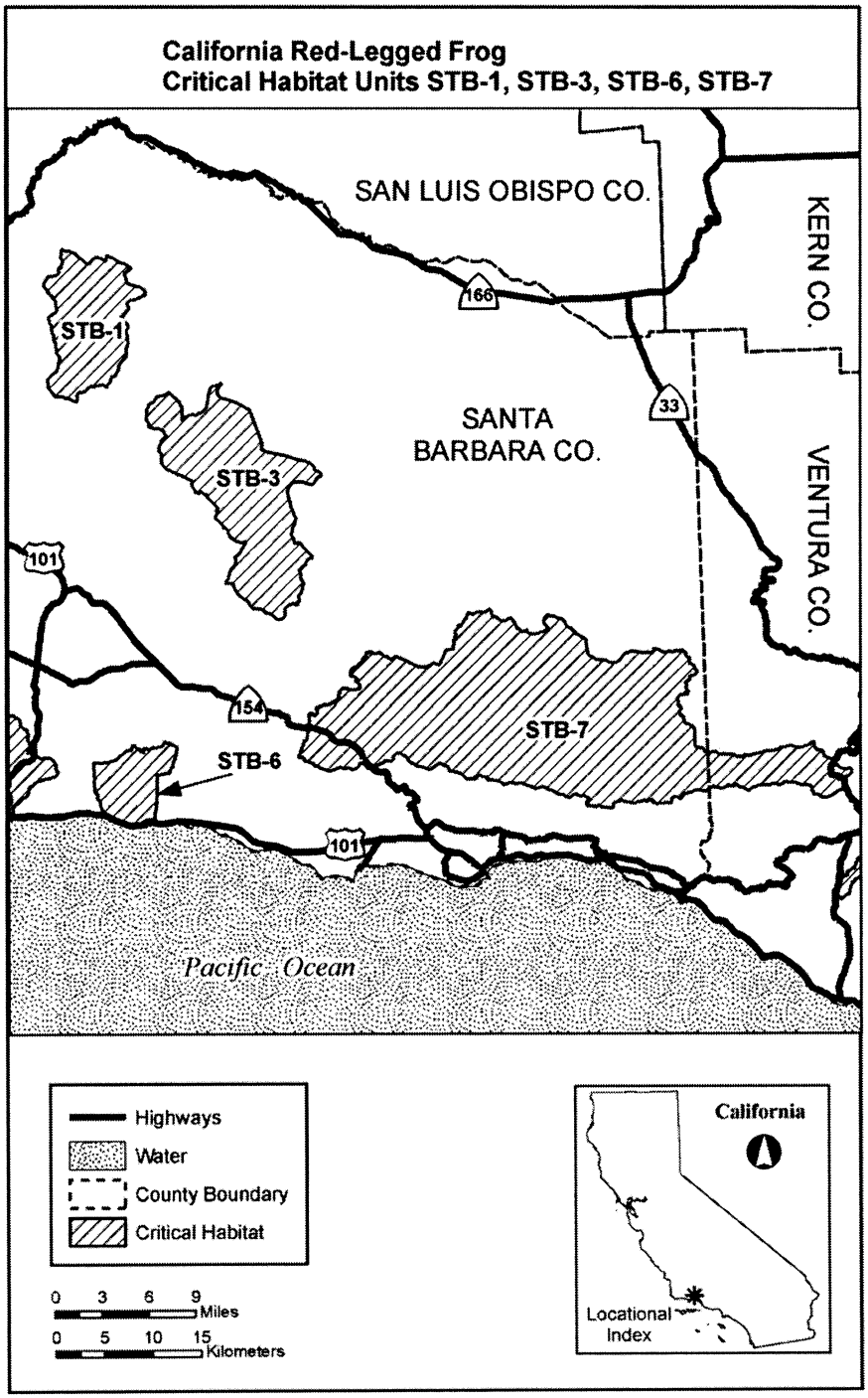
(44) Unit STB-1: Santa Barbara County, California. From USGS 1:24,000 scale quadrangles Tepusquet Canyon, Foxen Canyon, Manzanita Mountain and Zaca Lake.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 760562,3876097; 760672,3876042; 761005,3876093; 761287,3875929; 761484,3875882; 761676,3875762; 761783,3875634; 761915,3875540; 762011,3875342; 762187,3875292; 762339,3875178; 762395,3875163; 762518,3874997; 762670,3874870; 763079,3874758; 763145,3874919; 763311,3875038; 763422,3875236; 763812,3875437; 764027,3875382; 764181,3875309; 764363,3875306; 764567,3875164; 764684,3875040; 764762,3875023; 764832,3875188; 764845,3875462; 764895,3875633; 765728,3875247; 766130,3874926; 766773,3874765; 767375,3874303; 767317,3874268; 767147,3874084; 767009,3874063; 766889,3873933; 766692,3873794; 766680,3873615; 766866,3873352; 766878,3873053; 766932,3872882; 767102,3872733; 767518,3872546; 767828,3872501; 768022,3872422; 768333,3872362; 768617,3872174; 768753,3872050; 768872,3871869; 768833,3871652; 768789,3871555; 768302,3871371; 768233,3871304; 768179,3871202; 768119,3871167; 767914,3871161; 767761,3871077; 767577,3871017; 767443,3871051; 767275,3871037; 767170,3870973; 767012,3870794; 766969,3870783; 766959,3870591; 767103,3870378; 767134,3870165; 767123,3870109; 766974,3870022; 766841,3869893; 766810,3869721; 766702,3869630; 766590,3869471; 766520,3869233; 766555,3869103; 766558,3868884; 766939,3868674; 767035,3868506; 767084,3868355; 767080,3868253; 766843,3867945; 766763,3867725; 766766,3867689; 766887,3867637; 766960,3867566; 767061,3867318; 767038,3866988; 767083,3866672; 767053,3866343; 766926,3866262; 766871,3866166; 766901,3865924; 766875,3865716; 766912,3865624; 766960,3865587; 766919,3865529; 766872,3865365; 766724,3865095; 766449,3864834; 766178,3864457; 766115,3864280; 766071,3863939; 765862,3863616; 765794,3863346; 765692,3863267; 765391,3863258; 765364,3863228; 765331,3862966; 765225,3862803; 765140,3862612; 764983,3862406; 764868,3862136;

764617,3862365; 764482,3862406; 764224,3862343; 764032,3862342; 763590,3862178; 763547,3862176; 763295,3862281; 762879,3862024; 762827,3861912; 762570,3861741; 762469,3861631; 762204,3861602; 762136,3861666; 762105,3861666; 761931,3861582; 761845,3861487; 761788,3861358; 761781,3861243; 761844,3861084; 761850,3860994; 761785,3860737; 761750,3860680; 761705,3860676; 761440,3860732; 761112,3860913; 760959,3860945; 760807,3861013; 760636,3861043; 760598,3861036; 760566,3860969; 760433,3861135; 759600,3861135; 758845,3862084; 758767,3862569; 758748,3862937; 759290,3863518; 759639,3863731; 759813,3864060; 759852,3864486; 760046,3865087; 759717,3865648; 759717,3866047; 759659,3866170; 759601,3866415; 759655,3866528; 759581,3866701; 759449,3866785; 759438,3866819; 759430,3867144; 759385,3867286; 759402,3867508; 759383,3867543; 759254,3867630; 759240,3867665; 759221,3867942; 759171,3868113; 759197,3868274; 759173,3868453; 758987,3868651; 758941,3868990; 758822,3869188; 758919,3869389; 759088,3869432; 759139,3869528; 759310,3869599; 759411,3869690; 759610,3869788; 759707,3869963; 759731,3870118; 759685,3870224; 759615,3870533; 759591,3870865; 759493,3871043; 759348,3871149; 759266,3871363; 759205,3871457; 758906,3871763; 758719,3871858; 758736,3872008; 758710,3872086; 758485,3872299; 758330,3872577; 758384,3872761; 758541,3873023; 758697,3873177; 758755,3873396; 758824,3873459; 759046,3873498; 759241,3873456; 759706,3873605; 759884,3873711; 759924,3873760; 759967,3873943; 759864,3874007; 759819,3874091; 760002,3874342; 760181,3874444; 760210,3874639; 760333,3875007; 760311,3875096; 760185,3875250; 760134,3875544; 760198,3875800; 760198,3876182; 760214,3876232; returning to 760562,3876097.

(ii) *Note*: Map of Units STB-1, STB-3, STB-6, and STB-7 for the California red-legged frog follows:

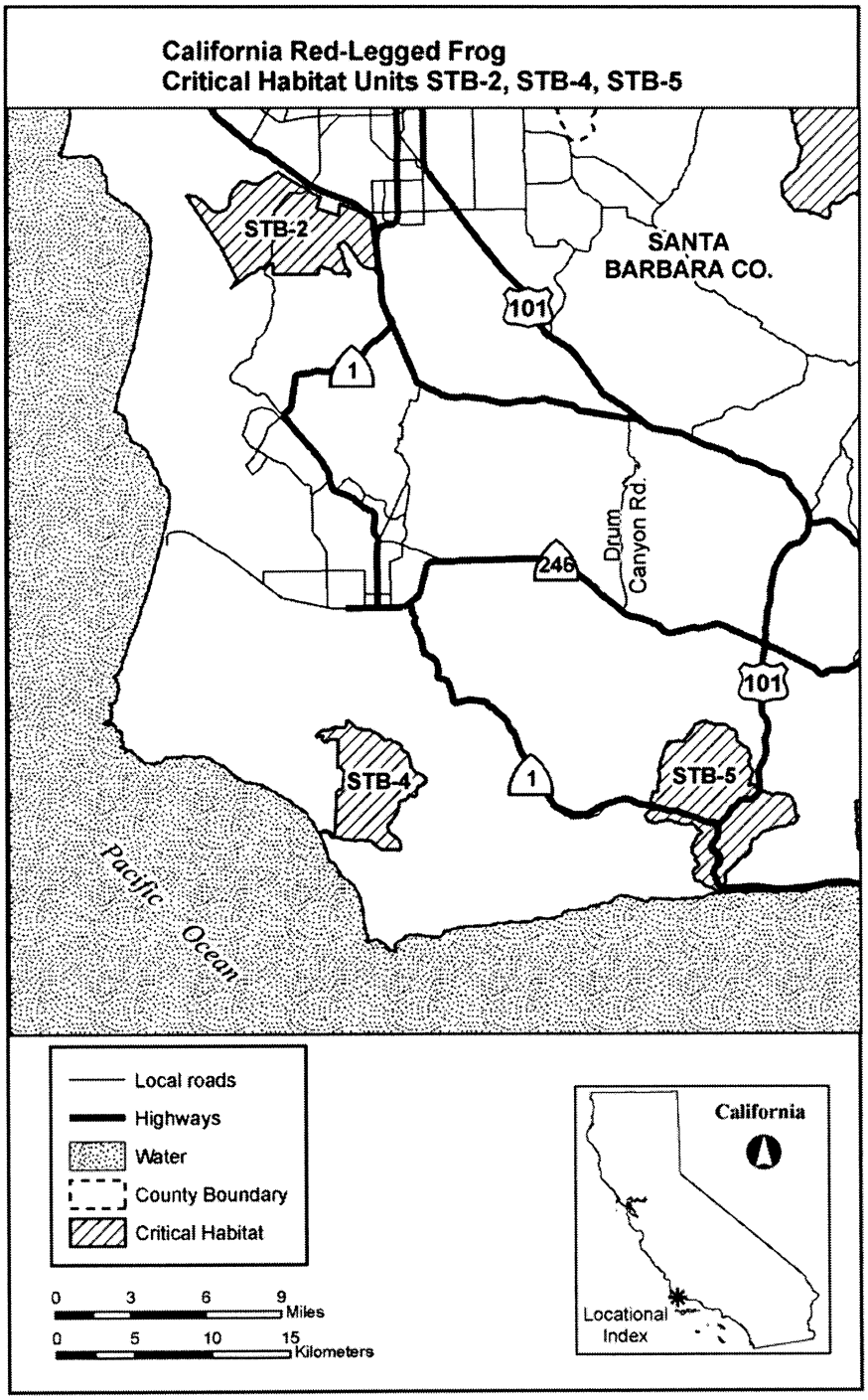
BILLING CODE 4310–55–S


California Red-Legged Frog
Critical Habitat Units STB-1, STB-3, STB-6, STB-7
SAN LUIS OBISPO CO.
KERN CO.
VENTURA CO.
SANTA BARBARA CO.
STB-1
STB-3
STB-6
STB-7
166
33
101
154
101
Pacific Ocean
Highways
Water
County Boundary
Critical Habitat
0 3 6 9
Miles
0 5 10 15
Kilometers
California
Locational Index

(45) Unit STB-2: Santa Barbara County, California. From USGS 1:24,000 scale quadrangles Guadalupe, Casmalia, Santa Maria and Orcutt.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 731166,3856983; 731162,3857181; 730322,3857168; 730135,3857420; 729967,3857473; 729819,3857459; 729578,3857568; 729443,3857667; 729376,3857635; 729296,3857555; 729247,3857354; 729250,3857154; 726368,3857120; 726362,3857815; 726173,3857740; 725905,3857679; 725880,3857563; 725691,3857512; 725605,3857586; 725443,3857497; 725173,3857271; 724731,3857082; 724478,3856821; 724238,3856699; 723676,3856260; 724048,3856812; 722984,3858902; 720821,3862104; 720937,3862161; 721420,3862089; 721742,3861874; 722117,3861535; 722510,3861123; 723011,3861088; 723387,3861266; 723583,3861535; 723619,3861713; 723619,3862035; 723780,3862429; 724352,3863055; 724444,3863044; 724504,3862997; 724541,3862994; 724593,3863032; 724728,3863019; 724960,3862894; 725461,3862876; 726659,3863663; 727070,3863359; 727589,3863037; 728111,3862721; 728294,3862654; 728819,3862272; 729012,3862198; 729234,3862071; 729404,3862017; 729132,3861318; 730520,3860854; 730596,3861595; 731659,3861185; 732097,3860989; 732221,3860925; 732166,3860903; 732254,3860823; 732289,3860843; 732494,3860743; 732565,3860659; 732618,3860544; 732651,3860145; 732777,3859761; 732883,3859161; 733046,3858083; 733169,3856993; 733069,3857088; 732897,3857362; 732777,3857459; 732591,3857466; 732186,3857578; 732036,3857709; 731830,3857930; 731144,3858960; 730876,3859226; 730556,3859033; 730572,3858841; 730613,3858694; 730754,3858570; 730770,3858404; 730861,3858147; 730876,3857961; 730938,3857800; 730944,3857692; 731044,3857527; 731168,3857431; 731264,3857288; 731268,3857183; 731237,3857088; returning to 731166,3856983.

(ii) *Note*: Map of Units STB-2, STB-4, and STB-5 for the California red-legged frog follows:



BILLING CODE 4310–55–C

(46) Unit STB-3: Santa Barbara County, California. From USGS 1:24,000 scale quadrangle Zaca Lake.

(i) Land bounded by the following UTM Zone 11, NAD83 coordinates (E,N): 230921,3859474; 231976,3855997; 231890,3855313; 232588,3855068; 233102,3854919; 233630,3854805; 234514,3854539; 235496,3854163; 236301,3853942; 236842,3853657; 236927,3853500; 237181,3853315; 237201,3853245; 237165,3853055; 237180,3853032; 237447,3852825; 237675,3852714; 237864,3852491; 237792,3852298; 237820,3852284; 237420,3852151; 237364,3852097; 237247,3851871; 237123,3851728; 237048,3851596; 236938,3851521; 236777,3851481; 236707,3851497; 236552,3851576; 235953,3851788; 235563,3851863; 234961,3851815; 234714,3851674; 234496,3851477; 234358,3851045; 234322,3850773; 234404,3850093; 234486,3849740; 234556,3849573; 234559,3849286; 234768,3848835; 234772,3848698; 234832,3848438; 235000,3848176; 234956,3847963; 234849,3847731; 234761,3847417; 234633,3847210; 234523,3846800; 234405,3846556; 234430,3846444; 234496,3846274; 234641,3846127; 234655,3845801; 234694,3845582; 235214,3845602; 235321,3845537; 235464,3845334; 235486,3845216; 235556,3845096; 235837,3844795; 236063,3844620; 236278,3844306; 236410,3844198; 236413,3844054; 236394,3843995; 236297,3843925; 235968,3843843; 235779,3843622; 235745,3843441; 235662,3843307; 235280,3843043; 235160,3842881; 235067,3842855; 234986,3842797; 235124,3842405; 235154,3842214; 235095,3842078; 235086,3841955; 235289,3841603; 235375,3841313; 235270,3841241; 235220,3841130; 235208,3841018; 235232,3840799; 235099,3840596; 235079,3840429; 234816,3840179; 234758,3840083; 234870,3839682; 234863,3839626; 234569,3839466; 234548,3839402; 234596,3839216; 234551,3839186; 234505,3839194; 234319,3839348; 234176,3839378; 234045,3839362; 233722,3839230; 233594,3839090; 233445,3839043; 233229,3838675; 233234,3838621; 233359,3838487; 233279,3838346; 233241,3838166; 233011,3837900; 232617,3837779; 232545,3837783; 232272,3837921; 232288,3837973; 232254,3838087; 231994,3838249; 231644,3838529; 231401,3838550; 231311,3838536; 231264,3838496; 231181,3838751; 230923,3838980; 229978,3839158; 229754,3839349; 229620,3839728; 229455,3839945; 228963,3840302; 228573,3840711; 228264,3841264; 228105,3841830; 227395,3841831; 227431,3841887; 227464,3842078; 227693,3842420; 227853,3842961; 228003,3843254; 228078,3843376; 228423,3843705; 228529,3843869; 228504,3843950; 228575,3844048; 228576,3844116; 228495,3844458; 228496,3844558; 228524,3844593; 228626,3844603; 228766,3844658; 228930,3844819; 229008,3844936; 229104,3845002; 229142,3845053; 229223,3845301; 229404,3845439; 229513,3845695; 229648,3845815; 229698,3845994; 229487,3845995; 229240,3845960; 229184,3845966; 229017,3846048; 228868,3846057; 228502,3846298; 228407,3846415; 228239,3846540; 228076,3846793; 228032,3846948; 227986,3846998; 227964,3847211; 227904,3847345; 227790,3847460; 227540,3847621; 227318,3847978; 227223,3848077; 227052,3848344; 226763,3848565; 226719,3848644; 226741,3848761; 226924,3849108; 226976,3849159; 226861,3849365; 226919,3849445; 227014,3849486; 227022,3849580; 226902,3849798; 226782,3849984; 225971,3850915; 225899,3851125; 225509,3851345; 225373,3851455; 225113,3851261; 225053,3851329; 224898,3851410; 224882,3851506; 224747,3851713; 224508,3852251; 224488,3852394; 224552,3852530; 224542,3852640; 224016,3852942; 223678,3853077; 223632,3853116; 223570,3853232; 223025,3853418; 222679,3853633; 222574,3853728; 222305,3853820; 222120,3853982; 221910,3854075; 221824,3854155; 221746,3854386; 221657,3854523; 221570,3854603; 221584,3854837; 221549,3855036; 221605,3855355; 221598,3855473; 221463,3855699; 221341,3855832; 221328,3855884; 221409,3856080; 221396,3856343; 221472,3856459; 221578,3856531; 221619,3856596; 221676,3856942; 221714,3857033; 222169,3857284; 222220,3857340; 222216,3857368; 222066,3857560; 222045,3857682; 221936,3857856; 221835,3857935; 221784,3858013; 221627,3858121; 221367,3858161; 221040,3858136; 220936,3858215; 220841,3858253; 220491,3858351; 220462,3858387; 220461,3858452; 220502,3858725; 220458,3858838; 220301,3859033; 220205,3859317; 220278,3859409; 220331,3859562; 220347,3859940; 220317,3860168; 220433,3860222; 220607,3860696; 221104,3860908; 221424,3861398; 222280,3861540; 222792,3861831; 222833,3861741; 223015,3861554; 223152,3861298; 223285,3861237; 223409,3861128; 223602,3860830; 223799,3860733; 223824,3860428; 223983,3860276; 223987,3860123; 223929,3859962; 223985,3859737; 223955,3859619; 224001,3859242; 223893,3858913; 224209,3859091; 224432,3859173; 224575,3859285; 224875,3859378; 225068,3859394; 225363,3859267; 225438,3859274; 225607,3859382; 225709,3859505; 225969,3859543; 226191,3859671; 226446,3859945; 226565,3860298; 226779,3861260; 226929,3861740; 227069,3862025; 227271,3862117; 227901,3862297; 228180,3862460; 228177,3862385; 228049,3862165; 227859,3861928; 227736,3861694; 227674,3861404; 227811,3861121; 228015,3860908; 228360,3860784; 228771,3860676; 229717,3860243; 230217,3859946; 230582,3859682; returning to 230921,3859474.

(ii) *Note*: Unit STB-3 for California red-legged frog is depicted on the map in paragraph (44)(ii) of this entry.

(47) Unit STB-4: Santa Barbara County, California. From USGS 1:24,000 scale quadrangles Tranquillon Mountain. and Lompoc Hills.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 729283,3821732; 729615,3821828; 729936,3821744; 729938,3821604; 730174,3821644; 730245,3821754; 730255,3822019; 730366,3822066; 730259,3822142; 730341,3824270; 730715,3824569; 730770,3824723; 730794,3824914; 730779,3825134; 730844,3825381; 730814,3825588; 730736,3825725; 730616,3825809; 730522,3825823; 730396,3825890; 730447,3827602; 729977,3827620; 729742,3827441; 729579,3827448; 729425,3827598; 729439,3827714; 729508,3827830; 729376,3827830; 729116,3827765; 729064,3827885; 729135,3827930; 729256,3828084; 729386,3828164; 729518,3828204; 729771,3828199; 730093,3828281; 730162,3828390; 730232,3828426; 730845,3828360; 730910,3828407; 730961,3828526; 731006,3828783; 731042,3828827; 731183,3828800; 731631,3828340; 731725,3828302; 731970,3828271; 732151,3828210; 732482,3828211; 733060,3827929; 733182,3827777; 733316,3827677; 733373,3827572; 733460,3827544; 733774,3827615; 733955,3827496; 734461,3827273; 734507,3827177; 734524,3827005; 734567,3826941; 734659,3826858; 734799,3826810; 734874,3826750; 735013,3826386; 735126,3825805; 735374,3825521; 735892,3825308; 736056,3825108; 736068,3824966; 736047,3824895; 735860,3824725; 735579,3824624; 735520,3824562; 735490,3824485; 735467,3824220; 735423,3824057; 735383,3823999;

735307,3823965; 735198,3823985; 735083,3824069; 735011,3824092; 734911,3823997; 734837,3823821; 734439,3823681; 734370,3823633; 734340,3823582; 734322,3823311; 734241,3823031; 734162,3822886; 733960,3822628; 733859,3822409; 733764,3822290; 733592,3822135; 733620,3822078; 733633,3821873; 733672,3821769; 733760,3821640; 734138,3821389; 734241,3821294; 734349,3821148; 734434,3820848; 734439,3820745; 734395,3820592; 734325,3820574; 734055,3820617; 733705,3820588; 733328,3820601; 733075,3820689; 732779,3820930; 732606,3821109; 732500,3821165; 732200,3821183; 731910,3821231; 731567,3821184; 731053,3821259; 730834,3821228; 730572,3821371; 730442,3821394; 730148,3821386; 730039,3821421; 729978,3821470; 729841,3821675; 729724,3821725; 729488,3821739; 729344,3821701; 729276,3821629; returning to 729283,3821732.

(ii) *Note*: Unit STB-4 for California red-legged frog is depicted on the map in paragraph (45)(ii) of this entry.

(48) Unit STB-5: Santa Barbara County, California. From USGS 1:24,000 scale quadrangles Santa Rosa Hills, Solvang and Gaviota.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 754082,3828621; 754220,3828624; 754353,3828538; 754484,3828518; 754931,3828518; 755206,3828493; 755300,3828431; 755414,3828288; 755575,3828212; 755742,3828169; 755779,3828121; 755879,3827637; 755821,3827482; 755964,3827406; 756196,3827234; 756293,3827116; 756595,3827008; 756601,3826836; 756743,3826460; 756612,3826255; 756591,3826150; 756657,3826032; 756701,3825778; 756846,3825651; 756876,3825582; 756798,3825268; 756716,3825102; 756670,3824819; 756583,3824656; 756924,3824697; 757105,3824442; 757173,3824401; 757409,3824289; 757802,3824191; 758062,3824046; 758418,3824147; 758483,3824146; 758654,3824109; 758956,3824097; 759185,3823989; 759313,3823888; 759356,3823826; 759476,3823527; 759563,3823388; 759548,3823115; 759577,3822909; 759786,3822680; 759614,3822411; 759491,3822264; 758838,3822045; 758378,3821985; 758063,3821887; 757890,3821808; 757632,3821751; 757411,3821638; 757090,3821271; 756817,3821205; 756808,3821052; 756686,3820890; 756722,3820735; 756716,3820604; 756657,3820451; 756510,3820230; 756394,3820122; 756216,3820140; 756146,3820057; 755960,3819953; 755931,3819925; 755906,3819802; 755807,3819648; 755619,3819539; 755309,3819235; 755176,3819185; 755084,3818876; 755126,3818560; 754978,3818336; 754815,3817931; 754712,3817826; 754545,3817914; 754353,3818081; 753795,3818299; 753620,3818490; 753474,3818553; 753200,3818625; 753158,3818667; 753147,3818770; 753015,3819109; 753013,3819157; 753096,3819346; 753342,3819518; 753385,3819620; 753341,3819734; 753176,3819898; 753175,3819997; 753236,3820136; 752987,3820348; 752979,3820397; 753010,3820486; 752957,3820648; 752961,3820749; 753074,3820999; 753329,3821454; 753393,3821515; 753567,3821609; 753614,3821664; 753589,3821730; 753478,3821799; 753341,3821827; 753191,3822091; 753039,3822189; 752961,3822212; 752604,3822156; 752336,3822171; 752121,3822276; 752044,3822295; 751885,3822284; 751740,3822395; 751571,3822432; 751345,3822432; 750965,3822371; 750711,3822281; 750371,3822319; 750231,3822360; 750179,3822461; 750007,3822667; 750066,3822856; 750213,3822944; 750268,3823084; 750434,3823080; 750652,3823110; 750716,3823220; 750690,3823335; 750439,3823592; 750348,3823715; 750335,3823770; 750456,3823947; 750488,3824163; 750596,3824256; 750780,3824259; 750839,3824376; 750807,3824796; 750948,3825215; 750926,3825433; 750875,3825585; 750875,3825695; 750964,3825912; 750994,3826175; 751047,3826363; 751162,3826568; 751167,3826702; 751257,3826992; 751377,3827152; 751406,3827294; 751444,3827363; 751566,3827409; 751732,3827410; 752145,3827504; 752493,3827446; 752553,3827613; 752627,3827679; 752750,3827870; 752841,3827943; 753043,3828218; 753153,3828494; 753196,3828533; 753588,3828705; 753846,3828746; 753902,3828744; 753974,3828673; returning to 754082,3828621.

(ii) *Note*: Unit STB-5 for California red-legged frog is depicted on the map in paragraph (45)(ii) of this entry.

(49) Unit STB-6: Santa Barbara County, California. From USGS 1:24,000 scale quadrangles Solvang, Gaviota, Santa Ynez and Tajiguas.

(i) Land bounded by the following UTM Zone 10, NAD83 coordinates (E,N): 770986,3825640; 771043,3825632; 771193,3825688; 771256,3825673; 771613,3825452; 771858,3825355; 772104,3825203; 772038,3825075; 771949,3824690; 771903,3824212; 771816,3824079; 771803,3823865; 771692,3823753; 771692,3823706; 771632,3823581; 771652,3823204; 771634,3823189; 771498,3823201; 771432,3823131; 771416,3822976; 771341,3822894; 771241,3822586; 771136,3822552; 771008,3822571; 770470,3822451; 770117,3822424; 770036,3822398; 769943,3822327; 769948,3822289; 769999,3822245; 770022,3822094; 769939,3821829; 770006,3821600; 769983,3821464; 770018,3820930; 769923,3820628; 769971,3820303; 769911,3819814; 769993,3819678; 769983,3819612; 769914,3819513; 769905,3819442; 769937,3819047; 769841,3818859; 769822,3818655; 769729,3818476; 769776,3818105; 769624,3817885; 769489,3817584; 769432,3817327; 769196,3817362; 769024,3817339; 768821,3817242; 768814,3817204; 768841,3817147; 768738,3817108; 768318,3817114; 767420,3817064; 766933,3817129; 766615,3817225; 766263,3817429; 766217,3817432; 766161,3817398; 765917,3817529; 765458,3817701; 765210,3817835; 764630,3818046; 764517,3818290; 764347,3818877; 764207,3819094; 764111,3819628; 764032,3819796; 763843,3819932; 763796,3820002; 763812,3820203; 763842,3820301; 763838,3820456; 763604,3820619; 763553,3820667; 763531,3820731; 763521,3820920; 763552,3821048; 763543,3821167; 763457,3821666; 763548,3822045; 763452,3822372; 763447,3822459; 763519,3822629; 763520,3822703; 763477,3822787; 763483,3822952; 763419,3823170; 763460,3823351; 763410,3823628; 763849,3823641; 763990,3823602; 764116,3823604; 764292,3823570; 764509,3823694; 764801,3823690; 765027,3823718; 765650,3823931; 765792,3824005; 765966,3824135; 766073,3824246; 766151,3824399; 766447,3824529; 766867,3824880; 767108,3824934; 767278,3824884; 767313,3824958; 767394,3825330; 767455,3825392; 767578,3825449; 767631,3825444; 767759,3825329; 767841,3825153; 767882,3825112; 768167,3825010; 768209,3824974; 768351,3824764; 768477,3824724; 768565,3824722; 768601,3824751; 768596,3825042; 768631,3825100; 768811,3825096; 769143,3824997; 769415,3825077; 769466,3825106; 769584,3825243; 769700,3825210; 769833,3825128; 769903,3825144; 770088,3825284; 770373,3825234; 770433,3825262; 770546,3825386; 770688,3825762; 770837,3825767; returning to 770986,3825640.

(ii) *Note*: Unit STB-6 for California red-legged frog is depicted on the map in paragraph (44)(ii) of this entry.

(50) Unit STB-7: Santa Barbara and Ventura Counties, California. From

USGS 1:24,000 scale quadrangles Lake Cachuma, San Marcos Pass, Big Pine Mtn., Little Pine Mtn., Santa Barbara, Madulce Peak, Hildreth Peak, Carpinteria, Old Man Mountain, White Ledge Peak, Wheeler Springs and Matilija.

(i) Land bounded by the following UTM Zone 11, NAD83 coordinates (E,N):

254540,3837294; 254540,3837180; 254497,3837043; 254566,3836882; 254581,3836738; 254782,3836768; 254873,3836753; 255119,3836601; 255360,3836359; 255521,3836301; 255735,3836335; 255863,3836260; 256174,3836436; 256296,3836531; 256438,3836538; 256491,3836507; 256651,3836220; 256783,3836123; 256986,3835539; 257062,3835412; 257089,3835374; 257253,3835359; 257309,3835319; 257387,3835238; 257467,3835040; 257498,3835014; 257807,3835121; 257960,3835201; 258010,3835198; 258024,3835173; 257996,3835061; 258053,3834932; 258162,3834873; 258448,3834797; 258539,3834749; 258861,3834733; 259140,3834782; 259464,3834910; 259623,3834923; 259715,3834972; 259953,3835033; 260149,3835181; 260132,3835316; 260041,3835526; 259880,3835721; 259854,3835844; 259772,3836021; 259853,3836267; 259973,3836356; 260061,3836464; 260154,3836600; 260153,3836656; 260571,3836498; 260883,3836462; 260926,3836446; 260984,3836352; 261169,3836308; 261637,3836132; 261861,3835973; 261913,3835903; 262036,3835614; 262101,3835385; 262252,3835290; 262379,3835171; 262570,3835081; 262695,3834896; 262877,3834761; 263015,3834497; 264086,3833813; 263942,3833612; 264011,3833435; 264042,3832876; 264078,3832574; 264132,3832341; 264249,3832177; 264742,3831921; 265047,3831721; 265159,3831737; 265707,3831674; 265937,3831581; 266204,3831435; 266531,3831326; 266775,3831317; 267067,3831370; 267284,3831475; 267432,3831620; 267715,3832013; 267906,3832157; 268164,3832275; 268519,3832354; 268852,3832357; 269237,3832302; 269816,3832166; 270132,3832189; 270699,3832099; 270796,3832147; 270832,3832198; 270851,3832409; 270904,3832506; 271090,3832468; 271225,3832410; 271347,3832401; 271538,3832296; 271612,3832200; 271936,3832055; 272049,3832057; 272165,3832022; 272249,3832055; 272343,3832167; 272468,3832155; 272803,3832025; 272886,3832020; 272981,3832049; 273075,3832171; 273219,3832165; 273402,3832109; 273691,3832133; 273786,3832161; 273841,3832151; 274145,3831930; 274175,3831888; 274145,3831689; 274180,3831573; 274312,3831385; 274495,3831313; 274472,3830803; 274735,3830604; 274923,3830509; 274950,3830475; 275000,3830237; 275215,3829931; 275189,3829829; 275022,3829639; 274884,3829593; 274732,3829496; 274514,3829480; 274440,3829449; 274423,3829178; 274379,3829071; 274297,3829026; 274076,3828968; 273924,3828817; 273928,3828779; 274026,3828715; 274051,3828648; 274044,3828592; 273938,3828395; 273996,3828246; 274086,3828111; 274124,3827961; 274204,3827810; 274189,3827776; 274064,3827636; 274016,3827613; 273925,3827601; 273679,3827650; 273568,3827578; 273465,3827558; 273309,3827578; 273175,3827533; 273073,3827415; 273006,3827206; 273091,3826952; 273086,3826756; 273055,3826698; 273062,3826558; 273122,3826408; 273286,3826390; 273350,3826268; 273341,3826201; 273290,3826111; 273172,3826015; 273142,3825760; 273226,3825584; 273405,3825435; 273576,3825350; 273514,3825048; 273597,3824908; 273622,3824739; 273750,3824610; 273950,3824613; 274071,3824571; 274399,3824322;
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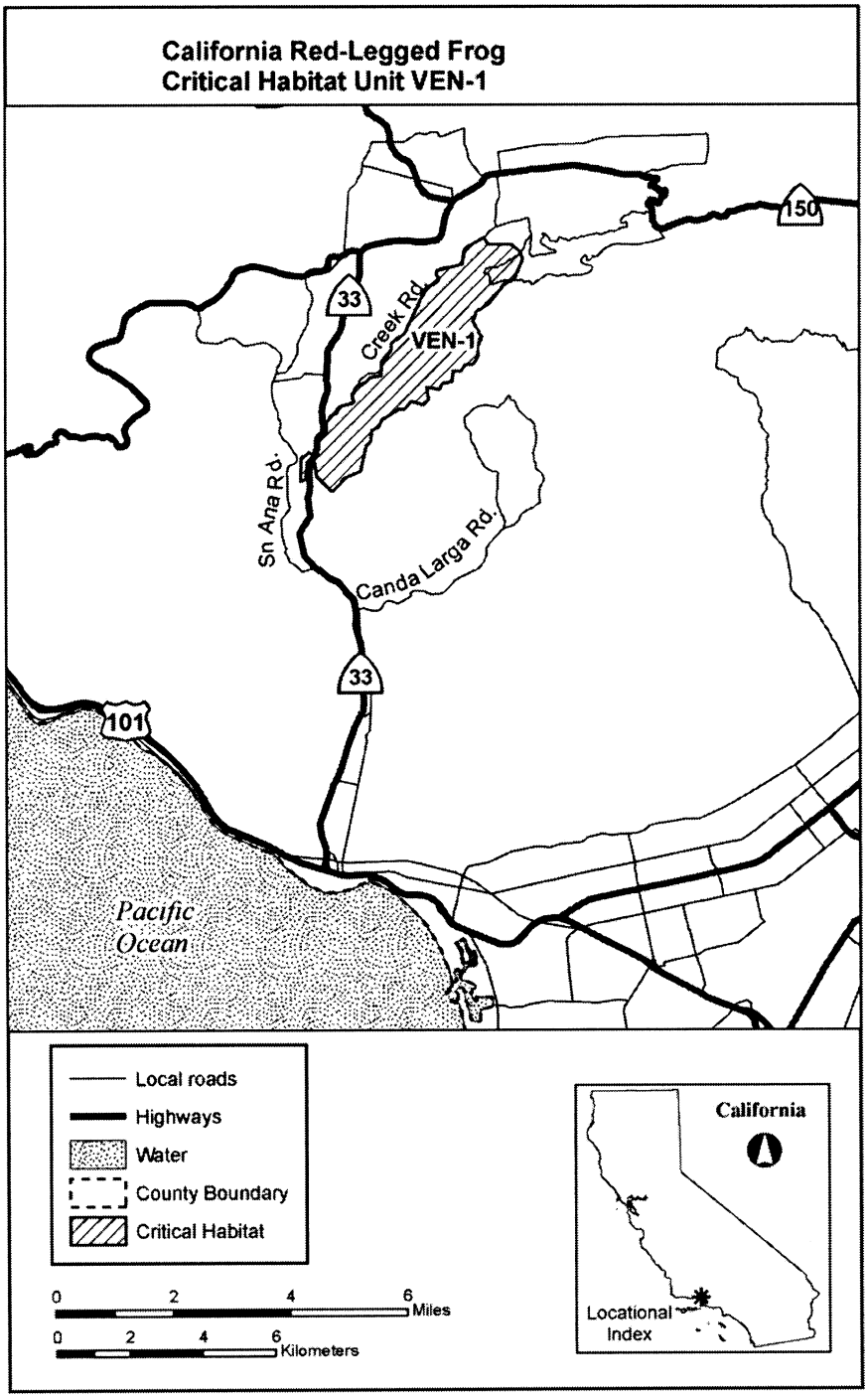
(ii) *Note*: Unit STB-7 for California red-legged frog is depicted on the map in paragraph (44)(ii) of this entry.

(51) Unit VEN-1: Ventura County, California. From USGS 1:24,000 scale quadrangles Matilija, Ventura and Ojai.

(i) Land bounded by the following UTM Zone 11, NAD83 coordinates (E,N): 292389,3808989; 292269,3808813; 292067,3808838; 292001,3808540; 291744,3808513; 291660,3808360; 291309,3808445; 291346,3808110; 291188,3807970; 290857,3808078; 290683,3807876; 290516,3807881; 290022,3807626; 289938,3807423; 289743,3807351; 289693,3807054; 289556,3806919; 289357,3806257; 288924,3806106; 288596,3805768; 288535,3805756; 288169,3806170; 288139,3806566; 288022,3806679; 287922,3806605; 287842,3806111; 287702,3806086; 287770,3806708; 287997,3806862; 288226,3806724; 288210,3807181; 288352,3807324; 288495,3807334; 288507,3807633; 288897,3808046; 289299,3808143; 289254,3808351; 289400,3808575; 289665,3808668; 289771,3808791; 290075,3808823; 290121,3809125; 290398,3809519; 290426,3809709; 290786,3809928; 291436,3811102; 291817,3811326; 291749,3811476; 291788,3811585; 292474,3811706; 292581,3812127; 293112,3812393; 293210,3812196; 293840,3812153; 294048,3811973; 294135,3811749; 293856,3811194; 293598,3811103; 293155,3810614; 292790,3810406; 292674,3810144; 292894,3809713; 292746,3809412; 292765,3809204; 292611,3808985; returning to 292389,3808989.

(ii) *Note*: Map of Unit VEN-1 for the California red-legged frog follows:

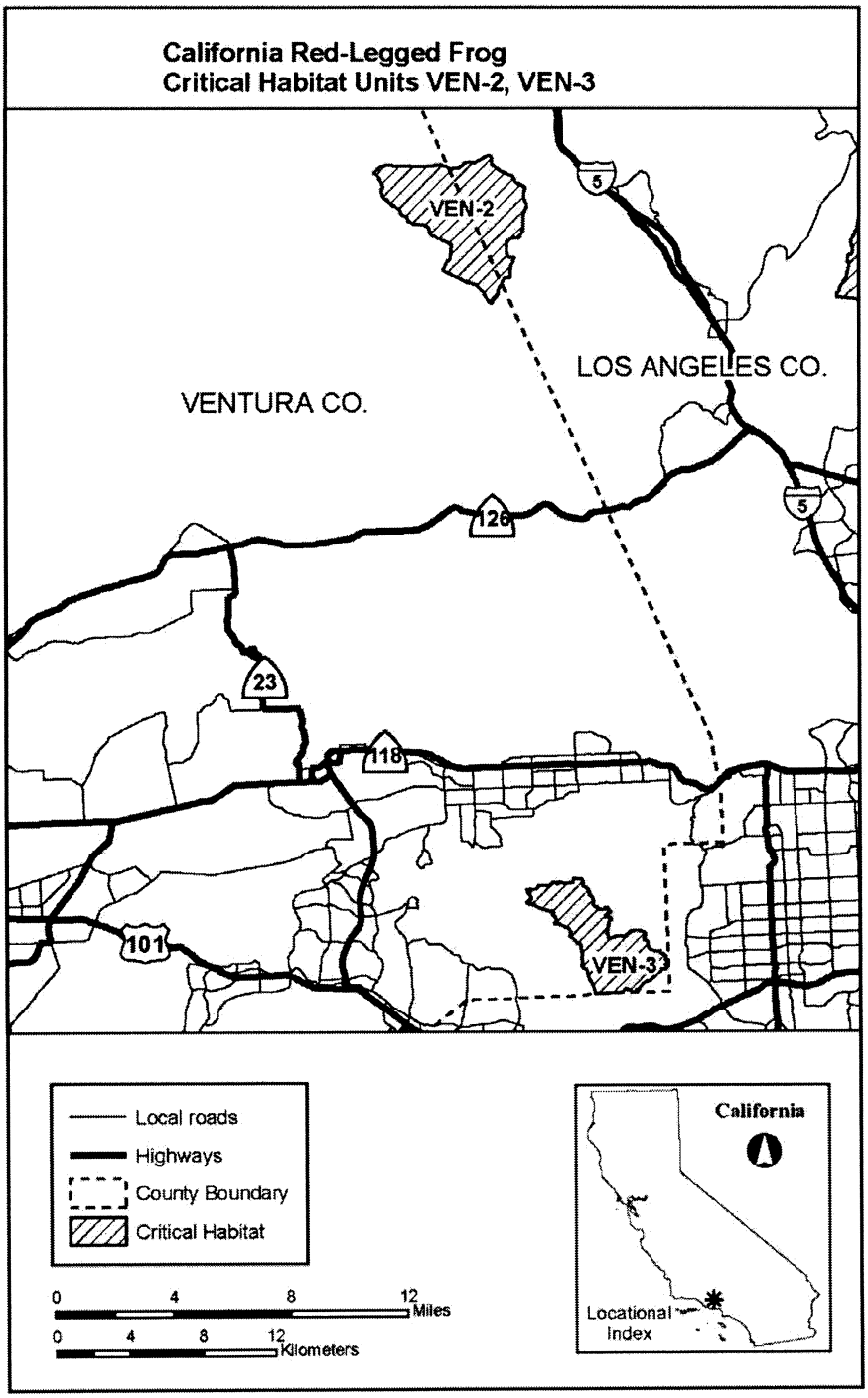
BILLING CODE 4310–55–S


California Red-Legged Frog
Critical Habitat Unit VEN-1
150
33
Creek Rd.
VEN-1
Sn Ana R d.
Canda Larga Rd.
33
101
Pacific
Ocean
Local roads
Highways
Water
County Boundary
Critical Habitat
0 2 4 6 Miles
0 2 4 6 Kilometers
California
Locational
Index

(52) Unit VEN-2: Ventura and Los Angeles Counties, California. From USGS 1:24,000 scale quadrangles Cobblestone Mountain and Whitaker Peak.

(i) Land bounded by the following UTM Zone 11, NAD83 coordinates (E,N): 339291,3827835; 339299,3827739; 339766,3827357; 340374,3827063; 340544,3826712; 341072,3826348; 340944,3826090; 340929,3825836; 341091,3825360; 340852,3824908; 340799,3824021; 340501,3823636; 340142,3823657; 339877,3823482; 339839,3822849; 339931,3822610; 340226,3822571; 340007,3822097; 339952,3821528; 339632,3821505; 339211,3820830; 339197,3820598; 338832,3820187; 338664,3820291; 338411,3820813; 338027,3821260; 337668,3821358; 336304,3822097; 336529,3822597; 336713,3822708; 336854,3823475; 335722,3824114; 335636,3824514; 335416,3824690; 334902,3824748; 334557,3824905; 334507,3825194; 334331,3825218; 334164,3825391; 334109,3825598; 333690,3825882; 333242,3826358; 333195,3826701; 333300,3826871; 333037,3827486; 332830,3827662; 333176,3827981; 333533,3828042; 335562,3827839; 336504,3827892; 336890,3827733; 337083,3827558; 337171,3827662; 337429,3827646; 337638,3827729; 337852,3827893; 338100,3827946; 338394,3827861; 339081,3828201; 339230,3828192; 339304,3828065; returning to 339291,3827835.

(ii) *Note*: Map of Units VEN-2 and VEN-3 for the California red-legged frog follows:



BILLING CODE 4310–55–C

(53) Unit VEN-3: Ventura County, California. From USGS 1:24,000 scale quadrangle Calabasas.

(i) Land bounded by the following UTM Zone 11, NAD83 coordinates (E,N):

341537,3788481; 341736,3788470; 341842,3788432; 341858,3788081; 341901,3788038; 342052,3787988; 342080,3787895; 342176,3787747; 342210,3787526; 342325,3787446; 342313,3787400; 342378,3787252; 342363,3787000; 342383,3786937; 342492,3786911; 342545,3786875; 342597,3786770; 342634,3786746; 342707,3786761; 342888,3786729; 343046,3786812; 343143,3786802; 343161,3786758; 343130,3786655; 343278,3786596; 343251,3786524; 343000,3786409; 342966,3786345; 342975,3786301; 343006,3786284; 343296,3786247; 343305,3786222; 343292,3786149; 343145,3786005; 343137,3785867; 343075,3785758; 343017,3785458; 343022,3785370; 343124,3785088; 343244,3785168; 343304,3785185; 343392,3785170; 343545,3785240; 343902,3785199; 344046,3785251; 344362,3785450; 344562,3785482; 344787,3785460; 345043,3785358; 345089,3785258; 345088,3785192; 344991,3784960; 345067,3784928; 345213,3784807; 345208,3784726; 345176,3784657; 345249,3784489; 345264,3784398; 345436,3784371; 345443,3784242; 345485,3784237; 345615,3784301; 345599,3784303; 345716,3784275; 345839,3784282; 345873,3784138; 346114,3784037; 346167,3783879; 346139,3783739; 346236,3783615; 346099,3783517; 346152,3783412; 346150,3783308; 346063,3783276; 345893,3783321; 345819,3783163; 345605,3783068; 345245,3782745; 345220,3782695; 345104,3782702; 344801,3782582; 344572,3782299; 344257,3782149; 344007,3782227; 343959,3782314; 343835,3782353; 343698,3782181; 343356,3782138; 342181,3782163; 342057,3782712; 341965,3782823; 341986,3782835; 341836,3783224; 341806,3783464; 341772,3783516; 341641,3783607; 341546,3783735; 341607,3783877; 341570,3784109; 341607,3784403; 341593,3784510; 341540,3784612; 341531,3784885; 341515,3784912; 341368,3784968; 341259,3785132; 341152,3785246; 341070,3785275; 341005,3785362; 340989,3785425; 341057,3785526; 341057,3785566; 340954,3785696; 340957,3785780; 340780,3785859; 340677,3785955; 340594,3785969; 340410,3786065; 340264,3786081; 340188,3786114; 340193,3786151; 340268,3786202; 340309,3786268; 340212,3786516; 340138,3786536; 340081,3786597; 340083,3786637; 340162,3786710; 340120,3786789; 339978,3786784; 339833,3786860; 339561,3786931; 339264,3787091; 339199,3787176; 338893,3787232; 338790,3787269; 338763,3787300; 338786,3787386; 339019,3787565; 338966,3787714; 338890,3787787; 338789,3787984; 338806,3788053; 338960,3788068; 339268,3788041; 339472,3788234; 339521,3788249; 339968,3788206; 340122,3788237; 340306,3788353; 340467,3788246; 340497,3788252; 340578,3788369; 340849,3788263; 341244,3788275; 341326,3788322; 341389,3788507; returning to 341537,3788481.

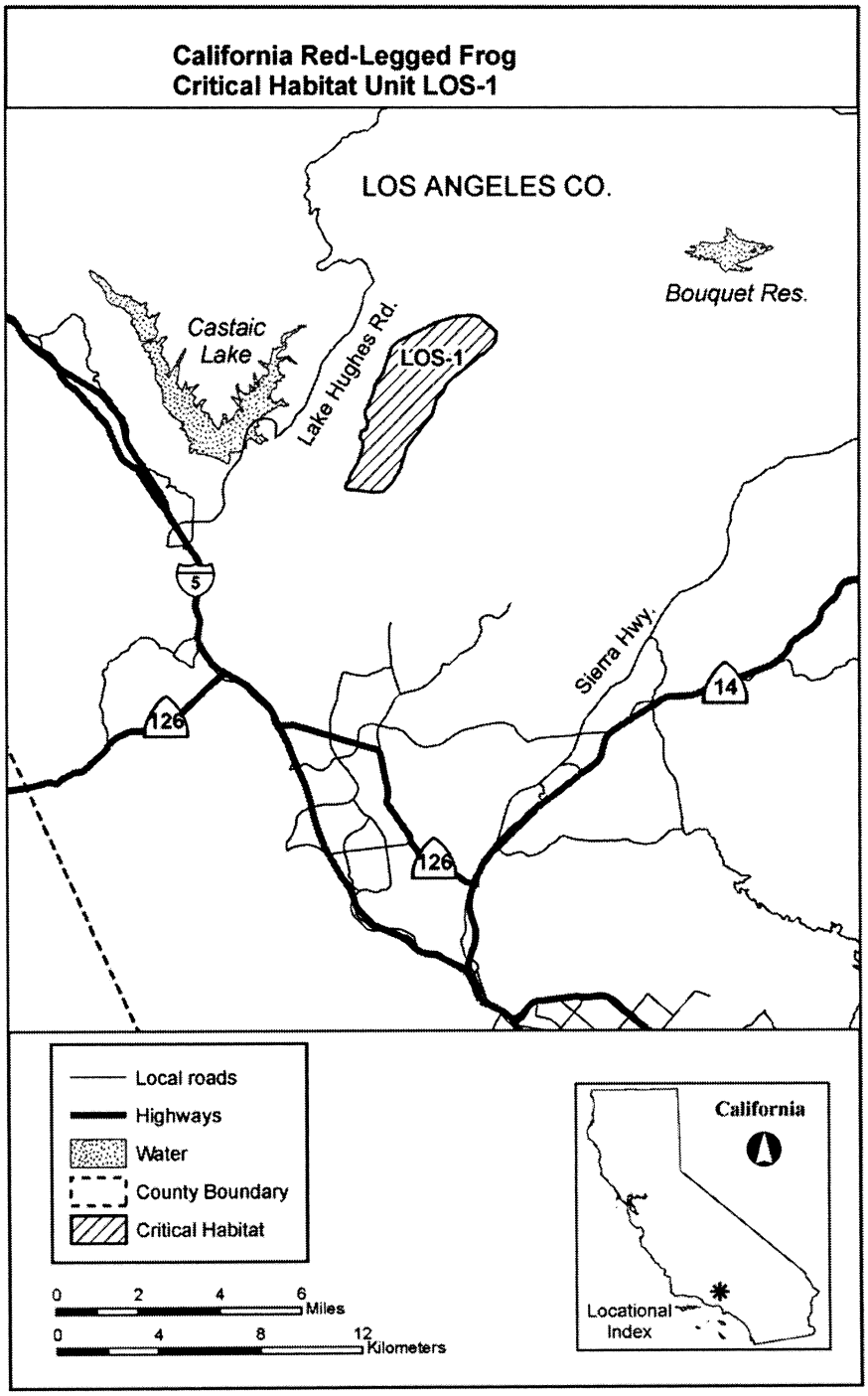
(ii) *Note*: Unit VEN-3 for California red-legged frog is depicted on the map in paragraph (52)(ii) of this entry.

(54) Unit LOS-1: Los Angeles County, California. From USGS 1:24,000 scale quadrangles Warm Springs Mountain and Green Valley.

(i) Land bounded by the following UTM Zone 11, NAD83 coordinates (E,N): 359031,3819227; 358730,3819226; 357682,3819421; 357694,3819619; 357819,3819717; 357871,3819926; 358218,3820421; 358455,3821056; 358466,3821241; 358352,3821327; 358424,3821653; 358610,3821669; 358704,3821902; 358598,3822345; 358987,3823103; 359060,3823442; 359387,3823820; 359806,3824854; 360096,3825062; 361616,3825686; 362356,3825881; 363057,3825879; 363330,3825796; 363930,3825191; 363867,3824811; 363724,3824621; 361885,3823314; 361706,3822967; 361437,3822679; 361231,3822109; 360167,3820914; 359852,3820073; 359475,3819513; 359153,3819227; returning to 359031,3819227.

(ii) *Note*: Map of Unit LOS-1 for the California red-legged frog follows:

BILLING CODE 4310–55–S



* * * * *

Dated: February 26, 2010

Signed: Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 2010–4656 Filed 3–16–10; 8:45 am]

BILLING CODE 4310–55–C

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