Federal Register

9–2–05 Friday
Vol. 70 No. 170 Sept. 2, 2005

Pages 52283–52892

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 70 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Thursday, September 22, 2005
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 70, No. 170

Friday, September 2, 2005

Agriculture Department
See Commodity Credit Corporation
See Forest Service
See National Agricultural Statistics Service

Army Department
See Engineers Corps

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Grant and cooperative agreement awards:
Beth Israel Deaconess Medical Center, Mind/Body Medical Institute, 52395–52396
Tanzania and Zanzibar AIDS Commissions, 52396
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; correction, 52397

Centers for Medicare & Medicaid Services
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52397

Children and Families Administration
See Refugee Resettlement Office

Coast Guard
RULES
Drawbridge operations:
New York, 52307–52308
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Portland Captain of the Port Zone, OR, 52308–52310
Regattas and marine parades:
Elizabeth City Jaycee Offshore Grand Prix, 52305–52307
South Lake Tahoe, CA; Labor Day fireworks display, 52303–52305
PROPOSED RULES
Drawbridge operations:
Louisiana, 52340–52345
Regattas and marine parades:
Hampton Roads Sailboat Classic, 52338–52340
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52421–52422
Deepwater ports; license applications:
Northeast Gateway Energy Bridge, L.L.C., 52422–52423
Meetings:
Towing Safety Advisory Committee, 52423–52424
Organization, functions, and authority delegations:
Sector North Carolina, Marine Safety Unit Wilmington and Sector Field Office Cape Hatteras; stand-up, 52424–52425

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 52363–52364

Commodity Credit Corporation
RULES
Loan and purchase programs:
Collection of State commodity assessments, 52283–52285

Customs and Border Protection Bureau
PROPOSED RULES
Organization and functions; field organization, ports of entry, etc.:
Sacramento, CA, port establishment; San Francisco, CA, port limits realignment, 52336–52338
NOTICES
Meetings:
Trade symposium, 52425

Defense Department
See Engineers Corps
See Navy Department

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52368–52369

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 52447–52449

Energy Department
See Federal Energy Regulatory Commission
See Southwestern Power Administration

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Mississippi River & Tributaries-Morganza, Louisiana to Gulf of Mexico Hurricane Project; Houma Navigation Canal lock complex and associated structures, 52368

Environmental Protection Agency
PROPOSED RULES
Water programs:
Pollutants analysis test procedures; guidelines—
Wastewater and sewage sludge biological pollutants; analytical methods; correction, 52485
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 52380–52381
Weekly receipts, 52380
Superfund; response and remedial actions, proposed settlements, etc.:
Anniston Lead and Anniston PCB Sites, AL, 52381

Executive Office for Immigration Review
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52447

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
McDonnell Douglas, 52285–52288
Standard instrument approach procedures, 52288–52291
VOR Federal airways, 52288

Federal Energy Regulatory Commission
PROPOSED RULES
Natural gas companies (Natural Gas Act):
Energy Policy Act of 2005; implementation—
Liquefied natural gas terminals and other natural gas facilities; pre-filing procedures, 52328–52336
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52369–52370
Complaints filed:
San Diego Gas & Electric Co., 52373
Electric rate and corporate regulation combined filings, 52373–52374
Environmental statements; availability, etc.:
Liberty Gas Storage, L.L.C., 52374–52375
Port Arthur LNG, L.P., et al., 52375–52377
Hydroelectric applications, 52377–52380
Applications, hearings, determinations, etc.:
Crown Landing LLC, et al., 52370
Devon Power LLC, et al., 52370–52371
East Kentucky Power Cooperative, Inc., 52371
National Fuel Gas Supply Corp., 52371–52372
Northern Natural Gas Co., 52372
Transcontinental Gas Pipe Line Corp., 52372–52373

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
Colfax and Dodge Counties. NE, 52464–52465

Federal Maritime Commission
PROPOSED RULES
Ocean shipping in foreign commerce:
Non-vessel-operating carrier service arrangements, 52345–52346

Federal Motor Carrier Safety Administration
NOTICES
Motor carrier safety standards:
Driver qualifications—
Huelle, Gerald E., et al.; diabetes exemption applications, 52465–52467
Exemption applications—
PINOVA, 52467–52469

Fish and Wildlife Service
RULES
Endangered and threatened species:
Captive-bred scimitar-horned oryx, addax, and dama gazelle, 52310–52319
Scimitar-horned oryx, addax, and dama gazelle, 52319–52324
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Contra Costa County, CA; multiple species habitat conservation plan, 52434–52436

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
Pharmaq AS, 52291–52292
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52397–52399
Meetings:
Blood Products Advisory Committee, 52399–52400

Forest Service
NOTICES
Meetings:
Resource Advisory Committees—
Mendocino County, 52361
Wrangell-Petersburg, 52361
Reports and guidance documents; availability, etc.:
National Forest System Lands—
Forest Service Grazing Permit Administration Handbook; interim directives; correction, 52361–52362

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health
See Refugee Resettlement Office
See Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Afghanistan; Indira Ghandi Children's Hospital; provide medical equipment, pharmaceuticals, and technology-related training to physicians and other staff, 52381–52388
Afghanistan; strengthening management of women's and children's hospitals and hospital services; technical assistance and support, 52388–52395
Reports and guidance documents; availability, etc.:
Public Health Security and Bioterrorism Preparedness and Response Act of 2002; implementation—
Potassium iodide (KI); requesting, stockpiling, and distributing from Strategic National Stockpile; Federal guidelines; correction, 52395

Homeland Security Department
See Coast Guard
See Customs and Border Protection Bureau
See U.S. Citizenship and Immigration Services
NOTICES
Meetings:
National Infrastructure Advisory Council, 52420–52421

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Homeless assistance; excess and surplus Federal properties, 52860–52892

Interior Department
See Fish and Wildlife Service

See Land Management Bureau
See National Park Service

Internal Revenue Service
RULES
Income taxes:
Estimated income tax regulations; update, 52299–52302

International Trade Administration
NOTICES
Antidumping:
Malleable iron pipe fittings from—
China, 52364–52365
Tariff rate quotas:
Worsted wool fabrics, 52365–52366

International Trade Commission
NOTICES
Import investigations:
Sugar from—
Various countries, 52446–52447

Justice Department
See Executive Office for Immigration Review

Labor Department
See Employment Standards Administration
See Mine Safety and Health Administration

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Mercer County, ND; Freedom Mine coal tract lease, 52436–52437
Environmental statements; notice of intent:
San Pedro Riparian National Conservation Area, AZ; resource management plan, 52437–52438
Recreation management restrictions, etc.:
El Paso, Freemont Park, and Teller Counties, CO; supplementary rules regarding motorized vehicles and bicycles; closure to target shooting, 52438–52440
Gila Box Riparian National Conservation Area, AZ; floating permit change, 52440
Knolls Special Recreation Management Area, UT; special recreation permit fee area established, 52440–52443

Maritime Administration
NOTICES
Deepwater ports; license applications:
Northeast Gateway Energy Bridge, L.L.C., 52422–52423

Mine Safety and Health Administration
NOTICES
Petitions for safety standards modifications; summary of affirmative decisions; correction, 52449

National Agricultural Statistics Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52362

National Highway Traffic Safety Administration
RULES
National Driver Register Problem Driver Pointer System; participation and data receipt procedures, 52296–52299
NOTICES
Motor vehicle safety standards:
Exemption petitions, etc.—
DOT Chemical, 52469–52470
Nonconforming vehicles—
Defect and noncompliance decisions; annual list, 52470–52477

National Institute of Standards and Technology
NOTICES
International Code Council; international codes and standards; update process, 52366–52367
Meetings:
National Construction Safety Team Advisory Committee, 52367–52368

National Institutes of Health
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52400
Inventions, Government-owned; availability for licensing, 52400–52405
Meetings:
National Center on Minority Health and Health Disparities, 52405
National Eye Institute, 52405–52406
National Institute of Allergy and Infectious Diseases, 52408
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 52407–52408
National Institute of Child Health and Human Development, 52407
National Institute on Aging, 52406–52407

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Critical habitat designations—
Pacific salmon and steelhead; California evolutionary significant units, 52488–52627
West Coast salmon and steelhead; evolutionarily significant units, 52630–52858
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Deep-water species; closure to vessels using trawl gear in Gulf of Alaska, 52326–52327
Northern rockfish, 52326
Shallow-water species; closure to vessels using trawl gear in Gulf of Alaska, 52325–52326
International fisheries regulations:
Bigeye tuna; longline fisheries restrictions in Eastern Tropical Pacific Ocean, 52324–52325
PROPOSED RULES
Fishery conservation and management:
Atlantic coastal fisheries cooperative management—
American lobster, 52346–52360

National Park Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52443–52444
Environmental statements; availability, etc.:
Ebey's Landing National Historical Reserve, WA; general management plan, 52444–52445
Meetings:
National Park Subsistence Resource Commission, 52445
Oil and gas plans of operation; availability, etc.:
Big Thicket National Preserve, TX, 52446

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS WINSTON S. CHURCHILL, 52302–52303

Office of United States Trade Representative
See Trade Representative, Office of United States

Railroad Retirement Board
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 52449–52450

Refugee Resettlement Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Refugee Resettlement Program—
Targeted Assistance Program; State allocations, 52408–52419

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
First Trust Exchange-Traded Fund, et al., 52450–52453
Public Utility Holding Company Act of 1935 filings, 52454–52455
Securities:
Suspension of trading—
Bancorp International Group, Inc., 52455
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 52455
National Association of Securities Dealers, Inc., 52456–52461
National Securities Clearing Corp., 52461–52462
Pacific Exchange, Inc., 52462–52464

Southwestern Power Administration
NOTICES
Reports and guidance documents; availability, etc.:
Integrated system power rates; correction, 52380

State Department
RULES
Visas; nonimmigrant documentation:
Treaty trader, treaty investor, or treaty alien in specialty occupation; definition and clarification; new E-3 visa classification, 52292–52295

Statistical Reporting Service
See National Agricultural Statistics Service

Substance Abuse and Mental Health Services Administration

NOTICES
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 52419–52420

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
CSX Transportation, Inc., 52477–52482
Railroad services abandonment:
Cincinnati, New Orleans and Texas Pacific Railway Co., 52482–52483
Kansas City Southern Railway Co., 52483–52484

Trade Representative, Office of United States
NOTICES
Tariff-rate quota amount determinations:
Raw cane sugar; 2005 FY county-by-country reallocations, 52464

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Internal Revenue Service
See United States Mint

U.S. Citizenship and Immigration Services
NOTICES
Temporary protected status program designations; terminations, extensions, etc.:
Burundi, 52425–52429
Sudan, 52429–52433

United States Mint
NOTICES
Meetings:
Citizens Coinage Advisory Committee, 52484

Separate Parts In This Issue

Part II
Commerce Department, National Oceanic and Atmospheric Administration, 52488–52627

Part III
Commerce Department, National Oceanic and Atmospheric Administration, 52630–52858

Part IV
Housing and Urban Development Department, 52860–52892

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1405 52283

14 CFR
39 52285
71 52288
97 52288

18 CFR
Proposed Rules:
153 52328
157 52328
375 52328

19 CFR
Proposed Rules:
101 52336

21 CFR
510 52291
558 52291

22 CFR
41 52292

23 CFR
1327 52296

26 CFR
1 52299

32 CFR
706 52302

33 CFR
100 (2 documents) 52303, 52305
117 52307
165 52308
Proposed Rules:
100 52338
117 (2 documents) 52340, 52343

40 CFR
Proposed Rules:
136 52485

46 CFR
Proposed Rules:
531 52345

50 CFR
17 (2 documents) 52310, 52319
226 (2 documents) 52488, 52630
300 52324
679 (3 documents) 52325, 52326
Proposed Rules:
697 52346

Rules and Regulations

Federal Register
Vol. 70, No. 170
Friday, September 2, 2005

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

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1405

RIN 0560–AH35

Collection of State Commodity Assessments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Commodity Credit Corporation's (CCC) policy with respect to implementation of the discretionary authority provided to it by Public Law 108–470. This act allows for the collection of assessments levied on the marketings of agricultural commodities. Generally, these assessments are required, under State and Federal law, to be paid from CCC marketing assistance loan proceeds by a producer who markets the commodity or are required to be collected by the first purchaser of the commodity. This final rule adopts, with changes, the proposed rule published in the **Federal Register** on June 7, 2005 (70 FR 33043).

DATES: This rule is effective September 2, 2005.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham, 202–720–9154, e-mail: *Kimberly.Graham@usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Discussion of Final Rule

On June 7, 2005, CCC issued a proposed rule with respect to the manner in which it proposed to collect agricultural commodity assessments owed by a producer to a State or State agency when the producer had obtained a CCC marketing assistance loan. (70 FR 33043). The rule provided that CCC would deduct from marketing assistance loan proceeds an amount equal to any assessment required under State or Federal law to be paid by a producer who markets the commodity, or by the first purchaser of the commodity. The preamble of that rule described the history of CCC's role in collecting commodity assessments, the statutory authority allowing CCC to engage in the collection of commodity program assessments, and the necessity to codify the process for collecting commodity assessments. With respect to the collection of State assessments, the major provisions of the proposed rule included: (1) A request for CCC to engage in the collection activity must initially be submitted by the Governor of the State; (2) such request must identify the entity that the Governor has designated to enter into the collection agreement with CCC; (3) a statement from the Attorney General, at any time prior to final execution of the agreement, that the agreement is in compliance with applicable State laws and the provisions of section 1(a) of Public Law 108–470; (4) collection of the assessment, as requested by the Governor, may be at either the time the marketing assistance loan is disbursed to the producer or at the time of forfeiture of the commodity to CCC, but not both; and (5) the State agrees to indemnify CCC for any costs incurred in collecting the assessment, including costs relating to resolution of disputes arising from the requested collection of the assessment.

With respect to assessments collected under Federal statutes, the proposed rule provides that collections will be made as provided in such manner as may be agreed upon by CCC and the entity to whom the Secretary has delegated responsibility to otherwise engage in collection activities.

Comments and Changes to Final Rule

The 30-day comment period for the proposed rule closed on July 7, 2005. CCC received 36 responses from entities or persons, which included 22 agricultural commodity associations, nine producers, two Agency employees, two Designated Marketing Associations (DMA's), one State Department of Agriculture and one State Senator. In general, the majority of the responses support the intent and implementation of the proposed regulation. Seven commenters opposed the collection and deduction of commodity assessments from a producer's marketing assistance loan proceeds and five commenters support the proposed regulation as written. These comments were submitted without any additional explanations. CCC analyzed the public comments received and has decided to adopt the proposed rule, with some slight modifications as discussed below based on these comments.

One respondent requested specific information regarding the number of forfeited loans in the State of South Dakota. This comment did not address provisions of the proposed rule and was not within the scope of the proposed rule.

One commenter stated producers are better served by collecting the assessments at forfeiture rather than at loan disbursement. The commenter identified two specific reasons for collecting the assessment at the time of forfeiture rather than at loan disbursement. The first reason suggested that certified farm-stored marketing assistance loans may not accurately reflect the producer's harvested quantity; therefore, the assessment amount collected may not be accurate. The actual quantity delivered in satisfaction of the marketing assistance loan is determined at the time the commodity is sold or forfeited. The quantity delivered may differ from the quantity pledged as collateral for the marketing assistance loan. Collection of additional assessment amounts may be necessary. The second reason suggested producers may oppose the collection of commodity assessments at the time of loan making because the producer is responsible for the repayment of the full loan amount disbursed plus interest, if the producer repays the marketing assistance loan at principal plus interest. Therefore, the producer would be paying interest on the assessment amount deducted from the loan proceeds. CCC believes the proposed rule supports Public Law 108–470; therefore, these comments are not adopted and no changes were made.

One commenter suggested that, in the case of an approved Cooperative Marketing Association (CMA) or Designated Marketing Association (DMA), the entire marketing assistance

loan be disbursed to the CMA or DMA and the CMA or DMA be responsible for deducting the applicable commodity assessment and remitting the commodity assessment to the State entity. An approved CMA or DMA is eligible to receive marketing assistance loans or LDP's on behalf of their eligible producer members. CCC agrees with the commenter and believes it would be more difficult and complex to handle individual producer members' multi-state commodity assessment deductions. Since the CMA and DMA have administrative processes in place to monitor producer members' marketing assistance loan and LDP amounts and cooperative pool sale amounts for its' members amounts, CCC believes the CMA and DMA will ensure that fair and accurate distribution of the commodity assessment deductions will be made to the specific State entity. Therefore, the comments are adopted and such changes are included in the final rule.

More specific responses addressed particular provisions of the rule with respect to the collection of State commodity assessments. Some responses contained multiple comments. These comments are discussed below on a section-by-section basis, along with the changes that have been made to the interim rule.

Section 1405.9(b)(1)–(2)

Nine respondents opposed the provisions in section 1405.9(b)(1) and (2) that require the Governor of the State to request that the assessment be collected and the Attorney General of the State, or a person authorized to act on behalf of the Attorney General, provide CCC an opinion that the collection activity is authorized by State law and complies with the provisions of section 1(a) of Public Law 108–470. Most of the respondents suggested that the request from the Governor was superfluous since the state commodity commissions are created by State statute and are agencies of the State. It was suggested that a request from a state commission and a copy of the enabling legislation should be deemed sufficient for the purpose of making the initial request. Commenters also believe that obtaining a separate opinion from the Attorney General would be costly, time consuming, and redundant. In prior years, CCC has routinely required that approval from the Office of the Attorney General for a State be obtained by the party entering into such an agreement with CCC in order to ensure that such party has the authority to bind the State with respect to all of the provisions of the agreement. Specifically, CCC is concerned that such party must be able to obligate the State to reimburse CCC for any costs it may incur in the event CCC is sued by a party who objects to the collection of the assessment on behalf of the State. Accordingly, CCC will continue to require that such approval has been obtained before CCC will enter into an agreement to collect the assessment.

Section 1405.9(c)(1)–(2)

Several comments opposed the provisions in sections 1405.9(c)(1) and (2) that requires the State to indemnify CCC for any costs incurred in collecting the commodity assessment and that the producer have the ability to request from the State a refund of the assessment collected from the producer's marketing assistance loan. Several respondents expressed uncertainty as to whether the costs would include CCC administrative costs associated with routinely collecting and processing assessments. Commenters also expressed opposition towards the indemnification provision, if the provision included those types of administrative costs. The action of CCC in collecting State authorized commodity assessments provides no benefit to CCC and results in the expenditure of funds appropriated to FSA; the loss of these expenditures directly affects the ability of FSA to undertake its own activities. Accordingly, CCC has determined, since the beneficiary of this action is the State or State agency requesting the assessment be collected, that the costs of such action should not be borne by CCC or FSA.

With respect to allowing the producer to request from the State a refund of the collected assessment, CCC is required by statute to provide a certain levels of assistance to producers. By deducting state commodity assessments from the marketing assistance loan proceeds and not at the time of actual marketing increases the risk of the producer paying double assessments. A double assessment would result in a reduction of the statutory level of assistance required to be provided by CCC. Also, CCC is not responsible for tracking double assessments or for making refunds of double assessment collections to the producer. For that reason the final rule retains this requirement for the agreement; however, the final rule will clarify that the mandatory refund is applicable to refunds of double assessment collections.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was determined to be not significant, and has not been reviewed by the Office of Management Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is applicable to this final rule.

Environmental Assessment

The environmental impacts of this final rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA concluded that the rule requires no further environmental review because it is categorically excluded. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. This final rule preempts State laws that are inconsistent with it. This rule is not retroactive. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995.

The rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, Local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities

needed to administer the program authorized by these regulations are not subject to review by OMB under the Paperwork Reduction Act.

Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Federal Assistance Programs

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are Commodity Loans and Loan Deficiency Payments, 10.051.

List of Subjects in 7 CFR Part 1405

Agricultural commodities, Feed grains, Grains, Loan programs—agriculture, Oilseeds, Price support programs, Reporting and record keeping requirements.

■ Accordingly, 7 CFR part 1405 is amended as follows:

PART 1405—LOANS, PURCHASES, AND OTHER OPERATIONS

■ 1. The authority citation for part 1405 is revised to read as follows:

Authority: 7 U.S.C. 1515; 7 U.S.C. 7991(e); 15 U.S.C. 714b and 714c; and Public Law 108–470.

■ 2. Add § 1405.9 to read as follows:

§ 1405.9 Commodity assessments.

(a) CCC will deduct from the proceeds of a marketing assistance loan an amount equal to the amount of an assessment otherwise required to be remitted to a State agency under a State statute by the producer of the commodity pledged as collateral for such loan or by the first purchaser of such commodity subject to the requirements of paragraph (b) of this section.

(1) The assessment will be collected in one of the following ways, as requested by the State, but not both:

(i) When the proceeds of the loan are disbursed; or

(ii) When the commodity pledged as collateral for the loan is forfeited to CCC, in which case CCC will collect from the producer the amount of the assessment submitted by CCC to the State.

(2) CCC will deduct from the proceeds of a marketing assistance loan an amount equal to the amount of an assessment otherwise authorized to be remitted to a federally authorized entity under a Federal statute by the producer of the commodity pledged as collateral for such loan or the first purchaser of such commodity in the manner agreed to by CCC and the entity to whom the Secretary of Agriculture has authorized to collect such assessments.

(b) CCC will collect commodity assessments authorized under a State statute when:

(1) The State entity has:

(i) Requested that the assessment be collected;

(ii) Identified whether the assessment is to be collected at the time the loan proceeds are disbursed or at the time the commodity is forfeited to CCC;

(iii) Identified the person who may enter into an agreement with CCC that sets forth the obligations of the State and CCC with respect to the collection of the assessment; and

(iv) Provided an opinion from the Office of the Attorney General to CCC that concludes the person signing the agreement may obligate the State to comply with the agreement and the provisions of Public Law 108–470 have been met.

(2) The agreement described in paragraph (c) of this section has been executed by the appropriate State official and CCC.

(c) CCC will enter into an agreement with an authorized State official to collect commodity assessments when the actions set forth in paragraphs (b)(1) and (2) of this section have been completed. Such agreement will contain the obligations and responsibilities of the State and CCC. All such agreements will include provisions that provide:

(1) The State will indemnify CCC for any costs incurred in the collection of the assessment including costs incurred with respect to resolution of disputes arising from the requested collection of the assessment and for administrative costs incurred by CCC in the collection of the assessment;

(2) The State, in cases where an assessment has been collected two or more times with respect to the same quantity of the commodity subject to the assessment, will refund the amount of the excess collection to the producer.

(3) The agreement may be terminated by either party upon 30 days notice.

(4) The State, in cases where the marketing assistance loan is made by a cooperative marketing association or a designated marketing association approved by CCC, or any other similar entity that is approved by CCC, to obtain such a loan on behalf of its members may enter into individual arrangements with such entity to facilitate the collection of the assessment with the approval of CCC.

Signed in Washington, DC, on August 17, 2005.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–17500 Filed 9–1–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19536; Directorate Identifier 2004–NM–86–AD; Amendment 39–14247; AD 2005–18–07]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–11, DC–8–12, DC–8–21, DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 Airplanes; DC–8–50 Series Airplanes; DC–8F–54 and DC–8F–55 Airplanes; DC–8–60 Series Airplanes; DC–8–60F Series Airplanes; DC–8–70 Series Airplanes; and DC–8–70F Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain McDonnell Douglas transport category airplanes. That AD currently requires repetitive inspections for cracking of the lower cargo doorjamb corners, and corrective action if necessary. That AD provides for optional terminating action for certain repetitive inspections for certain airplanes. For certain other airplanes, that AD requires modification of the lower cargo doorjamb corners. This new AD adds airplanes to the applicability. The existing AD was prompted by reports of fatigue cracks in the fuselage skin in the lower cargo doorjamb corners; this AD is prompted by the inadvertent omission of certain airplanes from the existing applicability. We are issuing this AD to ensure that the unsafe condition will be addressed on all affected airplanes so that cracking in the lower cargo doorjamb corners is detected and corrected before it can result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

DATES: Effective October 7, 2005.

On April 29, 2004 (69 FR 15234, March 25, 2004), the Director of the

Federal Register approved the incorporation by reference of McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Jon Mowery, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5322; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004–06–06, amendment 39–13532 (69 FR 15234, March 25, 2004). The existing AD applies to certain McDonnell Douglas transport category airplanes. That NPRM was published in the **Federal Register** on November 5, 2004 (69 FR 64523). That NPRM proposed to add new airplanes to the applicability of AD 2004–06–06, and retained the requirements for repetitive inspections for cracking of the lower cargo doorjamb corners, and corrective action if necessary. That NPRM also retained the provision for optional terminating action for certain repetitive inspections for certain airplanes. For certain other airplanes, that NPRM retained the requirement to modify the lower cargo doorjamb corners.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM.

Request To Remove the Reporting Requirements

Two commenters request that the reporting requirements be removed from the NPRM. One commenter requests that, if the reporting requirements must be retained, the compliance time to report (within 10 days of the inspection) be extended to 30 days. One commenter states that the reporting of negative findings would provide very little useful information while imposing additional workload and cost to the operators and to the FAA. The other commenter also notes that similar ADs requiring inspections on principal structural elements on door corners do not mandate reporting requirements.

We agree with the commenter for the reasons stated, and have removed the reporting requirements from this AD.

Changes to Delegation Authority

Boeing has received a Delegation Option Authorization (DOA). We have revised this final rule to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Authorized Representative for the Boeing DOA Organization rather than the Designated Engineering Representative (DER).

Explanation of Change to the Applicability

We have specified model designations in the applicability of this AD as published in the most recent type certificate data sheet for the affected models.

Conclusion

We have carefully reviewed the available data, including the comments that have been received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 264 airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this AD, which adds no economic burden above that imposed by AD 2004–06–06. The current costs for this AD are repeated for the convenience of affected operators, as follows:

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of affected U.S.-registered airplanes	Fleet cost
Pre-modification inspections	24	$65	None required	$1,560, per inspection cycle.	Unknown	Unknown.
Modification	520	65	$25,000	$58,800	Unknown	Unknown.
Post-modification inspections	40	65	None required	$2,600, per inspection cycle.	244	$634,400, per inspection cycle.

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 regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13532 (69 FR 15234, March 25, 2004) and by adding the following new airworthiness directive (AD):

2005–18–07 McDonnell Douglas: Amendment 39–14247. Docket No. FAA–2004–19536; Directorate Identifier 2004–NM–86–AD.

Effective Date

(a) This AD becomes effective October 7, 2005.

Affected ADs

(b) This AD supersedes AD 2004–06–06, amendment 39–13532.

Applicability

(c) This AD applies to the following McDonnell Douglas airplanes, certificated in any category; as listed in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001:

(1) Model DC–8–11, DC–8–12, DC–8–21, DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 airplanes;

(2) Model DC–8–51, DC–8–52, DC–8–53, and DC–8–55 airplanes;

(3) Model DC–8F–54 and DC–8F–55 airplanes;

(4) Model DC–8–61, DC–8–62, and DC–8–63 airplanes;

(5) Model DC–8–61F, DC–8–62F, and DC–8–63F airplanes;

(6) Model DC–8–71, DC–8–72, and DC–8–73 airplanes; and

(7) Model DC–8–71F, DC–8–72F, and DC–8–73F airplanes.

Unsafe Condition

(d) This AD was prompted by reports of fatigue cracks in the fuselage skin in the lower cargo doorjamb corners. We are issuing this AD to detect and correct cracking in the lower cargo doorjamb corners, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Compliance

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

Restatement of Requirements of AD 2004–06–06

Note 1: This AD is related to AD 93–01–15, amendment 39–8469, and will affect Principal Structural Elements (PSEs) 53.08.042 and 53.08.043 of the DC–8 Supplemental Inspection Document (SID), Report L26–011, Volume II, Revision 7, dated April 1993.

Group 1 Airplanes: Inspections and Optional Terminating Action

(f) Except as provided by paragraph (l) of this AD: For airplanes identified as Group 1 in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001:

(1) Within 2,000 landings or 3 years after April 29, 2004 (the effective date of AD 2004–06–06, amendment 39–13532), whichever occurs first, perform applicable inspections for cracking of the lower cargo doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin.

(i) If no crack is detected during any inspection required by this paragraph: Repeat the inspections within the intervals specified in paragraph 1.E. of the service bulletin.

(ii) If any crack is detected during any inspection required by this paragraph: Repair before further flight in accordance with the Accomplishment Instructions of the service bulletin.

(2) Modification of the lower cargo doorjamb corners in accordance with the Accomplishment Instructions of the service bulletin terminates the repetitive inspection requirement of paragraph (f)(1)(i) of this AD.

(3) For airplanes repaired or modified in accordance with paragraph (f)(1)(ii) or (f)(2) of this AD: Within 17,000 landings after the repair or modification, perform an eddy current inspection for cracks of the doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin (Drawing SN08530001). Repeat the inspection at intervals not to exceed 4,400 landings.

Group 2 Airplanes: Modification

(g) Except as provided by paragraph (l) of this AD, for airplanes identified as Group 2 in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001:

(1) Within 2,000 landings or 3 years after April 29, 2004, whichever occurs first, modify the lower cargo doorjamb corners in accordance with the Accomplishment Instructions of the service bulletin.

(2) Within 17,000 landings after the modification required by paragraph (g)(1) of this AD, perform applicable inspections for cracking of the doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin. Repeat the inspections at intervals not to exceed 4,400 landings.

Group 3 and Group 4 Airplanes: Inspections

(h) For airplanes identified as Group 3 and Group 4 in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001: Within 17,000 landings following accomplishment of the modification specified in the service bulletin, perform applicable inspections for cracking of the lower cargo doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin. Repeat the inspections at intervals not to exceed 4,400 landings.

All Airplanes: Repair Following Post-Modification Inspections

(i) If any cracking is detected during any inspection required by paragraph (f)(3), (g)(2), or (h) of this AD: Repair before further flight in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Los Angeles 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.

Credit for Prior Accomplishment

(j) Inspections done before the effective date of April 29, 2004, in accordance with McDonnell Douglas Service Bulletin DC8–53–078, dated February 6, 1996, are acceptable for compliance with the applicable inspections required by this AD.

(k) Inspections and repairs specified in this AD of areas of PSEs 53.08.042 and 53.08.043 are acceptable for compliance with the applicable requirements of paragraphs (a) and (b) of AD 93–01–15. The remaining areas of the affected PSEs must be inspected and repaired as applicable, in accordance with AD 93–01–15.

Requirements for Newly Added Airplanes

(l) For airplanes not subject to the requirements of AD 2004–06–06, the reference time for compliance is the effective date of this new AD, rather than April 29, 2004 (the effective date of AD 2004–06–06).

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Los Angeles Aircraft Certification (ACO), Transport Airplane

Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Los Angeles 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

(n) You must use McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register previously approved the incorporation by reference of this document as of April 29, 2004 (69 FR 15234, March 25, 2004). Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the 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 August 24, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–17401 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20387; Airspace Docket No. 05–ANM–2]

RIN 2120–AA66

Amendment to VOR Federal Airway V–536; MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Federal Airway V–536 by adding a route from the Great Falls, MT, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the SWEDD intersection. The purpose of this airway segment is to enhance the management of aircraft transiting between Great Falls, MT, and Bozeman, MT.

DATES: Effective 0901 UTC, October 27, 2005.

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

SUPPLEMENTARY INFORMATION:

History

On May 25, 2005, the FAA published in the **Federal Register** a notice proposing to amend V–536 by extending the airway from the Great Falls VORTAC, to the SWEDD intersection (70 FR 30035). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR part 71) to modify V–536 by adding a segment from the Great Falls, MT, VORTAC to the SWEDD intersection. The purpose of this airway segment is to enhance the management of aircraft transiting between Great Falls, MT, and Bozeman, MT.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9N dated September 1, 2005, and effective September 16, 2005, 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 Department of Transportation (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.

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 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 FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–536 [Revised]

From North Bend, OR; INT North Bend 023° and Corvallis, OR, 235° radials; Corvallis; Deschutes, OR; 32 miles, 58 miles, 71 MSL, Pendleton, OR; Walla Walla, WA; Pullman, WA; 27 miles, 85 MSL, Mullan Pass, ID; 5 miles, 34 miles, 95 MSL, Kalispell, MT; 20 miles, 41 miles, 115 MSL, Great Falls, MT. INT Great Falls 185° and Bozeman, MT 338° radials; Bozeman, From Sheridan, WY; Gillette, WY; New Castle, WY; to Rapid City, SD.

* * * * *

Issued in Washington, DC, August 24, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–17208 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30455; Amdt. No. 3130]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 2, 2005. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 2, 2005.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC on August 26, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff

Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective 29 September 2005*

Muscatine, IA, Muscatine Muni, ILS OR LOC RWY 24, Amdt 1
Salina, KS, Salina Muni, RNAV (GPS) RWY 17, Orig
Salina, KS, Salina Muni, RNAV (GPS) RWY 35, Orig
Salina, KS, Salina Muni, GPS RWY 17, Orig, CANCELLED
Salina, KS, Salina Muni, GPS RWY 35, Orig, CANCELLED
Detroit, MI, Detroit Metropolitan/Wayne County, RNAV (GPS) RWY 4L, Amdt 1
Detroit, MI, Detroit Metropolitan/Wayne County, RNAV (GPS) RWY 21L, Amdt 1
Detroit, MI, Detroit Metropolitan/Wayne County, RNAV (GPS) RWY 27L, Amdt 1
Detroit, MI, Detroit Metropolitan/Wayne County, RNAV (GPS) RWY 27R, Amdt 1
Detroit, MI, Detroit Metropolitan/Wayne County, ILS OR LOC RWY 4L, ILS RWY 4L(CAT II), ILS RWY 4L (CAT III), Amdt 2
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) RWY 12L,Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) RWY 12R, Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) RWY 22,Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) RWY 30L,Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) RWY 30R, Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, COPTER ILS OR LOC RWY 30R, Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS PRM RWY 12L, Amdt 4, (SIMULTANEOUS CLOSE PARALLEL)
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS PRM RWY 30L, Amdt 5, (SIMULTANEOUS CLOSE PARALLEL)
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS PRM RWY 30R, Amdt 6, (SIMULTANEOUS CLOSE PARALLEL)
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS PRM RWY 12R, Amdt 3, (SIMULTANEOUS CLOSE PARALLEL)
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS OR LOC RWY 12L,ILS RWY 12L (CAT II), ILS RWY 12L (CAT III), Amdt 7
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS OR LOC RWY 30R,Amdt 11
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS OR LOC RWY 12R,ILS RWY 12R (CAT II), ILS RWY 12R (CAT III), Amdt 8
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, ILS OR LOC RWY 30L,ILS RWY 30L, (CAT II), Amdt 44
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) Y RWY 22, Orig, CANCELLED
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) Y RWY 30R, Orig, CANCELLED
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) Y RWY 30L, Orig, CANCELLED
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) Y RWY 12R, Orig, CANCELLED
Minneapolis, MN, Minneapolis-St. Paul Intl/ Wold-Chamberlain, RNAV (GPS) Y RWY 12L, Orig, CANCELLED

** * * Effective 27 October 2005*

Nenana, AK, Nenana Muni, RNAV (GPS) RWY 4L, Orig
Nenana, AK, Nenana Muni, NDB RWY 4L, Amdt 2
Nenana, AK, Nenana Muni, Takeoff Minimums and Textual DP, Amdt 3
Glendale, AZ, Glendale Municipal, Takeoff Minimums and Textual DP, Amdt 1
Phoenix, AZ, Phoenix Deer Valley, Takeoff Minimums and Textual DP, Amdt 5
Holyoke, CO, Holyoke, RNAV (GPS) RWY 14, Orig
Holyoke, CO, Holyoke, RNAV (GPS) RWY 32, Orig
Holyoke, CO, Holyoke, Takeoff Minimums and Textual DP, Orig
Daytona Beach, FL, Daytona Beach Intl, RNAV (GPS) RWY 16, Amdt 1
Daytona Beach, FL, Daytona Beach Intl, RNAV (GPS) RWY 25R, Amdt 1
Driggs, ID, Driggs-Reed Memorial, RNAV (GPS) RWY 3, Amdt 1
Storm Lake, IA, Storm Lake Muni, RNAV (GPS) RWY 17, Orig
Storm Lake, IA, Storm Lake Muni, RNAV (GPS) RWY 35, Orig
Storm Lake, IA, Storm Lake Muni, NDB RWY 17, Orig
Storm Lake, IA, Storm Lake Muni, GPS RWY 35, Amdt 1, CANCELLED
Alton/St. Louis, IL, St. Louis Regional, RNAV (GPS) RWY 11, Orig
Alton/St. Louis, IL, St. Louis Regional, RNAV (GPS) RWY 17, Orig
Alton/St. Louis, IL, St. Louis Regional, RNAV (GPS) RWY 29, Orig
Alton/St. Louis, IL, St. Louis Regional, RNAV (GPS) RWY 35, Orig
Alton/St. Louis, IL, St. Louis Regional, ILS OR LOC RWY 29, Amdt 11
Alton/St. Louis, IL, St. Louis Regional, LOC BC RWY 11, Amdt 8
Alton/St. Louis, IL, St. Louis Regional, NDB RWY 17, Amdt 11
Alton/St. Louis, IL, St. Louis Regional, NDB RWY 29, Amdt 11
Alton/St. Louis, IL, St. Louis Regional, VOR-A, Amdt 9
Alton/St. Louis, IL, St. Louis Regional, Takeoff Minimums and Textual DP, Orig
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, RNAV (GPS) RWY 11, Orig
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, RNAV (GPS) RWY 29, Orig
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, ILS OR LOC RWY 20, Amdt 2
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, ILS OR LOC RWY 29, Amdt 9
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, VOR RWY 11, Amdt 13
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, LOC BC RWY 11, Amdt 9
Bloomington, IL, Central IL Regional Arpt at Bloomington-Normal, GPS RWY 11, Orig-A, CANCELLED
Cahokia/St. Louis, IL, St. Louis Downtown, Takeoff Minimums and Textual DP, Amdt 7
Decatur, IL, Decatur, RNAV (GPS) RWY 6, Orig
Decatur, IL, Decatur, RNAV (GPS) RWY 18, Orig
Decatur, IL, Decatur, RNAV (GPS) RWY 24, Orig
Decatur, IL, Decatur, RNAV (GPS) RWY 36, Orig
Decatur, IL, Decatur, GPS RWY 6, Orig, CANCELLED
Decatur, IL, Decatur, GPS RWY 18, Orig, CANCELLED
Decatur, IL, Decatur, GPS RWY 36, Orig, CANCELLED
Dwight, IL, Dwight, RNAV (GPS) RWY 27, Orig
Dwight, IL, Dwight, GPS RWY 27, Orig, CANCELLED
Frankfort, IL, Frankfort, VOR OR GPS RWY 27, Amdt 4, CANCELLED
Frankfort, IL, Frankfort, Takeoff Minimums and Textual DP, Amdt 2, CANCELLED
Jacksonville, IL, Jacksonville Muni, RNAV (GPS) RWY 4, Orig
Jacksonville, IL, Jacksonville Muni, RNAV (GPS) RWY 13, Orig
Jacksonville, IL, Jacksonville Muni, RNAV (GPS) RWY 22, Orig
Jacksonville, IL, Jacksonville Muni, RNAV (GPS) RWY 31, Orig
Jacksonville, IL, Jacksonville Muni, VOR RWY 13, Amdt 1
Lincoln, IL, Logan County, RNAV (GPS) RWY 3, Orig
Lincoln, IL, Logan County, RNAV (GPS) RWY 21, Orig
Lincoln, IL, Logan County, NDB RWY 21, Amdt 2
Lincoln, IL, Logan County, VOR RWY 3, Amdt 7
Lincoln, IL, Logan County, Takeoff Minimums and Textual DP, Amdt 1
Litchfield, IL, Litchfield Muni, RNAV (GPS) RWY 9, Orig
Litchfield, IL, Litchfield Muni, RNAV (GPS) RWY 27, Orig
Litchfield, IL, Litchfield Muni, NDB RWY 9, Amdt 6
Litchfield, IL, Litchfield Muni, NDB RWY 27, Amdt 8
Litchfield, IL, Litchfield Muni, GPS RWY 27, Orig-A, CANCELLED

Litchfield, IL, Litchfield Muni, GPS RWY 9, Orig-A, CANCELLED
Litchfield, IL, Litchfield Muni, Takeoff Minimums and Textual DP, Amdt 3
Macomb, IL, Macomb Muni, RNAV (GPS) RWY 9, Orig
Macomb, IL, Macomb Muni, RNAV (GPS) RWY 27, Orig
Macomb, IL, Macomb Muni, LOC RWY 27, Amdt 3
Macomb, IL, Macomb Muni, NDB RWY 27, Amdt 3
Macomb, IL, Macomb Muni, VOR/DME-A, Amdt 8
Springfield, IL, Abraham Lincoln Capital, RNAV (GPS) RWY 4, Orig
Springfield, IL, Abraham Lincoln Capital, RNAV (GPS) RWY 13, Orig
Springfield, IL, Abraham Lincoln Capital, RNAV (GPS) RWY 22, Orig
Springfield, IL, Abraham Lincoln Capital, RNAV (GPS) RWY 31, Orig
Springfield, IL, Abraham Lincoln Capital, ILS OR LOC RWY 4, Amdt 25
Springfield, IL, Abraham Lincoln Capital, ILS OR LOC RWY 22, Amdt 8
Springfield, IL, Abraham Lincoln Capital, ILS OR LOC RWY 31, Amdt 2
Springfield, IL, Abraham Lincoln Capital, RADAR–1, Amdt 9
Springfield, IL, Abraham Lincoln Capital, NDB RWY 4, Amdt 19
Springfield, IL, Abraham Lincoln Capital, NDB RWY 22, Amdt 1
Springfield, IL, Abraham Lincoln Capital, VOR/DME RWY 22, Orig
Springfield, IL, Abraham Lincoln Capital, VOR RWY 22, Amdt 20A, CANCELLED
Springfield, IL, Abraham Lincoln Capital, Takeoff Minimums and Textual DP, Orig
Taylorville, IL, Taylorville Muni, RNAV (GPS) RWY 18, Orig
Taylorville, IL, Taylorville Muni, RNAV (GPS) RWY 36, Orig
Taylorville, IL, Taylorville Muni, NDB RWY 18, Amdt 4
Taylorville, IL, Taylorville Muni, GPS RWY 18, Orig, CANCELLED
Taylorville, IL, Taylorville Muni, Takeoff Minimums and Textual DP, Orig
Abilene, KS, Abilene Muni, RNAV (GPS) RWY 17, Orig
Abilene, KS, Abilene Muni, RNAV (GPS) RWY 35, Orig
Abilene, KS, Abilene Muni, VOR/DME-A, Amdt 3
Abilene, KS, Abilene Muni, GPS RWY 35,Orig, CANCELLED
Abilene, KS, Abilene Muni, VOR/DME RNAV RWY 35, Amdt 2, CANCELLED
Dodge City, KS, Dodge City Regional, RNAV (GPS) RWY 14, Amdt 1
Dodge City, KS, Dodge City Regional, RNAV (GPS) RWY 32, Amdt 1
Dodge City, KS, Dodge City Regional, ILS OR LOC RWY 14, Amdt 3
Wichita, KS, Colonel James Jabara, RNAV (GPS) RWY 18, Orig-A
Wichita, KS, Colonel James Jabara, RNAV (GPS) RWY 36, Orig-A
Gaithersburg, MD, Montgomery County Airpark, RNAV (GPS) RWY 32, Amdt 1, CANCELLED
Washington, MO, Washington Memorial, Takeoff Minimums and Textual DP, Orig
Santa Fe, NM, Santa Fe Muni, ILS OR LOC RWY 2, Amdt 6
Westhampton Beach, NY, Francis S. Gabreski, RNAV (GPS) RWY 6, Amdt 1
Charlotte, NC, Charlotte/Douglas Intl, VOR RWY 36L, Amdt 5, CANCELLED
Austin, TX, Austin-Bergstrom Intl, ILS OR LOC RWY 35L, Amdt 3
Lubbock, TX, Lubbock Preston Smith Intl, ILS OR LOC RWY 26, Amdt 3
Stephenville, TX, Clark Field Muni, RNAV (GPS) RWY 14, Orig
Stephenville, TX, Clark Field Muni, RNAV (GPS) RWY 32, Orig
Stephenville, TX, Clark Field Muni, VOR/DME-A, Amdt 1
Stephenville, TX, Clark Field Muni, Takeoff Minimums and Textual DP, Orig
Blacksburg, VA, Virginia Tech/Montgomery Executive, LOC/DME RWY 12, Amdt 1
Bellingham, WA, Bellingham Intl, RNAV (GPS) RWY 16, Orig
Bellingham, WA, Bellingham Intl, RNAV (GPS) RWY 34, Orig
Bellingham, WA, Bellingham Intl, GPS RWY 16, Orig-B, CANCELLED
Bellingham, WA, Bellingham Intl, GPS RWY 34, Orig-B, CANCELLED
Rice Lake, WI, Rice Lake Regional-Carl's Field, RNAV (GPS) RWY 19, Amdt 1

** * * Effective 22 December 2005*

Athens (Albany), OH, Ohio University Snyder Field, RNAV (GPS) RWY 7, Orig-A
Athens (Albany), OH, Ohio University Snyder Field, RNAV (GPS) RWY 25, Orig-A

[FR Doc. 05–17475 Filed 9–1–05; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for an approved new animal drug application (NADA) from Alpharma Inc., to Pharmaq AS. The drug labeler code for Pharmaq AS is also being listed.

DATES: This rule is effective September 2, 2005.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.gov*.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Drive, Fort Lee, NJ 07024, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 125–933 for ROMET–30 (sulfadimethoxine/ormetoprim) Type A medicated article to Pharmaq AS, Skogmo Industriomrade, N–7863 Overhalla, Norway. Accordingly, the agency is amending the regulations in 21 CFR 558.575 to reflect the transfer of ownership.

In addition, Pharmaq AS has not been previously listed in the animal drug regulations as a sponsor of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to add entries for Pharmaq AS.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Section 510.60o is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''Pharmaq AS'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''015331'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Pharmaq AS, Skogmo Industriomrade, N–7863 Overhalla, Norway.	015331
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* *	* * *
015331	Pharmaq AS, Skogmo Industriomrade, N–7863 Overhalla, Norway.
* *	* * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.575 [Amended]

■ 4. Section 558.575 is amended in paragraph (a)(2) by removing ''046573'' and by adding in its place ''No. 015331''.

Dated: August 22, 2005.

Steven D. Vaughn,

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

[FR Doc. 05–17472 Filed 9–1–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Part 41

RIN 1400–AC12

[Public Notice 5181]

Visas: Treaty Trader, Treaty Investor, or Treaty Alien in a Specialty Occupation

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This rule expands the definition of treaty trader and treaty investor contained at 22 CFR 41.51 to include a new nonimmigrant category (E–3) for nonimmigrant treaty aliens coming to the United States solely to perform services in a specialty occupation. It also reorganizes existing regulatory language pertaining to treaty traders and treaty investors to make this information clearer and easier to read.

DATES: This rule is effective September 2, 2005.

FOR FURTHER INFORMATION CONTACT: Charles Robertson, Legislation and Regulations Division, Visa Services, Department of State, 2401 E Street, NW., Room L–603D, Washington, DC 20520–0106; telephone 202–663–1221; e-mail *robertsonce@state.gov.*

SUPPLEMENTARY INFORMATION:

Why Is the Department Promulgating This Rule?

Because of the passage of a new law amending the Immigration and Nationality Act (INA). The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109–13, 119 Stat. 231 was signed into law by the President on May 11, 2005. Division B, Title V, Section 501 of the Act adds a new nonimmigrant visa classification for certain treaty aliens who are coming to the United States solely to perform services in a specialty occupation. The classification will hereafter be designated the ''E–3 visa.''

Who Qualifies for the E–3 Visa?

The new E–3 visa classification currently applies only to nationals of Australia as well as their spouses and children. E–3 principal nonimmigrant aliens must be coming to the United States solely to perform services in a specialty occupation.

Are There Other Requirements for Qualifying for an E–3 Visa?

The E–3 visa classification is numerically limited, with a maximum of 10,500 visas available annually. Spouses and children do not count against the numerical limitation nor are they required to possess the nationality of the principal. A Labor Condition Application (LCA), containing attestations by the sponsoring employer related to wages and working conditions, must be filed with and approved by the Department of Labor (DOL). At the time of visa application, the visa applicant must present the consular officer with the original or copy of the approved LCA. However, if the applicant cannot provide the original, the consular officer, at his/her discretion, may accept a certified copy of the approval. The approved LCA represents DOL's certification that the employer has met the attestation requirements of the E–3 statute.

What Is a Specialty Occupation?

In general, a specialty occupation is one that requires theoretical and practical application of a body of knowledge in professional fields and at least the attainment of a bachelor's degree, or its equivalent, as a minimum for entry into the occupation in the United States. The Department's regulations governing E–3 visas incorporate the definitions contained in section 214(i)(1) of the Immigration and Nationality Act (INA). In order to determine what constitutes a ''specialty occupation,'' consular officers abroad will be guided by, and will apply, regulatory criteria already developed by the Department of Homeland Security for the H–1B classification.

Is It Necessary To File a Petition With the Department of Homeland Security as a Prerequisite to Visa Issuance?

No petition to the Department of Homeland Security is necessary. Instead, in the case of an employee seeking a visa, the employee will present the necessary evidence for classification directly to the consular officer at the time of visa application. Such evidence will include the original or copy of the Labor Condition Application signed by the prospective employer and approved by the Department of Labor. Procedures for the E–3 visa are similar to those established for obtaining H–1B1 classification under the U.S.-Chile and U.S.-Singapore Free Trade Agreements.

May Spouses Work?

Yes. INA 214(e)(6) permits the spouse of a principal E nonimmigrant to engage in employment in the United States. As is the case for the spouse of a principal E–1 and E–2 nonimmigrant, the spouse of a qualified E–3 nonimmigrant may, upon admission to the United States, apply for an employment authorization document, which an employer could use to verify the spouse's employment eligibility. Such spousal employment may be in a position other than a specialty occupation.

Regulatory Findings

Administrative Procedure Act

This final rule involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not have substantial direct effects on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this rule does not have sufficient federalism implications to warrant application of consultation provisions of Executive Orders 12372 and 13132. This rule does not impose any new reporting or recordkeeping

requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Regulatory Flexibility Act/Executive Order 13272: Small Business

This rule is not subject to the notice-and-comment rulemaking provisions of the Administrative Procedure Act or any other act, and, accordingly it does not require analysis under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and Executive Order 13272, section 3(b).

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the proposed regulation justify its costs. The Department does not consider the proposed rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of $100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Paperwork Reduction Act

Applicants for E–3 visas will fill out forms that OMB has already approved, the DS–156 form (approved OMB 1405–0019) and the DS–157 form (approved OMB 1405–0134). A specialized form for E–3 applications may be developed in the future.

List of Subjects in 22 CFR Part 41

Immigration, Passports and visas.

PART 41—[AMENDED]

■ 1. The authority citation for part 41 continues to read:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801.

Additional authority is derived from Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), PL–104–208, 110 Stat. 3546; as well as the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, P.L. 109–13, 119 Stat. 231.

■ 2. Revise § 41.51 to read as follows:

§ 41.51 Treaty trader, treaty investor, or treaty alien in a specialty occupation.

(a) *Treaty trader.* (1) *Classification.* An alien is classifiable as a nonimmigrant treaty trader (E–1) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(E)(i) and that the alien:

(i) Will be in the United States solely to carry on trade of a substantial nature, which is international in scope, either on the alien's behalf or as an employee of a foreign person or organization engaged in trade, principally between the United States and the foreign state of which the alien is a national, (consideration being given to any conditions in the country of which the alien is a national which may affect the alien's ability to carry on such substantial trade); and

(ii) Intends to depart from the United States upon the termination of E–1 status.

(2) *Employee of treaty trader.* An alien employee of a treaty trader may be classified E–1 if the employee is in or is coming to the United States to engage in duties of an executive or supervisory character, or, if employed in a lesser capacity, the employee has special qualifications that make the services to be rendered essential to the efficient operation of the enterprise. The employer must be:

(i) A person having the nationality of the treaty country, who is maintaining the status of treaty trader if in the United States or, if not in the United States, would be classifiable as a treaty trader; or

(ii) An organization at least 50% owned by persons having the nationality of the treaty country who are maintaining nonimmigrant treaty trader status if residing in the United States or, if not residing in the United States, who would be classifiable as treaty traders.

(3) *Spouse and children of treaty trader.* The spouse and children of a treaty trader accompanying or following to join the principal alien are entitled to the same classification as the principal alien. The nationality of a spouse or child of a treaty trader is not material to the classification of the spouse or child under the provisions of INA 101(a)(15)(E).

(4) *Representative of foreign information media.* Representatives of foreign information media shall first be considered for possible classification as nonimmigrants under the provisions of INA 101(a)(15)(I), before consideration is given to their possible classification as treaty traders under the provisions of INA 101(a)(15)(E) and of this section.

(5) *Treaty country.* A treaty country is for purposes of this section a foreign state with which a qualifying Treaty of Friendship, Commerce, and Navigation or its equivalent exists with the United States. A treaty country includes a foreign state that is accorded treaty visa privileges under INA 101(a)(15)(E) by specific legislation (other than the INA).

(6) *Nationality of the treaty country.* The authorities of the foreign state of which the alien claims nationality determine the nationality of an individual treaty trader. In the case of an organization, ownership must be traced as best as is practicable to the individuals who ultimately own the organization.

(7) *Trade.* The term ''trade'' as used in this section means the existing international exchange of items of trade for consideration between the United States and the treaty country. Existing trade includes successfully negotiated contracts binding upon the parties that call for the immediate exchange of items of trade. This exchange must be traceable and identifiable. Title to the

trade item must pass from one treaty party to the other.

(8) *Item of trade.* Items that qualify for trade within these provisions include but are not limited to goods, services, technology, monies, international banking, insurance, transportation, tourism, communications, and some news gathering activities.

(9) *Substantial trade.* Substantial trade for the purposes of this section entails the quantum of trade sufficient to ensure a continuous flow of trade items between the United States and the treaty country. This continuous flow contemplates numerous exchanges over time rather than a single transaction, regardless of the monetary value. Although the monetary value of the trade item being exchanged is a relevant consideration, greater weight is given to more numerous exchanges of larger value. In the case of smaller businesses, an income derived from the value of numerous transactions that is sufficient to support the treaty trader and his or her family constitutes a favorable factor in assessing the existence of substantial trade.

(10) *Principal trade.* Trade shall be considered to be principal trade between the United States and the treaty country when over 50% of the volume of international trade of the treaty trader is conducted between the United States and the treaty country of the treaty trader's nationality.

(11) *Executive or supervisory character.* The executive or supervisory element of the employee's position must be a principal and primary function of the position and not an incidental or collateral function. Executive and/or supervisory duties grant the employee ultimate control and responsibility for the enterprise's overall operation or a major component thereof.

(i) An executive position provides the employee great authority to determine policy of and direction for the enterprise.

(ii) A position primarily of supervisory character grants the employee supervisory responsibility for a significant proportion of an enterprise's operations and does not generally involve the direct supervision of low-level employees.

(12) *Special qualifications.* Special qualifications are those skills and/or aptitudes that an employee in a lesser capacity brings to a position or role that are essential to the successful or efficient operation of the enterprise.

(i) The essential nature of the alien's skills to the employing firm is determined by assessing the degree of proven expertise of the alien in the area of operations involved, the uniqueness of the specific skill or aptitude, the length of experience and/or training with the firm, the period of training or other experience necessary to perform effectively the projected duties, and the salary the special qualifications can command. The question of special skills and qualifications must be determined by assessing the circumstances on a case-by-case basis.

(ii) Whether the special qualifications are essential will be assessed in light of all circumstances at the time of each visa application on a case-by-case basis. A skill that is unique at one point may become commonplace at a later date. Skills required to start up an enterprise may no longer be essential after initial operations are complete and are running smoothly. Some skills are essential only in the short-term for the training of locally hired employees. Long-term essentiality might, however, be established in connection with continuous activities in such areas as product improvement, quality control, or the provision of a service not generally available in the United States.

(13) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Attorney General and the Secretary of Labor have certified that:

(i) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and

(ii) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

(b) *Treaty investor.* (1) *Classification.* An alien is classifiable as a nonimmigrant treaty investor (E'2) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(E)(ii) and that the alien:

(i) Has invested or is actively in the process of investing a substantial amount of capital in bona fide enterprise in the United States, as distinct from a relatively small amount of capital in a marginal enterprise solely for the purpose of earning a living; and

(ii) Is seeking entry solely to develop and direct the enterprise; and

(iii) Intends to depart from the United States upon the termination of E'2 status.

(2) *Employee of treaty investor.* An alien employee of a treaty investor may be classified E–2 if the employee is in or is coming to the United States to engage in duties of an executive or supervisory character, or, if employed in a lesser capacity, the employee has special qualifications that make the services to be rendered essential to the efficient operation of the enterprise. The employer must be:

(i) A person having the nationality of the treaty country, who is maintaining the status of treaty investor if in the United States or, if not in the United States, who would be classifiable as a treaty investor; or

(ii) An organization at least 50% owned by persons having the nationality of the treaty country who are maintaining nonimmigrant treaty investor status if residing in the United States or, if not residing in the United States, who would be classifiable as treaty investors.

(3) *Spouse and children of treaty investor.* The spouse and children of a treaty investor accompanying or following to join the principal alien are entitled to the same classification as the principal alien. The nationality of a spouse or child of a treaty investor is not material to the classification of the spouse or child under the provisions of INA 101(a)(15)(E).

(4) *Representative of foreign information media.* Representatives of foreign information media shall first be considered for possible classification as nonimmigrants under the provisions of INA 101(a)(15)(I), before consideration is given to their possible classification as nonimmigrants under the provisions of INA 101(a)(15)(E) and of this section.

(5) *Treaty country.* A treaty country is for purposes of this section a foreign state with which a qualifying Treaty of Friendship, Commerce, and Navigation or its equivalent exists with the United States. A treaty country includes a foreign state that is accorded treaty visa privileges under INA 101(a)(15)(E) by specific legislation (other than the INA).

(6) *Nationality of the treaty country.* The authorities of the foreign state of which the alien claims nationality determine the nationality of an individual treaty investor. In the case of an organization, ownership must be traced as best as is practicable to the individuals who ultimately own the organization.

(7) *Investment.* Investment means the treaty investor's placing of capital, including funds and other assets, at risk in the commercial sense with the objective of generating a profit. The treaty investor must be in possession of and have control over the capital invested or being invested. The capital must be subject to partial or total loss if investment fortunes reverse. Such investment capital must be the investor's unsecured personal business capital or capital secured by personal assets. Capital in the process of being

invested or that has been invested must be irrevocably committed to the enterprise. The alien has the burden of establishing such irrevocable commitment given to the particular circumstances of each case. The alien may use any legal mechanism available, such as by placing invested funds in escrow pending visa issuance, that would not only irrevocably commit funds to the enterprise but that might also extend some personal liability protection to the treaty investor.

(8) *Bona fide enterprise.* The enterprise must be a real and active commercial or entrepreneurial undertaking, producing some service or commodity for profit and must meet applicable legal requirements for doing business in the particular jurisdiction in the United States.

(9) *Substantial amount of capital.* A substantial amount of capital constitutes that amount that is:

(i)(A) Substantial in the proportional sense, *i.e.*, in relationship to the total cost of either purchasing an established enterprise or creating the type of enterprise under consideration;

(B) Sufficient to ensure the treaty investor's financial commitment to the successful operation of the enterprise; and

(C) Of a magnitude to support the likelihood that the treaty investor will successfully develop and direct the enterprise.

(ii) Whether an amount of capital is substantial in the proportionality sense is understood in terms of an inverted sliding scale; *i.e.*, the lower the total cost of the enterprise, the higher, proportionately, the investment must be to meet these criteria.

(10) *Marginal enterprise.* A marginal enterprise is an enterprise that does not have the present or future capacity to generate more than enough income to provide a minimal living for the treaty investor and his or her family. An enterprise that does not have the capacity to generate such income but that has a present or future capacity to make a significant economic contribution is not a marginal enterprise. The projected future capacity should generally be realizable within five years from the date the alien commences normal business activity of the enterprise.

(11) *Solely to develop and direct.* The business or individual treaty investor does or will develop and direct the enterprise by controlling the enterprise through ownership of at least 50% of the business, by possessing operational control through a managerial position or other corporate device, or by other means.

(12) *Executive or supervisory character.* The executive or supervisory element of the employee's position must be a principal and primary function of the position and not an incidental or collateral function. Executive and/or supervisory duties grant the employee ultimate control and responsibility for the enterprise's overall operation or a major component thereof.

(i) An executive position provides the employee great authority to determine policy of and direction for the enterprise.

(ii) A position primarily of supervisory character grants the employee supervisory responsibility for a significant proportion of an enterprise's operations and does not generally involve the direct supervision of low-level employees.

(13) *Special qualifications.* Special qualifications are those skills and/or aptitudes that an employee in a lesser capacity brings to a position or role that are essential to the successful or efficient operation of the enterprise.

(i) The essential nature of the alien's skills to the employing firm is determined by assessing the degree of proven expertise of the alien in the area of operations involved, the uniqueness of the specific skill or aptitude, the length of experience and/or training with the firm, the period of training or other experience necessary to perform effectively the projected duties, and the salary the special qualifications can command. The question of special skills and qualifications must be determined by assessing the circumstances on a case-by-case basis.

(ii) Whether the special qualifications are essential will be assessed in light of all circumstances at the time of each visa application on a case-by-case basis. A skill that is unique at one point may become commonplace at a later date. Skills required to start up an enterprise may no longer be essential after initial operations are complete and are running smoothly. Some skills are essential only in the short-term for the training of locally hired employees. Long-term essentiality might, however, be established in connection with continuous activities in such areas as product improvement, quality control, or the provision of a service not generally available in the United States.

(14) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Attorney General and the Secretary of Labor have certified that:

(i) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and

(ii) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

(c) Nonimmigrant E–3 treaty aliens in specialty occupations. (1) *Classification.* An alien is classifiable as a nonimmigrant treaty alien in a specialty occupation if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(E)(iii) and that the alien:

(i) Possesses the nationality of the country statutorily designated for treaty aliens in specialty occupation status;

(ii) Satisfies the requirements of INA 214(i)(1) and the corresponding regulations defining specialty occupation promulgated by the Department of Homeland Security;

(iii) Presents to a consular officer a copy of the Labor Condition Application signed by the employer and approved by the Department of Labor, and meeting the attestation requirements of INA Section 212(t)(1);

(iv) Presents to a consular officer evidence of the alien's academic or other qualifying credentials as required under INA 214(i)(1), and a job offer letter or other documentation from the employer establishing that upon entry into the United States the applicant will be engaged in qualifying work in a specialty occupation, as defined in paragraph (c)(1)(ii) of this section, and that the alien will be paid the actual or prevailing wage referred to in INA 212(t)(1);

(v) Has a visa number allocated under INA 214(g)(11)(B); and,

(vi) Intends to depart upon the termination of E–3 status.

(2) *Spouse and children of treaty alien in a specialty occupation.* The spouse and children of a treaty alien in a specialty occupation accompanying or following to join the principal alien are, if otherwise admissible, entitled to the same classification as the principal alien. A spouse or child of a principal E–3 treaty alien need not have the same nationality as the principal in order to be classifiable under the provisions of INA 101(a)(15)(E). Spouses and children of E–3 principals are not subject to the numerical limitations of INA 214(g)(11)(B).

Dated: July 14, 2005.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 05–17622 Filed 9–1–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1327

[Docket No. NHTSA–05–22265]

RIN 2127–AJ66

Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System Pursuant to a Personnel Security Investigation and Determination

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends the agency's National Driver Register (NDR) regulations to implement an amendment to the National Driver Register Act of 1982. The amendment authorizes a Federal department or agency that investigates an individual for the purpose of determining the individual's eligibility to access national security information to request and receive information from the National Driver Register, upon request and consent of the individual. This interim final rule establishes the procedures for individuals to request and for the Federal department or agency to receive NDR information.0

DATES: This interim final rule becomes effective on September 30, 2005. Comments on this interim final rule are due no later than November 1, 2005.

FOR FURTHER INFORMATION CONTACT: For program issues: Mr. Sean McLaurin, Chief, National Driver Register, NPO–124, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366–4800. For legal issues: Mr. Roland (R.T.) Baumann III, Attorney-Advisor, Office of the Chief Counsel, NCC–113, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366–1834.

SUPPLEMENTARY INFORMATION:

I. Background

A. National Driver Register

The National Driver Register (NDR) is a central file of information on individuals whose license to operate a motor vehicle in a State has been denied, revoked, suspended, or canceled, for cause, or who have been convicted of certain serious traffic-related violations in a State, such as racing on the highway or driving while impaired by alcohol or other drugs. The NDR was designed to prevent such individuals from obtaining a driver's license in another State, using a device known as the Problem Driver Pointer System (PDPS).

The PDPS consists of a list of problem drivers (with certain identifying information) contained in ''pointer'' records. These records ''point'' to the State where the substantive adverse records about the driver can be obtained. The PDPS system is fully automated and enables State driver licensing officials to determine instantaneously whether another State has taken adverse action against a license applicant.

B. National Driver Register Act of 1982

The NDR Act of 1982, as amended, 49 U.S.C. 30301, *et seq.*, authorizes State chief driver licensing officials to request and receive information from the NDR for driver licensing and driver improvement purposes. When an individual applies for a driver's license, for example, these State officials are authorized to request and receive NDR information to determine whether the applicant's driver's license has been withdrawn for cause or the applicant has been convicted of specific offenses in another State. Because the NDR is a nationwide index, State chief driver licensing officials need only submit a single inquiry to obtain this information.

State chief driver licensing officials also are authorized under the NDR Act to request NDR information on behalf of other NDR users for specific transportation safety purposes. The NDR Act authorizes the following entities to receive NDR information for limited transportation purposes: the National Transportation Safety Board and the Federal Highway Administration for accident investigation purposes; employers and prospective employers of motor vehicle operators; the Federal Aviation Administration (FAA) regarding any individual who holds or has applied for an airman's certificate; air carriers regarding individuals who are seeking employment with the air carrier; the Federal Railroad Administration (FRA) and employers or prospective employers of locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document. The Act also allows individuals to learn whether information about themselves is on the NDR file and to receive any such information.

The NDR statute allows the head of a Federal department or agency authorized to receive information regarding an individual from the NDR to request and receive such information from the Secretary of Transportation. 49 U.S.C. 30305(b)(11). This provision, by its operation, affords direct access to the NDR to identified Federal departments and agencies (through NHTSA), without the need to submit an inquiry to a State driver licensing official. In practice, virtually all Federal departments or agencies with specific access provisions have submitted inquiries directly to NHTSA.

C. Recent Amendment to National Driver Act of 1982

On October 28, 2004, Public Law 108–375 amended the NDR Act of 1982. Section 1061 of Public Law 108–375 allows ''[a]n individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order, [to] request the chief driver licensing official of a State to provide [NDR] information about the individual * * * to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment in a position requiring access to national security information.'' This interim final rule amends the NDR regulations, 23 CFR Part 1327, to incorporate procedures governing access to NDR information to assist in personnel security investigations.

II. Procedures for Requesting and Receiving NDR Information for Personnel Security Investigations

Under the interim final rule, the procedures that a Federal department or agency performing personnel security investigations of individuals must follow to receive NDR information are similar to those followed by the FAA, the FRA, and the U.S. Coast Guard in checking their applicants for employment or certification.

The Federal department or agency may not, itself, initiate a request for NDR information. Rather, the individual subject to a personnel security investigation must do so. To initiate a request, the individual must either complete, sign and submit a request to

the chief driver licensing official of a State for an NDR file search or authorize the Federal department or agency to request the chief driver licensing official to conduct the NDR file search by providing a written and signed consent. Just as in NDR requests for traffic safety purposes, the request or written consent must state that NDR records are being requested; state specifically who is authorized to receive the records; be dated and signed by the individual; and state that it is recommended (but not required) that the Federal department or agency verify matches with the state of record. Consistent with a specific statutory restriction concerning personnel security investigations, it must also state that the authorization is valid only during the performance of the security investigation.

In accordance with Public Law 108–375, requests to transmit NDR information to the Federal department or agency (made either directly by individuals or through a written consent) may be submitted through a State chief driver licensing official. Since all 50 States and the District of Columbia currently participate in the NDR PDPS, requests may be submitted to any of the chief driver licensing officials.

Because Federal departments or agencies that perform personnel security investigations are afforded the specific right to receive NDR information, they are subject to the provision that allows them to request and receive such information from the Secretary of Transportation. Hence, they need not submit a request to the State chief driver licensing official. Consistent with past practice for safety related requests, we expect virtually all requests from Federal departments or agencies that perform personnel security investigations will be sent directly to NHTSA.

To implement these procedures, the interim final rule amends the NDR regulation at 23 CFR 1327.5, setting forth requirements that States must follow to accept NDR inquiries submitted to a chief driver licensing official. The interim final rule also amends the regulatory sections at 23 CFR 1327.6 and 1327.7, setting forth procedures for NDR inquiries submitted directly to the agency. To make clear that a covered personnel security investigation is limited to an investigation for the purpose of assisting in the determination of eligibility for access to national security information or for Federal employment in a position requiring access to national security information, the interim final rule adds a definition of ''personnel security investigation'' to 23 CFR 1327.3.

Interim Final Rule

This document is published as an interim final rule. Accordingly, the changes to part 1327 described above become effective on September 30, 2005. No further regulatory action by NHTSA is necessary to make these changes effective.

Publication as an interim final rule, without prior notice and opportunity for comment, is necessary to permit individuals subject to background investigations for security clearances to submit requests to the NDR and Federal departments or agencies to receive NDR information as soon as possible. The changes made to the regulation in this interim final rule are minor and simply reflect the statutory amendments enacted by Public Law 108–375. These changes create procedures that are nearly identical to existing regulatory procedures being followed by the States, by airmen, by seamen/merchant mariners, and by others in the field of transportation safety, which were previously subjected to notice and opportunity for comment.

Statutory Basis for This Rule

This interim final rule implements a NDR access provision mandated by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375, Section 1061). The NDR Act of 1982 (Pub. L. 97–364) provides general authority to issue regulations regarding access to the PDPS.

Comments

NHTSA requests comments on these regulatory changes. All comments submitted in response to this document will be considered by the agency. Following the close of the comment period, NHTSA will publish a document responding to the comments, and if appropriate, will further amend the provisions of 23 CFR part 1327. However, the interim final rule published today is effective upon publication.

Interested persons are invited to comment on this interim final rule. It is requested, but not required, that two copies be submitted. All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit. (See 49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

You may submit your comments by one of the following methods:

(1) By mail to: Docket Management Facility, Docket No. NHTSA–05–XXXX, DOT, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590;

(2) By hand delivery to: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday;

(3) By fax to the Docket Management Facility at (202) 493–2251; or

(4) By electronic submission: log onto the DMS Web site at *http://dms.dot.gov* and click on ''Help and Information'' or ''Help/Info'' to obtain instructions.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. The agency will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

You may review submitted comments in person at the Docket Management Facility located at Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday.

You may also review submitted comments on the Internet by taking the following steps:

(1) Go to the DMS Web page at *http://dms.dot.gov/search/.*

(2) On that page, click on ''search''.

(3) On the next page (*http://dms.dot.gov/search/*) type in the four digit docket number shown at the beginning of this notice. Click on ''search''.

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may also download the comments. Although the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume

65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Those persons who wish to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Regulatory Analyses and Notices

Executive Order 12988 (Civil Justice Reform)

This action does not have any preemptive or retroactive effect. This action 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.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) provides for making determinations on whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The agency has considered the impact of this action under Executive Order 12866 and determined that it is not significant. The action is also not significant under the Department of Transportation's regulatory policies and procedures. The changes in this interim final rule merely reflect amendments contained in Public Law 108–375 providing NDR access to another group of NDR individuals—individuals who are subject to personnel security investigations. Because Public Law 108–375 provides specific NDR access to Federal departments or agencies performing personnel security investigations and because the NDR Act allows Federal agencies with specific access provisions to submit them directly to the Secretary of Transportation (by delegation, to NHTSA), we do not anticipate that this action will increase significantly the number of NDR inquiries processed by State driver licensing officials. Most, if not all, such inquiries will likely be submitted to NHTSA. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 5 U.S.C. 601–612) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. I hereby certify that the action would not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

There are reporting requirements contained in the regulation that this interim final rule is amending that are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. This interim final rule does not change the reporting requirements for participating States or the procedures to be followed by individuals who request NDR information. These requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3500, *et seq.*). These requirements have been approved through July 30, 2006, under OMB No. 2127–0001.

National Environmental Policy Act

The agency has reviewed this action for the purposes of the National Environmental Policy Act (42 U.S.C. 4321, et. seq.) and has determined that it would not have a significant impact on the quality of the human environment.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This interim final rule may require that some States driver licensing officials process additional inquiries submitted to them for purposes of personnel security investigations. However, because the statute allows this type of inquiry to be submitted directly to the Secretary of Transportation (by delegation, to NHTSA), we do not anticipate that States will face a significant increase in NDR requests and, therefore, in associated costs. Most, if not all, such requirements will likely be submitted to NHTSA. Accordingly, this action does not require an assessment under this law.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in the Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment. Accordingly, a Federalism Assessment is not required.

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The agency has analyzed this action under Executive Order 13175, and has determined that the action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This rule is not subject to E.O. 13045 because it is not ''economically significant'' as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory section listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this section with the Unified Agenda.

List of Subjects in 23 CFR Part 1327

Highway safety, Intergovernmental relations, and Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the agency amends title 23 of CFR part 1327 as follows:

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

■ 1. The authority citation for part 1327 continues to read as follows:

Authority: Pub. L. 97–364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

■ 2. Amend § 1327.3 by redesignating paragraphs (o) through (y) as paragraphs

(p) through (z) and by inserting new paragraph (o) to read as follows:

§ 1327.3 Definitions.

* * * * *

(o) Personnel security investigation means an investigation of an individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information under the authority of Executive Order No. 12968, or any successor Executive order, or for Federal employment in a position requiring access to national security information under the authority of Executive Order No. 10450, or any successor Executive order.

* * * * *

■ 3. Amend § 1327.5 by redesignating paragraph (d) as (e) and by inserting new paragraph (d) to read as follows:

§ 1327.5 Conditions for becoming a participating State.

* * * * *

(d) Personnel security investigations. The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from individuals subject to personnel security investigations and from Federal departments or agencies that are authorized to perform personnel security investigations. These authorized users may receive information from the NDR file through participating States.

(1) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the Federal department or agency if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

(i) State that NDR records are to be released;

(ii) Specifically state who is authorized to receive the records;

(iii) Be signed and dated by the individual or individual's legal representative;

(iv) Specifically state that the authorization is valid only for the duration of the personnel security investigation; and

(v) Specifically state that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(2) Any request made by a Federal department or agency may include, in lieu of the actual information described in paragraphs (d)(1)(i) (C) through (E) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid only for the duration of the personnel security investigation, and specifically stated that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(3) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the Federal department or agency may obtain additional information regarding the individual's driving record.

* * * * *

■ 4. Amend § 1327.6 by redesignating paragraphs (h) through (i) as paragraphs (i) through (j) and by inserting new paragraph (h) to read as follows:

§ 1327.6 Conditions and procedures for other authorized users of the NDR.

* * * * *

(h) Federal departments or agencies conducting personnel security investigations. (1) To initiate an NDR file check, an individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order shall follow the procedures specified in § 1327.7

(2) Upon receipt of the NDR information, the Federal department or agency should make information from the State of Record available to the individual for review and comment.

(3) In the case of a match (probable identification), the Federal department or agency conducting the personnel security investigation should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis for any action against the individual.

(4) A Federal department or agency that receives information about an individual under this section may use such information only for purposes of the authorized investigation and only in accordance with applicable law.

* * * * *

■ 5. Amend § 1327.7 by revising paragraphs (a) introductory text, (d)(4), and (d)(5) to read as follows:

§ 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as pilot with an air carrier; or an individual subject to a personnel security investigation; shall either:

* * * * *

(d) * * *

* * * * *

(4) Specifically state that the authorization is valid for only one search of the NDR (or in the case of a personnel security investigation state that the authorization is valid only for the duration of the investigation); and

(5) Except for inquiries concerning personnel security investigations, specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

Issued on: August 26, 2005.

Jeffrey W. Runge,

Administrator.

[FR Doc. 05–17464 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9224]

RIN 1545–BD17

Updating Estimated Income Tax Regulations Under Section 6654

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain changes made to the law by the Tax Reform Act of 1984. These final regulations are necessary to update, clarify, and reorganize the rules and procedures for making payments of estimated income

tax by individuals. These final regulations do not impose any new requirements for taxpayers.

DATES: *Effective Date:* These final regulations are effective September 2, 2005.

FOR FURTHER INFORMATION CONTACT: Tatiana Belenkaya of the Office of Associate Chief Counsel (Procedure and Administration), (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. Section 412 of the Tax Reform Act of 1984, Public Law 98–369 (98 Stat. 792), repealed section 6015 of the Internal Revenue Code (Code), which required individuals to file declarations of estimated income tax. Public Law 98–369 (98 Stat. 792) is effective for taxable years beginning after December 31, 1984; however, individual taxpayers still must pay estimated tax in quarterly installments under section 6654 of the Code.

Explanation of Provisions

In general, section 6654(a) of the Code provides that in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying (1) the underpayment rate established under section 6621, (2) to the amount of the underpayment, (3) for the period of the underpayment. Section 6654(m) authorizes the Secretary to prescribe such regulations as may be necessary to carry out the purposes of section 6654.

Prior to its repeal in 1984, section 6015 of the Code, and §§ 1.6015(a)–1 through 1.6015(j)–1 of the Income Tax Regulations, provided rules for making declarations of estimated income tax by individuals. Section 6015 of the Code was repealed for taxable years beginning after December 31, 1984. The repeal of section 6015 rendered §§ 1.6015(a)–1 through 1.6015(j)–1 obsolete, except to the extent that portions of these sections provide guidance still relevant to the payment of estimated tax under section 6654.

These final regulations remove §§ 1.6015(a)–1 through 1.6015(j)–1, revise §§ 1.6654–2 and 1.6654–3, and add §§ 1.6654–5 and 1.6654–6. Removing the obsolete declaration of estimated income tax regulations and revising the current estimated income tax regulations will clarify the estimated income tax regulations under section 6654 of the Code. Removal of §§ 1.6015(a)–1 through 1.6015(j)–1 also alleviates any confusion under the current section 6015 regulations, which address relief from joint and several liability for an individual who has made a joint return. Adding §§ 1.6654–5 and 1.6654–6 will provide additional instructions for determining estimated tax payments and additional guidance for nonresident alien individuals required to make estimated tax payments.

Special Analyses

Because these regulations are interpretative and generally re-codify, under an existing statute, existing rules promulgated under a prior statute, notice and public comment procedures are not required pursuant to 5 U.S.C. 553(b)(A) and (B), and a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(2) and (3). Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 (*et seq.*) do not apply. Further, because this Treasury decision is not a significant regulatory action for purposes of Executive Order 12866, a regulatory assessment is not required. Pursuant to section 7805(f) of the Code, these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Tatiana Belenkaya, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

§§ 1.6015(a)–1 through 1.6015(j)–1 [Removed]

■ **Par. 2.** Sections 1.6015(a)–1 through 1.6015(j)–1 are removed.

■ **Par. 3.** Section 1.6654–2 is amended by:

■ 1. Revising the last sentence of paragraph (e)(1)(ii).

■ 2. Adding paragraphs (e)(5), (e)(6), and (e)(7).

The revision and additions read as follows:

§ 1.6654–2 Exceptions to imposition of the addition to the tax in the case of individuals.

* * * * *

(e) * * *

(1) * * *

(ii) * * * For rules with respect to the allocation of joint payments of estimated tax, see § 1.6654–2(e)(5).

* * * * *

(5) *Joint payments of estimated tax*—(i) *In general.* A husband and wife may make a joint payment of estimated tax even though they are not living together. However, a joint payment of estimated tax may not be made if the husband and wife are separated under a decree of divorce or of separate maintenance. A joint payment of estimated tax may not be made if the taxpayer's spouse is a nonresident alien (including a nonresident alien who is a bona fide resident of Puerto Rico or a possession to which section 931 applies during the entire taxable year), unless an election is in effect for the taxable year under section 6013(g) or (h) and the regulations. In addition, a joint payment of estimated tax may not be made if the taxpayer's spouse has a taxable year different from that of the taxpayer. If a joint payment of estimated tax is made, the amount estimated as the income tax imposed by chapter 1 of the Internal Revenue Code must be computed on the aggregate estimated taxable income of the spouses (see section 6013(d)(3) and § 1.2–1), whereas, if applicable, the amount estimated as the self-employment tax imposed by chapter 2 of the Internal Revenue Code must be computed on the separate estimated self-employment income of each spouse. See sections 1401 and 1402 and § 1.6017–1(b)(1). The liability with respect to the estimated tax, in the case of a joint payment, shall be joint and several.

(ii) *Application to separate returns.* (A) Although a husband and wife may make a joint payment of estimated tax, they, nevertheless, can file separate returns. If they make a joint payment of estimated tax and file separate returns for the same taxable year with respect to which the joint payment was made, the payment made on account of the estimated tax for that taxable year may be treated as a payment on account of the tax liability of either the husband or wife for the taxable year, or may be divided between them in such manner as they may agree.

(B) In the event the husband and wife fail to agree to a division of the estimated tax payment, such payment

shall be allocated between them in accordance with the following rule. The portion of such payment to be allocated to a taxpayer shall be that portion of the aggregate of all such payments as the amount of tax imposed by chapter 1 of the Internal Revenue Code shown on the separate return of the taxpayer (plus, if applicable, the amount of tax imposed by chapter 2 of the Internal Revenue Code shown on the return of the taxpayer) bears to the sum of the taxes imposed by chapter 1 of the Internal Revenue Code shown on the separate returns of the taxpayer and the spouse (plus, if applicable, the sum of the taxes imposed by chapter 2 of the Internal Revenue Code shown on the separate returns of the taxpayer and the spouse).

(6) *Example.* The rule described in paragraph (e)(5) of this section may be illustrated by the following example:

Example. (i) H and W make a joint payment of estimated tax of $19,500 for the taxable year. H and W subsequently file separate returns for the taxable year showing tax imposed by chapter 1 of the Internal Revenue Code in the amount of $11,500 and $8,000, respectively. In addition, H's return shows a tax imposed by chapter 2 of the Internal Revenue Code in the amount of $500. H and W fail to agree to a division of the estimated tax paid. The amount of the aggregate estimated tax payments allocated to H is determined as follows:

(A) Chapter 1 tax shown on H's return—$11,500
(B) Plus: Amount of tax imposed by chapter 2 shown on H's return—$500
(C) Total taxes imposed by chapter 1 and by chapter 2 shown on H's return—$12,000
(D) Amount of tax imposed by chapter 1 shown on W's return—$8,000
(E) Total taxes imposed by chapter 1 and by chapter 2 on both H's and W's—$20,000 returns
(F) Proportion of taxes shown on H's return to total amount—($12,000/$20,000) 60% of taxes shown on both H's and W's returns
(G) Amount of estimated tax payments allocated to H (60% of $19,500)—$11,700

(ii) Accordingly, H's return would show a balance due in the amount of $300 ($12,000 taxes shown less $11,700 estimated tax allocated).

(7) *Death of spouse.* (i) A joint payment of estimated tax may not be made after the death of either the husband or wife. However, if it is reasonable for a surviving spouse to assume that there will be filed a joint return for himself and the deceased spouse for his taxable year and the last taxable year of the deceased spouse, he may, in making a separate payment of estimated tax for his taxable year which includes the period comprising such last taxable year of his spouse, estimate the amount of the tax imposed by chapter 1 of the Internal Revenue Code on his and his spouse's taxable income on an aggregate basis and compute his estimated tax with respect to chapter 1 tax in the same manner as though a joint return had been filed.

(ii) If a husband and wife make a joint payment of estimated tax and thereafter one spouse dies, no further payments of joint estimated tax liability are required from the estate of the decedent. The surviving spouse, however, shall be liable for the payment of any subsequent installments of the joint estimated tax. For the purpose of making an amended payment of estimated tax by the surviving spouse, and the allocation of payments made pursuant to a joint payment of estimated tax between the surviving spouse and the legal representative of the decedent in the event a joint return is not filed, the payment of estimated tax may be divided between the decedent and the surviving spouse in such proportion as the surviving spouse and the legal representative of the decedent may agree.

(iii) If the surviving spouse and the legal representative of the decedent fail to agree to a division of a payment, such payment shall be allocated in accordance with the following rule. The portion of such payment to be allocated to the surviving spouse shall be that portion of the aggregate amount of such payments as the amount of tax imposed by chapter 1 of the Internal Revenue Code shown on the separate return of the surviving spouse (plus, if applicable, the amount of tax imposed by chapter 2 of the Internal Revenue Code shown on the return of the surviving spouse) bears to the sum imposed by chapter 1 of the Internal Revenue Code shown on the separate returns of the surviving spouse and of the decedent (plus, if applicable, the sum of the taxes imposed by chapter 2 of the Internal Revenue Code shown on the returns of the surviving spouse and of the decedent); and the balance of such payments shall be allocated to the decedent. This rule may be illustrated by analogizing the surviving spouse described in this rule to H in the example contained in paragraph (e)(6) of this section and the decedent in this rule to W in that example.

■ **Par. 4.** Section 1.6654–3 is amended by revising paragraph (a) to read as follows:

§ 1.6654–3 Short taxable years of individuals.

(a) *In general.* The provisions of section 6654, with certain modifications relating to the application of section 6654(d), which are explained in paragraph (b) of this section, are applicable in the case of a short taxable year.

* * * * *

§ 1.6654–5 [Redesignated as § 1.6654–7]

■ **Par. 5.** Section 1.6654–5 is redesignated as § 1.6654–7.

■ **Par. 6.** New § 1.6654–5 is added to read as follows:

§ 1.6654–5 Payments of estimated tax.

(a) *In general.* A payment of estimated tax by an individual shall be determined on Form 1040–ES. For the purpose of determining the estimated tax, the amount of gross income which the taxpayer can reasonably expect to receive or accrue, depending upon the method of accounting upon which taxable income is computed, and the amount of the estimated allowable deductions and credits to be taken into account in computing the amount of estimated tax, shall be determined upon the basis of the facts and circumstances existing at the time prescribed for determining the estimated tax, as well as those reasonably to be anticipated for the taxable year. If, therefore, the taxpayer is employed at the date prescribed for making an estimated tax payment at a given wage or salary, the taxpayer should presume, in the absence of circumstances indicating the contrary, for the purpose of the estimated tax payment that such employment will continue to the end of the taxable year at the wage or salary received by the taxpayer as of such date. In the case of income other than wages and salary, the regularity in the payment of income, such as dividends, interest, rents, royalties, and income arising from estates and trusts is a factor to be taken into consideration. Thus, if the taxpayer owns shares of stock in a corporation, and dividends have been paid regularly for several years upon the stock, the taxpayer should, in the absence of information indicating a change in the dividend policy, include the prospective dividends from the corporation for the taxable year as well as those actually received in such year prior to determining the estimated tax. In the case of a taxpayer engaged in business on his own account, there shall be made an estimate of gross income and deductions and credits in the light of the best available information affecting the trade, business, or profession.

(b) *Computation of estimated tax.* In computing the estimated tax the taxpayer should take into account the taxes, credits, and other amounts listed in § 1.6654–1(a)(4).

■ **Par. 7.** Section 1.6654–6 is added to read as follows:

§ 1.6654–6 Nonresident alien individuals.

(a) *In general.* A nonresident alien individual is required to make a payment of estimated tax if that individual's gross income meets the requirements of section 6654 and § 1.6654–1. In making the determination under section 6654 as to whether the amount of the gross income of a nonresident alien individual is such as to require making a payment of estimated income tax, only the filing status relating to a single individual (other than a head of household) or to a married individual not entitled to file a joint return shall apply, unless an election is in effect 1 for the taxable year under section 6013(g) or (h) and the regulations.

(b) *Determination of gross income.* To determine the gross income of a nonresident alien individual who is not, or does not expect to be, a bona fide resident of Puerto Rico or a possession to which section 931 applies during the entire taxable year, see section 872 and §§ 1.872–1 and 1.872–2. To determine the gross income of a nonresident alien individual who is, or expects to be, a bona fide resident of Puerto Rico or a possession to which section 931 applies during the entire taxable year, see section 876 and the regulations. For rules for determining whether an individual is a bona fide resident of a United States possession (including Puerto Rico), see section 937 and the regulations.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: August 21, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05–17449 Filed 9–1–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS WINSTON S. CHURCHILL (DDG 81) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: Effective Date: April 12, 2005.

FOR FURTHER INFORMATION CONTACT: Commander Gregg A. Cervi, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS WINSTON S. CHURCHILL (DDG 81) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; and Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.

■ 2. Table Four, Paragraph 16 of § 706.2 is amended by revising the entry for USS WINSTON S. CHURCHILL as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
*	*	*
USS WINSTON S. CHURCHILL	DDG 81	103.72 thru 112.50.
*	*	*

■ 3. Table Five of § 706.2 is amended by revising the entry for USS WINSTON S. CHURCHILL as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* * *		*	*	*	*
USS WINSTON S. CHURCHILL	DDG 81	X	X	X	14.0
* * *		*	*	*	*

Approved: July 6, 2005.

Gregg A. Cervi,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 05–17528 Filed 9–1–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD11–05–022]

RIN 1625–AA08

Special Local Regulations for Marine Event; Labor Day Fireworks Display, South Lake Tahoe, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations in the navigable waters of Lake Tahoe for the loading, transport, and launching of fireworks used during a fireworks display to be held in celebration of Labor Day on September 4, 2005. These special local regulations are intended to prohibit vessels and people from entering into or remaining within the regulated area and to ensure the safety of participants and spectators.

DATES: This rule is effective from 10 a.m. on September 3, 2005 to 10 p.m. on September 4, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of the docket CGD 11–05–022 and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Ian Callander, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3401.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Logistical details surrounding the event were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, special local regulations are necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

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**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in this fireworks display.

Background and Purpose

The Tahoe-Douglas Visitors Authority is sponsoring a brief fireworks display on September 4, 2005 in the waters of South Lake Tahoe, CA. The fireworks display is meant for entertainment purposes in celebration of Labor Day. These special local regulations are being issued to establish a temporary regulated area in South Lake Tahoe around the three fireworks launch barges during loading of the pyrotechnics, during the transit of the barges to the display location, and during the fireworks display. This regulated area around the launch barges is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barges. The Coast Guard has granted the event sponsor a marine event permit for the fireworks display.

Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters of South Lake Tahoe, CA. During the loading of the fireworks barges, while the barges are being towed to the display location, and until the start of the fireworks display, the special local regulations apply to the navigable waters around and under the fireworks barges within a radius of 100 feet. During the 20-minute fireworks display, the area to which these special local regulations apply will increase in size to encompass the navigable waters around and under the fireworks barges within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to commence at 10 a.m. on September 3, 2005, and will take place at the Tahoe Keys Marina in South Lake Tahoe, CA. Towing of the barges from the Tahoe Keys Marina, to the display location, is scheduled to take place between 12 p.m. and 7 p.m. on September 4, 2005. During the fireworks display, scheduled to commence at 9:15 p.m. on September 4, 2005, the fireworks barges will be located approximately 1,500 feet off the South Lake Tahoe waterfront near the California/Nevada border, in position 38°57′54″ N, 119°57′18″ W.

The effect of the temporary special local regulations will be to restrict general navigation in the vicinity of the fireworks barges while the fireworks are loaded at the Tahoe Keys Marina,

during the transit of the fireworks barges, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to keep spectators and vessels a safe distance away from the fireworks barges and to ensure the safety of participants, spectators, and transiting vessels.

Pursuant to 33 U.S.C. 1236, persons violating these special local regulations may be liable as follows: suspension or revocation of the license of a licensed officer for incompetence or misconduct; civil penalty of $6,500 for any person in charge of the navigation of a vessel other than a licensed officer; civil penalty of $6,500 for the owner of a vessel (including any corporate officer of a corporation owning the vessel) who is actually on board; and $2,750 for any other person.

Regulatory Evaluation

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

Although this regulation prevents traffic from transiting a portion of Lake Tahoe during the event, the effect of this regulation will not be significant due to the small size and limited duration of the regulated area. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing.

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 may effect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of Lake Tahoe to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of these special local regulations via broadcast notice to mariners, and/or a local notice to mariners.

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. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact Lieutenant Ian Callander, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3401.

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).

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 Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35–T11–037 to read as follows:

§ 100.35–T11–037 Labor Day Fireworks Display, South Lake Tahoe, CA.

(a) *Regulated Area.* A regulated area is established for the waters of South Lake Tahoe surrounding three barges used as launch platforms for a fireworks display. During the loading of the fireworks barges, during the transit of the fireworks barges to the display location, and until the start of the fireworks display, the regulated area encompasses the navigable waters around and under each of the fireworks barges within a radius of 100 feet. During the 20-minute fireworks display, the regulated area increases in size to encompass the navigable waters around and under each fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to commence at 10 a.m. on September 3, 2005, and will take place at the Tahoe Keys Marina in South Lake Tahoe, CA. Towing of the barges from the Tahoe Keys Marina to the display location is scheduled to take place between 12 p.m. and 7 p.m. on September 4, 2005. During the fireworks display, scheduled to commence at approximately 9:15 p.m. on September 4, 2005, the barges will be located approximately 1,500 feet off the South Lake Tahoe waterfront near the California/Nevada border in position 38°57′54″ N, 119°57′18″ W.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Sector San Francisco Bay.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector San Francisco Bay with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by an Official Patrol.

(d) *Enforcement Period.* This section will be enforced from 10 a.m. on September 3, 2005 to 10 p.m. on September 4, 2005. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the special local regulations and will announce that fact via Broadcast Notice to Mariners.

Dated: August 23, 2005.

K.J. Eldridge,

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

[FR Doc. 05–17468 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–05–005]

RIN 1625–AA08

Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the ''Elizabeth City Jaycee Offshore Grand Prix'', a power boat race to be held on the waters of the Pasquotank River adjacent to Elizabeth City, NC. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Pasquotank River during the power boat race.

DATES: This rule is effective from 7:30 a.m. on September 23, 2005 to 6:30 p.m. on September 25, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD05–05–005 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 28, 2005, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC in the **Federal Register** (70 FR 37066). No letters were received commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30

days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However, advance notifications will be made to mariners via marine information broadcasts, local radio stations and area newspapers.

Background and Purpose

On September 23, 24 and 25, 2005, the American Power Boat Association/ Super Boats International will sponsor the ''Elizabeth City Jaycee Offshore Grand Prix'', on the waters of the Pasquotank River at Elizabeth City, North Carolina. The event will consist of approximately 40 offshore power boats participating in high-speed competitive races, to be conducted in heats, traveling counter-clockwise around an oval racecourse. A fleet of approximately 250 spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the races.

Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters of the Pasquotank River. The temporary special local regulations will be enforced from 7:30 a.m. to 6:30 p.m. on September 23, 24 and 25, 2005. The effect of the temporary special local regulations will be to restrict general navigation in the regulated area during the races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. Non-participating vessels will be allowed to transit the regulated area between races, when the Coast Guard Patrol Commander determines it is safe to do so. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

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

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Pasquotank River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

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 vessels intending to transit this section of the Pasquotank River during the event.

This rule 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 only a short period, from 7:30 a.m. to 6:30 p.m. on September 23, 24, and 25, 2005. Although the regulated area will apply to a 4 mile segment of the Intracoastal Waterway channel south of the Elizabeth City Draw Bridge to Pasquotank River Light ''5A'' (LLN 31420), traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. The Patrol Commander will allow non-participating vessels to transit the event area between races. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

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).

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 will 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 and direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections. Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. From September 23, 2005 to September 25, 2005 add a temporary § 100.35–T05–005 to read as follows:

§ 100.35–T05–005, Pasquotank River, Elizabeth City, NC.

(a) *Regulated area.* The regulated area is established for the waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the east by a line running northerly from a point near the shoreline in the vicinity of Brickhouse Point at latitude 36°15′52″ N, longitude 076°09′22″ W, thence to latitude 36°17′18″ N, longitude 076°08′47″ W, and bounded on the west by the Elizabeth City Draw Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) The operator of a vessel in the regulated area shall stop the vessel immediately when instructed to do so by the Official Patrol and then proceed as directed. When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. to 6:30 p.m. on September 23, 24 and 25, 2005.

Dated: August 22, 2005.

S.H. Ratti,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 05–17469 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–05–082]

Drawbridge Operation Regulations; Newtown Creek, Dutch Kills, English Kills and Their Tributaries, New York City, NY

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 drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain in the closed position from September 1, 2005 through September 30, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

DATES: This deviation is effective from September 1, 2005 through September 30, 2005.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (obr), First Coast Guard District, 1 South Street, Battery Park Building, New York, NY 10004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 212–668–7165. Commander (obr), First Coast Guard District, maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs of the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from September 1, 2005 through September 30, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: August 26, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 05–17511 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–05–027]

RIN 1625–AA00

Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change of effective period.

SUMMARY: The Coast Guard is changing the effective periods of the safety zones on the waters of the Columbia River, located in the Area of Responsibility (AOR) of the Captain of the Port, Portland, Oregon, during fireworks displays. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with these displays. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

DATES: The new effective period of rule § 165.T13–009 is from 9:30 p.m. to 11 p.m. on August 27, 2005 and from 9:30 p.m. to 11 p.m. on September 10, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD13–05–027) and are available for inspection or copying at the U.S. Coast Guard Sector Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Charity Keuter, c/o Captain of the Port, Portland 6767 N. Basin Avenue, Portland, Oregon 97217, (503) 240–9301.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the various fireworks launching barges and displays. These events were originally scheduled for dates that the sponsor deemed necessary to change and gave the Coast Guard short notice of the change and if normal notice and comment procedures were followed, this rule would not become effective until after the dates of the events. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is establishing temporary safety zones to allow for safe fireworks displays. All events occur within the Captain of the Port, Portland, OR, Area of Responsibility (AOR). These events may result in a number of vessels congregating near fireworks launching barges and sites. The safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other Federal and local agencies.

Discussion of Rule

This rule, for safety concerns, will control vessels, personnel and individual movements in a regulated area surrounding the fireworks event indicated in section 2 of this Temporary Final Rule. Entry into these zones is prohibited unless authorized by the Captain of the Port, Portland or his designated representative. Captain of the Port, Portland, Oregon, will enforce these safety zones. The Captain of the Port may be assisted by other Federal and local agencies.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. This rule is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures act of DHS is unnecessary. This expectation is based on the fact that the regulated areas established by the proposed regulation will encompass small portions of the Columbia and Willamette Rivers in the Portland AOR on different dates, all in the evening when vessel traffic is low.

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.

This 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 vessels intending to transit a portion of the Willamette and Columbia Rivers during the times mentioned in section 2(a)(1–4) at the conclusion of this rule. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only ninety minutes during the evenings when vessel traffic is low. Traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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).

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 State, local, or tribal government, in the aggregate, or the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes safety zones which have a duration of no more than two hours each. Due to the temporary safety zones being less than one week in duration, an Environmental Checklist and Categorical Exclusion is not required.

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—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. Amend temporary § 165.T13–009 by revising paragraphs (a)(1)(ii) and (a)(2)(ii) to read as follows:

§ 165.T13–009 Safety Zones: Fireworks displays in the Captain of the Port Portland Zone.

(a) * * *

(1) * * *

(i) * * *

(ii) Enforcement time and date. 9:30 p.m. to 11 p.m. on August 27, 2005.

(2) * * *

(i) * * *

(ii) Enforcement time and date. 9:30 p.m. to 11 p.m. on September 10, 2005.

* * * * *

Dated: August 23, 2005.

Patrick G. Gerrity,

Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.

[FR Doc. 05–17473 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT95

Endangered and Threatened Wildlife and Plants; Exclusion of U.S. Captive-Bred Scimitar-Horned Oryx, Addax, and Dama Gazelle From Certain Prohibitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are amending the regulations promulgated under the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) to add new regulations to govern certain activities with U.S. captive-bred scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*), which have been listed as endangered. For U.S. captive-bred live wildlife, including embryos and gametes, and sport-hunted trophies of these three species, this rule authorizes certain otherwise prohibited activities that enhance the propagation or survival of the species. International trade in specimens of these species will continue to be subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). We have also prepared a final Environmental Assessment with a Finding of No Significant Impact for this final rule under regulations implementing the National Environmental Policy Act of 1969 (NEPA).

DATES: This rule is effective October 3, 2005.

ADDRESSES: The complete supporting file for this rule is available for public inspection, by appointment, during normal business hours at the Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, Virginia 22203.

SUPPLEMENTARY INFORMATION:

Background

Historically, the scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*) occupied the same general region of North Africa. Wild numbers of the three antelopes have declined drastically over the past 50 years. The scimitar-horned oryx may now be extinct in the wild. The declines have resulted primarily from habitat loss, uncontrolled killing, and the inadequacy of existing regulatory mechanisms.

Of the three antelope species, the scimitar-horned oryx is the most threatened with extinction. By the mid-1980s, it was estimated that only a few hundred were left in the wild, with the only viable populations known to be in Chad. However, no sightings of this species in the wild have been reported since the late 1980s, and the *2003 Red List of Threatened Species* shows the status of the scimitar-horned oryx as ''extinct in the wild'' (World Conservation Union [IUCN] 2003). Captive-bred specimens of this antelope have been placed into large fenced areas for breeding in Morocco and Tunisia. Once animals are reintroduced, continuous natural breeding is anticipated so that wild populations will be re-established.

It is believed that the addax was extirpated from Tunisia during the 1930s, and the last animals were killed in Libya and Algeria in 1966 and 1970, respectively. Remnant populations may still exist in the remote desert areas of Chad, Niger, and Mali, with occasional movements into Libya and Algeria during times of good rainfall. In the IUCN/SSC Antelope Specialist Group's *Global Survey of Antelopes*, the addax is considered to be ''regionally extinct'' (Mallon and Kingswood 2001). The addax is listed as critically endangered by IUCN (IUCN 2003) and probably numbers fewer than 600 in the wild (Noble 2002).

The dama gazelle is able to utilize both semi-desert and desert habitats, and is smaller than the scimitar-horned oryx or addax. Of the three antelope species, the dama gazelle is the least susceptible to pressures from humans and livestock. The original cause of its decline was uncontrolled killing; however, habitat loss through human settlement and livestock grazing, in addition to civil unrest, has more recently contributed to the decline. It is estimated that only small numbers survive in most of the eight countries within its historical range. The dama gazelle has declined rapidly over the last 20 years, with recent estimates of fewer than 700 in the wild. Noble (2002) estimated that the wild population of addra gazelle (*G. dama ruficollis*) is fewer than 200 specimens, the wild population of dama gazelle (G. dama dama) is about 500 specimens, and the mhorr gazelle (*G. dama mhorr*) is extinct in the wild. The dama gazelle was previously extirpated from Senegal, but has since been reintroduced, and in 1997, at least 25 animals existed there as part of a semi-captive breeding program (IUCN 2003). The IUCN lists all subspecies of dama gazelles as endangered.

Captive breeding in the United States has enhanced the propagation or survival of the scimitar-horned oryx, addax, and dama gazelle worldwide by rescuing these species from near extinction and providing the founder stock necessary for reintroduction. The scimitar-horned oryx is possibly extinct in the wild; therefore, but for captive breeding, the species might be extinct. Addax and dama gazelle occur in very low numbers in the wild, and a significant percentage of remaining specimens survive only in captivity (71% and 48%, respectively). Captive-breeding programs operated by zoos and private ranches have effectively increased the numbers of these animals while genetically managing their herds (Mallon and Kingswood 2001). Threats that have reduced these species' numbers to current levels in the wild continue throughout most of the historic range. As future opportunities arise for reintroduction in the antelope range countries, captive-breeding programs will be able to provide genetically

diverse and otherwise suitable specimens.

Some U.S. captive-breeding facilities allow sport hunting of surplus captive-bred animals. Sport hunting of surplus captive-bred animals generates revenue that supports these captive-breeding operations and may relieve hunting pressure on wild populations. For further information regarding background biological information, factors affecting the species, and conservation measures available to scimitar-horned oryx, addax, and dama gazelle, please refer to the November 5, 1991; July 24, 2003; February 1, 2005; and today's **Federal Register** documents discussed below.

Previous Federal Action

The Mhorr gazelle and Rio de Oro dama gazelle (*G. d. lozanoi*) were listed as endangered throughout their ranges on June 2, 1970 (35 FR 8495). A proposed rule to list all scimitar-horned oryx, addax, and dama gazelle as endangered in the List of Threatened and Endangered Wildlife [50 CFR 17.11(h)] was published on November 5, 1991 (56 FR 56491). We re-opened the comment period to request current information and comments from the public regarding the proposed rule on July 24, 2003 (68 FR 43706), and November 26, 2003 (68 FR 66395). Stakeholders and interested parties, including the public, governmental agencies, the scientific community, industry, and the range countries of the species, were requested to submit comments or information. In accordance with the Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities published on July 1, 1994 (59 FR 34270), we selected three appropriate independent specialists to review the proposed rule. The purpose of such peer review is to ensure that our listing decisions for these species are based on scientifically sound data, assumptions, and analysis. The reviewers selected have considerable knowledge and field experience with scimitar-horned oryx, addax, and dama gazelle biology and conservation. Comments were received from all of the peer reviewers. After review of public comments, we prepared a final rule listing the three species as endangered. The final listing rule is being published in the **Federal Register** concurrent with this final rule regarding U.S. captive-bred specimens.

A consistent theme among the comments received from peer reviewers and stakeholders on the proposed rule to list these species as endangered is the vital role of captive breeding in the conservation of these species. One reviewer noted that 100% of the world's scimitar-horned oryx (including the reintroduced herds that are in enclosed areas), 71% of the addax, and 48% of the dama gazelles are in captive herds. In response to these comments, on February 1, 2005 (70 FR 5117), we announced a proposed rule and notice of availability of a draft environmental assessment to add new regulations under the Act to govern certain activities with U.S. captive-bred scimitar-horned oryx, addax, and dama gazelle, should they become listed as endangered. The proposed rule covered U.S. captive-bred live wildlife, including embryos and gametes, and sport-hunted trophies, and would authorize certain otherwise prohibited activities that enhance the propagation or survival of the species. The ''otherwise prohibited activities'' were take; export or re-import; delivery, receipt, carrying, transport or shipment in interstate or foreign commerce, in the course of a commercial activity; or sale or offering for sale in interstate or foreign commerce. In the proposed rule, we found that the scimitar-horned oryx, addax, and dama gazelle are dependent on captive breeding and activities associated with captive breeding for their conservation, and that activities associated with captive breeding within the United States enhance the propagation or survival of these species. Comments were accepted until April 4, 2005.

Summary of Comments and Recommendations

In response to the proposed rule and notice of availability of a draft Environmental Assessment, the Service received 181 comments from the public. Forty-two commenters expressed support for the proposed rule; these commenters included several nonprofit organizations and private individuals. Twenty-five letters of support were variations of a single form letter. Organizations in support of the rule were the American Zoo and Aquarium Association (AZA), Conservation Force (on behalf of over 10 hunting and taxidermy organizations), the Exotic Wildlife Association, Safari Club International, and the Texas Wildlife Association. The form letter stated that the present situation in which ranchers raise and trade these antelopes benefits species conservation, as well as ranchers and hunters. It argued that ranchers will not be able to contribute to antelope conservation if they are ''restricted or penalized'' for raising and managing these species.

There were 139 commenters who opposed the proposed rule (153 if co-signers are included); of these, 96 were form letters. Organizations that opposed the rule included the Animal Protection Institute, Defenders of Wildlife, and The Humane Society of the United States (in joint comments representing 22 organizations), and TRAFFIC North America. A law firm provided a more detailed legal commentary on behalf of The Humane Society of the United States and Defenders of Wildlife. The Environmental Law Clinical Partnership submitted comments on behalf of the Center for Biological Diversity and Friends of Animals. The vast majority of the form letters critical of the proposed rule were the result of a press release issued by Friends of Animals on March 8, 2005. All of these comments included a request to list the three antelope species as endangered wherever they occur and not to include an exemption for U.S. ranches.

The following is a summary of the substantive comments and our responses. We have included the ''talking points'' included in the form letters. We also received comments that were outside the rule's scope. However, responses to some of these comments are included where doing so will help clarify the purpose of the rule.

Issue 1: Although supportive of the proposed rule, several commenters suggested broadening the scope of the rule to cover all captive-bred animals from species listed under the Endangered Species Act, wherever they occur. They also requested that we provide an exemption for all parts and products from a sport-hunted specimen, including meat and fur.

Service Response 1: This rule covers only U.S. captive-bred scimitar-horned oryx, addax, and dama gazelle based on information regarding the conservation needs and the role of captive breeding for these particular species. We have exempted only specimens of these three species captive-bred in the United States because an important part of the rule is the requirement that any person participating in these activities maintain records and make these records available to Service officials upon request. It is difficult to establish a record-keeping system for captive-breeding operations outside the United States and even more difficult to access records kept outside the United States. In addition, we have limited ability to monitor captive-breeding operations located outside the United States, and we do not have sufficient information on operations outside the United States to determine whether they meet the standards for enhancement of propagation or survival of the species.

We have limited the rule to captive-bred live wildlife, including embryos and gametes, and sport-hunted trophies because live wildlife, embryos, and gametes are essential to propagation and sport-hunted trophies. The sport-hunted trophy includes more than the mounted specimen. It may be raw or tanned parts, such as bones, hair, head, hide, hooves, horns, meat, skull, rug, taxidermied head, shoulder, or full body mount, of a specimen that was taken by the hunter during a sport hunt for personal use. It does not include articles made from a trophy, such as worked, manufactured, or handicraft items for use as clothing, curios, ornamentation, jewelry, or other utilitarian items for commercial purposes.

Issue 2: Some commenters suggested that the rule should include criteria for approving individual captive-breeding operations to receive the benefits of the rule. Some commenters suggested including criteria for managing culls on ranches, requiring that all profits from *ex situ* activities be used for *in situ* conservation, and that the regulated operations must participate in conservation plans to establish wild populations in the range countries.

Service Response 2: The successful breeding of these three species in captivity in the United States has added significantly to the global populations of these species. Persons may operate under the provisions of the rule only if the purpose of their activity is associated with the transfer of live wildlife, including embryos and gametes, or with sport hunting in a manner that contributes to increasing or sustaining captive numbers or to potential reintroduction to range countries. The rule also requires that each person claiming the benefit of the exception maintain accurate written records of activities, including births, deaths, and transfers of specimens, and make those records accessible to Service officials. In the final rule we have added two criteria that will ensure that any captive-breeding facility operating under the rule is managing the species to ensure genetic integrity and diversity.

With these criteria, we have determined that U.S. operations that maintain captive-bred specimens of these three species contribute to the enhancement of the propagation or survival of these species, as required under section 10(a)(1)(A) of the Act and 50 CFR 17.22(a)(2). Therefore, the requirements in the rule are adequate and appropriate for these species.

Issue 3: One commenter noted that the proposed rule referred to ''populations'' of captive-bred scimitar-horned oryx, dama gazelle, and addax, and that this usage is inconsistent with the definition of this term in the applicable regulations.

Service Response 3: We agree that captive-held animals may not qualify as populations as defined at 50 CFR 17.3 and have changed the rule accordingly.

Issue 4: Some commenters argued that the Service has failed to show how these captive-breeding operations meet the standards for the enhancement of propagation or survival under section 10 of the Act and failed to explain how the Service's approach will benefit wild populations. One commenter argued that the Service offered no support for its statement that hunting of captive-bred animals relieves pressure on wild populations.

Service Response 4: The rule discusses how authorizing these activities for U.S. captive-breeding operations enhances the propagation of these species by providing an incentive to continue to raise animals in captivity while managing their genetic diversity, serving as repositories for surplus animals, and facilitating the movement of specimens between breeding facilities. We found that authorizing these activities also enhances the survival of the species by providing an incentive to continue captive-breeding and genetic management programs, which have (in conjunction with foreign captive-breeding operations) prevented the possible extinction of at least one of the species, contributed significantly to the total number of remaining animals of the other two species, and provided founder stock for reintroduction.

As explained in the proposed rule, providing opportunities for sport hunting of captive-bred wildlife may relieve pressure on wild populations of the species by providing an alternative to legal and illegal hunting of animals in the wild.

Issue 5: The majority of commenters opposing the proposed rule stated that captive-bred specimens from U.S. ranches do not contribute to reintroduction efforts in range countries, nor are specimens from U.S. ranches needed for these efforts.

Service Response 5: In our proposed rule, we mentioned that 30 founder lines of scimitar-horned oryx are represented on at least one ranch that works closely with the Scimitar-horned Oryx Species Survival Plan (SSP). The SSP has provided specimens for reintroduction programs in range countries, and the ranch will contribute specimens when needed. Indeed, one commenter noted that he recently shipped 44 dama gazelles, 32 addax, and 10 scimitar-horned oryx that were captive-bred on U.S. ranches to a private wildlife sanctuary in the United Arab Emirates, where they will be bred to produce specimens for eventual release in the historic range. The commenter added that the Conservation Committee of the Exotic Wildlife Association is developing a feasibility study to determine how ranchers can best contribute specimens to reintroduction programs. Between October 2003 and March 2005, the U.S. Fish and Wildlife Service's Division of Management Authority issued CITES permits for the export of U.S. captive-bred scimitar-horned oryx (45 specimens), addax (90 specimens), and dama gazelle (70 specimens) to the United Arab Emirates for captive breeding. Most of these specimens were captive-bred on U.S. ranches.

We do not know when or to what degree any particular ranch will be called upon to provide specimens for reintroduction efforts or research necessary to facilitate such programs. However, their continued breeding of these species, and their monitoring and maintaining genetic diversity, will ensure that specimens will be available when the appropriate conditions for reintroduction exist in range countries. As one commenter pointed out, other species that are captive-bred on U.S. ranches, such as Grevy's zebra and blackbuck, have been used in research and reintroduction projects.

Issue 6: Several commenters indicated that conservation resulting from ranches that allow sport hunting is not comparable to zoo-based conservation programs. They also noted that the AZA acquisition—disposition policy prohibits AZA institutions from supplying animals to or receiving them from ranches that allow hunting of those species. Thus, they argue that few ranches can cooperate with zoo programs.

Service Response 6: Both zoos and ranches may breed and otherwise contribute to the conservation of these species, whether or not there is collaboration. We acknowledge that some ranches breed these species and do not allow hunting of them, whereas others do. However, we have found that ranches that meet the regulatory criteria, whether or not they allow sport hunting of the three antelopes, enhance the propagation or survival of these species. According to several commenters, many ranches, whether offering sport hunts or not, have provided research opportunities to study these species in partnership with academic institutions.

Issue 7: Some commenters contended that hunting on U.S. ranches may undermine the conservation of wild specimens by increasing the demand for

trophies or creating incentives for illegal trade.

Service Response 7: There is no evidence that sport hunting of captive-bred animals increases poaching of these species in the wild. Sport hunting of these species has been occurring on ranches in the U.S. for more than 20 years. There is no evidence that the availability of captive-bred animals to trophy hunters has contributed in any way to hunting pressure on these species in the wild. Furthermore, the United States and range-country governments, as well as most countries worldwide, are required to strictly regulate trade in these species because the scimitar-horned oryx, addax, and dama gazelle are listed in Appendix I of CITES. Listing in CITES Appendix I requires strict regulation of international movement of these species, which may only be authorized in ''exceptional circumstances.'' With the listing of these three antelopes as endangered under the Act, the regulatory protections will be further strengthened, not reduced, because both CITES and Act regulations will apply. Sport hunting of surplus animals from captive-breeding operations in the United States is anticipated to reduce the incentive for removal of wild animals in their range countries by providing an alternative source of specimens.

Issue 8: One commenter stated that ranches that breed specimens select for trophy quality, which may reduce genetic fitness.

Service Response 8: We know that 30 founder lines of scimitar-horned oryx are represented on at least one ranch that works closely with the Scimitar-horned Oryx SSP. We have received no indication in the literature or from commenters indicating that breeding programs on ranches have caused a loss in overall genetic variation in U.S. captive-bred antelopes. In addition, we have added criteria to the final rule that will prevent hybridization of species or subspecies and require that all specimens be managed in a manner that maintains genetic diversity.

Issue 9: One commenter suggested that surplus captive-bred specimens from ranches should be relocated, not killed.

Service Response 9: Although thousands of these animals have been produced in captivity, the number of animals released into the wild has been limited. Reintroduction programs cannot absorb the entire production of captive-breeding operations for logistical reasons and because reintroductions—for almost any mammal—are limited to small groups of animals that can be conditioned and monitored to ensure their survival. The amount of secure habitat for reintroductions is also a factor limiting the numbers of animals that can be released. In our proposed rule, we stated that some killing of surplus specimens may be necessary to manage captive herds (*e.g.,* to reduce aggression among males) and to finance captive-breeding operations. In addition, the United States does not have the jurisdiction to direct another country in regard to when it should accept animals and when it should release them to the wild.

Issue 10: One commenter asserted that the Service cannot propose any exemptions or permits for a species under the Act until the species is actually listed under the Act; in doing so, they argue, the Service has violated its consultation responsibilities under section 7 of the Act.

Service Response 10: It was critical that development of a rule that provides an incentive to continue captive breeding of these species proceed concurrently with the determination of their legal status under the Act to ensure that no breeding programs would be disrupted by a final listing determination. This final rule has therefore been released concurrently with the final listing determination to ensure there is no confusion regarding the authority of the Service to regulate such activities for these species. There is no limitation under either the Act or the Administrative Procedure Act for related proposed rulemakings to proceed concurrently to the final rule stage.

After considering all of the effects that would be posed by the proposed rule, we determined that the measures included in the final rule would reduce the threat of extinction to the species by facilitating captive breeding. Therefore, no conference procedure under section 7(a)(4) of the Act is required.

Issue 11: One commenter believed that the proposed rule would set a precedent for legal hunting of listed species in captivity.

Service Response 11: We disagree. The development of this rule was specific to these three species and included consideration of specific threats, specific conservation needs, and the benefits of captive breeding to all three species. In no way should the development of this regulation for these species under the Act be interpreted as a statement of what regulatory scheme would be appropriate for other listed species also found in captivity within the United States.

Issue 12: One commenter argued that we did not establish how conservation efforts for the species would be hampered by the application of current Act regulatory systems to captive-breeding operations.

Service Response 12: The Act does not require a particular regulatory system be used to implement the Act. Rather, the Act requires that authorized activities must meet standards for enhancing the propagation or survival of the species. We have found that the regulatory framework established for the three antelope meets these standards and is the best management scheme to encourage continued captive breeding and management of these species. Similar regulations, the captive-bred wildlife regulations at 50 CFR 17.21(g), have been used as a basis for developing this rule. However, the current regulations do not cover species for which sport hunting is an integral part of management of the species, and they do not provide an authorization for the interstate and foreign commerce of sport-hunted trophies. Thus, the movement of sport-hunted trophies taken for management purposes would be limited unless an Act permit or authorization had been granted. Not requiring each person to apply for a permit or authorization prior to engaging in these activities provides an important incentive to these operations to continue their captive-breeding and management programs.

Issue 13: One commenter argued that the Service does not have the authority under the Act to propose this rule for an endangered species.

Service Response 13: As explained above, captive-breeding operations within the United States that meet the criteria established by this rule meet the standards for both enhancing the propagation and enhancing the survival of these three species, as shown by the findings for each of the criteria found at 50 CFR 17.22(a)(2). While the Service typically authorizes activities under section 10(a)(1)(A) of the Act on a case-by-case basis through the issuance of individual permits or authorizations, there is no requirement that we may do so only via this process. The requirements for notification and opportunity for public comment under section 10(c) and publication of final determinations under section 10(d) have been satisfied through this rulemaking process.

Issue 14: A few commenters asserted that any regulatory scheme that facilitates killing of animals as contributing to conservation is not supported by the law except under extremely narrow circumstances.

Service Response 14: Section 10 of the Act does not set absolute limits on the Service's ability to authorize the taking

of an endangered species. In fact, the section specifically states that the Secretary may authorize any act otherwise prohibited under section 9, which includes take. Take includes to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect an endangered species, or attempt to engage in any such conduct (see section 3(19) of the Act). Section 10(a)(1)(A) does require that any authorized activity must enhance the propagation or survival of the species overall. An example of when take of a listed species benefits conservation is our regulation on the import of sport-hunted African elephant (*Loxodonta africana*) trophies. The African elephant is listed as threatened under the Act. The import of sport-hunted trophies from African countries is only allowed when certain criteria are met, including that ''a determination is made that the killing of the animal whose trophy is intended for import would enhance survival of the species'' [50 CFR 17.40 (e)(3)(iii)(C)]. When evaluating a hunting program in an African country, Service biologists consider whether revenue derived from the hunt is used to further elephant conservation. These funds have been used to support anti-poaching activities and establish game management areas with important elephant habitat.

Issue 15: One commenter opposed the rule because it would deny Act protection to most members of the three species.

Service Response 15: This rule does not deny Act protection to most members of the three species. All of the prohibitions under section 9 apply to all animals in the wild. These same prohibitions also apply to any animal captive-bred outside the United States. This regulation applies only to members of the species that were captive-bred within the United States. The comments that noted that many of the animals found in captivity are located in the United States support the Service's determination that U.S. captive-breeding operations have played a significant role in the propagation or survival of all three species and that a regulatory scheme that facilitates the continuation of these activities is appropriate for the species.

Issue 16: Many commenters opposed the rule because of their philosophical opposition to trophy hunting or hunting in general. Others expressed concerns regarding ''canned hunts.''

Service Response 16: Hunting has a long history of contributing to conservation in the United States. The Service acknowledges that wildlife populations and habitats have been sustained through the financial contributions of hunters. The proposed rule authorizes the taking of individual animals, but only if the purpose of the taking contributes to increasing or sustaining captive antelope numbers or to potential reintroduction to range countries. This approach to management has caused captive-bred specimens to proliferate, thus contributing to their propagation and increasing their chances of survival.

Contribution of Captive Breeding to Species Propagation or Survival

A peer reviewer of the proposed rule for listing the three antelope species as endangered noted that 100% of the world's scimitar-horned oryx population (including the reintroduced specimens that are in enclosed areas), 71% of the addax population, and 48% of the dama gazelle population are in captive herds. Captive-breeding programs operated by zoos and private ranches have effectively increased the number of these animals while genetically managing their herds. International studbook keepers and managers of the species in captivity manage these programs in a manner that maintains the captive specimens as a demographically and genetically diverse megapopulation (Mallon and Kingswood 2001). In the 1980s and 1990s, captive-breeding operations in Germany, the United Kingdom, and the United States provided scimitar-horned oryx, addax, and dama gazelle to Bou-Hedma National Park in Tunisia (Mallon and Kingswood 2001). These animals have become the founding stock of captive *in situ* herds that have grown substantially since 1995. The IUCN Species Survival Commission has proposed that some of the antelopes produced be used to establish other captive-breeding operations within the range countries or, given the appropriate conditions in the wild, for reintroduction. Similar *in situ* breeding programs for future reintroduction are occurring in Senegal and Morocco with captive stock produced and provided by breeding operations outside of these countries.

This rule does not authorize or lead to the removal of any specimen of the three species from the wild. This rule would not affect prohibitions against possession and other acts with unlawfully taken wildlife or importation. This rule only applies to specimens that are captive bred in the United States. Any person who wishes to engage in any act that is prohibited under the Endangered Species Act with a specimen that has not been captive bred in the United States will still need to obtain a permit or authorization under the Act. The issuance or denial of such permits or authorizations is decided on a case-by-case basis and only after all required findings have been made. The rule contains provisions that will allow the Service to monitor the activities being carried out by captive-breeding operations within the United States to ensure that these activities continue to provide a benefit to the three antelope species. The rule also does not include dead specimens other than sport-hunted trophies or specimens derived from activities that do not meet the criteria.

The probable positive direct and indirect effects of facilitating captive breeding in the United States for the conservation of scimitar-horned oryx, addax, and dama gazelle are exemplified in the research and reintroduction efforts involving the AZA and the Sahelo-Saharan Interest Group (SSIG) of the United Nations Environment Program. In North America, the AZA manages captive scimitar-horned oryx, addax, and dama gazelle through SSPs. The captive scimitar-horned oryx in North America and Europe are derived from two captures that occurred in Chad in 1963 and 1966. Members of the Scimitar-horned Oryx SSP are faced with three challenges (Antelope Taxon Advisory Group 2002b): They must manage the captive herds to maximize the genetic contributions of founder stock; second, they must find solutions for disposition of surplus animals given the limited holding space among SSP members; and third, they must find facilities that can house individual males or bachelor herds. Only through inter-institutional collaboration among members, such as the exchange of live specimens or gametes to maintain genetic diversity, can these challenges be surmounted. In one example, 30 founder lines are represented at 1 ranch that works closely with the SSP. Since typical oryx herds consist of 1 male and 10–30 females, there will always be a need to manage nonbreeding males. Although the SSP consists mostly of AZA-accredited zoos, ranches can serve as repositories for surplus animals or assist in gene pool management. These partnerships also provide opportunities for behavioral and other research in spacious areas found in some zoos and ranches that can be used in forming and preparing groups of animals for reintroduction.

Members of the Addax SSP have also been involved in translocating animals for captive breeding and release in Tunisia and Morocco. Animals held by members of the SSP are included in an international studbook for this species

that includes addaxes in zoos and private facilities worldwide (Antelope Taxon Advisory Group 2002a). The dama gazelle North American studbook also includes zoos and ranch participants worldwide. Some of the specimens bred in zoos originated from ranched stock (Metzler 2000).

Both zoos and ranches may breed and otherwise contribute to the conservation of these species, whether or not there is collaboration. According to several commenters on the proposed regulation, many ranches, whether offering hunts or not, have provided research opportunities to study these species in partnership with academic institutions.

A commenter on the proposed regulation noted that he recently shipped 44 dama gazelles, 32 addax, and 10 scimitar-horned oryx that were captive-bred on U.S. ranches to a private wildlife sanctuary in the United Arab Emirates, where they will be bred to produce specimens for eventual release in the historic range. We note that between October 2003 and March 2005, the U.S. Fish and Wildlife Service's Division of Management Authority issued CITES permits for the export of U.S. captive-bred scimitar-horned oryx (45 specimens), addax (90 specimens), and dama gazelle (70 specimens) to the United Arab Emirates for captive breeding. Most of these specimens were captive-bred on U.S. ranches. We do not know when or to what degree any particular ranch will be called upon to provide specimens for reintroduction efforts or research necessary to facilitate such programs. However, their continued breeding of these species, and their monitoring and maintaining genetic diversity, will ensure that specimens will be available when the appropriate conditions for reintroduction exist in range countries.

We are not aware of any negative direct or indirect effects from this rule on wild populations. This rule does not authorize or lead to the removal of any specimen of the three species from the wild. Indeed, many facilities in the United States that breed these species are working with range countries to breed and reintroduce specimens in areas that they have occupied historically. In 2000, the SSIG was formed as a consortium of individuals and organizations interested in conserving Sahelo-Saharan antelopes and their ecosystems (SSIG 2002). The SSIG has members representing 17 countries and shares information on wildlife management and conservation, captive breeding, wildlife health and husbandry, establishment and management of protected areas, and wildlife survey methods. Members are involved in in *situ* and *ex situ* conservation efforts for the scimitar-horned oryx, addax, and dama gazelle. Several of its projects involve the translocation of captive-bred antelopes to range countries for establishment of herds in large fenced breeding areas prior to reintroduction. A commenter on the proposed rule noted that the Conservation Committee of the Exotic Wildlife Association is developing a feasibility study to determine how ranchers can best contribute specimens to reintroduction programs.

The rule does not directly or indirectly conflict with any known program intended to enhance the survival probabilities of the three antelope species. The SSP and SSIG programs work collaboratively with range country scientists and governments. Although the rule does not authorize or lead to the removal of any specimen of the three species from the wild, it may contribute to other programs by providing founder stock for reintroduction or research.

This rule will reduce the threat of extinction facing the scimitar-horned oryx, addax, and dama gazelle by facilitating captive breeding for all three species in the United States. Based on information available to the Service, captive breeding in the United States has contributed significantly to the conservation of these species. Scimitar-horned oryx may be extinct in the wild; therefore, but for captive breeding, the species might be extinct. Addax and dama gazelle occur in very low numbers in the wild and a significant percentage of remaining specimens survive only through captivity (71% and 48% respectively). Threats that have reduced the species' populations to current levels in the wild continue throughout most of the historic range. As future opportunities arise for reintroduction in the antelope range countries, captive-breeding programs will be able to provide genetically diverse and otherwise suitable specimens. Ranches and large captive-wildlife parks for non-native herds (*e.g.*, Bamberger Ranch, Texas; The Wilds, Ohio; Fossil Rim Wildlife Center, Texas) are able to provide large areas of land that simulate the species' native habitat and can accommodate a larger number of specimens than can most urban zoos. Thus, they provide opportunities for research, breeding, and preparing antelopes for eventual reintroduction.

International consortia of zoos, private owners, researchers, and range country decision makers have acknowledged the need to reduce threats in the range countries (*e.g.*, habitat protection, reduce poaching) of the scimitar-horned oryx, addax, and dama gazelle. They also recognize that, but for captive breeding, it would be difficult, or in some cases impossible, to restore the species in the wild, particularly for species that have become extinct in the wild.

One way this rule will reduce the threat of extinction is by allowing limited sport hunting of U.S. captive-bred specimens to facilitate captive breeding of all three species. Given the cost of establishing and maintaining a large captive breeding operation and the large amount of land that is required to maintain bachelor herds or surplus animals, it is difficult for many private landowners to participate in such endeavors. An incentive to facilitate these captive breeding operations and ensure that genetically viable herds are available for future reintroduction programs is to allow the limited hunting of captive-bred specimens. Most of the available land for captive-held specimens is owned by private landowners (ranchers). In Texas, the number of ranched scimitar-horned oryx went from 32 specimens in 1979 to 2,145 in 1996; addax increased from 2 specimens in 1971 to 1,824 in 1996; and dama gazelle increased from 9 specimens in 1979 to 369 in 2003 (Mungall 2004). These increases were due mostly to captive breeding at the ranches supplemented with some imported captive-bred founder stock. Limited hunting of captive-bred specimens facilitated these increases by generating revenue for herd management and the operation of the facility. Ranches also need to manage herds demographically (*i.e.*, appropriate age and gender numbers and ratios) and genetically (*i.e.*, maximize genetic diversity). Such management may include culling specimens, which may be accomplished through hunting. For example, a ranch may need to reduce the number of adult males to achieve the necessary sex ratio for establishing a polygamous breeding group and facilitating the typical breeding behavior of the species. Hunting also provides an economic incentive for private landowners such as ranchers to continue to breed these species and maintain them as a genetic reservoir for future reintroduction or research, and as a repository for excess males from other captive herds. Sport hunting of U.S. captive-bred specimens may reduce the threat of extinction of wild populations by providing an alternative to legal and illegal hunting of wild specimens in range countries. Thus, hunting of U.S. captive-bred specimens of these species

reduces the threat of the species' extinction.

The movement of live U.S. captive-bred specimens, both by interstate transport and export, is critical to the captive-breeding efforts to manage the captive herds as well as provide animals for reintroduction. Between October 2003 and March 2005, CITES permits were issued for the export of U.S. captive-bred scimitar-horned oryx (45 specimens), addax (90 specimens), and dama gazelle (70 specimens). Studbook managers may recommend that specimens be exchanged among breeding institutions to achieve management goals for genetic or other reasons. These institutions may be separated by State (within the United States) or national boundaries. Zoos in Germany, for example, exchange specimens with zoos in the United States, as recommended by the International Studbook Keeper. The need to quickly move U.S. captive-bred specimens among breeding facilities is reflected in this rule by allowing such movement without requiring a separate ESA permit or authorization.

The opinions or views of scientists or other persons or organizations having expertise concerning these species have been taken into account in this rule. The comments received from peer reviewers on our proposed rule for listing the three antelopes as endangered alerted us to the vital role that captive breeding, whether at zoos or ranches, is playing in species recovery and reintroduction. Comments on the proposed new regulation provided some information. More general comments are addressed in the summary of comments. Thus, the opinions or views of scientists or other persons or organizations having expertise concerning the three antelope species and other germane matters have been considered in the development of this rule.

The U.S. expertise, facilities, and other resources available to captive-breeding operations have resulted in such a high level of breeding success that the SSIG estimated that there are 4,000–5,000 scimitar-horned oryx, 1,500 addax, and 750 dama gazelle in captivity worldwide, many of which are held in the United States. The U.S. specimens have resulted from very few wild-caught founders that have been carefully managed to increase the numbers of specimens and maintain genetic diversity. Husbandry methods are shared by participants in regional and international studbooks through specialist meetings such as the Antelope Taxon Advisory Group meeting held at the AZA Annual Meeting. Such cooperation allows the sharing of resources among participants of coordinated breeding programs as specimens are moved from one facility to another according to management recommendations. As indicated by the Scimitar-horned Oryx SSP, one of the major issues confronting the captive-breeding community is how to preserve the necessary genetic diversity and manage population surplus, particularly given the space limitations at some facilities. Some private ranches in the United States have contributed to the success of captive-breeding programs by absorbing the surplus specimens produced in zoos so that zoos can utilize available space for more genetically important specimens or the appropriate herd social structure. Ranches have also enlarged the captive populations because they are able to dedicate more space to these species, and therefore house more specimens, than can zoos.

Based on the best available scientific information and comments received from peer reviewers, non-government organizations, and the public, we have determined that U.S. operations that breed scimitar-horned oryx, addax, and dama gazelle have already contributed significantly to the propagation or survival of the three antelope species. Because of the need to facilitate the continued captive breeding of these species in private ranches and zoos, this rule is an appropriate regulatory management provision for scimitar-horned oryx, addax, and dama gazelle captive-bred in the United States. The probable direct and indirect effects of this rule will facilitate activities associated with captive breeding and thus contribute to the propagation and survival of the species. The rule will not, directly or indirectly, conflict with any known program intended to enhance the survival of populations in the wild. By maintaining genetic diversity and providing captive-bred stock for reintroduction efforts and research, captive-breeding operations in the United States are reducing the threat of extinction of the three antelope species. The rule facilitates the functioning of conservation programs, including those organized by the AZA and SSIG, and encourages the breeding and management of these antelopes. In fact, the rule provides an incentive to continue captive breeding. Therefore, we find that authorizing certain otherwise prohibited activities for U.S. captive-bred live wildlife, including embryos and gametes, and sport-hunted trophies of the three species that meet specific criteria enhances the propagation and survival of the species.

Endangered Species Act 10(d) Finding

The Service may grant exceptions under subsections (a)(1)(A) and (b) of the Act only if it finds and publishes the findings in the **Federal Register** that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of the Act. Based on the comments received from captive-breeding operation representatives demonstrating their commitment to the continued enhancement of the propagation and survival of the scimitar-horned oryx, addax, and dama gazelle, we find that the exceptions in this rule have been applied for in good faith.

We also find that the rule will not operate to the disadvantage of these species. In fact, it will benefit them by assisting in their rescue from near extinction and providing the founder stock necessary for reintroduction. The scimitar-horned oryx is possibly extinct in the wild and therefore, but for captive breeding, the species might be extinct. For addax and dama gazelle, they occur in very low numbers in the wild, and a significant percentage of remaining specimens survive only in captivity (71% and 48%, respectively). Captive-breeding programs operated by zoos and private ranches have effectively increased the numbers of these animals while genetically managing their herds. As future opportunities arise for reintroduction in the antelope range countries, U.S. captive-breeding programs will be able to provide genetically diverse and otherwise suitable specimens.

Section 2 of the Act defines the purpose of the Act as providing a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, providing a program for the conservation of such endangered species and threatened species, and taking such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in paragraph 2(a) of the Act. One of the stated policies of the Act is for all federal agencies to seek to conserve listed species and use their authorities in furtherance of the purposes of the Act. In section 3, the term ''conservation'' means ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.'' The definition specifically

includes propagation and transplantation as methods that can lead to the recovery of listed species, both of which are components of captive breeding of the three antelope species. As discussed above, the rule provides incentive to U.S. captive-breeding operations that will ensure continued propagation of genetically diverse specimens of these three species, which can serve as a reservoir for future reintroductions and assist in research. Therefore, we find that this rule is consistent with section 2 of the Act.

Description of This Rule

We are amending 50 CFR 17.21 by adding a new paragraph (h), which will apply to U.S. captive-bred scimitar-horned oryx, addax, and dama gazelle. The provision allows for the take; export or re-import; delivery, receipt, carrying, transport or shipment in interstate or foreign commerce, in the course of a commercial activity; or sale or offering for sale in interstate or foreign commerce of U.S. captive-bred live scimitar-horned oryx, addax, or dama gazelle, including embryos and gametes, and sport-hunted trophies, as long as certain criteria are met.

Any exports of such specimens must meet the marking and reporting requirements for export [50 CFR 17.21(g)(4) and part 14], general permit requirements and conditions (50 CFR part 13), and all CITES requirements (50 CFR part 23). Each specimen to be re-imported must be uniquely identified by a tattoo or other means that is reported on the required documentation. Each specimen at the captive-breeding operation must be managed to prevent hybridization of species or subspecies and must be managed in a manner that maintains genetic diversity.

Each person claiming the benefit of the exception of this rule must maintain accurate written records of activities, including births, deaths, and transfers of specimens, and make those records accessible to Service officials for inspection at reasonable hours set forth in 50 CFR 13.46 and 13.47.

Effects of This Rule

With this rule we find that the scimitar-horned oryx, addax, and dama gazelle are dependent on captive breeding and activities associated with captive breeding for their conservation, and that activities associated with captive breeding within the United States enhance the propagation and survival of these species. Therefore, persons who wish to engage in the specified otherwise prohibited activities that meet the criteria for enhancement of the propagation or survival of these species may do so without obtaining an individual Endangered Species Act permit.

This rule does not authorize any activity for any specimen of the three species from the wild. It also does not affect provisions relating to importation or possession and other acts with unlawfully taken wildlife. In addition, this rule applies only to specimens that are captive-bred in the United States. Any person who wishes to engage in any act that is prohibited under the Endangered Species Act with a specimen that has not been captive-bred in the United States or from a facility that does not meet the criteria of this rule will need to obtain an individual permit under the Act. The issuance or denial of such permits is decided on a case-by-case basis and only after all required findings have been made.

This rule does not affect the CITES requirements for these species. Therefore, any import into or export from the United States of specimens of these species would not be authorized until all CITES requirements have been met. See the proposed rule for more information on the application of CITES to these activities. The existing protections under CITES, in conjunction with the new provisions for the species under this rule, create an appropriate regulatory framework that protects populations in the wild, ensures appropriate management of U.S. captive-bred specimens, and provides an incentive for future captive breeding.

Required Determinations

A Record of Compliance was prepared for the proposed rule. A Record of Compliance certifies that a rulemaking action complies with the various statutory, Executive Order, and Department Manual requirements applicable to rulemaking. Without this new regulation, individuals subject to the jurisdiction of the United States would need individual permits to engage in various otherwise prohibited activities, including domestic and international trade in live and sport-hunted captive-bred specimens for commercial purposes. Captive-bred specimens in international trade for noncommercial purposes (*e.g.*, breeding loans requiring export) would have to be authorized through the permit process. This process takes time, sometimes causing delays in moving animals for breeding or reintroduction. Such movements must often be completed within a narrow timeframe and can be further complicated by quarantine requirements and other logistics. We note that the economic effects of this rule do not rise to the level of ''significant'' under the following required determinations.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget has determined that this rule is not a significant regulatory action. The rule will not have an annual economic impact of more than $100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. This rule will reduce the regulatory impacts on captive-breeding operations that breed the endangered scimitar-horned oryx, addax, and dama gazelle because it provides exemptions to certain prohibitions of section 9 of the Act that would otherwise apply to businesses and individuals under U.S. jurisdiction. The exemptions to the prohibitions of the Act provided by this rule will reduce economic costs of the listing. The economic effect of the rule is a benefit to the captive-breeding operations for the three antelopes because it allows the take and interstate commerce of captive-bred specimens. The rule, by itself, will not have an annual economic impact of more than $100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This rule does not create inconsistencies with other Federal agencies' actions. Thus, no Federal agency's actions are affected by this final rule.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The rule will not raise novel legal or policy issues. The Service has previously promulgated species-specific rules for other endangered and threatened species, including other rules for captive-bred specimens.

Regulatory Flexibility Act

To assess the effects of the rule on small entities, we focused on the exotic wildlife ranching community in the United States because these are the entities most likely to be affected by the rule. We determined that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it allows for the continued breeding of the species and trade in live specimens, embryos, gametes, and sport-hunted trophies of the three antelopes. An initial Regulatory Flexibility Analysis was not required.

Accordingly, a Small Entity Compliance Guide was not required. This rule reduces the regulatory impact, because without this rule all prohibitions of section 9 of the Endangered Species Act would apply (*i.e.*, take; export; delivery, receipt, carrying, transport or shipment in interstate or foreign commerce, in the course of a commercial activity; or sale or offering for sale in interstate or foreign commerce).

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule would reduce certain regulatory obligations and will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630, this final rule does not have significant takings implications. By reducing the regulatory burden placed on affected individuals resulting from the listing of the three antelopes as endangered species, this rule will not affect the likelihood of potential takings. Affected individuals will have more freedom to pursue activities that involve captive-bred specimens without first obtaining individual authorization.

Federalism

In accordance with Executive Order 13132, this final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

Paperwork Reduction Act

The Office of Management and Budget approved the information collection in part 17 and assigned OMB Control Numbers 1018–0093 and 1018–0094. This rule does not impose new reporting or recordkeeping requirements on State or local governments, individuals, businesses, or organizations. We cannot conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

Council on Environmental Quality regulations in 40 CFR 1501.3(b) state that an agency ''may prepare an environmental assessment on any action at any time in order to assist agency planning and decision making.'' We drafted an environmental assessment for the proposed rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA). A final environmental assessment was prepared based on comments received and a Finding of No Significant Impact was prepared.

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) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Executive Order 13211

We have evaluated this final rule in accordance with E.O. 13211 and have determined that this rule will have no effects on energy supply, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

References Cited

Antelope Taxon Advisory Group. 2002a. Addax Fact Sheet. American Zoo and Aquarium Association. *http://www.csew.com/antelopetag.*

Antelope Taxon Advisory Group. 2002b. Scimitar-Horned Oryx Fact Sheet. American Zoo and Aquarium Association. *http://www.csew.com/antelopetag.*

IUCN (World Conservation Union). 2003. 2003 IUCN Red List of Threatened Species. *http://www.iucn.org.*

Mallon, D.P., and S.C. Kingswood (Compilers). 2001. *Antelopes. Part 4: North Africa, the Middle East, and Asia. Global Survey and Regional Action Plans.* SSC Antelope Specialist Group. IUCN, Gland, Switzerland and Cambridge, UK. Viii + 260 pp.

Metzler, S. 2000. Addra Gazelle *Gazella dama ruficollis* North American Regional Studbook: December 31, 1999 Update. Disney's Animal Kingdom: Orlando, Florida.

Mungall, E.C. 2004. Submission for the Comment Period Listing of Scimitar-horned Oryx, Addax, and Dama Gazelle Under the Endangered Species Act: A Technical Report Prepared for the Exotic Wildlife Association.

Noble, D. 2002. Overview and status of captive antelope populations. Third Annual Sahelo-Saharan Interest Group Meeting, p.41

SSIG (Sahelo—Saharan Interest Group) 2002. Third Annual Sahelo—Saharan Interest Group Meeting Proceedings. Available from S. Monfort, Chair SSIG, National Zoological Park. Smithsonian Institution: Washington, DC.

Author

The primary author of this notice is Robert R. Gabel, Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

■ Accordingly, we hereby amend part 17 of subpart C, 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. Amend § 17.21 by adding paragraph (h) to read as follows:

§ 17.21 Prohibitions.

* * * * *

(h) *U.S. captive-bred scimitar-horned oryx, addax, and dama gazelle.* Notwithstanding paragraphs (b), (c), (e), and (f) of this section, any person subject to the jurisdiction of the United States may take; export or re-import; deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce live wildlife, including embryos and gametes, and sport-hunted trophies of scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*) provided:

(1) The purpose of such activity is associated with the management or

transfer of live wildlife, including embryos and gametes, or sport hunting in a manner that contributes to increasing or sustaining captive numbers or to potential reintroduction to range countries;

(2) The specimen was captive-bred, in accordance with § 17.3, within the United States;

(3) All live specimens of that species held by the captive-breeding operation are managed in a manner that prevents hybridization of the species or subspecies.

(4) All live specimens of that species held by the captive-breeding operation are managed in a manner that maintains genetic diversity.

(5) Any export of or foreign commerce in a specimen meets the requirements of paragraph (g)(4) of this section, as well as parts 13, 14, and 23 of this chapter;

(6) Each specimen to be re-imported is uniquely identified by a tattoo or other means that is reported on the documentation required under paragraph (h)(5) of this section; and

(7) Each person claiming the benefit of the exception of this paragraph (h) must maintain accurate written records of activities, including births, deaths, and transfers of specimens, and make those records accessible to Service officials for inspection at reasonable hours set forth in §§ 13.46 and 13.47 of this chapter.

(8) The sport-hunted trophy consists of raw or tanned parts, such as bones, hair, head, hide, hooves, horns, meat, skull, rug, taxidermied head, shoulder, or full body mount, of a specimen that was taken by the hunter during a sport hunt for personal use. It does not include articles made from a trophy, such as worked, manufactured, or handicraft items for use as clothing, curios, ornamentation, jewelry, or other utilitarian items for commercial purposes.

Dated: August 25, 2005.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–17432 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI82

Endangered and Threatened Wildlife and Plants; Final Rule To List the Scimitar-Horned Oryx, Addax, and Dama Gazelle as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status for scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*) throughout their ranges, pursuant to the Endangered Species Act of 1973, as amended (Act). The best available information indicates that the causes of decline of these antelopes are (1) habitat loss through desertification, permanent human settlement, and competition with domestic livestock, and (2) regional military activity and uncontrolled killing. These threats have caused the possible extinction in the wild of the scimitar-horned oryx and the near-extinction of the addax in the wild. All three species are in danger of extinction throughout their ranges. Accordingly, we are listing these three antelopes as endangered.

DATES: This final rule is effective on October 3, 2005.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours in the office of the Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 750, Arlington, Virginia 22203.

Requests for copies of the regulations regarding listed wildlife and inquiries about prohibitions and permits may be addressed to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 (telephone, 703–358–2104; fax, 703–358–2281).

FOR FURTHER INFORMATION CONTACT: Robert R. Gabel, Chief, Division of Scientific Authority, at the above address; by telephone, 703–358–1708; by fax, 703–358–2276; or by e-mail, *Scientificauthority@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

The scimitar-horned oryx stands about 47 inches [in, 119 centimeters (cm)] tall and weighs around 450 pounds [lb, 204 kilograms (kg)]. It is generally pale in color, but the neck and chest are dark reddish brown. As the name suggests, adult animals possess a pair of horns curving back in an arc up to 50 in (127 cm) long. The scimitar-horned oryx once had an extensive range in North Africa throughout the semi-deserts and steppes north of the Sahara, from Morocco to Egypt.

The addax stands about 42 in (106 cm) tall at the shoulder and weighs around 220 lb (100 kg). It is grayish white and its horns twist in a spiral up to 43 in (109 cm) long. The addax once occurred throughout the deserts and sub-deserts of North Africa, from the Atlantic Ocean to the Nile River.

The dama gazelle stands about 39 in (99 cm) tall at the shoulder and weighs around 160 lb (72 kg). The upper part of its body is mostly reddish brown, whereas the head, rump, and underparts are white. Its horns curve back and up, but reach a length of only about 17 in (43 cm) long. The dama gazelle, the largest of the gazelles, was once common and widespread in arid and semi-arid regions of the Sahara.

Of the three antelope species, the scimitar-horned oryx has been the most susceptible to the threats it faced. In Egypt, the species became extinct over a century ago (M. Riad, Minister of State for Environmental Affairs, *in litt.,* August 2003). By the mid-1900s, intensive killing had extirpated the scimitar-horned oryx from Morocco (Fact sheet submitted to the Service by M. Anechoum, Secretary General, Department of Waters and Forests in the Campaign Against Desertification, Morocco, pers. com., September 2003). By the mid-1980s, it was estimated that only a few hundred were left in the wild, with the only viable populations known to be in Chad. There have been no reported sightings of this species in the wild since the late 1980s. The World Conservation Union (IUCN) has declared the species extinct in the wild (IUCN 2003). In 1983, it was listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Captive-bred specimens are being introduced into large fenced areas in Morocco and Tunisia, and these animals may be released into the wild when adequately protected habitat is available (Antelope Taxon Advisory Group 2002b).

It is believed that the addax was extirpated from Tunisia during the 1930s, and the last animals were killed in Libya and Algeria in 1966 and 1970, respectively. The last observation of addax in Egypt was in the 1970s (Riad,

in litt., August 2003), and in Morocco in 1963 (M. Anechoum, *in litt.,* September 2003). Remnant populations may still exist in the remote desert areas of Chad, Mali, and Niger, and occasionally move north into Algeria and Libya during times of good rainfall. According to the Antelope Specialist Group's *Global Survey of Antelopes,* the addax is considered to be regionally extinct (Mallon and Kingwood 2001). The addax is listed as critically endangered by IUCN (IUCN 2003) and probably numbers fewer than 600 in the wild (Noble 2002). In 1983, the addax was listed in Appendix I of CITES. As with the scimitar-horned oryx, captive-bred specimens are being introduced into large fenced areas of protected habitat in Morocco and Tunisia (Antelope Taxon Advisory Group 2002a).

The dama gazelle is able to utilize both semi-desert and desert habitats. Although the dama gazelle is the least susceptible of the three antelopes to pressures from humans and domestic livestock, it has declined rapidly in the last 20 years, and only small numbers survive in most of the eight countries within its historical range. Noble (2002) estimated that the wild population of *G. dama ruficollis* is fewer than 200 specimens, *G. dama dama* is about 500 specimens, and *G. dama mhorr* may be extinct in the wild. It was previously extirpated from Senegal, but has since been reintroduced, and in 1997, at least 25 animals existed there as part of a semi-captive breeding program (IUCN 2003). The dama gazelle, including all subspecies, is listed as endangered by IUCN (2003). The Mhorr gazelle may only be found in captive collections or reintroduced populations in large fenced enclosures within range countries (Antelope Taxon Advisory Group 2002, IUCN 2003). In 1983, the Mhorr gazelle was listed in CITES Appendix I.

For additional population numbers indicating global and regional declines of the three antelope species, see our November 5, 1991, proposed rule (56 FR 56491).

Previous Federal Action

The Mhorr gazelle and Rio de Oro dama gazelle (*G. d. lozanoi*) were listed as endangered throughout their ranges on June 2, 1970 (35 FR 8495). On November 5, 1991, we published in the **Federal Register** (56 FR 56491) a proposed rule to list the scimitar-horned oryx, addax, and dama gazelle as endangered in The List of Threatened and Endangered Species [50 CFR 17.11(h)]. We re-opened the comment period on the Novermber 5, 1991, proposed rule to request information and comments from the public on July 24, 2003 (68 FR 43706), and November 26, 2003 (68 FR 66395). Stakeholders and interested parties, including the general public, governmental agencies, the scientific community, industry, and the range countries of the species were requested to submit comments or information.

Summary of Comments and Recommendations

We received a total of 56 comments, including multiple comments from the same stakeholders, during the three public comment periods on the proposed rule. Most of the comments (62.5%) were submitted by U.S. game ranchers. Zoos and zoo organizations submitted 8.9% of the comments. Other comments were received from governments of range countries (7.1%), hunting organizations (7.1%), exotic wildlife breeding organizations (5.4%), the general public (5.4%), and international scientific organizations (3.6%). In accordance with the Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities published on July 1, 1994 (59 FR 34270), we selected three appropriate independent specialists to review the proposed rule. The purpose of such peer review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analysis. The reviewers selected have considerable knowledge and field experience with scimitar-horned oryx, addax, and dama gazelle biology and conservation. We received comments from all of the peer reviewers.

We also sent letters requesting comments from the CITES Management and Scientific Authorities in the range countries, which include Algeria, Egypt, Libya, Morocco, Tunisia, and the United Arab Emirates. We received responses from Egypt and Morocco.

The two range country governments that responded both supported the proposed rule. The remaining commenters expressed opposition only to listing captive-bred specimens of these species as endangered. Specifically, peer reviewers and the zoo community supported listing of wild specimens only for all three species, noting that the captive herds are relatively robust. They advised that captive-breeding operations should not be impeded in their efforts to maintain globally managed captive herds. According to the information provided, the large captive herds of these species retain a substantial level of genetic diversity and are able to serve as sources of specimens for reintroduction, as needed. The exotic animal ranching community was uniformly against the proposed rule because listing the species would provide a disincentive to continue captive breeding of these three species on ranches. A major concern of ranchers was the need to go through potentially lengthy and cumbersome permit processes to continue their longstanding activities with these species, in accordance with the regulations at 50 CFR 17.21(g)(1).

It would not be appropriate to list captive and wild animals separately. Indeed, in the case of the scimitar-horned oryx, there are possibly no wild individuals. However, the Service may authorize otherwise prohibited activities that enhance the propagation or survival of the species, such as captive breeding to increase the population size or improve the gene pool, under section 10(a)(1)(A) of the Act. In response to these comments, on February 1, 2005 (70 FR 5117), we initiated a separate rulemaking by announcing a proposed rule and notice of availability of a draft environmental assessment to add a new subsection, 17.21(h), to govern certain activities with U.S. captive-bred scimitar-horned oryx, addax, and dama gazelle, should they become listed as endangered. The proposed rule covered U.S. captive-bred live specimens, embryos, gametes, and sport-hunted trophies and would authorize certain otherwise prohibited activities that enhance the propagation or survival of the species. The ''otherwise prohibited activities'' were take; export or re-import; delivery, receipt, carrying, transport or shipment in interstate or foreign commerce, in the course of a commercial activity; or sale or offering for sale in interstate or foreign commerce. In the proposed rule, we determined that the scimitar-horned oryx, addax, and dama gazelle are dependent on captive breeding and activities associated with captive breeding for their conservation, and that activities associated with captive breeding within the United States enhance the propagation or survival of these species. Comments were accepted until April 4, 2005. The final rule is published in today's **Federal Register**.

No comments were submitted that demonstrate that the three antelope species do not qualify as endangered under the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for determining whether any species is an endangered or

threatened species. A species may be determined to be an endangered or threatened species on the basis of one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to the three antelopes are as follows:

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

The ranges of all three species have been reduced as a result of habitat loss (Antelope Taxon Advisory Group 2002, IUCN 2003, Mallon and Kingwood 2001), which has occurred through overgrazing by domestic livestock. Severe droughts have reduced large areas of Sahelian and Saharan pasture, and traditional nomadism has declined in favor of permanent settlement and livestock rearing. The consequent establishment of vast herds of domestic livestock has led to competition for forage, overgrazing, erosion, and accelerated desertification. Habitat loss is also attributable to increased military activity, construction, and mining in the region, as well as the proliferation of all-terrain vehicles. See the November 5, 1991, proposed rule for additional details on the causes of and geographical regions of decline.

Habitat loss has been the main reason for the possible extinction of scimitar-horned oryx in the wild according to the World Conservation Union (IUCN 2003). Reduction in habitat is also the major threat to the addax. The decline of the addax has closely paralleled that of the oryx. However, because the addax is able to utilize waterless areas in the Sahara that are devoid of human settlement and livestock, it has been somewhat less affected than the oryx to habitat disturbance by humans and competition with domestic livestock (Antelope Taxon Advisory Group 2002a).

Being able to utilize both semi-desert and desert habitats the dama gazelle has proved somewhat less susceptible to habitat reduction and degradation than the other two species. However, the dama gazelle is not as drought-resistant as the other two species. Thus, intensive drought coupled with overgrazing from livestock can have an extreme impact on this species (Antelope Taxon Advisory Group 2002b). Noble (2002) estimates that the wild population of *G. dama ruficollis* is fewer than 200 specimens, that of *G. dama dama* is about 500 specimens, and *G. dama mhorr* is extinct in the wild. The IUCN (2003) has identified human-induced habitat loss and degradation as a major threat contributing to the IUCN classification of the dama gazelle as endangered.

Therefore, based on the best available information, we find that the scimitar-horned oryx, addax, and dama gazelle are in danger of extinction from the present or threatened destruction, modification, or curtailment of their habitats or ranges.

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

Uncontrolled killing has contributed to the decline of all three species (IUCN 2003, Mallon and Kingwood 2001). Traditional hunting methods—involving spears, bows, nets, and dogs—had little overall effect on antelope populations. Rather, military and government officials have inflicted the most devastating losses with access to off-road vehicles and high-caliber weaponry. By the mid-1900s, intensive killing had exterminated the scimitar-horned oryx in Morocco (M. Anechoum, *in litt.,* September 2003). The addax population suffered its greatest reduction in numbers due to motorized uncontrolled killing following World War II (Antelope Taxon Advisory Group 2002a). It is believed that the addax was extirpated from Tunisia during the 1930s, and the last animals were killed in Libya and Algeria in 1966 and 1970, respectively. In 2001, an antelope survey team observed many signs of recent antelope killing in Chad including abandoned carcasses, vehicle tracks, spent cartridges, and eyewitness reports. The most frequent killing was carried out by people with access to all-terrain vehicles, such as the military, well-diggers, merchants, administrators, and others (Monfort *et al.* 2001).

Civil wars in Chad and Sudan in particular have contributed to the uncontrolled killing and harassment of the last large scimitar-horned oryx populations (Antelope Taxon Advisory Group 2002c). In the late 1970s, the scimitar-horned oryx was estimated to number about 6,000 individuals, at least 5,000 of which were in Chad and the rest of which were split into separate groups in other countries. By the mid-1980s, there were only a few hundred left in the wild, with the only known viable groups being in Chad. However, by 1989, only as many as 200 scimitar-horned oryx remained in Chad (Estes 1989). The same conflict that affected the scimitar-horned oryx continues to affect the dama gazelle population (Antelope Taxon Advisory Group 2002a).

According to Harper (1945), the range of the addax extended throughout the Saharan region in the 19th century. In the 1920s, the species was reported to occur in ''immense herds'' north of Lake Chad. By that period, however, the addax was becoming rare in some other areas because of excessive killing. Thornback (1978) indicated that the last permanent populations of addax disappeared from Tunisia as early as 1885, Egypt about 1970, northern Algeria in 1920–1922, Western Sahara in 1942, and Libya in 1949. In the 1970s, there were an estimated 2,500 individuals in Chad, and also substantial numbers in southern Algeria, Mauritania, Mali, Niger, and Sudan. Newby and Magin (1989) reported that the addax had disappeared almost throughout its original range. They also reported that a group of 50–200 individuals in northeastern Niger might represent the last viable wild population, but that a series of years with good rainfall in the late 1980s might have improved the situation. More recently, Estes (1989) noted that there also were an estimated 200 animals still in Chad, fewer than 50 in Mali, and possibly a few in remote parts of Algeria, Sudan, and Egypt.

An important new problem has been the arrival of non-resident hunters, mainly from other African countries and the Middle East. Traveling in large motorized caravans and equipped with automatic rifles, these parties have ignored local laws and killed wildlife, including dama gazelle and addax, of Algeria, Sudan, and Morocco, and more recently have concentrated their attention in Mali and Niger (Newby 1990). In Niger, killing of antelope is perpetrated by foreigners from the Arabian Gulf and military personnel. This may increase in the near future when an airport is built in the region inhabited by antelope (Wacher *et al.* 2003).

The dama gazelle declined by half between 1991 and 2001, in part due to illegal killing (Mallon and Kingwood 2001). See the November 5, 1991, proposed rule for additional details on the overutilization for commercial, recreational, scientific, or educational purposes.

Therefore, based on the best available information, we find that the scimitar-horned oryx, addax, and dama gazelle are in danger of extinction from overutilization for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

According to S. Monfort, Chair, Sahelo—Saharan Interest Group (SSIG), research veterinarian, National Zoological Park, Smithsonian Institution (*in litt.,* October 2003), disease and predation do not represent a threat to the survival of these three antelopes.

Based on the best available information, we find that the scimitar-horned oryx, addax, and dama gazelle are not in danger of extinction within the foreseeable future from disease or predation.

D. Inadequacy of Existing Regulatory Mechanisms

With the exceptions of Morocco, Senegal, and Tunisia, there is almost no effective wildlife protection across the Sahelo-Saharan region (S. Monfort, *in litt.,* October 2003). Few areas are adequately protected due to limited resources or lack of vigilance. In general, protected areas have no infrastructure or support to ensure protection of these species.

The Sahelo-Saharan range states have agreed to cooperate under the United Nations Environment Programme's Convention on Migratory Species (CMS). In 1994, the CMS adopted a resolution that recommended the development and the implementation of an Action Plan for the conservation of six ungulate species including the scimitar-horned oryx, addax, and dama gazelle (UNEP/CMS 1999). Comprehensive status reports of the species throughout the migration range based on the most recent surveys and reports were compiled and an Action Plan was developed by experts from the Range States, neighboring countries, scientific institutions, and non-governmental organizations. The Action Plan for the conservation and restoration of the Sahelo-Saharan antelopes and their habitats comprises the three following main objectives: 1. To restore range and numbers (conserve or restore potential habitats in areas of former occurrence, consolidate or reinforce populations, reintroduce populations), 2. to reduce mortality (increase public awareness, census populations, conserve relict habitats, enact and enforce legislative measures, involve local communities), 3. to enhance international cooperation (improve exchange of information and technical expertise, raise funds for conservation programmes).

These objectives are included in the work of the Sahelo-Saharan Interest Group (SSIG) which formed in 2000. The SSIG has conducted range country antelope surveys (Monfort *et al.* 2001, Wacher *et al.* 2003) and held meetings that review current projects and propose further areas of research (Monfort 2003). While the work of the SSIG has improved communication among researchers and range state representatives interested in these species, it is not a regulatory body. There has been no progress in the development of transboundary protected areas (S. Monfort, *in litt.,* October 2003).

The United States and range-country governments, as well as most countries worldwide, are required to strictly regulate trade in these species because the scimitar-horned oryx, addax, and dama gazelle are listed in Appendix I of CITES. Listing in CITES Appendix I requires strict regulation of international movement of these species, which may only be authorized in ''exceptional circumstances.'' CITES provides some protection, but these three species are not threatened by trade. Thus, CITES is inadequate to prevent or reduce the threat of extinction for these species.

Therefore, based on the best available information, we find that the scimitar-horned oryx, addax, and dama gazelle are in danger of extinction from inadequate existing regulatory mechanisms.

E. Other Natural or Manmade Factors

Captive breeding is a manmade factor that has stemmed the decline of the three species. It has provided the founder stock necessary for reintroduction, maintenance of otherwise potentially lost bloodlines, and opportunities for research. The scimitar-horned oryx is possibly extinct in the wild and therefore, but for captive breeding, the species might be extinct. For addax and dama gazelle, they occur in very low numbers in the wild, and a significant percentage of remaining specimens survive only in captivity (71% and 48%, respectively). The SSIG estimates that there are about 4,000–5,000 scimitar-horned oryx, 1,500 addax, and 750 dama gazelle in captivity worldwide. Captive-breeding programs operated by zoos and private ranches have effectively increased the numbers of these animals while genetically managing their herds. As future opportunities arise for reintroduction in the antelope range countries, captive-breeding programs will be able to provide genetically diverse and otherwise suitable specimens. Currently, however, continued habitat loss and wonton killing have made reintroduction nonviable in most cases. See 70 FR 5117 for a detailed discussion of the role of captive breeding in the conservation of these species.

Fenced reintroductions of scimitar-horned oryx are ongoing in Morocco, Tunisia, and Senegal (Monfort *in litt.* 2003, Monfort 2003). Five dama gazelle have been introduced to a large enclosure in Senegal (Ba and Clark 2003). These specimens are fenced in large tracts of suitable or recovering habitat and held for breeding and eventual reintroduction. The founder stock was largely derived from captive-breeding facilities. However, threats to survival of the antelopes still occur outside of the fenced areas so reintroduction into the wild has rarely occurred.

Because the remaining wild antelopes live in a harsh environment and are subject to severe natural pressures, they are especially vulnerable when adverse human impacts compound the situation. Human development projects that include drilling water wells influence land-use patterns and increase the human and domestic livestock conflict with wildlife. For arid antelope species, this can result in increased direct (*e.g.*, killing) or indirect (*e.g.*, grazing competition) conflicts (S. Monfort, *in litt.,* October 2003). In terms of natural pressures, Newby (1988) observed: ''The effect of drought and desertification on aridland wildlife in general, and on the Oryx and Addax in particular, has been catastrophic: fewer and smaller winter pastures, rarefaction of dry-season grazing, loss of shade and depletion of vital sources of organic water. By the hot season, Oryx and Addax are severely weakened, some die of hunger, others of thirst. Reproduction is disrupted or curtailed entirely; calves are aborted or abandoned at birth. In the search for grazing, the wildlife is driven south prematurely and onto land occupied by herders or farmers on the northern edge of the agricultural zone.'' Therefore, based on the best available information, we find that the scimitar-horned oryx, addax, and dama gazelle are in danger of extinction from natural factors such as drought and manmade factors that result in habitat loss and uncontrolled killing.

Conclusion

In developing this rule, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats facing these species. This information indicates that the wild populations of the three antelopes have declined drastically over the past 50 years. The scimitar-horned oryx may now be extinct in the wild. The declines have resulted primarily from habitat loss, uncontrolled killing, and the inadequacy of existing regulatory mechanisms. Because these threats place the species in danger of extinction throughout all or a significant portion of their ranges (in accordance with the definition of ''endangered species'' in section 3(6) of the Act), we find that the scimitar-horned oryx, addax, and dama gazelle are endangered throughout their

ranges, pursuant to the Act. This action will result in the classification of these species as endangered, wherever they occur.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition of conservation status, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies and groups, and individuals. The protection required of Federal agencies and the prohibitions against take and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or upon the high seas, with respect to any species that is proposed to be listed or is listed as endangered or threatened and with respect to its proposed or designated critical habitat, if any is being designated. Because the scimitar-horned oryx, addax, and dama gazelle are not native to the United States, no critical habitat is being proposed for designation with this rule. Regulations implementing the interagency cooperation provision of the Act are codified at 50 CFR part 402. 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 a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. Currently, with respect to these three antelopes, no Federal activities are known that would require consultation.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. As such, these prohibitions are applicable to the scimitar-horned oryx, addax, and dama gazelle. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to ''take'' (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or to attempt any of these) within the United States or upon the high seas; import or export; deliver, receive, carry, transport, or ship in interstate commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

Paperwork Reduction Act

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 Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. However, OMB has approved the collection of information associated with endangered species permits and assigned control number 1018–0093, which expires June 30, 2007. For additional information concerning permit requirements for endangered species, see 50 CFR 17.22.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Antelope Taxon Advisory Group. 2002a. Addax Fact Sheet. American Zoo and Aquarium Association. *http://www.csew.com/antelopetag.*

Antelope Taxon Advisory Group. 2002b. Addra or Dama Gazelle Fact Sheet. American Zoo and Aquarium Association. *http://www.csew.com/antelopetag.*

Antelope Taxon Advisory Group. 2002c. Scimitar-Horned Oryx Fact Sheet. American Zoo and Aquarium Association. *http://www.csew.com/antelopetag.*

Ba, D.M. and B. Clark. 2003. Update on antelope conservation programs in Senegal. Fourth Annual Sahelo-Saharan Interest Group Meeting. Agadir, Morocco, pp. 9–10.

Estes, R.D. 1989. The CBSG Aridland Anelopes Workshop. *Gnusletter* 8(3):9–12.

Harper, F. 1945. Extinct and vanishing mammals of the Old World. *Special Publication American Commission on International Wildlife Protection.* No. 12.

IUCN (World Conservation Union). 2003. 2003 IUCN Red List of Threatened Species. *http://www.iucn.org.*

Mallon, D.P., and S.C. Kingswood (Compilers). 2001. *Antelopes. Part 4: North Africa, the Middle East, and Asia. Global Survey and Regional Action Plans.* SSC Antelope Specialist Group. IUCN: Gland, Switzerland.

Monfort, S.L.. 2003. Comments submitted to U.S. Fish and Wildlife Service on proposed listing rule, Oct. 20, 2003.

Monfort, S.L. (ed.) 2003. Fourth Annual Sahelo-Saharan Interest Group Meeting, Agadir, Morocco, 67 p.

Monfort, S.L., J. Newby , T.J. Wacher, J. Tubiana, and D. Moksia. 2001. Sahelo-Saharan Antelope Survey, Republic of Chad. Final Report. Sahelo-Saharan Interest Group/UNEP–CMS.

Newby, J.E. 1988. Aridland wildlife in decline: The case of the scimitar-horned oryx. In A. Dixon and D. Jones (eds.), *Conservation and Biology of Desert Antelopes.* Christopher Helm: London, pp. 146–166.

Newby, J.E. 1990. The slaughter of Sahelian wildlife by Arab royalty. *Oryx* 24:6–8.

Newby, J.E., and C. Magin. 1989. Addax in Niger: distribution, status and conservation options. IUCN. Captive Breeding Specialist Group Meeting, San Antonio.

Noble, D. 2002. Overview and status of captive antelope populations. Third Annual Sahelo–Saharan Interest Group Meeting, May 20–22, 2002, Zámocká, Slovakia, p. 41.

Thornback, J. 1978. *Red Data Book. Volume 1:* Mammals. IUCN: Gland. Switzerland.

UNEP/CMS 1999. CMS Technical Series Publication No. 4: Conservation Measures for Sahelo-Saharan Antelopes. Action Plan and Status Report. UNEP/CMS Secretariat, Bonn, Germany

Wacher, T., J. Newby, S. Monfort, A. Dixon, and B. Houston. 2003. Sahelo-Saharan Wildlife Surveys. Part two: Central and South-Eastern Niger (February–March 2002). Sahelo-Saharan Interest Group/UNEP–CMS.

Author

The primary author of this notice is Michael Kreger, Ph.D., Division of Scientific Authority, U.S. Fish and Wildlife Service (see **ADDRESSES** section; telephone, 703–358–1708).

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 follows:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11(h) as follows:

■ a. By removing the entries for ''Gazelle, Mhorr'' and ''Gazelle, Rio de Oro Dama'' under MAMMALS in the List of Endangered and Threatened Wildlife; and

■ b.By adding entries for ''Addax,'' ''Gazelle, dama,'' and ''Oryx, scimitar-horned,'' in alphabetical order under MAMMALS, to the List of Endangered and Threatened Wildlife as set forth below.

§ 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						
MAMMALS							
Addax	*Addax nasomaculatus.*	North Africa	Entire	E		NA	NA
*	*	*	*	*	*	*	
Gazelle, dama	*Gazella dama*	North Africa	Entire	E	3	NA	NA
*	*	*	*	*	*	*	
Oryx, scimitar-horned.	*Oryx dammah*	North Africa	Entire	E		NA	NA
*	*	*	*	*	*	*	

Dated: August 19, 2005.

Marshall P. Jones, Jr.,

Director, Fish and Wildlife Service.

[FR Doc. 05–17431 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 050719189–5231–02; I.D. 081105E]

RIN 0648–AT33

International Fisheries; Pacific Tuna Fisheries; Restrictions for 2005 Longline Fisheries in the Eastern Tropical Pacific Ocean

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

ACTION: Temporary rule; emergency action.

SUMMARY: This emergency action, implemented under the regulations for the Pacific Tuna Fisheries, will prevent overfishing of bigeye tuna in the eastern tropical Pacific Ocean (ETP), consistent with recommendations by the Inter-American Tropical Tuna Commission (IATTC) that have been approved by the Department of State (DOS) under the Tuna Conventions Act. NMFS hereby closes the U.S. longline fishery directed at bigeye tuna in the Convention Area for the remainder of 2005 because the bigeye tuna catch in the Convention Area has reached the reported level of catch made in 2001. This action is intended to limit fishing mortality on bigeye tuna stock caused by longline fishing in the Convention Area and contribute to the long-term conservation of bigeye tuna stock at levels that support healthy fisheries.

DATES: Effective August 30, 2005 through December 31, 2005.

ADDRESSES: Southwest Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90902–4213.

FOR FURTHER INFORMATION CONTACT: J. Allison Routt, Sustainable Fisheries Division, Southwest Region, NMFS, (562) 980–4030.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register**'s website at *http://www.gpoaccess.gov/*.

The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949 (Convention). The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of highly migratory species of fish in the Convention Area. The Convention Area for this purpose is defined to include the waters of the ETP bounded by the coast of the Americas, the 40° N. and 40° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of stocks of tuna and the fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of tuna stocks and promote viable fisheries. Under the Tuna Conventions Act, 16 U.S.C. 951–961 and 972 *et seq.*, NMFS must publish regulations to carry out IATTC recommendations and resolutions that have been approved by DOS. The Southwest Regional Administrator also is also required by regulations at 50 CFR 300.299(b)(3) to issue a direct notice to the owners or agents of U.S. vessels that operate in the ETP of actions recommended by the IATTC and approved by the DOS. A notice to the fleet was sent May 31, 2005, advising the U.S. bigeye tuna longline fleet of anticipated actions for the 2005 fishing year.

The IATTC recommended, and the DOS approved, a measure whereby the U.S. longline fishery for bigeye tuna in the Convention Area wouldill close for the remainder of calendar year 2005 if the catch of bigeye tuna by U.S. longline

vessels in the Convention Area reaches 150 mt (the amount estimated to have been caught by the U.S. longline fishery in the Convention Area in 2001). The measure recommended by the IATTC and approved by DOS states that, no bigeye tuna may be caught and retained by U.S. longline bigeye tuna vessels in the Convention Area during the remainder of the calendar year 2005 once the fishery is closed upon reaching the 2001 catch level. NMFS promulgated a proposed rule to effect this recommendation on August 15, 2005 (70 FR 47774–47776).

NMFS has determined that the 150 mt catch level has been reached for the 2005 season and hereby closes the U.S. longline fishery for bigeye tuna in the Convention Area for the remainder of the year 2005. It is therefore prohibited for a U.S. longline bigeye tuna vessel to retain bigeye tuna in the Convention Area from the effective date of this action through December 31, 2005. Longline vessels are not subject to this rule if they declare to NMFS under the Western Pacific Pelagics FMP that they intend to shallow-set to target swordfish.

Classification

This action is consistent with the Tuna Conventions Act 16, U.S.C. 951–961 and 971 *et seq.* This action is consistent under the regulations for the Pacific Tuna Fisheries found at 50 CFR 300.29.

For the reasons set forth below, the Assistant Administrator for Fisheries (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive notice and comment for this rule, which closes the U.S. bigeye tuna longline fishery in the IATTC Convention Area for the remainder of the 2005 season. Similarly, the AA finds good cause to waive the 30–day delay in effective date for this rule under 5 U.S.C. 553(d)(3).

It is impracticable and contrary to the public interest to provide for notice and an opportunity for public comment because the U.S. quota for bigeye tuna in the ETP longline fishery has already been reached, much earlier this year than in the preceding year. In 2004, U.S. vessels using longline gear in the ETP did not attain the 2001 catch limit until September. This year, however, in July of 2005, U.S. longline vessels in the ETP were estimated to have harvested over 150 metric tons of bigeye tuna. The estimated catch to date is approximately 241 metric tons, significantly over-quota. Accommodating notice and comment and delaying the effective date for this rule would result in continued harvest of bigeye tuna by the longline fleet over the 2001 catch level.

Failure to effectuate the closure immediately, when estimates indicate that the fishery is already significantly over-quota, could also cause potentially serious harm to the ETP bigeye tuna stock. In 2003, 2004, and 2005, IATTC stock assessment scientists concluded that the bigeye tuna stock is at a level below that which would produce the average maximum sustainable yield. Furthermore, NMFS has determined that bigeye tuna in the Pacific are subject to overfishing, using the standards for ''overfishing'' in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Furthermore, the rule must be made effective immediately to meet U.S. obligations under the Convention between the United States of America and the Republic of Costa Rica for the Establishment of an Inter-American Tropical Tuna Commission, as well as U.S. obligations to manage tuna stocks in a sustainable manner under the Tuna Conventions Act of 1950, 16 U.S.C. 951–961 and 971 *et seq.* Therefore, notice and an opportunity for comment, and delayed effectiveness of the closure, are not practicable and are contrary to the public interest.

This emergency 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.

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

Authority: 16 U.S.C. 951–961 and 971 *et seq.*

Dated: August 30, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 05–17550 Filed 8–30–05; 2:40 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 082905D]

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the fourth seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 4, 2005, through 1200 hrs, A.l.t., September 30, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The fourth seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 150 metric tons as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005), for the period 1200 hrs, A.l.t., September 1, 2005, through 1200 hrs, A.l.t., September 30, 2005.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the fourth seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and ''other species.''

This closure does not apply to fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock.

After the effective date of this closure the maximum retainable amounts at §§ 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained

from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the shallow-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 26, 2005.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2005.

Emily Menashes,

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

[FR Doc. 05–17549 Filed 8–30–05; 2:40 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 082905B]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2005 total allowable catch (TAC) of northern rockfish in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 30, through 2400 hrs, A.l.t., December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2005 TAC of northern rockfish in the Central Regulatory Area of the GOA is 4,283 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2005 TAC of northern rockfish in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,000 mt, and is setting aside the remaining 283 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at §§ 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of northern rockfish in the Central Regulatory Area of the GOA.

The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2005.

Emily Menashes,

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

[FR Doc. 05–17551 Filed 8–30–05; 2:40 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 082905C]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the fourth seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 4, through 1200 hrs, A.l.t., September 30, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The fourth seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is the

remaining amount from the first through third seasonal apportionments as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005). As of August 17, 2005, the remaining amount of Pacific halibut from the first three seasonal apportionments is 60 mt.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the fourth seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA.

The species and species groups that comprise the deep-water species fishery are all rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

After the effective date of this closure the maximum retainable amounts at §§ 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2005.

Emily Menashes,

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

[FR Doc. 05–17552 Filed 8–30–05; 2:40 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 70, No. 170

Friday, September 2, 2005

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

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 153, 157 and 375

[Docket No. RM05–31–000]

Regulations Implementing Energy Policy Act of 2005; Pre-Filing Procedures for Review of LNG Terminals and Other Natural Gas Facilities

Issued August 26, 2005.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing regulations in accordance with section 311(d) of the Energy Policy Act of 2005 (EPAct 2005) to implement mandatory procedures requiring prospective applicants to begin the Commission's pre-filing review process at least six months prior to filing an application for authorization to site and construct a liquefied natural gas (LNG) terminal. As proposed, the mandatory procedures would require that the prospective applicant submit information necessary for pre-filing review of the LNG terminal, as defined in EPAct 2005, as well as any pipeline and other natural gas facilities necessary to transport regasified LNG from an LNG terminal to existing natural gas pipeline infrastructure. As required by EPAct 2005, the proposed regulations are designed to encourage applicants to cooperate with state and local officials to address safety considerations. A prospective applicant also would be required to comply with the pre-filing procedures prior to filing an application to make significant modifications to an existing LNG terminal likely to involve state and local safety considerations. Under the proposed regulations, prospective applicants could continue to elect on a voluntary basis to undertake the pre-filing process prior to filing applications for other facilities subject to the Commission's jurisdiction under the Natural Gas Act (NGA).

DATES: Comments on the Notice of Proposed Rulemaking are due September 14, 2005.

ADDRESSES: Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

FOR FURTHER INFORMATION CONTACT: Richard Hoffmann, Office of Energy Projects, 888 First Street, NE., Washington, DC 20426, (202) 502–8066, *richard.hoffmann@ferc.gov.*

John Leiss, Office of Energy Projects, 888 First Street, NE., Washington, DC 20426, (202) 502–8058, *john.leiss@ferc.gov.*

Whit Holden, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8089, *edwin.holden@ferc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

1. Pursuant to section 311(d) of the Energy Policy Act of 2005 (EPAct 2005), the Commission is required, by October 7, 2005, to promulgate regulations requiring prospective applicants for authorization to construct liquefied natural gas (LNG) terminals (as defined in EPAct 2005) to comply with the Commission's pre-filing review process, beginning at least six months prior to filing an application. As further required by EPAct 2005, the proposed regulations encourage applicants to cooperate with state and local officials.

2. Prior to any Commission decision regarding an application for LNG facilities, the Commission prepares an environmental assessment (EA) or environmental impact statement (EIS) to fulfill the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and the Commission's implementing regulations under Title 18, Code of Federal Regulations, Part 380, ''Regulations Implementing the National Environmental Policy Act.'' The purpose of the document is to inform the public and permitting agencies about the potential adverse and/or beneficial environmental impacts of proposed projects and their alternatives. As with pipeline projects, a thorough analysis of any substantive issues relating to LNG facilities is undertaken during the preparation of an EA or EIS. The NEPA documents for new LNG terminals and expansions at existing sites include a thorough study of potential impacts to public safety.

3. To date, it has been the Commission's policy to encourage early involvement by the public and governmental agencies, as contemplated by NEPA and Council on Environmental Quality (CEQ) regulations, by promoting an optional pre-filing process for both interstate gas pipeline and LNG terminal projects. Specifically, in the case of LNG project proposals, pre-filing activity is one of three distinct phases of activity that the Commission undertakes in fulfilling its goal of assuring the safe operation and system reliability of proposed and operating jurisdictional LNG facilities throughout the United States.[1]

4. Typically, prior to filing an LNG-related application, company representatives meet with Commission staff to explain the project and solicit advice. These meetings provide prospective applicants the opportunity for Commission staff to offer suggestions related to environmental, engineering, and safety features of the proposal. At this stage, Commission staff reviews conceptual designs of planned LNG facilities; provides guidance on resolving potential environmental, safety, and design issues; explains the level of design detail and safety analysis required for a complete application; and assists potential applicants in developing plans for ensuring extensive public involvement in the application process. In this manner, Commission staff learns about future projects which may be filed at the Commission, helps companies in their application preparation, and ensures that the public is included in the process.

[1] The other two phases of a project timeline for any LNG proposal are pre-decision analysis and post-decision construction/operation inspection and monitoring.

5. Because it is desirable to maximize early public involvement to promote the wide-spread dissemination of information about proposed projects and to reduce the amount of time required to issue an EIS or EA once an application is filed, the Commission's Office of Energy Projects (OEP) has developed guidelines for going beyond informal discussions into a more formal pre-filing process. These guidelines were developed because in certain respects the collaborative pre-filing procedures for use by prospective applicants set forth in section 157.22 of the Commission's regulations have proven to be impracticable.[2] Therefore, the Commission is proposing to eliminate the collaborative process procedures of section 157.22 in conjunction with codification of the pre-filing procedures and regulations proposed in this notice.

6. Under the Commission's current guidelines, when a prospective applicant elects to undertake the Commission pre-filing process, the prospective applicant submits a written request to the Director of OEP for staff assistance with the pre-filing process seven to eight months prior to filing an application. The request: (1) Explains why the prospective applicant wants to use the pre-filing process, including time considerations; (2) lists the Federal and state agencies in the project area with relevant permitting requirements, documents that those agencies are aware of the prospective applicant's intention to use the Commission's pre-filing process, provides the Commission with contact names and phone numbers, and verifies that the Federal agencies agree to participate in this process; (3) identifies other interested persons and organizations who have been contacted about the project; (4) details what work has been done already, *i.e.*, contacting landowners, agency consultants, project engineering, and route planning; (5) states that the prospective applicant will provide a list of potential third-party contractors who can prepare the requisite NEPA document, from which Commission staff will make a selection; (6) acknowledges that a complete Environmental Report and complete application are still required at the time of filing; and (7) details a Public Participation Plan which identifies specific tools and actions to facilitate stakeholder communications and public information, including establishing a single point of contact. Prospective applicants are strongly encouraged to establish a project Web site where interested persons can go for information such as copies of applications to other agencies. Also, preliminary corridor or route information maps are highly desirable.[3]

7. In recent years, Commission staff has sought to promote use of the pre-filing process by prospective applicants for all major natural gas projects, including LNG projects. If the guidelines for requesting the pre-filing process are satisfied by a prospective applicant, a written acceptance is issued by the Director of OEP, and a PF docket number is assigned.

8. Commission staff's role in the pre-filing process is to work with stakeholders and the prospective applicant to ensure that a complete application is prepared, based on a thorough exploration of potential issues, and not to take any position on the merits of the potential application. Staff and third-party contractor pre-filing involvement is designed to encourage and promote a cooperative pre-filing process. On a case-by-case basis, this involvement will include some or all of the following: (1) Assisting the prospective applicant in developing initial information about the proposal and identifying affected parties (including landowners and agencies); (2) issuing a Scoping Notice and conducting scoping for the proposal; (3) facilitating issue identification and resolution; (4) conducting site visits, examining alternatives, meeting with agencies and stakeholders, and participating in the prospective applicant's public information meetings; (5) initiating the preparation of a preliminary EA or preliminary DEIS, which may include cooperating agency review; and (6) reviewing draft resource reports for the application that is to be filed with the Commission.

9. When the application for authorization to construct a pipeline project or to site an LNG terminal is filed, the Commission publishes a notice of the application in the **Federal Register** and establishes a deadline for interested persons to intervene in the proceeding. Because the pre-filing process occurs before an application to begin a proceeding is filed, petitions to intervene during this process are premature and are not accepted by the Commission.

10. As noted above, EPAct 2005 requires the Commission implement a mandatory, rather than elective, pre-filing process for review of LNG terminal facilities prior to a prospective applicant's filing of an application for authorization of such facilities. In this regard, Congress has directed that the Commission promulgate regulations directing that the pre-filing process commence at least 6 months prior to the filing of an application and that the regulations encourage applicants to cooperate with state and local officials. To fulfill this mandate, the Commission is proposing to adopt its existing pre-filing process as the mandatory pre-filing process for review of LNG terminal facilities and associated jurisdictional pipeline facilities. The Commission's experience with the current pre-filing process is that it has been used with much success since its introduction several years ago. It is a process with which the natural gas industry, governmental entities and the public are familiar. To the extent that minor changes will improve the current process, we can consider them as a result of the comment process in this proceeding.

II. Summary of Proposed Regulations

11. As discussed above, the proposed regulations, in large measure, adopt the formal pre-filing process that the Commission currently utilizes when prospective applicants voluntarily elect to use the process. First, section 153.2 of the regulations would be amended by adding the definition of ''LNG terminal'' set forth in the new section 3A of the NGA added by section 311(d) of EPAct 2005:

> LNG Terminal means all natural gas facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by a waterborne vessel, but does not include:
>
> (1) Waterborne vessels used to deliver natural gas to or from any such facility; or
>
> (2) Any pipeline or storage facility subject to the jurisdiction of the Commission under section 7 of the Natural Gas Act.

12. A proposed new paragraph (c) would be added to section 153.6 to state that no application for an LNG terminal or associated jurisdictional pipeline facilities may be made before 180 days after the date of a notice by the Director

[2] 18 CFR 157.22 (2005).

[3] Section 388.112 of the Commission's regulations, 18 CFR 388.112 (2005), sets forth procedures to be followed by any person submitting documents containing critical energy infrastructure information (CEII). These procedures apply only to submissions of CEII to the Commission. CEII, as defined in section 388.113 of the regulations, includes information about proposed or existing natural gas facilities that could be used by a person planning an attack on critical energy infrastructure. The Commission's procedures in section 388.112 are designed to ensure that CEII is not placed in the Commission's public records. The regulations proposed by this notice would make the procedures in section 388.112 applicable to submissions by prospective applicants using the proposed pre-filing review procedures.

of OEP announcing commencement of a prospective applicant's pre-filing process under the procedures of proposed new section 157.21, described below. A new definition would be added to section 157.1 to provide that, for the purposes of section 157.21, ''Director'' means the Director of the Commission's Office of Energy Projects.

13. Proposed new section 157.21 would establish the pre-filing process for LNG terminal facilities, as well as other natural gas facilities. The procedures would be mandatory for any prospective applicant for authorization to site, construct and operate facilities included within the definition of ''LNG terminal,'' as defined in proposed section 153.2(d), and for any associated jurisdictional pipeline facilities. The pre-filing procedures also would be mandatory in cases where the Director finds that significant modifications to existing LNG terminal facilities involve state and local safety considerations. As discussed below, the pre-filing review process would remain voluntary for natural gas facilities not related to LNG terminals.

14. To initiate the pre-filing review process under proposed section 157.21, a prospective applicant for LNG terminal facilities would be required to make a filing containing certain material, as described below, and concurrently file a Letter of Intent and a Preliminary Waterway Suitability Assessment (WSA) with the U. S. Coast Guard.[4]

15. Proposed section 157.21(a)(2) would provide that an application for LNG terminal facilities and associated jurisdictional pipeline facilities (1) shall not be filed until at least 180 days after the date that the Director issues notice of the commencement of the prospective applicant's pre-filing process, and (2) shall contain all the information specified by Commission staff.

16. The information that a prospective applicant would be required to submit pursuant to section 157.21(a)(2) would include draft environmental material in accordance with the provisions of Part 380 of the regulations implementing the Commission's procedures under NEPA. The requirements in Part 380 of the Commission's regulations supplement the CEQ's regulations.[5] The procedures in Part 380 essentially follow CEQ procedures concerning early and efficient review of environmental issues, public notice and participation, scoping, interagency cooperation, comments, and timing of decisions on proposals.

17. The environmental material required by the Part 380 regulations is embodied in sections 380.12, 380.13, 380.14 and 380.15 and Appendix A to Part 380. Section 380.12 describes resource reports which list, in detail, the information the Commission needs to conduct an environmental review of a proposal under NEPA. It consists of 13 resource reports ranging from a detailed project description to descriptions of the existing environment and potential impacts on environmental resources such as water use and quality, fish, wildlife and vegetation, cultural resources, land use and aesthetics, and air and noise and, for LNG terminal facilities, engineering and design material.

18. Sections 380.13 and 380.14 provide procedures and detailed descriptions of what the prospective applicant is expected to do to help the Commission comply with its obligations under the Endangered Species Act and the National Historic Preservation Act. Section 380.15 identifies best practices for the prospective applicant to follow when siting and maintaining facilities. Appendix A to Part 380 is a checklist of minimum environmental filing requirements.

19. Currently, when a prospective applicant elects to undertake the Commission's voluntary pre-filing procedures, it is required to use or file, as appropriate, all of the above-described Part 380 materials as it formulates its project and then files the application with the Commission. The proposed procedures would require that prospective applicants required or requesting to use the pre-filing process file draft environmental material in accordance with the provisions of Part 380 of the regulations implementing the Commission's procedures under NEPA, as described above. This would allow the Commission to review and make suggestions on how they could be improved before the filing of the application.

20. Proposed section 157.21(a)(3) would require that a prospective applicant for LNG terminal facilities and any associated jurisdictional pipeline facilities provide any necessary information for the environmental review of any pipeline or other natural gas facilities which are necessary to transport regasified LNG from the subject LNG terminal facilities to the existing natural gas pipeline infrastructure. Such facilities would include facilities not subject to the Commission's NGA jurisdiction, such as intrastate pipeline and Hinshaw pipeline facilities that will be interconnected with the LNG terminal.

21. Proposed section 157.21(b) also states that a prospective applicant approved to use the pre-filing procedures for facilities not related to LNG terminal facilities should not file an application until at least 180 days after the date that the Director issues a notice approving use of the pre-filing procedures. However, whereas a prospective applicant for LNG facilities would be precluded from filing an application before the 180-day period has ended, the proposed regulations do not preclude a prospective applicant for facilities not related to LNG facilities from filing an application within 180 days.

22. Any prospective applicant required to use the pre-filing process for LNG terminal facilities and related facilities or any prospective applicant requesting to use the pre-filing process for non-LNG related facilities would be required by proposed section 157.21(c) to first consult with the Director on the nature of the project, the content of the pre-filing request, and the status of the prospective applicant's progress toward obtaining the information required for the pre-filing request described in paragraph (d) of this section. This consultation will also include discussion of the specifications for the applicant's solicitation for prospective third-party contractors to prepare the environmental documentation for the project.

23. Proposed section 157.21(d) identifies the information that a prospective applicant's initial filing to initiate the pre-filing process must include. For LNG terminal facilities, the initial filing must include a description of the schedule desired for the project, including the expected application filing date and the desired date for Commission approval, and a description of the zoning and availability of the proposed site and marine facility location.

24. For natural gas facilities not related to LNG terminal facilities, proposed section 157.21(d) provides that a prospective applicant's initial filing must include an explanation of why the prospective applicant wants to use the process, including any critical timing considerations, the expected application filing date and the desired date for Commission approval.

25. Filings by all prospective applicants to initiate the pre-filing process would be required by proposed section 157.21(d) to include:

- A detailed description of the project that will serve as the initial discussion point for stakeholder review;

[4] Information concerning these documents may be found in the U. S. Coast Guard Navigation and Vessel Inspection Circular No. 05–05, dated June 14, 2005.

[5] The CEQ's regulations are set out at 40 CFR parts 1500 through 1508 (2005).

• A list of the relevant Federal and state agencies in the project area with permitting requirements, and a statement indicating that those agencies are aware of the prospective applicant's intention to use the pre-filing process (including contact names and telephone numbers) and whether the agencies have agreed to participate in the process;

• A list and description of the interest of other persons and organizations who have been contacted about the project (including contact names and telephone numbers);

• A description of what work has already been done, *e.g.*, contacting stakeholders, agency consultations, project engineering, route planning, environmental and engineering contractor engagement, environmental surveys/studies, and open houses;

• Proposals for at least three prospective third-party contractors from which Commission staff may make a selection;

• Acknowledgement that a complete Environmental Report and complete application are required at the time of filing; and

• A description of a Public Participation Plan which identifies specific tools and actions to facilitate stakeholder communications and public information, including a project website and a single point of contact.

26. Proposed section 157.21(e) states that the pre-filing process for a prospective applicant will be deemed to have commenced on the date the Director issues a notice setting forth a finding that the prospective applicant has adequately addressed the requirements of paragraphs (a) through (d) of section 157.21. The date of such notice shall be used in determining whether the date an application is filed is at least 180 days after commencement of the pre-filing process. Proposed section 157.21(e) also provides for the Director to make determinations whether prospective modifications to an existing LNG terminal will be significant modifications involving state and local safety considerations. Such prospective modifications to existing LNG facilities will require that the prospective applicant undertake the pre-filing review process.

27. Existing section 375.308(z) describes the Director's delegated authority with respect to the collaborative pre-filing procedures in section 157.22, which this proposed rule would remove from the regulations in view of the proposed implementation of the pre-filing procedures and review provided for in proposed new section 157.21. Therefore, the Commission is proposing to remove the existing text in paragraph (z) in section 375.208 and replace it with new text which would provide for the Director's issuance of notices to commence the pre-filing process under proposed new section 157.21, after the Director has found that a prospective applicant has adequately addressed the above-described requirements. The proposed new text in section 375.308(z) also provides for the Director to post guidance on the Commission's website to clarify the procedures and how prospective applicants can achieve compliance with the pre-filing process and regulations.

28. Proposed section 157.21(f) provides that, upon the Director's issuance of a notice commencing a prospective applicant's pre-filing process, the prospective applicant must:

• Within seven days[6] and after consultation with Commission staff, establish and notify Commission staff of the dates and locations at which the prospective applicant will conduct open houses and meetings with stakeholders (including agencies) and Commission staff.

• Within 14 days, conclude the contract with the selected third-party contractor.

• Within 14 days, contact all stakeholders not already informed about the project.

• Within 30 days, submit a stakeholder mailing list to Commission staff.

• Within 30 days, file a draft of Resource Report 1 in accordance with § 380.12(c) and a summary of the alternatives considered or under consideration.

• On a monthly basis, file status reports detailing the applicant's project activities including surveys, stakeholder communications, and agency meetings.

• Be prepared to provide a description of the proposed project and to answer questions from the public at the scoping meetings held by Commission staff.

• Be prepared to attend site visits and other stakeholder and agency meetings arranged by the Commission staff, as required.

• Within 14 days of the end of the scoping comment period, respond to issues raised during scoping.

• Within 60 days of the end of the scoping comment period, file draft Resource Reports 1 through 12.

• At least 60 days prior to filing an application, file revised draft Resource Reports, if requested by Commission staff.

• At least 90 days prior to filing an application, file draft Resource Report 13 (for LNG terminal facilities).

• Certify that a Follow-on WSA will be submitted to the U.S. Coast Guard no later than the filing of an application with the Commission for LNG terminal facilities.

29. Proposed section 157.21(g) provides that Commission staff and third-party contractor involvement during the pre-filing process will be designed to fit each project and will include some or all of the following:

• Assisting the prospective applicant in developing initial information about the proposal and identifying affected parties (including landowners, agencies, and other interested parties).

• Issuing an environmental scoping notice and conducting scoping for the proposal.

• Facilitating issue identification and resolution.

• Conducting site visits, examining alternatives, meeting with agencies and stakeholders, and participating in the prospective applicant's public information meetings.

• Reviewing draft Resource Reports.

• Initiating the preparation of a preliminary EA or draft EIS, which may include cooperating agency review.

30. Paragraph (h) of proposed section 157.21 would provide that a prospective applicant using the pre-filing procedures shall comply with the procedures in section 388.112 of the regulations for the submission of documents containing CEII, as defined in section 388.113 of the regulations.

31. Once an application is accepted by the Commission, whether the environmental analysis can proceed will be highly dependent on how well the applicant responded to issues raised by Commission staff and the stakeholders during the pre-filing process described above.

III. Environmental Analysis

32. The Commission is required to prepare an EA or EIS for any action that may have a significant adverse effect on the human environment.[7] No environmental consideration is raised by the promulgation of a rule that is

[6] As provided in Rule 2007 of the Commission's Rules of Practice and Procedure, 18 CFR 385.2007 (2005), the day on which the Director's notice is issued would be excluded in counting days for purposes of determining the date a filing is due. Further, if the due date for a filing would fall on a Saturday, Sunday, holiday, or day on which the Commission closes early due to adverse conditions, the following business day becomes the due date.

[7] Order No. 486, *Regulations Implementing the National Environmental Policy Act*, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

procedural in nature or does not substantially change the effect of legislation or regulations being amended.[8]

33. The regulations proposed herein would establish pre-filing review procedures which are mandatory for prospective applicants for LNG terminal and any associated jurisdictional pipeline facilities and elective for prospective applicants for natural gas facilities not related to LNG terminals. In neither case do the procedures substantially change the regulatory requirements to which applications for such facilities are subject. Rather, the proposed procedures would result in certain regulatory requirements being satisfied prior to the filing of an application, as opposed to being satisfied at the time, or after the filing, of the application. The use of the procedures generally will affect the timing of the filing of applications, not when regulatory requirements are met. Further, the proposed procedures implement regulatory changes mandated by Congress in EPAct 2005 for new LNG terminals.

IV. Regulatory Flexibility Act Statement

34. The Regulatory Flexibility Act of 1980 (RFA)[9] generally requires a description and analysis of proposed regulations that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such an analysis if proposed regulations would not have such an effect. Under the industry standards used for purposes of the RFA, a natural gas pipeline company qualifies as ''a small entity'' if it has annual revenues of $6 million or less.

35. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity.[10] Based on the Commission's experience using the proposed pre-filing procedures, they will only be used for major construction projects. Most, if not all, LNG-related projects subject to mandatory pre-filing review would be projects costing millions of dollars. Most, if not all, non-LNG related projects for which prospective applicants will elect to use the proposed pre-filing procedures will be projects costing millions of dollars. Because of the scale and nature of projects likely to be reviewed under the pre-filing procedures, the Commission doubts that any existing or new company using the pre-filing procedures will be a small entity under the RFA's standards. Accordingly, the Commission hereby certifies that this notice's proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Information Collection Statement

36. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting, record keeping, and public disclosure (collections of information) imposed by an agency.[11] Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collections to OMB for review under section 3507(d) of the Paperwork Reduction Act of 1995.[12]

37. FERC–539, ''Gas Pipeline Certificates: Import/Export Related,'' identifies the Commission's information collections relating to Part 153 of its regulations, which apply to facilities to import or export natural gas and for which authorization under section 3 of the NGA is necessary. If planned import or export facilities will be LNG terminal facilities, as defined in proposed section 153.2(d), the facilities will be subject to the mandatory pre-filing review required by proposed section 157.21. A prospective applicant for non-LNG related import and export facilities may choose to request approval to undertake the pre-filing procedures in proposed section 157.21.

38. FERC–537, ''Gas Pipeline Certificates: Construction, Acquisition and Abandonment,'' identifies the Commission's information collections relating to Part 157 of its regulations, which apply to natural gas facilities for which authorization under section 7 of the NGA is required. Such facilities will be subject to the mandatory pre-filing review required by proposed section 157.21 only if they are included within the definition of LNG terminal facilities, as defined in proposed section 153.2(d) or, more likely, are necessary to transport regasified gas away from LNG terminal facilities. A prospective applicant for non-LNG related NGA section 7 facilities may choose to request approval to undertake the pre-filing procedures in proposed section 157.21.

39. FERC–577, ''Gas Pipeline Certificates: Environmental Impact Statement,'' identifies the Commission's information collections relating to Part 380 implementing NEPA requirements relating to the construction of natural gas facilities. As proposed herein, prospective applicants using the pre-filing procedures, whether on a mandatory or voluntary basis, will be subject to the requirements of Part 380.

40. The Commission's information collections relating to this notice's proposed pre-filing procedures are described in this notice. The Commission has submitted this notice to OMB for review and clearance of the notice's information collection requirements under emergency processing procedures.[13] OMB approval has been requested by [INSERT DATE].

41. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondent's burden, including the use of automated information techniques.

42. The Commission has been using its current voluntary pre-filing procedures for approximately four years. Thus, the Commission has experience that it did not have when it proposed existing section 157.22 of the regulations, which this proposed rule would eliminate. Based on this experience, the Commission believes that there will be no more than 20 prospective applicants that use the proposed pre-filing review procedures on an annual basis. The Commission anticipates that this number will include no more than five prospective applicants for LNG terminal facilities. During the four years that prospective applicants have had the option of using the Commission's current voluntary pre-filing procedures, all but three prospective applicants for LNG terminal projects have elected to undertake the pre-filing procedures. Thus, the adoption of mandatory pre-filing procedures for LNG facilities is not expected to significantly increase the number of prospective LNG applicants that use the pre-filing procedures, as mandated by Congress in EPAct 2005.

43. The burden estimates for complying with additional filing requirements of this rule pursuant to the procedures in proposed new section 157.21 are set forth below. As reflected, the burden estimates are higher for a respondent/prospective applicant for LNG terminal facilities than for a

[8] 18 CFR 380.4(a)(2)(ii) (2005).

[9] 5 U.S.C. 601–612.

[10] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently-owned and operated and which is not dominant in its field of operation.

[11] 5 CFR 1320.11 (2005).

[12] 44 U.S.C. 3507(d) (2005).

[13] 5 CFR 1320.13 (2005).

respondent/prospective applicant for other natural gas facilities.

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–537	10	1	47	470
FERC–539	10	1	103	1,030
FERC–577	20	1	1,402	28,040
Totals				29,540

From these burden estimates must be subtracted the original data collection requirements in OMB's record relating to section 157.22 which this notice proposes to remove from the Commission's regulations. The numbers in OMB's record for section 157.22 are:

FERC–537: 13,230 hours.

FERC–539: 270 hours.

FERC–577: 13,580 hours.

When the burden estimates for proposed section 157.21 are reduced to reflect the removal of section 157.22, the net data collection estimates for this rule are:

FERC–537: −12,760 hours.

FERC–539: 760 hours.

FERC–577: 14,460 hours.

Total: 2,460 hours (net increase).

Total Annual Hours for Collection: 2,460 hours. For LNG terminal facilities and LNG-related pipeline facilities, these are mandatory information collection requirements. For non-LNG related natural gas facilities, these information collection requirements are voluntary but are still subject to OMB review.

Information Collection Costs: The Commission seeks comments on the cost to comply with these requirements. It has projected the average annualized cost for all respondents to be $4,920,000 (2,460 hours × $100.00 per hour × 20 respondents).

Title: FERC–537 ''Gas Pipeline Certificates: Construction, Acquisition and Abandonment''; FERC–539, ''Gas Pipeline Certificates: Import/Export Related''; FERC–577, ''Gas Pipeline Certificates: Environmental Impact Statement.''

Action: Proposed Information Collection.

OMB Control Nos.: 1902–0060 (FERC–537); 1902–0062 (FERC–539); 1902–0128 (FERC–577). The applicant shall not be penalized for failure to respond to these collections of information unless the collections of information display valid OMB control numbers.

Respondents: Business or other for profit.

Frequency of Responses: One-time implementation.

Necessity of Information: On August 8, 2005, Congress enacted EPAct 2005. Section 311(d) of EPAct 2005 amends the NGA to insert a new section, section 3A, which requires that the Commission shall promulgate regulations on the pre-filing process for LNG terminals within 60 days from enactment of EPAct 2005. Congress and the Commission consider the promulgation of these regulations to be a matter of critical importance to the state and local safety concerns regarding the construction and development of LNG terminals. The Commission must issue a final rule by October 7, 2005. The Commission seeks emergency processing of this proposed information collection because the use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed. The proposed rule revises the requirements contained in 18 CFR parts 157 and 153 to add a requirement that applicants for authorization to construct LNG terminals must comply with a pre-filing process and that such process must commence at least 6 months prior to the filing of any application with the Commission for authorization to construct such facilities.

Internal Review: The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements. The Commission's Office of Energy Projects will review the data included in the application to determine whether the proposed facilities are in the public interest as well as for general industry oversight. This determination involves, among other things, an examination of adequacy of design, cost, reliability, redundancy, safety and environmental acceptability of the proposed facilities. These requirements conform to the Commission's plan for efficient information collection, communication and management within the natural gas industry.

44. Interested person may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (Attention: Michael Miller, Office of the Executive Director, 202–502–8415, fax: 202–273–0873, e-mail: *michael.miller@ferc.gov.*

45. For submitting comments concerning the collection of information and the associated burden estimate(s) including suggestions for reducing this burden, please send your comments to the contact listed above and to the Office of Management and Budget, Room 10202 NEOB, 725 17th Street, NW., Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, 202–395–4650, fax: 202–395–7285).

VI. Public Comment and Expedited Procedures

46. EPAct 2005 mandates that the Commission promulgate regulations implementing the pre-filing process within 60 days of the date of its enactment. Therefore, the Commission intends to promulgate final regulations by October 7, 2005. To that end, public comments on this notice are due on September 14, 2005.

47. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. The Commission will carefully weigh and consider all public comments received.

48. Comments must refer to Docket No. RM05–31 and must include the commenters' names, the organization they represent, if applicable, and their address. Comments may be filed either in electronic or paper format.

49. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy

Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426.

50. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

51. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

52. From FERC's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

53. User assistance is available for eLibrary and the FERC's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at *FERCOnlineSupport@FERC.gov*), or the Public Reference Room at 202–502–8371, TTY (202) 502–8659 (e-mail at *public.referenceroom@ferc.gov*).

List of Subjects in 18 CFR Part 157

Administrative practice and procedure; Natural gas; Reporting and recordkeeping requirements.

By direction of the Commission.

Magalie R. Salas,

Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 153, 157 and 375 of Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE, OR MODIFY FACILITIES USED FOR THE EXPORT OR IMPORT OF NATURAL GAS

1. The authority citation for part 153 continues to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204–112, 49 FR 6684 (February 22, 1984).

2. In § 153.2, a new paragraph (d) is added, to read as follows:

§ 153.2 Definitions.

* * * * *

(d) *LNG Terminal* means all natural gas facilities located onshore or in state waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by a waterborne vessel, but does not include:

(1) Waterborne vessels used to deliver natural gas to or from any such facility; or

(2) Any pipeline or storage facility subject to the jurisdiction of the Commission under section 7 of the Natural Gas Act.

3. In § 153.6, a new paragraph (c) is added, to read as follows:

§ 153.6 Time of filing.

* * * * *

(c) When a prospective applicant for authorization for LNG terminal facilities, associated jurisdictional natural gas facilities or modifications to existing LNG terminal facilities is required by 18 CFR 157.21(a) to comply with that section's pre-filing procedures, no application for such authorization may be made before 180 days after the date of issuance of the notice by the Director of the Office of Energy Projects, as provided in 18 CFR 157.21(e), of the commencement of the prospective applicant's pre-filing process under 18 CFR 157.21.

4. Section 153.12 is removed.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

5. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 3301–3432; 42 U.S.C. 7101–7352.

6. In § 157.1, the introductory text is designated as paragraph (a), the definition of *Indian tribe* is designated as paragraph (a)(1), the definition of *Resource agency* is designated as paragraph (a)(2), and a paragraph (b) is added to read as follows:

§ 157.1 Definitions.

* * * * *

(b) For the purposes of § 157.21 of this Part, *Director* means the Director of the Commission's Office of Energy Projects.

7. Section 157.21 is added, to read as follows:

§ 157.21 Pre-filing procedures and review process for LNG terminal facilities and other natural gas facilities prior to filing of applications.

(a) *LNG terminal facilities and associated jurisdictional pipeline facilities.* A prospective applicant for authorization to site, construct and operate facilities included within the definition of ''LNG terminal,'' as defined in 18 CFR 153.2(d), and any prospective applicant for associated jurisdictional pipeline facilities must comply with this section's pre-filing procedures and review process. These mandatory pre-filing procedures also shall apply when the Director finds in accordance with paragraph (e)(2) of this section that prospective modifications to an existing LNG terminal are significant modifications that involve state and local safety considerations.

When a prospective applicant is required by this paragraph to comply with this section's pre-filing procedures:

(1) The prospective applicant must make a filing containing the material identified in paragraph (d) of this section and concurrently file a Letter of Intent and a Preliminary Waterway Suitability Assessment (WSA) with the U.S. Coast Guard. Information concerning the documents to be filed with the Coast Guard may be found in the U.S. Coast Guard Navigation and Vessel Inspection Circular No. 05–05, dated June 14, 2005.

(2) An application:

(i) Shall not be filed until at least 180 days after the date that the Director issues notice pursuant to paragraph (e) of this section of the commencement of the prospective applicant's pre-filing process; and

(ii) Shall contain all the information specified by the Commission staff after reviewing the draft materials filed by the prospective applicant during the pre-filing process, including required environmental material in accordance with the provisions of Part 380 of this chapter, ''Regulations Implementing the National Environmental Policy Act.''

(3) The prospective applicant must provide sufficient information for the pre-filing review of any pipeline or other natural gas facilities, including facilities not subject the Commission's Natural Gas Act jurisdiction, which are necessary to transport regasified LNG from the subject LNG terminal facilities to the existing natural gas pipeline infrastructure.

(b) *Other natural gas facilities.* When a prospective applicant for authorization for natural gas facilities is not required by paragraph (a) of this section to comply with this section's pre-filing procedures, the prospective applicant may file a request seeking approval to use the pre-filing procedures.

(1) A request to use the pre-filing procedures must contain the material identified in paragraph (d) of this section; and

(2) If a prospective applicant for non-LNG terminal facilities is approved to use this section's pre-filing procedures:

(i) The application will normally not be filed until at least 180 days after the date that the Director issues notice pursuant to paragraph (e) of this section approving the prospective applicant's request to use the pre-filing procedures under this section and commencing the prospective applicant's pre-filing process. However, a prospective applicant approved by the Director pursuant to paragraph (e)(2) of this section to undertake the pre-filing process is not prohibited from filing an application at an earlier date, if necessary; and

(ii) The application shall contain all the information specified by the Commission staff after reviewing the draft materials filed by the prospective applicant during the pre-filing process, including required environmental material in accordance with the provisions of Part 380 of this chapter, ''Regulations Implementing the National Environmental Policy Act.''

(c) *Initial consultation.* A prospective applicant required or requesting to use the pre-filing process must first consult with the Director on the nature of the project, the content of the pre-filing request, and the status of the prospective applicant's progress toward obtaining the information required for the pre-filing request described in paragraph (d) of this section. This consultation will also include discussion of the specifications for the applicant's solicitation for prospective third-party contractors to prepare the environmental documentation for the project.

(d) *Contents of the initial filing.* A prospective applicant's initial filing pursuant to paragraph (a)(1) of this section for LNG terminal facilities and associated jurisdictional pipeline facilities or paragraph (b)(1) of this section for other natural gas facilities shall include the following information:

(1) A description of the schedule desired for the project including the expected application filing date and the desired date for Commission approval.

(2) For LNG terminal facilities, a description of the zoning and availability of the proposed site and marine facility location.

(3) For natural gas facilities other than LNG terminal facilities and associated jurisdictional facilities, an explanation of why the prospective applicant is requesting to use the pre-filing process under this section.

(4) A detailed description of the project that will serve as the initial discussion point for stakeholder review.

(5) A list of the relevant federal and state agencies in the project area with permitting requirements, and a statement indicating that those agencies are aware of the prospective applicant's intention to use the pre-filing process (including contact names and telephone numbers), and whether the agencies have agreed to participate in the process.

(6) A list and description of the interest of other persons and organizations who have been contacted about the project (including contact names and telephone numbers).

(7) A description of what work has already been done, *e.g.*, contacting stakeholders, agency consultations, project engineering, route planning, environmental and engineering contractor engagement, environmental surveys/studies, and open houses.

(8) Proposals for at least three prospective third-party contractors from which Commission staff may make a selection to assist in the preparation of the requisite NEPA document.

(9) Acknowledgement that a complete Environmental Report and complete application are required at the time of filing; and

(10) A description of a Public Participation Plan which identifies specific tools and actions to facilitate stakeholder communications and public information, including a project Web site and a single point of contact.

(e) *Director's notices.*

(1) When the Director finds that a prospective applicant has adequately addressed the requirements of paragraphs (a) through (d) of this section, the Director shall issue a notice of such finding. The pre-filing process shall be deemed to have commenced on the date of the Director's notice, and the date of such notice shall be used in determining whether the date an application is filed is at least 180 days after commencement of the pre-filing process.

(2) The Director shall issue a notice making a determination whether prospective modifications to an existing LNG terminal shall be subject to this section's pre-filing procedures and review process. If the Direct determines that the prospective modifications are significant modifications that involve state and local safety considerations, the Director's notice will state that the pre-filing procedures shall apply, and the pre-filing process shall be deemed to have commenced on the date of the Director's notice in determining whether the date an application is filed is at least 180 days after commencement of the pre-filing process.

(f) Upon the Director's issuance of a notice commencing a prospective applicant's pre-filing process, the prospective applicant must:

(1) Within seven days and after consultation with Commission staff, establish the dates and locations at which the prospective applicant will conduct open houses and meetings with stakeholders (including agencies) and Commission staff.

(2) Within 14 days, conclude the contract with the selected third-party contractor.

(3) Within 14 days, contact all stakeholders not already informed about the project.

(4) Within 30 days, submit a stakeholder mailing list to Commission staff.

(5) Within 30 days, file a draft of Resource Report 1, in accordance with 18 CFR 380.12(c), and a summary of the alternatives considered or under consideration.

(6) On a monthly basis, file status reports detailing the applicant's project activities including surveys, stakeholder communications, and agency meetings.

(7) Be prepared to provide a description of the proposed project and to answer questions from the public at the scoping meetings held by OEP staff.

(8) Be prepared to attend site visits and other stakeholder and agency meetings arranged by the Commission staff, as required.

(9) Within 14 days of the end of the scoping comment period, respond to issues raised during scoping.

(10) Within 60 days of the end of the scoping comment period, file draft Resource Reports 1 through 12.

(11) At least 60 days prior to filing an application, file revised draft Resource Reports 1 through 12, if requested by Commission staff.

(12) At least 90 days prior to filing an application, file draft Resource Report 13 (for LNG terminal facilities).

(13) Certify that a Follow-on WSA will be submitted to the U. S. Coast Guard no later than the filing of an application with the Commission (for LNG terminal facilities).

(g) Commission staff and third-party contractor involvement during the pre-

filing process will be designed to fit each project and will include some or all of the following:

(1) Assisting the prospective applicant in developing initial information about the proposal and identifying affected parties (including landowners, agencies, and other interested parties).

(2) Issuing an environmental scoping notice and conducting such scoping for the proposal.

(3) Facilitating issue identification and resolution.

(4) Conducting site visits, examining alternatives, meeting with agencies and stakeholders, and participating in the prospective applicant's public information meetings.

(5) Reviewing draft Resource Reports.

(6) Initiating the preparation of a preliminary Environmental Assessment or Draft Environmental Impact Statement, the preparation of which may involve cooperating agency review.

(h) A prospective applicant using the pre-filing procedures of this section shall comply with the procedures in 18 CFR 388.112 for the submission of documents containing critical energy infrastructure information, as defined in 18 CFR 388.113.

§ 157.22 [Removed]

8. Section 157.22 is removed.

PART 375—THE COMMISSION

8a. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

9. In § 375.308, paragraph (z) is revised to read as follows:

§ 375.308 Delegations to the Director of the Office of Energy Projects.

* * * * *

(z) Approve, on a case-specific basis, and make such decisions and issue guidance as may be necessary in connection with the use of the pre-filing procedures in 18 CFR 157.21, ''Pre-filing procedures and review process for LNG terminal facilities and other natural gas facilities prior to filing of applications.''

[FR Doc. 05–17480 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

19 CFR Part 101

[DHS–2005–0057]

Establishment of New Port of Entry at Sacramento, CA; Realignment of the Port Limits of the Port of Entry at San Francisco, CA

AGENCY: Customs and Border Protection, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the Department of Homeland Security regulations pertaining to the field organization of the Bureau of Customs and Border Protection by establishing a new port of entry at Sacramento, California, and terminating the user fee status of Sacramento International Airport. In order to accommodate this new port of entry, this rule proposes to realign the port boundaries of the port of entry at San Francisco, California since these boundaries currently encompass an area that is to be included within the new port of Sacramento. This change is part of the Bureau of Customs and Border Protection's continuing program to utilize more efficiently its personnel, facilities, and resources to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before November 1, 2005.

ADDRESSES: Comments, identified by docket number DHS–2005–0057, may be submitted by one of the following methods:

EPA Federal Partner EDOCKET Web Site: *http://www.epa.gov/feddocket.* Follow instructions for submitting comments on the Web site.

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

Mail: Comments by mail are to be addressed to the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Regulations Branch, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229. Submitted comments by mail may be inspected at the Bureau of Customs and Border Protection, 799 9th Street, NW., Washington, DC. To inspect comments, please call (202) 572–8768 to arrange for an appointment.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.epa.gov/feddocket,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dennis Dore, Office of Field Operations, 202–344–2776.

SUPPLEMENTARY INFORMATION:

Background

As part of its continuing efforts to provide better service to carriers, importers, and the general public, the Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP), is proposing to establish a new port of entry at Sacramento, California.

The new port of entry would include all the territory within the following areas: (i) The corporate limits of Sacramento, including the adjacent territory comprised of McClellan Airport in Sacramento County; (ii) all territory on the San Joaquin River in Contra Costa and San Joaquin Counties, to and including Stockton; (iii) from Sacramento, southwest along U.S. Interstate 80, east along Airbase Parkway, to and including the territory comprising Travis Air Force Base; (iv) all points on the Sacramento River in Solano, Yolo and Sacramento Counties, from the junction of the Sacramento River with the San Joaquin River in Sacramento County, to and including Sacramento, California; and (v) all points on the Sacramento River Deep Water Ship Channel in Solano, Yolo and Sacramento Counties, (a) from and including, the junction of Cache Slough with the Sacramento River, to and including Sacramento; and (b) from Sacramento northwest along Interstate 5 to Airport Boulevard, north along Airport Boulevard, to and including the territory comprising the Sacramento International Airport in Sacramento County. All of the territory included in the new port of Sacramento is located within the State of California.

Sacramento International Airport currently is a user fee airport. User fee airports do not qualify for designation by CBP as international airports (which are a specific type of CBP port of entry) based on the volume of their business, but are approved by the Commissioner of CBP to receive the services of CBP officers for the processing of aircraft entering the United States and their passengers and cargo. Unlike the situation at an international airport, the availability of customs services at a user fee airport is not paid for out of appropriations from the general treasury of the United States. Instead, customs services are provided on a fully reimbursable basis to be paid for by the airport on behalf of the recipients of the

services; the airport pays a fee for customs services and then seeks reimbursement from the actual users of those services. This proposal, if adopted, would terminate the user fee status of Sacramento International Airport and therefore also terminate the system of reimbursable fees for the Sacramento International Airport. Sacramento International Airport, however, would become subject to the passenger-processing fee provided for under 19 U.S.C. 58c(a)(5)(B).

The current port limits of the port of entry at San Francisco, California (San Francisco-Oakland), which are described in Treasury Decision (T.D.) 82–9 published at 47 FR 1286 (January 12, 1982), include the proposed port of Sacramento. Accordingly, if Sacramento is established as a port of entry with the geographical limits described in this document, the geographical limits of the port of entry at San Francisco-Oakland would be modified. The geographical limits of the port of San Francisco-Oakland would include all the territory within the corporate limits of San Francisco and Oakland; all points on the San Francisco Bay, San Pablo Bay, Carquinez Strait and Suisan Bay.

Port of Entry Criteria

The criteria considered by CBP in determining whether to establish a port of entry are found in T.D. 82–37 published at 47 FR 10137 (March 9, 1982), subsequently revised and amended by T.D. 86–14 published at 51 FR 4559 (February 5, 1986) and T.D. 87–65 published at 52 FR 16328 (May 4, 1987). Under these criteria, CBP will evaluate whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location.

Specifically, CBP will consider whether the proposed port of entry location can:

(1) Demonstrate that the benefits to be derived justify the Federal Government expense involved;

(2) Except in the case of land border ports, be serviced by at least two major modes of transportation (rail, air, water, or highway); and

(3) Except in the case of land border ports, have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius).

In addition, one of the following five actual or potential workload criteria (minimum number of transactions per year), or an appropriate combination thereof, must be met in the area to be serviced by the proposed port of entry:

(1) 15,000 international air passengers;

(2) 2,500 formal consumption entries (each valued over $2,000 and no more than half of the 2,500 entries being attributed to one private party), with the applicant location committing to optimal use of electronic data input means to permit integration with any CBP system for electronic processing of entries;

(3) For land border ports, 150,000 vehicles;

(4) 2,000 scheduled international aircraft arrivals (passengers and/or crew); or

(5) 350 cargo vessel arrivals.

Finally, facilities at the proposed port of entry must include, where appropriate, wharfage and anchorage adequate for oceangoing vessels, cargo and passenger facilities, warehouse space for the secure storage of imported cargo pending final CBP inspection and release, and administrative office space, inspection areas, storage areas, and other space as necessary for regular CBP operations.

Sacramento's Workload Statistics

This proposed rule to establish the Sacramento, California area as a port of entry is based on CBP's analysis of the following information:

1. Sacramento, California and the Sacramento International Airport are serviced by four modes of transportation:

(a) rail (Amtrak);

(b) air (Sacramento International Airport, McClellan Airport and Travis Air Force Base);

(c) highway (Interstate 5 and Interstate 80); and

(d) water (Sacramento Seaport on the Sacramento River, Stockton Seaport).

2. The area within the immediate service area (approximately a 70-mile radius of Sacramento International Airport) currently has a population exceeding 2,000,000 persons.

3. Regarding the actual or potential workload criteria, during calendar year 2003, 25,560 international air passengers deplaned at Sacramento International Airport via Mexicana Airlines. This number of international air passengers exceeds the criteria requirement of 15,000 international passengers within one year by 10,560. From January 1, 2004 through October 30, 2004, 20,352 international air passengers deplaned at Sacramento International Airport, also via Mexicana Airlines. New international service for Mexicana Airlines began in December 2004, adding three additional cities in Mexico for service to Sacramento International Airport, resulting in a projected total of 55,000 deplaned international passengers at Sacramento International Airport for calendar year 2005. Additionally, the Sacramento Seaport services approximately 800 vessels per year and averages 1,000,000 tons of cargo.

CBP facilities are already in place at the proposed port of Sacramento and will continue to be provided at no cost to the Federal Government. The Sacramento County Airport System has spent $3,200,000 for the reconstruction of the International Arrivals Building at the Sacramento airport. A large technology sector is located in the Sacramento area, including seven of the ten largest manufacturers in the region involved in the research and development of advanced technology items. The Metro Air Park, adjacent to the Sacramento International Airport, has been zoned for 21 million square feet of warehousing, office, retail and high technology space, in anticipation of the formation of a port of entry at Sacramento. CBP believes that the establishment of a new port in the local area will provide significant benefits to the Sacramento-area community by providing enhanced business competitiveness for existing enterprises and enabling the retention and expansion of the number of jobs in the area.

This rule also proposes the realignment of the port of entry at San Francisco-Oakland to allow for the new port of Sacramento. The port of entry at San Francisco-Oakland will continue to satisfy the criteria for a port of entry even after the proposed realignment. San Francisco International Airport alone, processed 3,685,519 international passengers and crew during 2004. The San Francisco area includes a population of well over 300,000 and is serviced by four major modes of transportation (air, rail, water and highway).

Proposed Amendments to Regulations

If the proposed port of entry designation is adopted, the list of CBP ports of entry at 19 CFR 101.3(b)(1) will be amended to add Sacramento as a port of entry in California and to reflect the new boundaries of the San Francisco-Oakland port of entry.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to CBP, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and 19 CFR 103.11(b), on

regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

Executive Order 12866 and the Regulatory Flexibility Act

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory proposal is not a significant regulatory action as defined under Executive Order 12866. This proposed rule also will not have significant economic impact on a substantial number of small entities. Accordingly, CBP certifies that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

Dated: August 26, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–17536 Filed 9–1–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–05–098]

RIN 1625–AA08

Special Local Regulations for Marine Events; Willoughby Bay, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the ''Hampton Roads Sailboard Classic'', a marine event to be held October 29 and 30, 2005 on the waters of Willoughby Bay, Norfolk, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Willoughby Bay during the event.

DATES: Comments and related material must reach the Coast Guard on or before October 3, 2005.

ADDRESSES: You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. The Auxiliary and Recreational Boating Safety Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket (CGD05–05–098) and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–05–098), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

In order to provide notice and an opportunity to comment before issuing an effective rule, we are providing a shorter than normal comment period. A 30-day comment period is sufficient to allow those who might be affected by this rulemaking to submit their comments because the regulations have a narrow, local application, and there will be local notifications in addition to the **Federal Register** publication such as press releases, marine information broadcasts, and the Local Notice to Mariners.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On October 29 and 30, 2005, the Windsurfing Enthusiasts of Tidewater will sponsor the ''Hampton Roads Sailboard Classic'', on the waters of Willoughby Bay, Norfolk, Virginia. The event will consist of approximately 30 sailboards racing in heats along several courses within Willoughby Bay. Spectator vessels are anticipated to gather near the event site to view the competition. To provide for the safety of event participants, spectators and transiting vessels during the event, the Coast Guard will temporarily restrict vessel movement in the event area during the sailboard races.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of Willoughby Bay. This rule will be enforced from 9 a.m. to 5 p.m. on October 29 and 30, 2005, and will restrict general navigation in the regulated area during the sailboard race. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area during the enforcement period. Non-participating vessels desiring to transit Willoughby Bay during the event will be able to navigate safely around the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this proposed regulation will prevent traffic from transiting a portion of Willoughby Bay during the event, the effect of this regulation will not be significant because transiting vessels will be able to safely navigate around the regulated area. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, local radio stations and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary.

Small Entities

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

The 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. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit this section of Willoughby Bay during the event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. Transiting vessels will be able to safely navigate around the regulated area. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.** The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary *§ 100.35–T05–098* to read as follows:

§ 100.35–T05–098 Willoughby Bay, Norfolk, Virginia.

(a) *Regulated area.* The regulated area is established for the waters of Willoughby Bay contained within the following coordinates:

Latitude	Longitude
36°58′36.0″ North	076°18′42.0″ West
36°58′00.0″ North	076°18′00.0″ West
36°57′49.0″ North	076°18′14.0″ West
36°57′36.0″ North	076°17′55.0″ West
36°57′26.0″ North	076°18′06.0″ West
36°58′15.0″ North	076°19′08.0″ West
36°58′36.0″ North	076°18′42.0″ West

All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Hampton Roads Sailboard Classic under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 5 p.m. on October 29 and 30, 2005.

Dated: August 18, 2005.

L.L. Hereth,

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

[FR Doc. 05–17513 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–05–049]

RIN 1625–AA09

Drawbridge Operation Regulation; Lafourche Bayou, Lafourche Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing six bridges across Bayou Lafourche, south of the Gulf Intracoastal Waterway, in Lafourche Parish, Louisiana. The Lafourche Parish Council has requested that the bridges remain closed to navigation at various times on weekdays during the school year. These closures will facilitate the safe, efficient movement of staff, students and other residents within the parish.

DATES: Comments and related material must reach the Coast Guard on or before November 1, 2005.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130–3310. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone 504–589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–05–049), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The U. S. Coast Guard, at the request of the Lafourche Parish Council, proposes to modify the existing operating schedules of six bridges across Bayou Lafourche south of the Gulf Intracoastal Waterway in Lafourche Parish, Louisiana. The six bridges include: Golden Meadow Vertical Lift

Bridge, mile 23.9; the Galliano Pontoon Bridge, mile 27.8; the Galliano/South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6; the Cote Blanche Pontoon Bridge, mile 33.9; the Cutoff Vertical Lift Bridge, mile 36.3; and the Larose Pontoon Bridge, mile 39.1. The modification of the existing regulations will allow these bridges to remain closed to navigation from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m., Monday through Friday from August 15 through May 31. At all other times, the bridges would open on signal for the passage of vessels.

Presently, only two of these bridges have special operation regulations published in the Code of Federal Regulations. The Galliano/South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6, and the Cote Blanche Pontoon Bridge, mile 33.9, open on signal; except that, from 2:30 p.m. to 3:30 p.m. and from 4:30 p.m. to 5:30 p.m. Monday through Friday except Federal holidays, the draws need not open for the passage of vessels. The other four bridges open on signal for the passage of vessels pursuant to 33 CFR 117.5.

Traffic counts and vessel openings vary among the six bridges. The Louisiana Department of Transportation and Development provided information on vessel openings and traffic counts for the Larose Pontoon Bridge, mile 39.1; the Galliano/South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6; and the Golden Meadow Vertical Lift Bridge, mile 23.9. The Lafourche Parish Council provided information on vessel openings and traffic counts for the Cutoff Vertical Lift Bridge, mile 36.3; the Cote Blanche Pontoon Bridge, mile 33.9; and the Galliano Pontoon Bridge, mile 27.8.

The Larose Pontoon Bridge, mile 39.1, is the first bridge south of the Gulf Intracoastal Waterway intersection. This bridge is located just south of a flood control structure that has a horizontal clearance of 56 feet and a depth over the sill of 10 feet. The bridge opens an average of 410 times a month for vessels. Based upon the request, approximately 18% of the vessels would be affected by the proposed closures. Traffic counts indicate that 9,000 vehicles cross the bridge daily and approximately 23% of those vehicles cross during the requested closure times. Vessel openings of the bridge delay vehicular traffic nine minutes per opening, delaying 20 vehicles per opening.

The Larose Pontoon Bridge is presently scheduled for replacement. The new bridge will be a vertical lift bridge and it will be located 0.4 miles downstream from its present location. Once the new bridge is constructed, the old bridge will be removed. The special operating regulation for the old bridge, if approved, may not be transferred to the new bridge and a new request for a special operation regulation must be made for the new bridge.

The Cutoff Vertical Lift Bridge, mile 36.3 is the next bridge downstream from the Larose Pontoon Bridge. The bridge opens an average of 419 times a month for vessels. Based upon the request, approximately 23% of the vessels would be affected by the proposed closures. Traffic counts indicate that 7180 vehicles cross the bridge daily and approximately 33% of those vehicles cross during the requested closure times. Vessel openings of the bridge delay vehicular traffic five minutes per opening, delaying 80 vehicles per opening.

The Cote Blanche Pontoon Bridge, mile 33.9 is the next bridge downstream from the Cutoff Vertical Lift Bridge. The bridge opens an average of 441 times a month for vessels. Based upon the request, approximately 23% of the vessels would be affected by the proposed closures. Traffic counts indicate that 7180 vehicles cross the bridge daily and approximately 33% of those vehicles cross during the requested closure times. Vessel openings of the bridge delay vehicular traffic five minutes per opening, delaying 54 vehicles per opening.

The Galliano/South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6 is the next bridge downstream from the Cote Blanche Pontoon Bridge. The bridge opens an average of 430 times a month for vessels. Based upon the request, approximately 20% of the vessels would be affected by the proposed closures. Traffic counts indicate that 8000 vehicles cross the bridge daily and approximately 28% of those vehicles cross during the requested closure times. Vessel openings of the bridge delay vehicular traffic six minutes per opening, delaying 43 vehicles per opening.

The Galliano Pontoon Bridge, mile 27.8 is the next bridge downstream from the Galliano/South Lafourche (Tarpon) Vertical Lift Bridge. The bridge opens an average of 580 times a month for vessels. Based upon the request, approximately 23% of the vessels would be affected by the proposed closures. Traffic counts indicate that 5040 vehicles cross the bridge daily and approximately 34% of those vehicles cross during the requested closure times. Vessel openings of the bridge delay vehicular traffic five minutes per opening, delaying 60 vehicles per opening.

The Golden Meadow Vertical Lift Bridge, mile 23.9 is the next bridge downstream from the Galliano Pontoon Bridge. The bridge opens an average of 610 times a month for vessels. Based upon the request, approximately 30% of the vessels would be affected by the proposed closures. Traffic counts indicate that 2400 vehicles cross the bridge daily and approximately 30% of those vehicles cross during the requested closure times. Vessel openings of the bridge delay vehicular traffic six minutes per opening, delaying 16 vehicles per opening.

Navigation at the sites of the bridges consists primarily of commercial and recreational fishing vessels, crew boats, and some tugboats with barges. Alternate routes are not readily accessible.

The existing regulations on the Galliano/South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6 and the Cote Blanche Pontoon Bridge, mile 33.9, were established on September 20, 1995. Since the establishment of these special operation regulations, the Coast Guard has not received any formal complaints regarding the operation of the bridges. It has been approximately ten years since the last formal request to change the operating regulations of the Cote Blanche Bridge and the Galliano/South Lafourche Bridge. The Coast Guard is interested in obtaining comments in response to this current request from all interested parties with regard to how the proposed changes to the regulations will affect them.

Discussion of Proposed Rule

The proposed rule would modify the existing regulations in 33 CFR 117.465 to facilitate the movement of high volumes of vehicular traffic across the bridges during periods of increased transits during the school year. These closures would allow for vehicles and school busses to transit across the bridges unimpeded both before and after school hours. The change would allow these six bridges on Bayou Lafourche south of the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, in Larose, to remain closed to navigation from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m. Monday through Friday from August 15 to May 31. At all other times, the bridges will open on signal for the passage of vessels. The proposed regulation does not affect the SR 1 (Leeville) Vertical Lift Bridge, mile 13.3. This bridge is a mid-level vertical lift bridge and is scheduled to be replaced

by a high-level fixed bridge in the near future.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This proposed rule would allow vessels to transit this waterway with proper notification before and after the peak vehicular traffic periods. According to the information provided by the applicant, the public at large is better served by the closure times.

Small Entities

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

The 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. This proposed rule would affect the following entities: the owners and operators of vessels needing to transit the bridges during the requested closure periods.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Eighth Coast Guard District Bridge Administration Branch at the address above. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

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 proposed 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors

in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.465(a) is revised to read as follows:

§ 117.465 Lafourche Bayou.

(a) The draws of the following bridges shall open on signal; except that, from August 15 through May 31, the draw need not open for the passage of vessels Monday through Friday, except Federal holidays, from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m.:

(1) SR 308 (Golden Meadow) Bridge, mile 23.9, at Golden Meadow.

(2) Galliano Pontoon Bridge, mile 27.8, at Galliano.

(3) SR 308 (South Lafourche (Tarpon)) Bridge, mile 30.6, at Galliano.

(4) Cote Blanche Pontoon Bridge, mile 33.9, at Cutoff.

(5) Cutoff Vertical Lift Bridge, mile 36.3, at Cutoff.

(6) SR 310 (Larose Pontoon) Bridge, mile 39.1, at Larose.

* * * * *

Dated: August 26, 2005.

Kevin L. Marshall,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 05–17509 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–05–046]

RIN 1625–AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, West Larose, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulation governing the operation of the SR 1 (West Larose) vertical lift bridge across the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, at Larose, Louisiana. The Lafourche Parish Council has requested that the bridge remain closed to navigation at various times on weekdays during the school year. These closures will facilitate the safe, efficient movement of staff, students and other residents within the parish.

DATES: Comments and related material must reach the Coast Guard on or before November 1, 2005.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130–3310. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone 504–589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–05–046), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The U. S. Coast Guard, at the request of the Lafourche Parish Council, proposes to modify the existing operating schedule of the SR 1 (West Larose) vertical lift bridge across the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, at Larose, Louisiana. The modification of the existing regulations will allow the bridge to remain closed to navigation from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m., Monday through Friday during the school year. Currently, the bridge opens on signal pursuant to 33 CFR 117.5.

Approximately 11,600 vehicles cross the bridge daily, 25% of which cross the bridge during the requested closure times. The bridge averages 976 openings a month. Approximately 25% of the bridge openings occur during the requested closure times. The average length of a bridge opening is approximately 10 to 12 minutes.

Navigation at the site of the bridge consists primarily of tugboats with barges. Alternate routes east and west through the bridge are not readily accessible; however, the bridge, in the closed-to-navigation position provides a vertical clearance of 35 feet above high water.

It should be noted that there have been two previous requests by the Lafourche Parish to establish special operating regulations for this bridge. On December 7, 1994, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (59 FR 63068). The proposed change to the regulation would have required that from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays, the draw of the bridge would remain closed to navigation for passage of vehicular traffic during peak traffic periods. At all other times the draw

would open on signal for passage of vessels.

The Coast Guard received 10 letters in response to the NPRM objecting to the proposed rule. Many of the objectors, who were associated with a local school, stated that the bridge would reopen after an extended closure 30 minutes before the start of school possibly affecting the ability of students to arrive at school on time. The applicant was given an opportunity to address the objections. The applicant modified their proposal and resubmitted a new request for a proposed rule.

A second NPRM was published in the **Federal Register** (60 FR 40139) on August 7, 1995, instead of a Supplementary Notice of Proposed Rulemaking (SNPRM).

The second NPRM proposed to change the regulation to require that from 7 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays, the draw of the bridge would remain closed to navigation for passage of vehicular traffic during peak traffic periods. At all other times the draw would open on signal for the passage of vessels.

Two letters of objection were received in response to the second NPRM. These objections were from waterway interests stating that the closure would increase the risk of accidents by vessels having to wait for bridge openings, while vehicles have an alternate route across the waterway. These concerns were forwarded to the applicant to attempt to reach an acceptable solution. The applicant did not address the concerns of these objectors or offer an alternative proposal.

The Coast Guard, therefore, withdrew the notices of proposed rulemaking and terminated further rulemaking on the proposals.

The Lafourche Parish Council submitted another request in 1998. When the Coast Guard requested additional information regarding the closure, no further information was submitted and the request was suspended.

It has been approximately seven years since the last formal request. The Coast Guard is interested in obtaining comments in response to this current request from all interested parties with regard to how the proposed changes to the regulations will affect them.

Discussion of Proposed Rule

The proposed rule would modify the existing regulation in 33 CFR 117.5 to facilitate the movement of high volumes of vehicular traffic across the bridge during periods of increased transit during the school year. These closures would allow for vehicles and school busses to transit across the bridge unimpeded both before and after school hours. The change would allow the SR 1 (West Larose) vertical lift bridge across the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, at Larose, to remain closed to navigation from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m. Monday through Friday from August 15 to May 31. At all other times, the bridge would open on signal for the passage of vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This proposed rule would allow vessels to transit this waterway with proper notification before and after the peak vehicular traffic periods. According to the information provided by the applicant, the public at large is better served by the closure times.

Small Entities

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

The 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. This proposed rule would affect the following entities: the owners and operators of vessels needing to transit the bridge during the requested closure periods.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Eighth Coast Guard District Bridge Administration Branch at the address above. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

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 proposed 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.451, paragraphs (c), (d), and (e) are redesignated paragraphs (d), (e), and (f) and a new paragraph (c) is added to read as follows:

§ 117.451 Gulf Intracoastal Waterway.

* * * * *

(c) The draw of the SR 1 (West Larose) Bridge, mile 35.6 west of Harvey Lock, at Larose, shall open on signal; except that, from August 15 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m.

* * * * *

Dated: August 26, 2005.

Kevin L. Marshall,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 05–17510 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL MARITIME COMMISSION

46 CFR Part 531

[Docket No. 05–06]

Non-Vessel-Operating Common Carrier Service Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission is requesting comments on possible changes to its exemption for non-vessel-operating common carriers (NVOCCs) from certain tariff publication requirements of the Shipping Act of 1984.

DATES: Submit original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 10, Microsoft Word 2003, or earlier versions of these applications, no later than October 6, 2005.

ADDRESSES: Address all comments to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001. *Secretary@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: Amy W. Larson, General Counsel, Federal Maritime Commission, 800 N. Capitol St., NW., Washington, DC 20573–0001. (202) 523–5740. *generalcounsel@fmc.gov.*

SUPPLEMENTARY INFORMATION: On January 19, 2005, a final rule of the Federal Maritime Commission (''FMC'' or ''Commission'') exempting non-vessel-operating common carriers (''NVOCCs'') from certain tariff publication requirements of the Shipping Act of 1984 (''Shipping Act'') became effective. 69 FR 75850 (December 20, 2004). The rule was issued pursuant to the Commission's authority under section 16 of the Shipping Act, 46 U.S.C. app. 1715. The exemption enables individual NVOCCs to offer NVOCC Service Arrangements (''NSAs'') to NSA shippers, provided that such NSAs are filed with the Commission and their essential terms are published in the NVOCC's tariff. The rule defines an NSA as ''a written contract, other than a bill of lading or receipt, between one or more NSA shippers and an individual NVOCC in which the NSA shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the NVOCC commits to a certain rate or rate schedule and a defined service level.'' 46 CFR 531.3(p).

Since the publication of the proposal that led to the final NSA rule, the

Commission has heard from participants in the NVOCC industry that it would be useful if the exemption permitted NSAs to be jointly offered by unaffiliated NVOCCs. At its meeting of August 3, 2005, the Commission determined that it would seek further comment on the issue. The Commission now seeks comment on the following specific questions:

1. In what manner could two or more unaffiliated NVOCCs jointly offer NSAs? Would two or more NVOCCs use a single document to offer their services as carriers to other NVOCCs acting as shippers? Would two or more NVOCCs offer identical services or rates in separately-filed NSAs? Are there other possibilities?

2. How would rates and defined service levels for such jointly offered NSAs be determined?

3. Would unaffiliated NVOCCs jointly offering NSAs keep the terms of such NSAs confidential from non-participating NVOCCs? From other shippers (including NVOCCs)?

4. How would such an exemption meet the statutory requirements of section 16 of the Shipping Act of 1984? Would such an exemption cause a substantial reduction in:

- Competition among NVOCCs;
- Competition between NVOCCS and vessel-operating common carriers (VOCCs);
- Competition among beneficial cargo owners; and
- Other competition?

5. Would such an exemption cause detriment to commerce by any general or specific adverse economic impacts on the carriage of cargo in the U.S.-foreign trade or U.S. commerce generally?

6. What might be the benefits or harm to beneficial cargo owners of jointly-offered NSAs?

7. Do any issues with regard to NVOCC financial responsibility arise stemming from jointly-offered NSAs? For example, should a joint bond or higher individual bond be required for NVOCCs that jointly offer NSAs? If so, how should the amount be determined?

8. Would there likely be any specific benefits or harm to small NVOCCs if jointly offered NSAs were permitted?

9. If jointly offered NSAs are allowed, should there be limits on the number (or combined market share) of the NVOCCs participating in a single joint NSA? If so, how should the relevant market be defined? Should the Commission or the parties determine the market share? Should NVOCCs be required to obtain Department of Justice business review letters prior to offering jointly offered NSAs?

10. What would be the likely impact, if any, of joint NSAs on individual rates offered by the participating NVOCCs in the same trade? In other trades?

11. Should the contract details which must be made publicly available (''essential terms'') be more extensive for jointly offered NSAs than for other NSAs? For example, should the Commission require that the identities of each of the NVOCC carrier parties to the jointly offered NSA be made public?

12. Are there any additional procedures (*e.g.*, registration, reporting, monitoring, measuring) that should be considered to ensure that each jointly-offered NSA does not result in a substantial reduction in competition or detriment to commerce?

13. Should the Commission require some type of notification to the VOCC carrying the cargo moving under a jointly offered NSA? If so, describe what form such notification should take and when it should be required.

14. How would bills of lading be issued for cargo moving under a joint NSA?

15. Please describe any other matters that may be relevant to the Commission's consideration of this issue.

In order best to facilitate the Commission's consideration of the issues raised in this Notice of Inquiry, commenters should provide detailed responses, and should supply examples whenever feasible.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–17555 Filed 9–1–05; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 0104130930–5226–03; I.D. 032301C]

RIN 0648–AP18

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes new and revised Federal American lobster (Homarus americanus) regulations in response to recommendations by the Atlantic States Marine Fisheries Commission (Commission) in Addenda II and III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). The proposed lobster management measures are intended to increase protection to American lobster broodstock throughout the stock's range, and would apply to lobsters harvested in one or more of seven Lobster Conservation Management Areas (LCMA). In addition, NMFS proposes measures that would clarify existing Federal lobster regulations.

DATES: Written comments must be received no later than 5 p.m. Eastern Standard Time on or before October 17, 2005.

ADDRESSES: Written comments should be sent to Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''American Lobster Proposed Rule Comments.'' Comments may be sent via email at *Lob0305@noaa.gov*. Include in the subject line ''American Lobster Proposed Rule Comments.'' Comments may also be sent via fax (978) 281–9117, or via the Federal e-Rulemaking Portal at *www.regulations.gov*.

Copies of the American lobster proposed rule, its Draft Environmental Assessment/Initial Regulatory Impact Review/Initial Regulatory Flexibility Analysis (DEA/IRIR/IRFA) are available from Harold Mears, Director, State, Federal and Constituent Programs Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Robert Ross, NMFS, Northeast Region, (978) 281–9234, fax (978) 281–9117.

SUPPLEMENTARY INFORMATION:

Statutory Authority

These proposed regulations would modify Federal lobster conservation management measures in the Exclusive Economic Zone (EEZ) under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, which states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce may implement regulations to govern

fishing in the EEZ, i.e., from 3 to 200 nautical miles (nm) offshore. These regulations must be (1) compatible with the effective implementation of an ISFMP developed by the Commission and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

Purpose and Need for Management

American lobster are managed within the framework of the Commission. The Commission is a deliberative body comprised of representatives both from the Atlantic coastal states and the Federal Government. The Commission serves to develop fishery conservation and management strategies for certain coastal species and coordinates the efforts of the states and Federal Government toward concerted sustainable ends. The Commission decides upon a management strategy as a collective, then forwards that strategy to the states and Federal government along with a recommendation that the states and Federal Government take action (e.g., enact regulations) in furtherance of this strategy.

The Commission reports that American lobster (*Homarus americanus*) experience high fishing mortality rates and are growth overfished throughout their range (U.S./Canada border to Cape Hatteras, North Carolina). Overfishing is a rate of removal that is too high and, if continued, the removals would not be sustainable. Growth overfishing, under the Commission ISFMP, means that most lobsters are harvested at or just above the legal minimum size and the maximum yield is not produced because of high fishing mortality on these smaller lobsters. In March 2000, the Commission issued an American lobster stock assessment report that concluded that the resource is growth overfished. That assessment was further evaluated by an external peer review, which took place during May 2000. The stock assessment external peer review concluded that fishing rates are unacceptably high, recruitment overfishing is occurring, and that a precautionary approach in management of the resource is warranted to sustain future viability of the lobster fishery. Recruitment overfishing, under the Commission ISFMP, means that the number of new lobsters available to the fishery each year is reduced by high fishing mortality rates. Since most egg production is from recruits and the first molt group above the minimum legal size, a decline in recruitment would lead to a decline in egg production. The Peer Review Report provided several management recommendations on the implications of the stock assessment report, including recommendations to address increasing lobster mortality and to rebuild stocks. The Commission is currently updating the American lobster stock assessment, and a peer review of the Commission stock assessment is scheduled for completion in 2005.

The Commission has developed a plan to end the overfishing and has requested assistance from the Federal Government in the form of compatible Federal regulations. The Atlantic Coastal Act directs the Federal Government to support the management efforts of the Commission. Additionally, to the extent the Federal Government seeks to regulate a Commission species, those Federal regulations must be compatible with the Commission plan. The proposed measures in this regulatory action respond to: the biological need to address increasing lobster mortality and to rebuild stocks; the practical need to have uniform state and Federal regulations; and, the legal need to support the Commission plan in complementary fashion.

Background

The Commission set forth the foundation of its American lobster fishery management plan in Amendment 3 to the ISFMP (Amendment 3) in December 1997. The Federal Government issued compatible regulations that complemented Amendment 3 in December 1999. The Amendment 3 regulations established assorted measures to directly, even if preliminarily, address overfishing (e.g., trap caps and minimum gauge sizes). Amendment 3 created seven lobster management areas and industry led lobster management teams from which would spring recommendations for future measures to end overfishing. Examples of such more specific measures were set forth in Amendment 3 addenda: measures to limit future access to LCMAs 3, 4, and 5 in Addendum I to Amendment 3 (Addendum I) (Commission approved August 1999 - compatible Federal regulations enacted March 2003); measures to increase protection of the American lobster broodstock described in this proposed rule as recommended in Addendum II to Amendment 3 (Addendum II) (Commission approved February 2001); and Addendum III to Amendment 3 (Addendum III) (Commission approved February 2002); and, measures to control fishing effort being analyzed in a separate rulemaking action recommended in Addendum IV to Amendment 3 (Addendum IV) (Commission approved December 2003), Addendum V to Amendment 3 (Addendum V) (Commission approved March 2004), and Addendum VI to Amendment 3 (Addendum VI) (Commission approved February 2005).

Protection of broodstock lobsters is one of the overarching objectives in the Commission's lobster management plan. Although Addendum II pre-dates Addendum III, both addenda involve protections designed to increase the abundance of broodstock lobsters and thereby increase egg production. The Commission's recommendations to implement the broodstock measures in Addenda II and III form the basis of the measures described in this proposed rule. Broodstock protective measures proposed in this regulatory action, and in Addenda II and III, are the following: increase in the minimum legal gauge size in LCMAs 2, 3, 4, 5, and the Outer Cape; increase in the size of escape vents on lobster traps in LCMAs 2, 3, 4, 5, and the Outer Cape; implementation of a maximum legal gauge size in LCMA 4 and 5; require mandatory V-notching of female lobsters carrying eggs in LCMA 1 and in LCMA 3 above the 42°30′ North latitude line; and require a zero tolerance definition of V-notched female lobsters in LCMA 1.

In response to the Commission's Addendum II recommendations, NMFS published an advanced notice of proposed rulemaking (ANPR) in the **Federal Register** on May 24, 2001 (66 FR 28726). The agency responded to the Commission's Addendum III by filing in the **Federal Register** an ANPR and a notice of intent (NOI) to prepare an environmental impact statement (EIS) on September 5, 2002 (67 FR 56801). This notice declared NMFS' intention to combine the Addendum II and Addendum III rulemakings because the Addenda involved similar subject matter - namely management measures designed to protect brood lobster stock. Addenda II and III, however, also contain numerous other effort control management measures, such as a trap transferability program for the Outer Cape Management Area and a mandatory so-called ''choose and use'' program for LCMA 3 fishers that would require qualified permit holders to permanently designate LCMA 3 when renewing Federal lobster permits each year. Because these control measures are so intimately a part of the subsequently developed Commission's Addenda IV, V, and VI, NMFS determined that those effort control programs in Addenda II and III be analyzed contemporaneously with the Addenda IV - VI measures in a forthcoming EIS. Accordingly, NMFS published its ANPR along with an NOI to address these lobster fishing effort control measures in a **Federal Register**

notice dated May 10, 2005 (70 FR 24995). Therefore, measures proposed in this action would implement specified lobster broodstock measures from Addenda II and III, and a separate rulemaking will evaluate the effort control measures specified in Addenda II - VI.

At present, most states have issued their complementary Addenda II and III regulations, but the Federal Government has not. As a result, there is presently a regulatory incongruence with the Commission's American lobster ISFMP, at least insofar as it pertains to the broodstock measures identified in Addenda II and III. Most Federal lobster permit holders also hold a state lobster license, and they must abide by the ISFMP measures by virtue of their state license, even if the same restrictions have not yet been placed on their Federal permit. Measures in this proposed rule would primarily impact Federal lobster permit holders from states that have not implemented all measures in the Commission's ISFMP. Generally, the exception to state coverage of all lobster ISFMP measures, under the Commission's ISFMP, is for states that are classified as *de minimis* states. Certain states located at the southern end of the range can qualify for *de minimis* status under the Commission's lobster ISFMP if a given state's declared annual landings, averaged over a 2–year period, amount to less than 40, 000 lbs (18,144 kg) of American lobster. While *de minimis* states are required to promulgate all coastwide measures contained in Amendment 3, many of the area-specific management measures, including the broodstock measures proposed in this action, are not required to be implemented by the de minimis states under the Commission's lobster ISFMP. However, Federal lobster regulations apply to all Federal lobster permit holders, including permit holders residing in and landing in de minimis states. Four states (North Carolina, Virginia, Delaware, and Maryland) are classified under the Commission's lobster ISFMP as *de minimis* states in 2005. Based on the analysis completed for this action, approximately ten percent of current Federal lobster permit holders are from de minimis states or reside in states that may not have fully implemented all Commission ISFMP management measures.

Comments and Responses

Addenda II and III to Amendment 3 of the Commission's Interstate Fishery Management Plan for American Lobster (ISFMP) include both lobster broodstock conservation measures and lobster trap effort control measures. This proposed rule considers the management measures in these two addenda that are relevant to broodstock conservation. These are: recommendations for lobster minimum size increases and escape vent size increases in lobster conservation management areas (Areas) 2, 3, 4, 5 and the Outer Cape Management Area; implementation of a maximum carapace size in Area 4 and Area 5; mandatory v-notching of egg-bearing female lobster in Area 1 and in the Gulf of Maine portion of Area 3; a zero tolerance definition of v-notching in Area 1; and a 5–mile (8–km) overlap zone along the common boundary of Area 3 and Area 5.

Subsequent to the Commission's approval of Addenda II and III to Amendment 3 of the ISFMP, NMFS solicited comments from the public by three separate actions published in the **Federal Register**: an ANPR on May 24, 2001; a NOI dated September 24, 2001, both relative to Addendum II; and, a combined ANPR/NOI, relative to both Addenda II and III, published on September 5, 2002. As noted previously in this preamble, the effort control recommendations in Addenda II and III will be considered for Federal implementation in a separate rulemaking action. Therefore, this section is specific to the comments received on the broodstock conservation measures included in Addenda II and III, which are relevant to this proposed rule. NMFS notes that the public is encouraged to submit comments on this proposed rule during the comment period as specified in the **DATES** section of this document.

Overall Summary of All Comments Received in Response to the Three Requests for Comments

To summarize, the majority of commenters to all three requests for comments were in favor of gauge increases up to 3 3/8 inches (8.57 cm) in Areas 3, 4, 5 and the Outer Cape Area, with some favoring additional increases to 3 1/2 inches (8.89 cm) if necessary for conservation in Area 3. Generally, the comments were from Area 3 fishermen and within the context of Area 3 gauge increases. A majority of commenters also favored the escape vent size increases consistent with those approved in Addenda II and III. At least one comment was received stating opposition to the additional gauge increases in Area 3 and the Outer Cape Area beyond 3 3/8 inches (8.57 cm). A commenter expressed concern over the ability to enforce lobster regulations and pointed out the complexities of enforcing differing regulations at the state and Federal level. The representative of an association of recreational diving clubs opposes maximum sizes for lobster in Areas 4 and 5. Review of the comments revealed support from commenters for v-notching of egg-bearing females in the Gulf of Maine portion of Area 3 and throughout Area 1. One state agency expressed opposition to the Area 1 v-notch requirement. All comments received with regard to the establishment of an overlap zone along the common boundary of Area 3 and Area 5 support this management measure.

Breakdown of Comments Received for Each Request for Comments

ANPR, published on May 24, 2001

In response to the ANPR, published on May 24, 2001, sixteen comments were received. Fifteen commenters wrote in favor of the minimum gauge size and escape vent size increases with one opposed to these measures. Of those that favored the gauge increases, nine commenters specifically supported the four additional gauge increases up to 3 1/2 inches (8.89 cm), should they be deemed necessary for conservation in Area 3, as set forth in Addenda II and III. One in favor of gauge increases up to 3 3/8 inches (8.57 cm) stated that the four additional gauge increases up to 3 1/2 inches (8.89 cm) should not be implemented in Area 3.

NOI published on September 24, 2001

A total of 23 comments were received in response to the NOI published on September 24, 2001. Seventeen commenters were in favor of the Area 3 minimum gauge size increase to 3 3/8 inches (8.57 cm), the additional gauge increases if necessary to 3 1/2 inches (8.89 cm), and the associated escape vent size increases.

Two individuals were opposed to minimum gauge size increases. One commenter noted an incorrect statement in the September 24, 2001 NOI concerning the escape vent increases. In general the statement reads that traps in all lobster management areas are subject to an escape vent size increase in Addendum II. However, the commenter correctly noted that only those areas with proposed gauge increases are scheduled for escape vent size increases; specifically neither Area 1 nor Area 6 are scheduled for escape vent increases in Addenda II. NMFS notes this oversight and will assess, within the context of this rulemaking, the gauge and escape vent size increases as set forth in the Addenda.

ANPR/NOI published September 5, 2002

Twenty-two comments were received in response to the combined ANPR/NOI published September 5, 2002. Five support the gauge size increases in the addenda while one individual is opposed to the additional minimum size increases in Area 3 and the Outer Cape Area beyond 3 3/8 inches (8.57 cm) and supports consistent management measures in all areas. Thirteen commenters support the escape vent size increases with one opposed. One supports a maximum gauge size and one is opposed. Twelve support v-notch requirements in Area 3 with none opposed. One supports a v-notch requirement in Area 1 with one opposed. Twelve support the establishment of an overlap zone along the common boundary of Area 3 and Area 5 with none opposed. One comment was received in opposition to the Federal prohibition on changes to the lobster management area designations on the Federal permit when Federal permits are sold. One commenter supports a change to the Federal regulations to allow authorization of a substitute vessel to haul gear of an inoperable vessel with a Federal permit. A representative of an association of recreational diving clubs is opposed to maximum size limits that would impact the recreational dive fishery in Areas 4 and 5. One commenter expressed concern about the complexity of enforcing management measures that differ at the state and Federal level.

Responses to Comments

Comment 1: The great majority of commenters recommend that the gauge increases set forth in Addenda II and III be implemented, along with the associated escape vent size increases. There were a total of four opposing comments, although none detailed the basis of their opposition.

Response: NMFS proposes to implement the minimum gauge size increases (up to 3 3/8 inches (8.57 cm)) and the associated escape vent size increases in Areas 2, 3, 4, 5 and the Outer Cape Management Area, to be compatible with the ISFMP. NMFS believes that implementing these measures will facilitate enforcement of lobster regulations and improve egg production consistent with the intent of the ISFMP. NMFS does, however, acknowledge those commenters in opposition to the gauge increases, and has reviewed such an alternative in its draft Environmental Assessment. NMFS invites the commenters to review the analysis and to comment further on this, or any other issue, in this proposed rule.

Comment 2: One state agency, in response to the NOI on September 24, 2001, recommended that if the minimum gauge size does increase, the legal minimum size for lobster should remain consistent in all lobster conservation management areas to facilitate enforcement and minimize marketing problems.

Response: NMFS acknowledges the complexities associated with differing management measures amongst management areas. The agency further acknowledges that uniformity and standardization amongst management areas would simplify some of these complexities. The agency, however, has to balance the utility in having a uniform management scheme against its obligation to support a Commission management program that has, as two of its objectives, the maintenance of flexible regional programs and maintenance of existing social and cultural features of the industry wherever possible. Both such objectives form the foundation of the area management scheme established in Amendment 3 to the Commission's ISFMP. This proposed rule seems to achieve balance. It simplifies overall lobster management, thereby facilitating enforcement, by making Federal lobster regulations more consistent with existing state regulations. Yet, the proposed rule remains supportive of the area management construct set forth in the ISFMP by acknowledging that lobster biology and industry practices differ throughout the vast range of this fishery, and thus, a ''one-size-fits-all'' approach, although potentially easier to enforce (but only if all states endorsed such an approach - if some states made their regulations uniform, but others did not, then enforcement might actually become more complicated) might undermine the objectives of area management.

Comment 3: Comments on at least two occasions supported the gauge and vent size increases and cautioned that inconsistent state and Federal regulations create management and enforcement difficulties.

Response: NMFS believes that the proposed rule addresses many discrepancies between state and Federal regulation. NMFS notes, however, that although present Federal and state gauge regulations may differ at this time, the regulations do not conflict. Specifically, Federal regulations at 50 CFR 697.3(3) state that ''The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws.'' Accordingly, NMFS expects that states with more restrictive gauge and vent regulations should be able to enforce those regulations because the Federal Government has expressly stated that it has not preempted the field relative to more restrictive gauge and vent sizes. In this particular instance, dual state/Federal permit holders would be able to comply with both state and Federal regulations by complying with the more restrictive state regulation, and indeed a state might so enforce such compliance. The ''more restrictive'' regulatory concept embodied in 50 CFR 697.(3) becomes especially germane in situations where the Federal Government is in the process of creating compatible regulations in response to Commission recommendations. Federal rulemaking, with the numerous statutory obligations attendant thereto, can be a far more time consuming process than rulemaking at the state level. Accordingly, states are often able promulgate regulations in response to Commission regulations quicker than the Federal Government. Thus, the Federal regulation at 50 CFR 697.3(3) provides a degree of regulatory stability during the Federal rulemaking inter period.

Comment 4: More than one commenter who favors gauge increases stated that the additional gauge increases up to 3 1/2 inches (8.89 cm) should not be implemented in Area 3.

Response: NMFS proposes to implement the minimum size increases to 3 3/8 inches (8.57 cm)) and escape vent size increases (2 inches by 5 3/4 inches (5.08 cm x 14.61 cm)) rectangular, and 2 5/8 inches (6.67 cm) circular, consistent with Addenda II and III in Areas 2, 3, 4 and 5 and the Outer Cape Management Area. The additional gauge increases up to 3 1/2 inches (8.89 cm) were included in the addenda for implementation only if it was determined that they were necessary for conservation. However, the gauge size increase schedule approved by the Commission has already directed states to implement the first of these ''additional'' minimum carapace size increases, that is 3 13/32 inches (8.66 cm) in Areas 3 and Outer Cape. Regardless, since these additional gauge increases are being evaluated in the current stock assessment, NMFS does not propose to implement the gauge increases above 3 3/8 inches (8.57 cm) at this time until a more thorough analysis of their necessity is completed.

Comment 5: One commenter expressed support for amending the current measure in the Federal lobster regulations prohibiting changes during the Federal fishing year to lobster

conservation management area designations after the Federal permit has been issued.

Response: The current regulations allow changes to the lobster trap area designations on the Federal permit only during a vessel replacement or at the start of the Federal fishing year. This proposed rule offers a measure to allow the trap area designations to be altered, after the permit has been renewed for the fishing year, in the event of the sale or transfer of a Federal lobster permit, or within 45 days of the effective date of the permit. This change will more clearly set forth NMFS regulatory practices, is consistent with the current practices for other Federal fisheries permits and will give Federal permit holders a chance to make a change if a mistake was made when areas were initially designated.

Comment 6: A comment was received in support for Federal authorization of a substitute vessel to haul the lobster trap gear of an inoperable vessel with a Federal lobster permit.

Response: NMFS agrees and proposes to allow short-term removal of trap gear from the water with a substitute vessel when a Federally permitted vessel is inoperable. This will facilitate the ability of fishermen to abide by the regulations in 50 CFR 229 that require all set gear to be tended every 30 days to decrease the jeopardy to marine mammals. This measure will also help to prevent gear theft and potential creation of hazardous ghost gear that may occur when traps are left unattended for relatively long periods.

Comment 7: The representative of an association of recreational scuba divers in New Jersey questions how the proposed maximum lobster carapace sizes in Areas 4 and 5 will affect the recreational divers who seek to harvest ''trophy'' lobsters.

Response: NMFS believes that regulations to implement maximum carapace size limits in Area 4 and 5 will not substantially impact the recreational dive fishery for lobster. As a preliminary matter, these size limitations will still allow scuba divers to harvest trophy sized lobsters - up to 5 1/2 inches (13.97 cm) in Area 5 and 5 1/4 inches (13.34 cm) in Area 4. The commenter provided no objective information relative to numbers of lobster typically caught above 5 1/2 inches (13.97 cm) in Area 5 and 5 1/4 inches (13.34 cm) in Area 4. Based upon the best available information and location of the involved areas, NMFS does not believe the number of lobster expected to be caught by divers above the proposed maximum size to be significant. NMFS, however, invites the public to further comment on the agency's analysis in this proposed rule and provide comments by the end of the comment period as specified in the DATES section of this document.

Proposed Changes from the Current Regulations

This Federal lobster management action proposes the following specific management measures, as described here.

Modify Egg Production Schedule

The American lobster resource is considered overfished when the fishing mortality rate (F) results in a reduction in estimated egg production per harvestable lobster to 10 percent (F10 percent) or less of a non-fished population. In other words, lobsters are considered overfished when harvest so reduces the amount of lobsters remaining in the water that the remaining lobsters can produce no more than 10 percent of the eggs that an unfished population would produce. If lobsters are overfished- i.e., the remaining uncaught lobsters are so few that they can only produce as a group 10 percent of the number of eggs that an unfished population would collectively produce, then the present Commission lobster plan recommends that managers act to restore egg production to 10 percent or greater by a date certain, presently December 31, 2005.

Originally, in Addendum I, the Commission targeted a rough deadline (December 31, 2005) by which they hoped to end overfishing. In so doing, the Commission used the best available stock information, but admittedly dated information, to extrapolate out an egg production schedule - a time line with interim objectives - that would meet the targeted deadline of December 31, 2005. The Commission acknowledged, however, that the Addendum I schedule and target deadline would need to be adjusted in later addenda following the peer reviewed stock assessment conducted in 2000.

The May 2000 the peer-reviewed American lobster stock assessment confirmed that overfishing of American lobster stocks is occurring throughout the species' range. Based upon the year 2000 stock assessment, the Commission revised its target deadline to end overfishing to December 31, 2008. Accordingly, the Commission, in Addendum II and its recommendations to the Federal Government, revised the schedule for increasing egg production to account for updated information on the current status of the stock.

This proposed Federal action would revise and extend the egg production schedule time line by three years, from December 31, 2005, to December 31, 2008. Accordingly, this action would revise the timeline to restore egg production in each of the management areas to 10 percent or greater of the egg production of an unfished population (i.e., the present overfishing definition) by December 31, 2008. This action is based upon the most recent stock assessment and is recommended by the Commission.

Increased Minimum Harvest Size in LCMAs 2, 3, 4, 5, and the Outer Cape

One key Addendum II broodstock management measure was to increase the minimum legal harvest size of American lobster from 3 1/4 inches to 3 3/8 inches (8.26 cm to 8.57 cm) carapace length in certain LCMAs. The carapace is the unsegmented body shell of the American lobster. Carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. Many scientists believe that many lobsters are harvested before they have had an opportunity to reproduce. Hence, increasing the minimum legal size of lobster would force fishers to throw back lobsters at the present legal minimum size, allowing those lobsters an additional season to remain in the water, mature and reproduce. Accordingly, increasing the minimum carapace length or minimum gauge size will protect a larger number of mature female American lobsters, the broodstock, and increase egg production by allowing reproduction in a sector of the population that many believe has heretofore been harvested before reaching maturity.

Addendum II includes a series of minimum gauge size increases in state and Federal waters of LCMAs 2, 3, 4, 5, and the Outer Cape, but not LCMA 1 and LCMA 6 (Long Island Sound). By approving Addendum II, the states agreed to implement annual Area-specific gauge increases beginning December 31, 2001. NMFS received a recommendation from the Commission to implement complementary Federal measures for Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as in LCMA 3 (comprised entirely of Federal waters). Specifically, the minimum allowable harvest size of American lobster in state waters of LCMAs 2, 4, 5, and the Outer Cape increased 1/32 inches (0.08 cm) annually until 2004 to an ultimate minimum size of 3 3/8 inches (8.57 cm), except for the de minimis states and the State of Maine. The Commission recommends that the gauge increases in Federal waters of LCMA 2, 4, 5, and the

Outer Cape, as well as in LCMA 3 increase to an ultimate minimum size of 3 3/8 inches (8.57 cm).

This proposed Federal management measure would implement a single 1/8 inch (0.32 cm) increase in the Federal minimum allowable harvest size of American lobster in LCMAs 2, 3, 4, 5, and the Outer Cape. The lobster minimum size increase would result in a change of the current minimum harvest size from 3 1/4 inches to 3 3/8 inches (8.26 cm to 8.57 cm) in LCMAs 2, 3, 4, 5, and the Outer Cape. LCMA 1 and LCMA 6 would retain the current minimum harvest size of 3 1/4 inches (8.26 cm). Although a 4–year phased in Federal implementation of the 3 3/8 inches (8.57 cm) minimum harvest size in LCMAs 2, 3, 4, 5, and the Outer Cape is technically the Commission's recommendation, as specified in a letter dated February 13, 2001, due to the passage of time and compatible state regulations currently at 3 3/8 inches (8.57 cm) minimum harvest size, it likely no longer represents the Commission's preference.

Modify Size of Lobster Trap Escape Vents in LCMAs 2, 3, 4, 5, and the Outer Cape

Lobster trap escape vents are another management measure designed to increase egg production. Conceptually, escape vents are holes intentionally placed in the trap that are large enough to allow sublegal lobsters caught in a trap to exit, yet be small enough to prevent legal sized lobsters from escaping.

Addendum II called for an increase in the rectangular escape vent minimum size from 1 15/16 inches by 5 3/4 inches (4.92 cm by 14.61 cm) to 2 inches by 5 3/4 inches (5.08 cm by 14.61 cm). These recommendations were made to the Federal Government in a letter dated February 13, 2001, and are consistent with and follow the Commission's recommended increase in the minimum harvest size of American lobster from the current minimum harvest size of 3 1/4 inches to 3 3/8 inches (8.26 cm to 8.57 cm). As with the increased minimum gauge size, the Commission recommended that the increase in the trap escape vent size apply only to lobster trap gear fished in state and Federal waters of LCMAs 2, 3, 4, 5, and the Outer Cape, but not LCMA 1 and LCMA 6. An increase in the size of the escape vent opening by 1/16 inch (0.16 cm), by requiring at least one rectangular escape vent with an unobstructed opening not less than 2 inches by 5 3/4 inches (5.08 cm by 14.61 cm) per trap, or at least two circular escape vents per trap measuring 2 5/8 inches (6.67 cm) in diameter, was evaluated by the Commission's Lobster Technical Committee and determined to provide the maximum escapement of sublegal lobsters under 3 3/8 inches (8.57 cm), which is consistent with 100 percent retention of legal lobsters.

This proposed Federal management measure would implement a single 1/16 inch (0.16 cm) increase in the Federal minimum lobster trap rectangular escape vent opening of lobster traps in LCMAs 2, 3, 4, 5, and the Outer Cape. The increase would require at least one rectangular escape vent with an unobstructed opening not less than 2 inches by 5 3/4 inches (5.08 cm by 14.61 cm) per trap or at least two circular escape vents per trap measuring 2 5/8 inches (6.67 cm) in diameter. At the current time, Federal regulations require that all lobster trap gear must have a rectangular escape vent with an unobstructed opening not less than 1 15/16 inches by 5 3/4 inches (4.92 cm by 14.61 cm) or two circular escape vents with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter. LCMA 1 and LCMA 6 would retain the current Federal rectangular and circular lobster trap escape vent requirements.

Require Mandatory V-Notching in LCMA 1 and in LCMA 3 above the 42 30' North Latitude Line

Mandatory v-notching is another management measure designed to increase egg production. V-notching is a process wherein a lobster fisher cuts a v-shaped notch into the flipper in the tail of an egg-bearing female lobster. Any subsequent lobster fisher catching that v-notched lobster must return it to the sea. As such, v-notching is a management measure designed to specifically protect the female lobster broodstock. At present, there is no Federal requirement to cut a v-shaped notch into the flipper in the tail of an egg-bearing female lobster, although Federal regulations currently prohibit possession of female lobsters possessing a v-notch. The Commission has recommended that the Federal Government require mandatory v-notching for all Federal vessels fishing in LCMA 1 and in LCMA 3 above the 42° 30′ North latitude line.

This proposed Federal management measure would require all Federal lobster fishers with LCMA 1 permits to v-notch all egg bearing lobsters and would mandate all Federal permit holders fishing in LCMA 3 above the 42° 30′ North latitude line to v-notch all egg-bearing female lobsters. There would be no requirement to v-notch all egg-bearing female lobsters in LCMAs 2, 4, 5, 6, the Outer Cape or LCMA 3 below the 42 30' North latitude line.

Implement Zero Tolerance V-Notching in LCMA 1

Zero tolerance v-notching of female lobsters relates both to the interpretation of what constitutes a v-notch and the limited latitude that the government will grant a violator possessing a v-notched lobster. Commission guidelines, as well as state and Federal regulations, prohibit the harvesting of v-notched lobsters. Prior to Addendum III, however, the ISFMP, and current Federal regulations for all LCMAs, provided only one definition of what constituted a v-notched lobster, i.e., the Commission and current Federal regulations defined ''v notch'' as being a straight-sided cut, without setal hairs, at least 1/4 inch (0.64 cm) in depth and tapering to a point. In contrast, lobster fishers from Maine had long considered a v-shaped notch to be a cut ''of any size'' in the flipper next to and to the right of the center flipper, and Maine State regulations prohibited possession based on that more restrictive definition. Possessors of v-notched lobsters outside of Maine State waters in LCMA 1, often argued that a clearly v-notched lobster was legal to possess because the v-notch was less than 1/4 inch (0.64 cm) or that the cut was not obviously straight sided. Maine argued that its definition ensured protection of female lobsters beyond the first molt, since after the first molt, possession was prohibited if there was a notch of any size discernable. The Commission, in Addendum III, supported and approved recommendations throughout LCMA 1 that sought to define ''v-notch'' as being a v-shaped notch of any size in the flipper next to and to the right of the center flipper as viewed from the rear of the female lobster. The Commission recommended that the Federal regulations be amended consistent therewith.

This proposed Federal management measure would amend the Federal v-notch definition to include a second, so called zero tolerance, definition of a v-notched lobster to mean a v-shaped notch of any size in the flipper next to and to the right of the center flipper as viewed from the rear of the female lobster in all of LCMA 1. Federal regulations would retain the current definition of a v-notched lobster in all other LCMAs (LCMAs 2, 3, 4, 5, 6, and the Outer Cape), as being a straight-sided cut, without setal hairs, at least 1/4 inch (0.64 cm) in depth and tapering to a point.

Implement a Maximum Harvest Size in LCMA 4 and LCMA 5

Another management measure designed to protect lobster broodstock is the implementation of a maximum harvest size for lobster. Scientific evidence seems to indicate lobster can be a long-lived species, up to and over 50 years of age, and that bigger lobsters are more successful breeders, produce more eggs, and those eggs are more likely to survive. For that reason, maximum size gauge restrictions on lobster can improve egg production by prohibiting harvest of bigger, and potentially, better breeding lobsters, forcing their return to the sea and allowing further reproduction. In Amendment 3, the Commission set a 5–inch (12.7–cm) maximum gauge size (carapace length) on all male and female lobsters caught in LCMA 1. The Amendment 3 recommendations have already been incorporated into Federal law. The Commission, in Addendum III, called for a 5 1/4–inch (13.34–cm) maximum gauge size on all female lobsters harvested in LCMA 4, and a 5 1/2-inch (13.97–cm) maximum gauge size on all female lobsters harvested in LCMA 5. The Commission requested that the Federal Government implement compatible maximum gauge size regulations in LCMAs 4 and 5.

This proposed Federal management measure would amend Federal lobster regulations to set a maximum size restriction for possession of female lobsters for Federal permit holders fishing in, or electing to fish in LCMA 4 and LCMA 5. This proposed measure would prohibit the possession of a female lobster with a carapace size in excess of 5 1/4 inches (13.34 cm) in LCMA 4 and would prohibit the possession of a female lobster with a carapace size in excess of 5 1/2 inches (13.97cm) in LCMA 5.

Establish a Overlap Zone Between LCMA 3 and LCMA 5

Lobster management in the southern end of the range is complicated by a number of factors, including distinct seasonality, limited abundance of lobsters, reliance on multiple mixed fisheries, and the similarity between finfish traps and fishing methods used to harvest American lobster. With the approval of Addendum I and the establishment of a historical participation based limited entry program for continued access to LCMA 3, those lobster fishers in LCMA 5 fishing near the boundary with LCMA 3 were disadvantaged. Specifically, a requirement to document annual lobster landings in excess of 25,000 lbs to qualify for continued access to LCMA 3 was deemed problematic for LCMA 5 lobster fishers, because resource availability is variable at the southern end of the range. The Commission, in Addendum III, proposed a 5–mile (8–km) overlapping boundary zone between LCMAs 3 and 5, extending in to LCMA 3 along the length of the eastern most border of LCMA 5 for 5 miles (8 km), and recommended that the Federal Government implement regulations consistent therewith.

This proposed Federal management action would establish a 5–mile (8–km) overlapping boundary zone between LCMAs 3 and 5, extending along the length of the eastern most border of LCMA 5 for 5 miles (8 km) in to LCMA 3. Federal lobster vessels in possession of an LCMA 5 lobster permit, but not an LCMA 3 permit, would not be bound by LCMA 3 regulations within the proposed overlap zone. Federal lobster vessels in possession of an LCMA 3 permit, but not an LCMA 5 permit, would not be bound by LCMA 5 regulations within the proposed overlap zone. Federal lobster vessels in possession of an LCMA 3 and LCMA 5 permit would be required to comply with the most restrictive regulations applicable within the proposed overlap zone.

The Proposed LCMA 3/LCMA 5 coordinates are as follows:

Current Coordinates			Proposed Overlap Coordinates	
Point	Latitude (°N)	Longitude (°W)	Latitude (°N)	Longitude (°W)
V	39°50′	73°01′	39°50′	72°55′.
X	38°39.5′	73° 40′	38°38.2′	73°33.8′.
Y	38° 12′	73°55′	38°10.4′	73°49′.
Z	37°12′	74°44′	37°10.6′	74°38′.
ZA	35°34′	74°51′	35°31.9′	74°45.5′.
ZB	35°14.5′	75°31′	35°14.5′	75°19.3′.

From point V, current coordinates extending out to new overlap coordinates, back to point ZB.

Clarify Existing Regulations

These measures attempt to clarify existing Federal lobster regulations and propose to: allow a change in the LCMA designations upon sale or transfer of a fishing vessel with a Federal lobster permit, or within 45 days of the permit's effective date; clearly reference other laws and regulations applicable to Federal lobster permit holders; clearly prohibit hauling or possession of lobster trap gear belonging to another vessel; and, exempt lobster trap gear retrieval from provisions of the exempted fishing regulations by a substitute vessel if a Federally permitted vessel is inoperable or mechanically impaired.

Allow a Change in the LCMA Designations

Current Federal regulations at 50 CFR 697.4(a)(7)(iv) prohibit a Federal lobster permit owner from changing the permit's lobster management area designations during the fishing year. In other words, lobster fishers have yearly flexibility to designate new or different LCMAs when they renew their annual permit, but upon making that designation, fishers are bound by that choice for the remainder of the fishing year. This measure was designed in large part to close a potential regulatory loophole. That is, Federal regulations at § 697.4(a)(7)(v) mandate that permits with multiple LCMA designations must abide by ''...the most restrictive management measures in effect for any one of the specified areas, regardless of the area being fished, for the entire fishing year.'' Individuals, however, could circumvent this most restrictive provision if they were allowed to drop or add LCMA permit designations based on the seasonal availability of the resource, or if management measures within a certain management area became more or less restrictive during the year.

Although the restriction on changing LCMA designations was designed to prevent speculative add/drop fishing practices, it was not intended to apply to vessel sales and transfers or unintended errors in the permit category selection noted upon issuance or

renewal of a vessel permit. The regulation specifically allows a change in permit LCMA designation for a replacement vessel. The term ''replacement vessel,'' however, could be interpreted narrowly as pertaining to a vessel that replaces a former vessel for reasons other than the sale of that former vessel (e.g., the former vessel being permanently or temporarily decommissioned due to damage or engine trouble, etc.). Accordingly, the present regulatory text has confused some lobster fishers as to their ability to re-designate LCMAs upon the sale and receipt of a new vessel and permit. Furthermore, the existing regulatory text could be interpreted narrowly to prevent a correction to either a new vessel application or permit renewal, if an error occurs in the permitting process. This change would allow a re-designation of the vessel permit LCMA category upon sale or transfer of a vessel with a lobster permit. This change would allow permit holders, upon initial receipt of a new or renewed permit, one opportunity to request a change in the permit LCMA category if requested within 45 days of the effective date of the vessel's permit. If such a request is not received within 45 days of the effective date of the vessel's permit, the vessel owner may not request a change in the permit category for the duration of the fishing year. Provision for one opportunity to change categories, if requested within 45 days, will bring lobster permitting procedures in line with existing procedures currently in place for other Northeast vessel permit practices.

This proposed Federal action would clarify the existing regulations to specifically allow a lobster fisher to re-designate LCMAs on a newly purchased permit, a transferred permit, or within 45 days of the effective date of the vessel permit.

Clearly Reference Other Pertinent Federal Laws

Presently, lobster regulations are issued under the Atlantic Coastal Act in Title 50 of the Code of Federal Regulations, Part 697--Atlantic Coastal Fisheries Cooperative Management. Federal lobster permits, however, are also held subject to conditions contained in acts other than the Atlantic Coastal Act and regulatory parts other than part 697. Although there are clear links in part 697 to these other conditions, the pathway could be stated more plainly. For example, lobster permit conditions are stated in and through the regulation at 50 CFR 697.4(b) - Vessel Permits and Trap Tags: Conditions. According to § 697.4(b), a Federal lobster permit is held conditionally, subject to the permit holder abiding by all state and local laws, as well as ''... the requirements of this part,'' which itself is regulatory parlance for ''subject to the requirements of Title 50 of the Code of Federal Regulations, Part 697--Atlantic Coastal Fisheries Cooperative Management. Included in ''this part'' (i.e., part 697) is § 697.3 - Relation to Other Federal and State Laws. Within Section § 697.3 is reference to and incorporation of §§ 307 through 311 of the Magnuson-Stevens Act, which generally relate to enforcement. Also within § 697.3 is a statement incorporating by reference 50 CFR 600.705–Relation to Other Laws, which sets forth other pertinent Federal laws that Federal lobster permit holders must abide by, including those regulations in Part 229 - Authorization For Commercial Fisheries Under the Marine Mammal Protection Act of 1972. Still further, within part 229 are lobster restrictions pertaining to gear, time and area that are designed to benefit marine mammals. Thus, gear, time and area restrictions specified within part 229 are conditions of a Federal lobster permit held under § 697.4(b), although it requires multiple steps to make the connection and could be written in more direct fashion.

This proposed Federal action would clarify the existing regulations to more directly reference lobster permit conditions that exist outside of part 697. The agency would amend § 697.4(b)-Conditions to include a direct statement that lobster permit holders are subject to the laws and regulations administered by NOAA, including the Endangered Species Act, the Marine Mammal Protection Act and the gear, time and area restrictions thereunder, as well as the enforcement provisions of the Magnuson Stevens Act. The agency would also amend Section 697.7–Prohibitions to track the newly added text in Section 697.4(b)-Conditions.

Prohibit the Hauling or Possession of Another's Gear

Current Federal regulations at 50 CFR 697.7(c)(1)(viii) generally prohibit permit holders from possessing or hauling improperly identified lobster trap gear. According to Federal regulations at 50 CFR 697.21, lobster trap gear is improperly identified if the trap is not properly tagged to identify the vessel possessing or hauling it. To put it more directly, which is what this proposed Federal action seeks to do, a vessel may only possess or haul its own gear and not gear tagged to another. Other lobster regulations also address this gear possession/hauling prohibition but again do so in similarly circuitous, even if clear, fashion. For example, 50 CFR 697.7(1)(c)(vii) prohibits hauling and possession of traps above a permit holder's trap limit, and 50 CFR 697.7(c)(xii) prohibits possession of a lobster trap tag issued to another vessel. Accordingly, hauling and possession of another vessel's lobster gear is presently prohibited but stating that prohibition more directly might reduce the perception of confusion on the issue. This Federal action would clarify the existing regulations to more directly state the present prohibition against the hauling and possession of another's lobster trap gear.

Exempt Gear Retrieval from Exempted Fishing Regulations

Federal lobster regulations, specified at 50 CFR 697.22 - Exempted fishing, allow the Regional Administrator to exempt any person or vessel from Federal lobster regulations for the conduct of exempted fishing beneficial to the management of the American lobster, weakfish, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resources or fisheries, pursuant to the provisions of § 600.745. However, since administrative compliance the exempted fishing procedures may require up to sixty days to complete, a narrow interpretation of the exempted fishing regulations could significantly delay the ability of a Federal permit holder to retrieve lobster trap gear if a Federal vessel is inoperable or mechanically-impaired.

NMFS proposes a modification to 50 CFR 697.22 to allow the Regional Administrator for the Northeast Region, or the Director of the Office of Sustainable Fisheries, as appropriate, to authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically-impaired federally permitted lobster vessel without having to engage in the exempted fishing process outlined at 50 CFR 600.745 - Exempted fishing. This revision would allow NMFS to more expeditiously address pressing needs than is currently provided in the regulations.

Corrections

In addition to the proposed measures described here, the following change is proposed to correct an inaccurate reference in the regulations. NMFS proposes a modification to § 697.21 - Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements. Specifically, § 697.21(f) references enforcement action and seizure and disposition

authority by reference to ''part 219 of this title''. Part 219 of this title has been superceded, and the authority for enforcement action now resides at 15 CFR 904. NMFS proposes § 697.21(f) be revised to reference the correct authority to enforce seizure and disposition as follows: Enforcement action. Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR 904.

Management Actions Considered but Rejected At this Time

NMFS is not proposing to adopt certain management actions recommended by the Commission for Federal lobster permit holders at this time, including: implementation of a limited entry and trap transferability program for the Outer Cape LCMA; a mandatory requirement to elect LCMA 3 if qualified; a mandatory vessel logbook reporting requirement; and, imposition of restrictions on vessel upgrades. These topics are discussed in greater detail below.

Outer Cape Limited Entry / Trap Transferability

In Addendum III to the ISFMP, the Commission proposed limiting fishing access to the Outer Cape LCMA, allocating traps to qualifiers and then reducing the numbers allocated, and finally allowing traps to be transferred among those individuals who qualify for access. Many of the details necessary to implement the plan measures by diverse regulatory agencies may allow for latitude in interpretation. The majority of lobstermen fishing in the Outer Cape LCMA reside in Massachusetts, the Outer Cape LCMA is the only LCMA in which a single state (Massachusetts) does not share its nearshore jurisdiction with any other state. The Massachusetts Division of Marine Fisheries held multiple public hearings on effort control proposals and presented alternatives for Massachusetts license holders electing to fish in LCMAs 1 and 2, in addition to the Outer Cape LCMA. Ultimately, Massachusetts submitted and received Commission concurrence to implement a conservation equivalent effort control program for the state waters of the Outer Cape LCMA.

Central to the Outer Cape LCMA plan is the transferability of allocated traps. Trap transferability relates to fishers being allocated a specific number of traps, but then being able to transfer and reapportion that allocation among themselves. Trap transferability is born out of the concept of Individual Fishing Quotas and would be categorized as a Dedicated Access Program as the U. S. Commission on Ocean Policy has recently defined the term in its report to Congress. The U.S. Commission on Ocean Policy's report identified the potential value of Dedicated Access Programs, but acknowledged that many issues still needed resolution. The Ocean Policy Commission recommended development of national guidelines for dedicated access privileges that allow for regional flexibility in implementation'' and further identified issues that such guidelines should address.

The Outer Cape LCMA plan does not address many of the Dedicated Access Program issues identified by the U.S. Commission on Ocean Policy for at least one obvious reason namely, that the LCMA plan predates the Ocean Policy Commission's report by over two years. Nevertheless, the Commission did subsequently approve a more detailed Dedicated Access or Trap Transferability Program for LCMA 3 in Addenda IV and V. LCMA 3 is further along in the potential Dedicated Access Program process by virtue of already limiting access and establishing maximum trap allocations in Addendum I, for which compatible Federal regulations were promulgated in March 2003 (68 FR 14902). Additionally, Addendum IV included effort control measures for LCMA 2, including a potential Dedicated Access Program. Following approval of Addendum IV, the Commission established a Trap Transferability Subcommittee in 2004 to bring the involved regulatory agencies together to establish an effective multi-jurisdictional implementation protocol and to help resolve transferability coordination issues. The work of the sub-committee is ongoing, but at present, no consensus has been reached on how to address Dedicated Access (Trap Transferability) Program issues nor have any final recommendations been made to the Commission's Lobster Board.

After an initial review, the Trap Transferability Subcommittee concluded that key components of the Addendum IV effort control plan for LCMA 2 prevented its implementation by all regulatory agencies. In May 2004, the subcommittee recommended to the Lobster Board that the LCMA 2 effort control measures be delayed until all regulatory agencies are able to implement the effort control measures specified in Addendum IV. After further analysis of the impacts of the effort control measures, the subcommittee concluded the measures, as specified in Addendum IV, would not effectively achieve the objectives to cap fishing effort in LCMA 2. Therefore, in February 2005, the Lobster Board approved Addendum VI which retracted the LCMA 2 effort control plan contained in Addendum IV. Discussions within the LCMA 2 industry participants are ongoing at this time to develop a modified effort control plan for LCMA 2 to more effectively cap effort at or near current levels.

Accordingly, NMFS is presented with the following: an Outer Cape LCMA plan that is lacking, albeit understandably, in detail relative to the analysis on some issues on Dedicated Access Programs; work by the Commission's Lobster Board Transferability Subcommittee for which there is as yet no uniform Commission policy; and finally, more detailed (and subsequently developed) LCMA 2 and 3 Dedicated Access Programs that require analyses along with the Outer Cape LCMA Dedicated Access Program. As a result, NMFS announced its intention to act upon the Commission's recommendations for fishing effort control programs for LCMAs 2 and 3, and the Outer Cape, and the potential for similar programs in other LCMAs in a **Federal Register** document dated May 10, 2005 (70 FR 24495).

LCMA 3 ''Choose and Use''

The Commission in Addendum III set forth a management measure specific to LCMA 3 entitled ''Choose and Use.'' Under current Federal lobster regulations, permit holders have considerable freedom of choice in designating fishing areas when they renew their permit each year. Although a person cannot choose LCMAs 3, 4, or 5 without having first qualified into those areas, presently most of the LCMAs are open access to any person with a Federal lobster permit, subject to more restrictive state regulations. However, there are no LCMAs that a permit holder must choose when renewing a Federal lobster permit. The Commission's recommended Choose and Use plan, however, would require changes in the present Federal regulations.

Choose and Use would obligate LCMA 3 permit holders to designate (i.e., ''choose'') LCMA 3 on their Federal permits when renewing Federal permits each year. To the extent a qualified permit holder did not choose LCMA 3, then that permit holder would be barred from designating LCMA 3 on his or her

permit in future years, although the permit would still retain its LCMA 3 qualification and if sold, the subsequent owner would then be able restart the LCMA 3 Choose and Use process. As with all Federal permit holders, those fishers designating multiple LCMAs on their permit must abide by the most restrictive regulations among the LCMAs.

The juxtaposition of the Federal ''Most Restrictive'' regulation and the proposed Choose and Use plan could present a significant conundrum for some lobster fishers. For example, permit holders who fish a limited number of traps seasonally in LCMA 3 but who fish predominantly in other LCMAs may have qualified for access to LCMA 3 with a modest trap allocation. Such a permit holder, however, might not seek to designate LCMA 3 on his or her permit lest they be bound to fish the more restrictive trap cap allocated to LCMA 3. Yet if that person did not choose to designate LCMA 3 on the permit, then the Choose and Use plan would preclude their designation of LCMA 3 at any time in the future.

The Commission sought to resolve this dilemma by approving a measure in Addendum IV that would waive application of the Most Restrictive rule insofar as it related to the number of lobster traps allocated below a maximum cap. Accordingly, NMFS has determined it prudent to reserve analysis and decision on the proposed LCMA 3 Choose and Use plan and to consider it contemporaneously with the Most Restrictive rule waiver for trap allocations that has been approved and recommended in Addendum IV. Thus, this measure will not be considered at this time, but, as noted in a **Federal Register** document dated May 10, 2005 (70 FR 24495), will be analyzed in future rulemaking.

Mandatory Reporting

Mandatory reporting relates to the requirement of fishers to report catch data to the government. Presently, all Federal Northeast Multispecies permit holders must report their entire catch to the Federal Government, including species covered under other permits, such as a Federal lobster permit. In Addendum II, the Commission called for all Federal LCMA 3 permit holders to report their catch to the Federal Government in a manner similar to that required of Northeast Multispecies permit holders (and several other Federal limited access permits). The Commission recommended that the Federal Government implement regulations consistent therewith. The current mandatory reporting requirements for Federal limited access permit holders were developed to accommodate traditional finfish harvest from mobile gear vessels and is burdensome for traditional trap gear fishermen. At this time, several state and Federal pilot programs are underway, or have been completed with the intent to develop a reporting platform tailored for lobstermen and potentially to report their catch data from multiple fishing trips at one time rather than on a daily trip by trip basis. This measure will be considered and analyzed at such time that a recommended reporting platform becomes available for implementation.

Vessel Upgrade Limits

The Commission in Addendum III set forth management measures specific to LCMA 5 that would limit a permit holder's ability to upgrade his or her vessel. Specifically, Addendum III limits a permit holder's ability to upgrade an LCMA 5 vessel to a 10–percent increase in length and a 20–percent increase in horsepower. Addendum III provided no further detail on the measure. The Commission ultimately included the LCMA 5 vessel upgrade limitations as a recommended management measure to the Federal Government. However, the vessel upgrade limitations have not been implemented by state jurisdictions. Specifically, New Jersey requested, and the Commission Lobster Board approved, an exemption for New Jersey state license holders from this LCMA 5 requirement. Also, state lobster license holders residing in the Commission de minimis states adjacent to and south of New Jersey, including Maryland, Delaware, Virginia, and North Carolina are exempt from the ISFMP requirement to implement the vessel upgrade restriction. In Technical Addendum 1, dated July 18, 2002, the Commission withdrew section 2.1.1.3 Vessel Upgrade Limit from the requirements for LCMA 5. The LCMA 2 effort control plan in Addendum IV (that was withdrawn in Addendum VI), included measures that would limit a permit holder's ability to upgrade his or her vessel. Addendum IV had proposed limits to a permit holder's ability to upgrade an LCMA 2 vessel to a 15 percent increase in length. Addendum IV provides no further detail on the measure.

NMFS has previously considered vessel upgrade restrictions in the lobster fishery. Most recently, in its rulemaking based upon Addendum I, NMFS considered but rejected vessel upgrade limitations in LCMA 3. At that time, NMFS concluded that the upgrade restrictions would be unnecessarily costly and burdensome to fishers because existing baseline vessel characteristics on many vessels are likely undocumented. The analysis further stated that vessel upgrade limitations may pose safely constraints and offered no obvious conservation benefits to the resource. In addition, the implementation of trap limits, either fixed or based on a historical level of participation, has the potential to effectively limit fishing effort in the offshore lobster fishery without an additional requirement for vessel upgrade restrictions. The analysis concluded that there were no obvious benefits to vessel upgrade limitations.

NMFS' reasoning in its Addendum I rulemaking analysis is equally relevant to this present rulemaking. Lobster trap vessels are generally small e.g., the average length is 39 ft (11.9 m) -- and as such, the specifications of many vessels are not documented with the U.S. Coast Guard. Therefore, information on length and horsepower may not be readily available, thereby necessitating a marine survey to establish legal vessel specifications, which would add a financial burden on vessel owners. The potential cost to hire a marine surveyor or naval architect to verify existing baseline vessel characteristics can range from $150 to $600, with associated costs increasing with vessel size, and would result in added delays for vessel replacement and transfers, if implemented. NMFS does not consider the burden justified given that vessel upgrade limitations offer no obvious conservation benefit to the resource, and certainly the Commission's recommendation indicates no nexus between the restriction and the egg production measures that constitute Addenda II and III or a connection to overall Fishery Management Plan goals. Accordingly, NMFS has determined it prudent to reject vessel upgrade restrictions at this time.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with Federalism implications as defined in E.O. 13132.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and

the legal basis for this action are contained in the SUMMARY section of the preamble and in the preamble to this proposed rule.

As described above, the proposed action would: revise the Egg Per Recruit overfishing target timeline from the year 2005 to the year 2008; increase the current Federal lobster minimum legal carapace size limit from 3 1/4 inches (8.26 cm) to 3 3/8 inches (8.57 cm) in LCMAs 2, 3, 4, 5, and the Outer Cape; increase the current Federal rectangular lobster trap escape vent size from 1 15/16 inches x 5 3/4 inches (4.92 cm x 14.61 cm) to 2 inches x 5 3/4 inches (5.08 cm x 14.61 cm) in LCMAs 2, 3, 4, 5, and the Outer Cape; increase the current Federal circular lobster trap escape vent size from 2 7/16 inches (6.19 cm) to 2 5/8 inches (6.67 cm) in LCMAs 2, 3, 4, 5, and the Outer Cape; implement a new 5 1/4 inch (13.34 cm) maximum legal carapace size on possession of female lobsters in LCMA 4, and a new 5 1/2 inch (13.97 cm) maximum legal carapace size on possession of female lobsters in LCMA 5; require mandatory V-notching of female lobsters carrying eggs in LCMA 1 and in LCMA 3 above the 42° 30′ North latitude line; require a zero tolerance definition of V-notched female lobsters in LCMA 1; and implement a new 5–mile (8–km) overlap boundary area between LCMAs 3 and 5. These actions were recommended to the Federal government by the Commission to assure a unified consistent state-Federal approach to lobster management as required under the Atlantic Coastal Act.

The proposed action was compared to the No Action alternative and three other non-selected alternatives. In this analysis, the baseline (the Modified No Action alternative) is the set of measures currently in place for state and Federal lobster permit holders throughout the range of the resource. All measures analyzed in the Modified No Action alternative are identical to those analyzed in the No Action alternative, except the Egg Per Recruit overfishing target timeline is revised from the year 2005 to the year 2008. As described in the draft EA completed for this action, the No Action alternative would retain December 31, 2005, as the operative deadline for the egg production schedule and restoration time line in each of the management areas. Accordingly, egg production in each management area would need to meet or exceed 10 percent of the egg production of an unfished population, which is the overfishing definition for American lobster, by a targeted deadline of December 31, 2005. The scheduled overfishing time line in the No Action alternative does not incorporate the most recent (year 2000) stock assessment information. Since landings from the EEZ account for approximately 20 percent of all American lobster landed in U.S. waters, under the No Action alternative a complete ban on fishing for lobster in Federal waters might need to be considered to achieve the targets specified in the existing egg production schedule by the end of 2005. Relative to the involved management issues and measures, the No Action alternative, unlike the Modified No Action alternative, might require a complete closure of Federal waters to fishing for, possession of, or landing of American lobster, and would not represent a realistic baseline comparison of state and Federal lobster management measures currently in place to those proposed in this action. The Modified No Action alternative does propose changing the deadline for the egg production schedule from 2005 to 2008, but proposes no additional changes to current regulations, thereby providing a realistic baseline comparison of current state and Federal lobster management measures to those proposed in this action. Therefore, the Modified No Action alternative was used as the baseline for comparison rather than the No Action alternative.

Description of and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The proposed action would potentially affect any vessel in the Northeast region that holds a Federal limited access lobster permit. During fishing year 2003, a total of 3,217 limited access lobster permits were issued to Northeast region permitted vessels. Based on the Small Business Administration's (SBA) size standard of $3.5 million in gross sales, all of these vessels would be considered small entities as the maximum earnings for any given vessel was less than half of this standard.

While the number of permitted vessels represents the universe of vessels that may be affected, an assessment of impacts needs to distinguish between this universe and the number of vessels that are actually participating in the lobster fishery. Unfortunately the precise number of participating vessels is not known with certainty since lobster permit holders are not subject to mandatory reporting. Specifically, less than half of all vessels using trap gear (the primary gear used on the fishery) were subject to mandatory reporting. Based on 2003 dealer records, while 62 percent of these vessels subject to mandatory reporting reported landings, only 18 percent (361 vessels) reported landing lobster. Applying this proportion to the total number of permit holders would result in an estimate of 582 participating vessels. Alternatively, where it was possible to identify Federal permit holders, comparing the number of vessels eligible to purchase trap tags to the number of vessels that actually did purchase trap tags in 2003 indicates that about 46 percent of Federal permit holders using trap gear participate in the EEZ fishery. Applying this number to the total number or permit holders results in an estimate of almost 1,500 participating vessels; an estimate that seems more likely than that based on activity reports but is still subject to uncertainty.

Economic Impacts of the Proposed Action

The proposed action would implement changes to the rebuilding target, minimum and maximum sizes, escape vent size, and v-notch requirements in certain LCMA's. The proposed action would implement a 3 3/8 inch (8.57 cm) minimum legal carapace size in LCMA 2, 3, 4, 5 and the Outer Cape; an escape vent increase to 2 inches by 5 3/4 inches (5.08 cm x 14.61 cm) for rectangular vents and to 2 5/8 inches (6.67 cm) for circular vents. The preferred alternative would also implement mandatory v-notch in LCMA 1 and in LCMA 3 above 42° 30′ North latitude, a zero tolerance v-notch definition in LCMA 1, as well as a maximum legal carapace size of 5 1/4 inches (13.34 cm) in LCMA 4 and 5 1/2 inches (13.97 cm) in LCMA 5. Based on the analysis of these proposed measures, approximately 10 percent of Federal lobster permit holders (approximately 251 vessels) could be affected by these changes. That is, due to the Federal requirement to abide by the more restrictive state or Federal measures, about 90 percent of Federal lobster vessels would already be required to fish in a manner consistent with the proposed measures due to action already taken by the states. Further, the economic analysis also suggests that the majority of the 251 affected vessels - i.e., the remaining 10 percent - likely fish in areas unaffected by the proposed Federal action. That is, the majority of vessels potentially affected by the minimum legal carapace size change are likely to fish predominantly in LCMA 1 where neither minimum size nor escape vent size changes would be made. Similarly, the majority of vessels fishing in LCMA 3 would not be affected by the change

to a mandatory v-notch regulation because they do not fish in the affected area (i.e. they fish south of 42° 30′ North latitude). In effect, the proposed measures would have negligible impacts on a large majority of Federal lobster vessels since the proposed action would not impose any added economic burden beyond what states have already implemented or would have no impact on existing fishing practices.

For those vessels that would be affected, an estimate of realized impact cannot be quantified. At an estimate $1.40 in materials in labor, replacement of escape vents for a vessel with the maximum of 800 traps (most vessels fish less than 800 traps) would be $1,000. The foregone revenue associated with a change in the minimum legal gauge size will depend on the relative proportion of lobsters between 3 1/4 inches (8.26 cm) and 3 3/8 inches (8.57 cm) in an individual's catch. In the absence of reliable data on the size composition of the trap or non-trap commercial catch, this proportion cannot be reasonably estimated. Similarly, the impact of a change in the maximum legal gauge size in LCMA 4 and 5 is not known although the proportion of lobster at or above these sizes is small so the impact on landings to an individual lobster business is likely to be very low. Last, the foregone revenue associated with a change in v-notch requirements will depend on the proportion of berried female lobsters and lobsters with a v-shaped notch in an individual's catch. As noted previously, this impact would only affect a vessel fishing above 42° 30′ North latitude in LCMA 3. Any such vessel would be able to move traps below this line and would not be subject to the mandatory v-notch requirement. In general, the overall impact on non-trap vessels is likely to be less than that for trap vessels since lobster is predominantly a bycatch in non-trap fisheries. On average, lobster represented less than 4 percent of total fishing income for non-trap vessels in calendar year 2003.

The previous discussion suggests that while the impact on a particular small Federal lobster fishing entity cannot be readily determined, this impact is likely to affect only a portion of total fishing income. The majority of lobster vessels would be largely unaffected under the proposed measures. Therefore, while the proposed measures could have an impact on some number of small entities, the proposed measures would not affect a substantial number of small entities.

Economic Impacts of Alternatives to the Proposed Measures

In addition to the proposed measures, four other alternatives were considered. Among these, Alternative 2, the Modified No Action alternative, and Alternative 3, the Commission alternative, may have less economic impact on small entities. Alternative 1, the No Action alternative, and Alternative 5, the Environmental alternative, would have much greater economic impact on small lobster businesses. Alternative 2 would implement the Commission rebuilding schedule but would make no changes to existing Federal management regulations. That is, the minimum gauge and escape vent sizes would remain unchanged; the v-notch regulations would not be implemented; there would be no maximum gauge in LCMAs 4 and 5, and no overlap boundary between LCMAs 3 and 5. As noted above, at least 90 percent of Federal lobster vessels would still be required to fish under more restrictive measures due to actions already taken by the states, but the remaining 10 percent of vessels would be able to fish under the less restrictive Federal regulations. As a practical matter, even vessels that would be able to fish under less restrictive measures are unlikely to do so since current fishing practices are likely to be consistent with requirements appropriate to the area in which they fish. This means that for the vast majority of trap and non-trap vessels, the realized impact of Alternative 2 is likely to be no different than that of the proposed measures. Nevertheless, under Alternative 2 vessels from two different states could fish under different conditions even though they may set traps or otherwise fish for lobster in the same area. Such a discrepancy creates regulatory inequities, confusions related to enforcement of regulations, potential equity issues, and is counter to the spirit and intent of the Atlantic Coastal Act. For these reasons, and the fact that the anticipated impacts between Alternative 2 and the measures identified in this proposed rule would be virtually indistinguishable, Alternative 2 was rejected.

Alternative 3 would implement the Commission recommended regulations in certain LCMA's but would do so according to the original Addendum II and III schedule. In effect, this would involve a phase-in of the minimum gauge size increase measure over a 4–year period. In fact, had complementary Federal measures been implemented at the time these Addenda were approved by the Commission, present Federal regulations would be consistent with current State regulations. Alternative 3 would perpetuate the current problem of having a gap between state and Federal regulations for another 4 years. Further, as a practical reality, the Commission is likely to take additional action (Addendum IV through VI have already been approved) within this time frame. This means that other complementary regulations would end up being promulgated or superseding those of Alternative 3 before they have been fully implemented. In terms of economic impacts on small entities, Alternative 3 would likely have less impact on small fishing businesses than the proposed measures since small fishing businesses would be allowed to phase-in changes to their fishing practices over time. However, as noted previously, action taken by States has brought the vast majority of vessels under the more restrictive measures contemplated by Alternative 3 so the realized difference between the measures in this proposed rule and Alternative 3 would be negligible. For this reason as well as the practical problems of a phased in implementation of the Commission recommendations under Alternative 3, this alternative was rejected.

Alternative 1 would require a complete closure of the EEZ to lobster fishing. The key element to Alternative 1 would be that no change would be made to the current rebuilding schedule and time frame. Specifically, this time frame would require that the rebuilding target be accomplished by the end of calendar year 2005. The maximum that the NMFS could do to achieve this biological objective would be a closure of the EEZ to all lobster fishing. Based on NMFS dealer data, which include state summary data, the EEZ has been estimated to account for about 20–percent of all domestic landings of American Lobster. Total landings were 71.7 million pounds (32,523 mt) valued at $284.8 million in calendar year 2003. This means that the EEZ would have accounted for approximately 14.3 million pounds (6,486 mt) valued at nearly $57 million. This value may be underestimated since EEZ landings tends to be comprised of larger, more valuable lobsters. The removal of 20 percent of the domestic lobster supply at a time when landings from Long Island Sound, Southern New England and the Mid-Atlantic have been declining would cause significant disruptions in lobster markets from wholesalers to final consumers. At a minimum, lobster prices may be expected to increase, which could result

in reduced profit margins (i.e. only a portion of a price increase is likely to be able to be passed on to consumers) for lobster distributors and retailers (restaurants, fish markets, grocery stores, etc.) and a loss in consumers surplus. This supply reduction may also make U.S. lobsters less price competitive in international markets for U.S. exporters. These impacts could affect approximately $57 million in lobster revenues. The estimated average loss in fishing revenues was about $27,000 per vessel, but could be as high or much higher than $80,000 per vessel. In addition, the Atlantic Coastal Act directs the Federal Government to support the management efforts of the Commission and, to the extent the Federal Government seeks to regulate a Commission species, those Federal regulations must be compatible with the Commission plan. This Alternative 1 is not compatible with the Commission plan because it would require the closure of the EEZ to lobster fishing, which was not recommended by the Commission. Therefore, Alternative 1 was rejected because it may led to a large economic impact to lobster fishermen, and because it would not support the Commission's management efforts, nor result in compatible Federal regulations, as required under the Atlantic Coastal Act.

Alternative 5 would provide the highest assurance that the biological objectives for the lobster resource are met by implementing the most restrictive of the management measures proposed in this action throughout the range of the resource. Such action would implement mandatory v-notch, zero tolerance, a 3 3/8 inches (8.57 cm) minimum legal gauge size, a larger escape vent size, and maximum legal gauge size in all LCMA's. The impacts of these measures are difficult to quantitatively assess. However, Alternative 5 would have at least some impact on 95 percent of all Federal lobster permit holders. At least in the short term, these impacts would be likely to be greatest on vessels fishing in LCMA 1 as a substantial portion of the lobster catch is at the current 3 1/4 inch (8.26 cm) minimum legal carapace size limit. Over time, these losses would be recovered as lobsters molt into the 3 3/8 inch (8.57 cm) legal carapace size class. Nevertheless, the immediate impact would likely be significant for a substantial number of small lobster fishing entities. Alternative 5 was rejected because of its impact on small lobster business entities. In addition, it would be inconsistent with the spirit and intent of the Atlantic Coastal Act since it would neither support the Commission's management efforts, nor result in compatible Federal regulations.

List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: August 29, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI, part 697, is proposed to be amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

1. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

2. In § 697.2, the definition of ''V-shaped notch'' is removed. The definition of ''Standard v-shaped notch'' and ''zero tolerance v-shaped notch'' are added in alphabetical order to read as follows:

§ 697.2 Definitions.

* * * * *

Standard V-shaped notch means a straight-sided triangular cut, without setal hairs, at least 1/4 inch (0.64 cm) in depth and tapering to a point.

* * * * *

Zero tolerance V-shaped notch means a v-shaped notch of any size, with or without straight sides, with or without setal hairs.

3. In § 697.3, paragraph (b) is revised to read as follows:

§ 697.3 Relation to other Federal and state laws.

* * * * *

(b) Federal limited access American lobster permit holders are required to comply with all regulations and statues administered by the National Oceanic and Atmospheric Administration (NOAA), including, but not limited to the regulations in this part issued pursuant to the ACFCMA, the regulations at part 229 issued pursuant to the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) , and the regulations at part 648 issued pursuant to the Magnuson-Stevens Act. The relation of this part to other laws is further set forth in § 600.705 of this chapter.

* * * * *

4. In § 697.4, paragraph (a)(7)(iv) is added and paragraph (b) is revised to read as follows:

§ 697.4 Vessel permits and trap tags.

* * * * *

(a) * * *

(7) * * *

(iv) Once a vessel has been issued a lobster management area designation certificate or limited access American lobster permit specifying the lobster EEZ management areas in which the vessel may fish, no changes to the EEZ management areas specified may be made for such vessel for the remainder of the fishing year. There are two exceptions to this re-designation restriction:

(A) Vessels that have been bought, transferred, or become a replacement vessel for another qualified vessel may request re-designation of the EEZ management areas; and

(B) All vessels will have one opportunity to request a correction in permit category, if such request is made in writing to the Regional Administrator within 45 days of the effective date of the vessel's permit.

* * * * *

(b) *Condition.* Vessel owners who apply for a Federal limited access American lobster permit under this section must agree, as a condition of the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part, as well as gear, time, and area restrictions issued or set forth in other parts, including, but not limited to, part 229 and part 648. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

5. In § 697.7, paragraphs (c)(1)(i) and (c)(1)(v) are revised and paragraphs (c)(1)(xxvii) through (c)(1)(xxix) are added to read as follows:

§ 697.7 Prohibitions.

* * * * *

(c) * * *

(1) * * *

(i) Retain on board, land, or possess at or after landing, whole American lobsters that fail to meet the minimum carapace length standard specified in § 697.20(a). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

* * * * *

(v) *V-notch.* (A) Retain on board, land, or possess any zero tolerance v-notched female American lobster when fishing in or electing to fish in EEZ Nearshore Lobster Management Area 1. (B) Retain on board, land, or possess any standard v-notched female American lobster when fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3.

* * * * *

(c) * * *

(1) * * *

(xxvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear issued to another vessel.

(xxviii) Fail to comply with any gear, time, or area restriction in this part or, as is explained in § 697.3 and § 697.4(b), fail to comply with any gear, time, or area regulation set forth in any other regulatory part, including part 229 and part 648.

(xxix) Retain on board, land, or possess at or after landing, whole American lobsters that exceed the maximum carapace length standard specified in § 697.20(b). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

* * * * *

6. In § 697.18, paragraph (f) is revised to read as follows:

§ 697.18 Lobster management areas.

* * * * *

(f) EEZ Nearshore Management Area 5. EEZ Nearshore Management Area 5 is defined by the area, including state and Federal waters that are near-shore in the southern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
W	39°50′ N.	74° 09′ W.
V	39° 50′ N.	72° 55′ W.
X	38°38.2′ N.	73° 33.8′ W.
Y	38°10.4′ N.	73° 49′ W.
Z	37°10.6′N.	74°38′ W.
ZA	35°31.9′ N.	74° 45.5′ W.
ZB	35° 14.5′ N.	75° 19.3′ W.

From Point ''ZB'' along the coasts of North Carolina, Virginia, Maryland, Delaware, New Jersey back to Point ''W''.

* * * * *

7. Section 697.20 is revised to read as follows:

§ 697.20 Size, harvesting and landing requirements.

(a) *Minimum Carapace length.* (1) The minimum carapace length for all American lobsters harvested in or from the EEZ Nearshore Management Area 1or the EEZ Nearshore Management Area 6 is 3 1/4 inches (8.26 cm).

(2) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 is 3 1/4 inches (8.26 cm).

(3) The minimum carapace length for all American lobsters harvested in or from the Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the Offshore Management Area 3 is 3 3/8 inches (8.57 cm).

(4) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 is 3 3/8 inches (8.57 cm).

(5) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (a) in this section.

(b) *Maximum carapace length.* (1) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(2) The maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(3) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 4 is 5 1/4 inches (13.34 cm).

(4) The maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 4 is 5 1/4 inches (13.34 cm).

(5) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 5 is 5 1/2 inches (13.97 cm).

(6) The maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 5 is 5 1/2 inches (13.97 cm).

(c) *Mutilation.* (1) Subject to the rebuttable presumption in § 697.7(c)(3), no person may remove meat or any body appendage from any American lobster harvested in or from the EEZ before, or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(2) Subject to the rebuttable presumption in § 697.7(c)(3), no owner, operator or person aboard a vessel issued a Federal American lobster permit may remove meat or any body appendage from any American lobster before or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(d) *Berried females.* (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42 30', it must be v-notched before being returned to the sea immediately.

(2) Any berried female harvested or possessed by a vessel issued a Federal limited access American lobster permit must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42 30', it must be v-notched before being returned to the sea immediately.

(3) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female as specified in paragraph (d) of this section.

(e) *Removal of eggs.* (1) No person may remove, including, but not limited to, the forcible removal and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(2) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove, including but not limited to, the forcible removal, and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

(f) *Spearing.* (1) No person may spear any American lobster in the EEZ.

(2) No person on a vessel issued a Federal lobster license may spear a lobster.

(3) No person may harvest or possess any American lobster which has been speared in the EEZ.

(4) No person on a vessel issued a Federal lobster license may harvest or possess any American lobster which has been speared.

(5) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any American lobster which has been speared.

(g) *V-notched females.* (1) No person may possess any female lobster possessing a zero tolerance v-shaped notch harvested in or from the EEZ Nearshore Management Area 1.

(2) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 1 may land, harvest, or possess any female lobster possessing a zero tolerance v-shaped notch.

(3) No person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 may possess.

(4) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 may land, harvest, or possess any female lobster possessing a standard v-shaped notch.

8. In § 697.21, paragraphs (c) and (f) are revised to read as follows:

§ 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

* * * * *

(c) *Escape vents.* (1) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter.

(2) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 inches (5.08 cm) x 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 5/8 inches (6.67 cm) in diameter.

(3) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this final rule, any other type of acceptable escape vent that the Regional Administrator finds to be consistent with paragraph (c) of this section.

* * * * *

(f) *Enforcement action.* Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR part 904.

* * * * *

9. In § 697.22, paragraph (c) is added as follows:

§ 697.22 Exempted fishing.

* * * * *

(c) The Regional Administrator, or the Director of the Office of Sustainable Fisheries, as appropriate, may authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically-impaired federally permitted lobster vessel without having to engage in the exempted fishing process as specified in this section.

[FR Doc. 05–17557 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 70, No. 170

Friday, September 2, 2005

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

DEPARTMENT OF AGRICULTURE

Forest Service

Mendocino Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Mendocino County Resource Advisory Committee (RAC) will meet September 16, 2005 in Willits, California. Agenda items to be covered include: (1) Approval of minutes, (2) Public Comment, (3) Sub-committees (4) Discussion—items of interest (5) Discussion/approval of projects, (6) next agenda items and meeting date.

DATES: The meeting will be held on September 16, 2005, from 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the Mendocino County Museum, located at 400 E. Commercial St., Willits, California.

FOR FURTHER INFORMATION CONTACT: Roberta Hurt, Committee Coordinator, USDA, Mendocino National Forest, Covelo Ranger District, 78150 Covelo Road, Covelo, CA 95428. (707) 983–8503; e-mail *rhurt@fs.fed.us*.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff by September 12, 2005. Public will have the opportunity to address the Committee at the meeting.

Dated: August 24, 2005.

Blaine Baker,

Designated Federal Official.

[FR Doc. 05–17495 Filed 9–1–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Wrangell-Petersburg Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Wrangell-Petersburg Resource Advisory Committee (RAC) has scheduled its next two regular meetings. The first meeting will be via teleconference and will take place Saturday, September 24, 2005 from 10 a.m. until 4 p.m. The second meeting will take place on Friday, October 21, 2005 from 8 a.m. until 5:30 p.m. (or until the conclusion of public testimony) and on Saturday, October 22, 2005 from 8 a.m. until 9 a.m. This meeting will take place in Wrangell, Alaska. The purpose of the September meeting is to review project funding proposals that are received by September 15 pursuant to Title II, Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act. This meeting will identify any additional information needed for the committee to fully consider the proposals. It is expected that election for a committee chairperson will also occur at this meeting. The purpose of the October meeting is to review and discuss in greater detail proposals received for funding, and potentially make funding recommendations for specific projects. Public testimony regarding the proposals will also be taken at the October meeting.

DATES: The first meeting is a teleconference to be held Saturday, September 24, 2005 from 10 a.m. until 4 p.m. The second meeting will be held Friday, October 21, from 8 a.m. until 5:30 p.m. and on Saturday, October 22, 2005, from 8 a.m. until 9 a.m.

ADDRESSES: The September meeting will be via teleconference. Interested parties may participant at either the Wrangell Ranger District office (525 Bennett Street, Wrangell, Alaska) or the Petersburg Ranger District office (12 North Nordic Drive, Petersburg, Alaska), or may contact the local offices for a toll free telephone number to access the meeting from any location. The October meeting will be held at the James and Elsie Nolan Center, 1096 Outer Drive, Wrangell, Alaska.

FOR FURTHER INFORMATION CONTACT: Patty Grantham, Petersburg District Ranger, P.O. Box 1328, Petersburg, AK 99833, phone (907) 772–3871, e-mail *pagrantham@fs.fed.us,* or Bill Messmer, Acting Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99833, e-mail *bmessmer@fs.fed.us.* Toll-free conference calling is available for each of these meetings; please call or email for specific information. For further information on RAC history, operations, and the application process, a Web site is available at *http://www.fs.fed.us/payments.* Once in the Web site, follow the links to the Wrangell-Petersburg Resource Advisory Committee.

SUPPLEMENTARY INFORMATION: This meeting will focus on the review and discussion of proposals received by the RAC for funding under Title II of the Payments to States legislation (Pub. L. 106–393). New proposals (initial reading) may be discussed at these meetings. The committee may make recommendations for project funding at the October meeting. A field trip to review proposals proximate to the Wrangell, Alaska area may take place in conjunction with the October meeting. Both meetings are open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: August 22, 2005.

Forrest Cole,

Forest Supervisor.

[FR Doc. 05–17526 Filed 9–1–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AC12

Grazing Permit Administration Handbook (FSH 2209.13), Chapters 10 (Term Grazing Permits) and 20 (Grazing Agreements)

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Forest Service published on August 19, 2005 (70 FR 48663), a notice of issuance of an interim directive and proposed directives to Forest Service Handbook (FSH) 2209.13,

chapter 10—Term Grazing permits and chapter 20—Grazing Agreements. The notice contained an incorrect World Wide Web/Internet address. In addition, language was mistakenly included in the proposed direction that incorrectly indicated restrictions of the base property and livestock ownership requirements.

FOR FURTHER INFORMATION CONTACT: Ralph Giffen, Rangeland Management Staff, USDA Forest Service, (202) 205–1455.

Correction: In the **Federal Register** issue of August 19, 2005, 70 FR 48663–48664, in the third column, correct the **ADDRESSES** caption to read:

ADDRESSES: Interim Directive no. 2209.13–2005–3 (Chapter 10); and Interim Directive no. 2209.13–2005–4 (Chapter 20) are available on the World Wide Web/Internet at *http://www.fs.fed.us/im/directives*. The proposed directives can be found on the Forest Service's Rangeland Management Web site at *http://www.fs.fed.us/rangelands*. Paper copies can be requested by writing to the USDA Forest Service, Attn: Director, Rangeland Management Staff, Mail Stop 1103, 1400 Independence Ave., SW., Washington, DC 20250–1153. Also send written comments by mail to that same address; by electronic mail to *RgeID@fs.fed.us*; or by facsimile to (202) 205–1096. If comments are sent by electronic means or by facsimile, the public is requested not to send duplicate comments via regular mail.

All comments, including names and addresses when provided, are placed in the record and available for public inspection and copying. The agency cannot confirm receipt of comments.

The public may inspect comments received on these proposed directives in the Rangeland Management Staff, 3rd Floor, South Wing, Yates Building, 14th and Independence Avenues, Southwest, Washington, DC, between the hours of 8:30 a.m. and 4 p.m. Those wishing to inspect comments are encouraged to call ahead to (202) 205–1460 to facilitate entry into the building

Dated: August 30, 2005.

Frederick R. Norbury,

Associate Deputy Chief.

[FR Doc. 05–17548 Filed 9–1–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Revise and Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to revise and extend a currently approved information collection, the Agricultural Labor Survey.

DATES: Comments on this notice must be received by November 1, 2005 to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336—South, 1400 Independence Avenue, SW., Washington, DC 20250–2024 or sent electronically to *gmcbride@nass.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333 or Linda Hutton, Chief, Environmental, Economics, and Demographics Branch, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–6146.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Labor Survey.

OMB Number: 0535–0109.

Expiration Date of Approval: February 28, 2006.

Type of Request: Intent to Revise and Extend an Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, disposition, and prices. The Agricultural Labor Survey provides statistics on the number of agricultural workers, hours worked, and wage rates. Number of workers and hours worked are used to estimate agricultural productivity; wage rates are used in the administration of the ''H–2A'' Program and for setting Adverse Effect Wage Rates. Survey data are also used to carry out provisions of the Agricultural Adjustment Act. NASS intends to request that the Agricultural Labor Survey be approved for another 3 years, with one program change. The number and average hours worked of self-employed and unpaid agricultural workers will be collected each quarter for Hawaii only and the annual averages will be published.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: This information collection comprises 4 individual surveys, two of which are conducted annually and two which are conducted quarterly, for an estimated total of 71,700 responses. Public reporting burden for this collection of information is estimated to average 9 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 12,200.

Estimated Total Annual Burden on Respondents: 10,755 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, August 15, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–17477 Filed 9–1–05; 8:45 am]

BILLING CODE 3410–20–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to the procurement list services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List services previously furnished by such agencies.

DATES: Effective October 2, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On June 10, June 24, July 1, and July 8, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 33883, 36561, 38099, and 39484) of proposed additions to the Procurement List.

The following comments pertain to Custodial Services, U.S. Department of Agriculture, Carolina, Puerto Rico:

Comments were received from the current contractor in response to a request for impact data. The commenter claimed that janitorial work is not appropriate for people who are blind or have other severe disabilities; as such people cannot do the majority of the tasks involved. The commenter also claimed that the prices are double or triple those charged by other contractors.

Seventy-five percent of the direct labor the nonprofit agency will be using to provide this janitorial service will be performed by people with severe disabilities. The price for the service is actually less than that estimated by the Government contracting office and that being charged by the current contractor. Nonprofit agencies have provided janitorial service nationwide under the Committee's Program for many years, using similar percentages of direct labor performed by people with severe disabilities, and at fair market prices. Accordingly, the Committee does not agree with the current contractor's contentions.

The following comments pertain to Document Destruction, U.S. Department of Agriculture, Farm Service Agency, St. Louis Missouri:

Comments were received from the current contractor for this document destruction service in response to a request for impact data. The commenter noted that it is a National Association for Information Destruction (NAID) AAA Certified firm, and questioned whether the nonprofit agency which will be performing the service has adequate security and capability to perform the service at the specified location. The nonprofit agency is an NAID member and will receive its AAA Certification before it begins to provide the service. The nonprofit agency has been reviewed and found capable of providing the service.

The following comments pertain to Grounds Maintenance, U.S. Department of Agriculture, Southern Plains Agriculture Research Center, College Station, Texas:

Comments were received from the current contractor in response to a request for impact data. The contractor claimed that this grounds maintenance service involves a large job site and dangerous power equipment, requiring capable supervision and workers. The contractor also claimed that the service involves the use of harmful chemicals for control of weeds, insects and disease, as well as regular inspection and repair of the landscape irrigation system. Both the pest control and irrigation functions, according to the contractor, require State licenses.

The Nonprofit Agency has been reviewed and found capable of performing the functions set forth in the Statement of Work (SOW) which the Government contracting activity prepared for the nonprofit agency to perform the work. The Nonprofit Agency participates in the Texas State use program as well as the Committee's program, and is very experienced in grounds maintenance services. The SOW has been reduced in scope from that used by the current contractor, and does not contain any pest control or irrigation functions, so State licenses are no longer required.

The following material pertains to all of the items being added to the Procurement List:

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Custodial Services, U.S. Department of Agriculture, 150 Central Sector Bldg C2, Warehouse #3, Carolina, Puerto Rico.
NPA: The Corporate Source, Inc., New York, New York.
Contracting Activity: U.S. Department of Agriculture, Animal & Plant Health Inspection Service, Minneapolis, Minnesota.

Service Type/Location: Document Destruction, U.S. Department of Agriculture, Farm Service Agency, 4300 Goodfellow Blvd, St. Louis, Missouri.
NPA: Challenge Unlimited, Inc., Alton, Illinois.
Contracting Activity: U.S. Department of Agriculture, Farm Service Agency, Kansas City, Missouri.

Service Type/Location: Grounds Maintenance, U.S. Department of Agriculture, Southern Plains Agriculture Research Center, 2881 F&B Road, College Station, Texas.
NPA: World Technical Services, Inc., San Antonio, Texas,
Contracting Activity: U.S. Department of Agriculture, Agriculture Research Service, College Station, Texas.

Service Type/Location: Warehouse Operation. (At the following Locations at Fort Hood, Texas): 289th Quartermaster Co, Class III, II & 14; 289th Supply Support Activity Map Depot, 13th COSCOM; 289th Supply Support Activity Weapons Warehouse, 13th COSCOM; 602nd Supply Support Activity, 13th COSCOM; 62nd Supply Support Activity, Main Yard, 26th III Corp Major End Items Class VII.

NPA: Professional Contract Services, Inc., Austin, Texas.
Contracting Activity: III Corps and Fort Hood Contracting Command, Fort Hood, Texas.

Deletions

On July 8, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 39484) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services

Service Type/Location: Janitorial/Custodial, Eastman Lake, Madera County, California.
NPA: None currently authorized.
Contracting Activity: Department of the Army.

Service Type/Location: Janitorial/Custodial, Lake Mead National Recreation Area, Boulder City, Nevada.
NPA: Opportunity Village Association for Retarded Citizens, Las Vegas, Nevada.
Contracting Activity: Department of Interior, Reston, Virginia.
Service Type/Location: Painting Service, Family Quarters, Fort Sam Houston, Texas.
NPA: Goodwill Industries of San Antonio, San Antonio, Texas.
Contracting Activity: Department of the Army.

G. John Heyer,

General Counsel.

[FR Doc. E5–4822 Filed 9–1–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Agency Information Collection Activities Proposed Information Collection; Comment Request

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Committee has submitted to the Office of Management and Budget for their review the following collection as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Committee Form 401—Initial Certification—Qualified Nonprofit Agency Serving People Who Are Blind.
Committee Form 402—Initial Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled.

DATES: Interested persons are invited to submit comments about the collection on or before October 2, 2005. The agency's 60-day notice informing the public of the intent to renew this form with no changes was published in the **Federal Register** on July 1, 2005 on page 38097–38098.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer by any of the following two methods within 30 days from the date of publication in the **Federal Register**: (1) By fax to: (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Office; and (2) Electronically by e-mail to: *Katherine_Astrich@omb.eop.gov.*

Requests for copies of documents pertaining to the collection should be addressed to Committee for Purchase From People Who Are Blind or Severely Disabled, Attention: Janet Yandik, Information Management Specialist, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA 22202–3259 or e-mailed to *jyandik@jwod.gov*.

SUPPLEMENTARY INFORMATION: The Committee has two initial certification forms, one for nonprofit agencies serving people who are blind and one for nonprofit agencies primarily serving people who have other severe disabilities. The information included on the forms is required to ensure that nonprofit agencies requesting to participate in the Committee's program meet the requirements of the Javits-Wagner-O'Day Act (JWOD), 41 U.S.C. 46–48c. The forms being submitted for OMB approval contain no changes the currently authorized initial certification forms.

Title: Initial Certification—Qualified Nonprofit Agency Serving People Who Are Blind, Committee Form 401.
OMB Number: 3037–0004.
Agency Number: 3037.
Frequency: 1 time.
Affected Public: Nonprofit agencies serving people who are blind seeking to participate in the JWOD program.
Number of Respondents: 5.
Estimated Time per Respondent: 1 hour.
Total Burden Hours: 5.
Total Annual Costs: $0.

Title: Initial Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled, Committee Form 402.
OMB Number: 3037–0003.
Agency Number: 3037.
Frequency: 1 time.
Affected Public: Nonprofit agencies serving people who are severely disabled seeking to participate in the JWOD program.
Number of Respondents: 50.
Estimated Time per Respondent: 1 hour.
Total Burden Hours: 50.
Total Annual Costs: $0.

G. John Heyer,

General Counsel.

[FR Doc. E5–4823 Filed 9–1–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–881]

Notice of Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review: Certain Malleable Iron Pipe Fittings from the People's Republic of China

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

EFFECTIVE DATE: September 2, 2005.

FOR FURTHER INFORMATION CONTACT: Ryan Douglas, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1277.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 2003, the Department of Commerce (''the Department'') published an antidumping duty order on certain malleable iron pipe fittings from the People's Republic of China (''PRC''). *See Antidumping Duty Order: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 69376.

On December 30, 2004, the petitioners[1] requested that the Department conduct an administrative review of Beijing Sai Lin Ke Hardware Co. Ltd, Langfang Pannext Pipe Fittings Co., Ltd., Chengde Malleable Iron General Factory, and SCE Co., Ltd for the period December 2, 2003, through November 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 4818 (January 31, 2005). The preliminary results of review are currently due no later than September 2, 2005.

Extension of Time Limit of Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order.

The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. We find that it is not practicable to complete the preliminary results in this administrative review because additional time is needed to analyze a significant amount of information regarding to each company's factors of production and corresponding surrogate values, and to review responses to supplemental questionnaires from two *pro se* respondents.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the preliminary results of this review by an additional 105 days until December 16, 2005, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

[1] Anvil International, Inc. And Ward Manufacturing, Inc.

Dated: August 29, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–4826 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics to Persons Who Cut and Sew Men's and Boys' Worsted Wool Suits, Suit-Type Jackets and Trousers in the United States

AGENCY: Department of Commerce, International Trade Administration.

ACTION: The Department of Commerce (Department) is soliciting applications for an allocation of the 2006 tariff rate quotas on certain worsted wool fabric to persons who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States.

SUMMARY: The Department hereby solicits applications from persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States for an allocation of the 2006 tariff rate quotas on certain worsted wool fabric. Interested persons must submit an application on the form provided to the address listed below by October 3, 2005. The Department will cause to be published in the **Federal Register** its determination to allocate the 2006 tariff rate quotas and will notify applicants of their respective allocation as soon as possible after that date. Promptly thereafter, the Department will issue licenses to eligible applicants.

DATES: To be considered, applications must be received or postmarked by 5 p.m. on October 3, 2005.

ADDRESSES: Applications must be submitted to the Industry Assessment Division, Office of Textiles and Apparel, Room 3001, United States Department of Commerce, Washington, D.C. 20230 (telephone: (202) 482-4058). Application forms may be obtained from that office (via facsimile or mail) or from the following Internet address: *http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp*.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade and Development Act of 2000 (the Act) created two tariff rate quotas (TRQs), providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12). On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to Title V of the Act. On December 3, 2004, the Act was further amended pursuant to the Miscellaneous Trade Act of 2004, Public Law 108-429, by extending the program through 2007 and increasing the TRQ for worsted wool fabric with average fiber diameters greater than 18.5 microns, HTS 9902.51.11, to an annual total level of 5.5 million square meters, and the TRQ for average fiber diameters of 18.5 microns or less, HTS 9902.51.15 (previously 9902.51.12), to an annual total level of 5 million square meters.

The Act requires that the TRQs be allocated to persons who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States. On May 16, 2005, the Department published regulations establishing procedures for allocating the TRQ. 70 FR 25774, 15 CFR 335. In order to be eligible for an allocation, an applicant must submit an application on the form provided at *http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp* to the address listed above by 5 p.m. on October 3, 2005 in compliance with the requirements of 15 CFR 335. Any business confidential information that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law

Dated: August 29, 2005.

Philip J. Martello,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. E5–4824 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of a Tariff Rate Quota on the Import of Certain Worsted Wool Fabrics to Persons Who Weave Such Fabrics in the United States

AGENCY: Department of Commerce, International Trade Administration.

ACTION: The Department of Commerce (Department) is soliciting applications for an allocation of the 2006 tariff rate quotas on certain worsted wool fabric to persons who weave such fabrics in the United States.

SUMMARY: The Department hereby solicits applications from persons (including firms, corporations, or other legal entities) who weave worsted wool fabrics in the United States for an allocation of the 2006 tariff rate quota on certain worsted wool fabric. Interested persons must submit an application on the form provided to the address listed below by October 3, 2005. The Department will cause to be published in the **Federal Register** its determination to allocate the 2006 tariff rate quotas and will notify applicants of their respective allocation as soon as possible after that date. Promptly thereafter, the Department will issue licenses to eligible applicants.

DATES: To be considered, applications must be received or postmarked by 5 p.m. on October 3, 2005.

ADDRESSES: Applications must be submitted to the Industry Assessment Division, Office of Textiles, Apparel and Consumer Goods Industries, Room 3001, United States Department of Commerce, Washington, D.C. 20230 (telephone: (202) 482-4058). Application forms may be obtained from that office (via facsimile or mail) or from the following Internet address: *http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp/fabric*.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade and Development Act of 2000 (the Act) created two tariff rate quotas (TRQs), providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12). On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to Title V of the Act. On December 3, 2004, the Act was further amended pursuant to the Miscellaneous Trade Act of 2004, Public Law 108-429. The 2004 amendment includes authority for the Department to allocate a TRQ for new HTS category, HTS 9902.51.16. This HTS category refers to worsted wool fabric with average fiber diameter of 18.5 microns or less. The amendment further provides that HTS 9902.51.16 is for the benefit of persons (including firms, corporations, or other legal entities) who weave such worsted wool fabric in the United States that is suitable for making men's and boys' suits. The TRQ for HTS 9902.51.16 will provide for temporary reductions in the import duties on 2,000,000 square meters annually for 2005 and 2006.

The amendment requires that the TRQ be allocated to persons who weave worsted wool fabric with average fiber diameter of 18.5 microns or less, which is suitable for use in making men's and boys' suits, in the United States. On May 16, 2005, the Department published regulations establishing procedures for allocating the TRQ. 70 FR 25774, 15 CFR 335. In order to be eligible for an allocation, an applicant must submit an application on the form provided at *http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp/fabric* to the address listed above by 5 p.m. on October 3, 2005 in compliance with the requirements of 15 CFR 335. Any business confidential information that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law.

Dated: August 29, 2005.

Philip J. Martello,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. E5–4825 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

International Code Council: The Update Process for the International Codes

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Final Action Hearings on U.S. Model Codes, 2006 editions.

SUMMARY: The International Code Council (ICC), under whose auspices the International Codes (''I-Codes'') are developed, maintains a process for updating these model codes based on receipt of proposals from interested individuals and organizations. The ICC's 14 separately published codes are each comprehensively updated and re-published every three years with a supplement released between each edition. The most current versions of the I-Codes are the 2003 Editions and 2004 Supplements. The 2006 Editions will be released in March, 2006.

The purpose of this notice is to invite public participation in the Final Action Hearings. At this session, public comments are reviewed and discussed and final voting is conducted to determine which proposals are adopted into the 2006 I-Codes.

The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of ICC is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the codes or standards referenced in the notice.

Session Dates: The Final Action Hearings of the 2004/2005 Code Development Cycle will occur between September 28 and October 2, 2005, at the COBO Center in Detroit, Michigan.

Proposed changes approved during this cycle, in addition to changes published in the 2004 Supplement, will constitute the 2006 editions of the International Codes.

The agenda for the hearing as well as updates to the schedule are also posted on the ICC Web site at: *http://www.iccsafe.org*.

FOR FURTHER INFORMATION CONTACT: Mike Pfeiffer, PE, Vice President, Codes and Standards Development at ICC's Chicago District Office, 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478; Telephone 888–422–7233, Extension 4338; e-mail *mpfeiffer@iccsafe.org*.

SUPPLEMENTARY INFORMATION:

Background

The ICC produces a family of Codes and Standards that are comprehensive, coordinated and are widely used across the country in the regulation of the built environment. Local, state and federal agencies use these codes and standards as the basis for developing regulations concerning new and existing construction.

The ICC code development process is initiated when proposals from

interested persons-supported by written data, views, or arguments-are solicited, received and then published in the Proposed Changes document. This document is distributed a minimum of 30 days in advance of the Code Development Hearings and serves as the agenda for that session.

At the Code Development Hearing the ICC Code Development Committee for each code or subject area of the code considers testimony and takes action on each proposal (Approval, Disapproval, or Approval as Modified). Following the Code Development Hearing, results are published in a report entitled the Report of the Public Hearing, which identifies the disposition of each proposal and the reason for the committee's action. Any person wishing to comment on the committee's action may do so in the public comment period following the first hearing. Comments received are published and distributed in a document called the Final Action Agenda which serves as the agenda for the second hearing.

Proposals which are approved by a vote of the Governmental Members of ICC at the second hearing (Final Action Hearing) are incorporated in either the Supplement or Edition, as applicable, with the next 18-month cycle starting with the submittal deadline for proposals.

Proponents of proposals automatically receive a copy of all documents (Proposed Changes, Report of the Public Hearing and Final Action Agenda). Interested parties may also request a copy, free of charge, by downloading the ''return coupon'' from the ICC Web site at *http://www.iccsafe.org* and sending it in as directed.

The International Codes consist of the following:

International Building Code
ICC Electrical Code
International Energy Conservation Code
International Existing Building Code
International Fire Code
International Fuel Gas Code
International Mechanical Code
ICC Performance Code for Buildings and Facilities
International Plumbing Code
International Private Sewage Disposal Code
International Property Maintenance Code
International Residential Code
International Urban-Wildland Interface Code; and
International Zoning Code

Dated: August 25, 2005.

William Jeffrey,

Director.

[FR Doc. 05–17519 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Construction Safety Team Advisory Committee Meeting

AGENCY: National Institute of Standards and Technology, United States Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Construction Safety Team (NCST) Advisory Committee (Committee), National Institute of Standards and Technology (NIST), will meet Monday, September 12, 2005, from 8:30 a.m. to 5 p.m. and Tuesday, September 13, 2005, from 8:30 a.m. to 12 p.m. The primary purpose of this meeting is to review the changes made to the World Trade Center (WTC) Investigation Final Reports in response to comments received from the public. The NCST Advisory Committee will also discuss its annual report to the Congress. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site at *www.nist.gov/ncst.*

DATES: The meeting will convene on September 12, 2005, at 8:30 a.m. and will adjourn at 5 p.m. on September 12, 2005. The meeting will resume on September 13, 2005, at 8:30 a.m. and end at 12 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held in the Administration Building, Lecture Room A at NIST, Gaithersburg, Maryland. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephen Cauffman, National Construction Safety Team Advisory Committee, National Institute of Standards and Technology, 100 Bureau Drive, MS 8611, Gaithersburg, Maryland 20899–8611. Mr. Cauffman's e-mail address is *stephen.cauffman@nist.gov* and his phone number is (301) 975–6051.

SUPPLEMENTARY INFORMATION: The Committee was established pursuant to Section 11 of the National Construction Safety Team Act (15 U.S.C. 7310 *et seq.*). The Committee is composed of nine members appointed by the Director of NIST who were selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues affecting teams established under the NCST Act. The Committee will advise the Director of NIST on carrying out investigations of building failures conducted under the authorities of the NCST Act that became law in October 2002 and will review the procedures developed to implement the NCST Act and reports issued under section 8 of the NCST Act. Background information on the NCST Act and information on the NCST Advisory Committee is available at *http://www.nist.gov/ncst.*

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Construction Safety Team (NCST) Advisory Committee (Committee), National Institute of Standards and Technology (NIST), will meet Monday, September 12, 2005, at 8:30 a.m. and will adjourn at 5 p.m. on September 12, 2005. The meeting will resume on Tuesday, September 13, 2005, at 8:30 a.m. and end at 12 p.m. The meeting will be held at NIST headquarters in Gaithersburg, Maryland.

The primary purpose of this meeting is to review the changes made to the WTC Investigation Final Reports in response to comments received from the public. The NCST Advisory Committee will also discuss its annual report to the Congress. The meeting will be open to the public. The final agenda will be posted on the NIST Web site at *http://www.nist.gov/ncst.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs, or the WTC Investigation are invited to request a place on the agenda. On September 12, 2005, approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be 5 minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the National Construction Safety Team Advisory Committee, National Institute of Standards and Technology, 100 Bureau Drive, MS 8611, Gaithersburg, Maryland 20899–8611, via fax at (301) 975–6122, or electronically by e-mail to *ncstac@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by close of business Thursday, September 8, 2005, in order to attend. Please submit your name, time of arrival, e-mail address and

phone number to Stephen Cauffman and he will provide you with instructions for admittance. Non-U.S. citizens must also submit their country of citizenship, title, employer/sponsor, and address. Mr. Cauffman's e-mail address is *stephen.cauffman@nist.gov* and his phone number is (301) 975–6051.

Dated: August 26, 2005.

William Jeffrey,

Director.

[FR Doc. 05–17518 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Construction of the Following Features of the Mississippi River and Tributaries—Morganza, LA to the Gulf of Mexico Project (MtoG): Houma Navigation Canal (HNC) Lock Complex and Associated Structures, in Terrebonne Parish in the Vicinity of Dulac, LA to Include Levee Reach G1, HNC Lock Access Road, HNC Closure Dam, HNC Lock and Floodgate Complex, Levee Reach F1, Bayou Grand Caillou Structure, and the Sand Sources for these Levee Reaches

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Mississippi Valley Division, New Orleans District, is initiating this study under the authority of the Energy and Water Development Appropriation Act for Fiscal Year 2002 (Pub. L. 107–66) to determine the environmental impacts of the Houma Navigation Canal (HNC) lock complex and associated structures. The reconnaissance study for the Mississippi River & Tributaries—Morganza, Louisiana to the Gulf of Mexico hurricane protection project (MtoG) was authorized by a resolution adopted April 30, 1992, by the Committee of Public Works and Transportation of the U.S. House of Representatives. The Water Resources Development Act (WRDA) of 1996 authorized the Corps to conduct an independent study of a lock to be located in the HNC. That study was completed in 1997. In 1998, Congress authorized the Corps to initiate detailed design of the multipurpose lock in the HNC. A Final Programmatic Environmental Impact Statement (FPEIS) entitled ''Mississippi River & Tributaries—Morganza, Louisiana to the Gulf of Mexico Hurricane Protection'' went to the public in March 2002. A Record of Decision has not been signed for this FPEIS. The MtoG entered the design phase following approval by the Mississippi River Commission and the execution of a design agreement in May 2002. The lock complex and associated structures on the HNC are part of the larger MtoG project.

FOR FURTHER INFORMATION CONTACT: Questions concerning the Draft Environmental Impact Statement (DEIS) should be addressed to Mr. Nathan Dayan at U.S. Army Corps of Engineers, PM–RS, P.O. Box 60267, New Orleans, LA 70160–0267, phone (504) 862–2030, fax number (504) 862–2572 or by e-mail at *nathan.s.dayan@mvn02.usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* The proposed action would include (1) The construction of a gated lock and floodgate complex built in a bypass channel adjacent to the HNC, (2) the building of closure dam on the HNC, (3) the construction of MtoG hurricane protection levee reach G1, (4) the building of HNC lock access road, (5) the building of MtoG hurricane protection levee reach F1, (6) the construction of Bayou Grand Caillou structure, and (7) identification of the sand sources for construction activity.

The material dredged for the construction and maintenance of the channels would be used for wetlands restoration and construction, to the extent practicable. Economic and environmental analysis would be used to determine the most practical plan, which would provide for the greatest overall public benefit.

2. *Alternatives.* Alternatives recommended for consideration presently include the construction of the HNC lock complex and associated structures as described in the MtoG programmatic FEIS. Additionally, various levee alignments, as well as structure locations, depth, and sizes will be investigated.

3. *Scoping.* Scoping is the process for determining the scope of alternatives and significant issues to be addressed in the EIS. A letter will be sent to all parties believed to have an interest in the analysis. The letter will also notify interested parties of public scoping meetings that will be held in the local area and request their input on alternatives and issues to be evaluated. Notices will also be sent to local news media. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

A public scoping meeting will be held around September of 2005. The meeting will be held in the vicinity of Houma, LA. Additional meetings could be held, depending upon public interest and if it is determined that further public coordination is warranted.

4. *Significant Issues.* The tentative list of resources and issues to be evaluated in the EIS includes tidal wetlands (marshes and swamps), aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items to be evaluated in the EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, transportation, housing, community cohesion, and noise.

5. *Environmental Consultation and Review.* The U.S. Fish and Wildlife Service (USFWS) will assist in the documentation of existing conditions and assessment of effects of project alternatives through Fish and Wildlife Coordination Act consultation procedures. The USFWS will provide a Fish and Wildlife Coordination Act report. Consultation will be accomplished with the USFWS and the National Marine Fisheries Service (NMFS) concerning threatened and endangered species and their critical habitat. The NMFS will be consulted regarding the effects of this proposed action on Essential Fish Habitat. The draft EIS (DEIS) or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

6. *Estimated Date of Availability.* Funding levels will dictate the date when the DEIS is available. The earliest that the DEIS is expected to be available is May of 2006.

Dated: August 16, 2005.

Richard P. Wagenaar,

Colonel, U.S. Army, District Engineer.

[FR Doc. 05–17496 Filed 9–1–05; 8:45 am]

BILLING CODE 3710–84–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information

Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 3, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 29, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.

Title: National Assessment of Educational Progress 12th Grade Participation and Engagement Study.

Frequency: One time.

Affected Public: Individuals or household; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 8,440.

Burden Hours: 2,148.

Abstract: This submittal applies to a special study on 12th grade students' participation and engagement in the NAEP assessments. This study is intended to determine if fall assessments are preferable to spring assessments for participation of students in their final year of secondary education.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2870. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–17490 Filed 9–1–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC05–11–001, FERC–11]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

August 26, 2005.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of June 7, 2005 (70 FR 33140–41) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by September 23, 2005.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at (202) 395–4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–33, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC05–11–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at (202) 502–8258 or by e-mail to *efiling@ferc.gov.* Comments should not be submitted to e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at

(202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. Collection of Information: FERC Form 11 ''Natural Gas Monthly Quarterly Statement of Monthly Data''.

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No. 1902–0032.

The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

4. Necessity of the Collection of Information: Submission of the information is necessary for the Commission to carry out its responsibilities in implementing the statutory provisions of sections 10(a) and 16 of the Natural Gas Act (NGA) 15 U.S.C. 717–717w and the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432). The NGA and NGPA authorize the Commission to prescribe rules and regulations requiring natural gas pipeline companies whose gas was transported or stored for a fee, which exceeded 50 million dekatherms in each of the three previous calendar years to submit FERC Form 11. Although the submission of the form is quarterly, the information is reported on a monthly basis. This permits the Commission to follow developing trends on a pipeline's system. Gas revenues and quantities of gas by rate schedule, transition cost from upstream pipelines, and reservation charges are reported. This information is used by the Commission to assess the reasonableness of the various revenues and cost of service items claimed in rate filings. It also provides the Commission with a view of the status pipeline activities, allows revenue comparisons between pipelines, and provides the financial status of the regulated pipelines.

The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR section 260.3 and section 385.2011.

5. Respondent Description: The respondent universe currently comprises 63 companies (on average) subject to the Commission's jurisdiction.

6. Estimated Burden: 756 total hours, 63 respondents (average), 4 responses per respondent, and 3 hours per response (average).

7. Estimated Cost Burden to respondents: 756 hours/2080 hours per year × $108,558 per year = $39,457. The cost per respondent is equal to $626.

Statutory Authority: Sections 10(a) and 16 of the Natural Gas Act (NGA) 15 U.S.C. 717–717w and the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432).

Magalie R. Salas,

Secretary.

[FR Doc. E5–4815 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04–411–000 and CP04–416–000]

Crown Landing LLC and Texas Eastern Transmission, LP; Notice of Availability of the Draft General Conformity Determination for the Proposed Crown Landing LNG and Logan Lateral Projects

August 26, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Draft General Conformity Determination to assess the potential air quality impacts associated with the construction and operation of a liquefied natural gas (LNG) import terminal proposed by Crown Landing LLC and natural gas pipeline facilities proposed by Texas Eastern Transmission, L.P., referred to as the Crown Landing LNG and Logan Lateral Projects, in the above-referenced dockets.

This Draft General Conformity Determination was prepared to satisfy the requirements of the Clean Air Act.

Comment Procedures

Any person wishing to comment on this Draft General Conformity Determination may do so. To ensure consideration of your comments in the Final General Conformity Determination, it is important that we receive your comments before the date specified below. The Final General Conformity Determination will be included in the Final Environmental Impact Statement for the projects. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Reference Docket Nos. CP04–411–000 and CP04–416–000;
- Label one copy of your comments for the attention of Gas Branch 1; PJ–11.1; and;
- Mail your comments so that they will be received in Washington, DC on or before September 26, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. The Commission strongly encourages electronic filing of any comments on this Draft General Conformity Determination. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created online.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*www.ferc.gov*) using the ''eLibrary'' link; select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.*, CP04–411) and follow the instructions. Searches may also be done using the phrase ''Crown Landing'' in the ''Text Search'' field. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659 or at *ferconlinesupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4821 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–563–030]

Devon Power LLC, et al.; Notice Scheduling Oral Argument

August 25, 2005.

On June 15, 2005, the Administrative Law Judge (ALJ) issued an Initial Decision in this proceeding.[1] Certain parties requested oral argument before the Commission. On August 10, 2005, the Commission granted oral argument and stated that it would issue a subsequent notice with the times, agenda and other information.[2]

[1] Devon Power LLC, 111 FERC ¶ 63,063 (2005).

[2] Devon Power LLC, 112 FERC ¶ 61,179 (2005).

Oral argument will be held on September 20, 2005, at 10 a.m. in the Commission Meeting Room at 888 First Street, NE., Washington, DC 20426.

Parties are encouraged to come prepared to discuss the concept of Locational Installed Capacity (LICAP) mechanisms, concerns with the proposed LICAP, and alternative approaches to LICAP. Parties are directed to address the following questions:

1. Does the proposal (or any alternative approach) provide for just and reasonable wholesale power prices in New England, at levels that encourage needed generation additions?

2. Will the proposal (or any alternative approach) provide adequate assurance that necessary electric generation capacity or reliability will be provided? If so, how?

3. What are the costs, benefits, and economic impacts of the proposal (or any alternative approach), compared to continued reliance on the status quo, such as the cost of Reliability-Must-Run agreements?

Oral argument will begin with a short presentation of the case by Commission Trial Staff. It will be followed by a discussion devoted to ISO–NE's LICAP proposal and will include a discussion of the above posed questions. ISO–NE and the parties aligned with it will begin the morning session. They will be allotted a total of one hour and fifteen minutes to present their arguments, a portion of which may be reserved for rebuttal purposes. The Connecticut Parties, New England Conference of Public Utilities Commissioners, and parties aligned with them will be allotted one hour and fifteen minutes to respond.

The afternoon session will be devoted to a discussion of alternatives to LICAP. The Connecticut Parties, New England Conference of Public Utilities Commissioners, and parties aligned with them will be allotted one hour and fifteen minutes to present their proposals and arguments, a portion of which may be reserved for rebuttal purposes. ISO–NE and the parties aligned with it will respond. They will be allotted a total of one hour and fifteen minutes to present their arguments. No later than September 13, 2005, the parties in this proceeding must notify the Commission of the names of the representatives who will speak and the way they desire to allocate their allotted time. Parties are also requested to provide no later than September 13, 2005 a brief (no more than 20 pages) description of each alternative approach they will be presenting, including a comparison of each alternative to ISO–NE's LICAP proposal, and a description of the alternative's benefits.

A transcript of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. It will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.org* and click on ''FERC.''

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) 208–1659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4814 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX05–1–003]

East Kentucky Power Cooperative, Inc.; Notice of Filing

August 24, 2005.

Take notice that on August 18, 2005, as amended on August 19, 2005, East Kentucky Power Cooperative, Inc. (EKPC) submitted a revised System Impact Study, in compliance with the Commission's order issued August 3, 2005, 112 FERC ¶ 61,160 (2005).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on September 16, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4808 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–477–001]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

August 26, 2005.

Take notice that on August 23, 2005, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Sub. Eighth Revised Sheet No. 457 and Sub. Sixth Revised Sheet No. 458, with an effective date of September 1, 2005.

National Fuel states that the purpose of this filing is to submit revised tariff sheets in compliance with the Commission's Letter Order issued on August 15, 2005, in Docket No. RP05–477–000 and to conform to the NAESB Standards incorporated by Order No. 587–S.

National Fuel states that copies of this filing were served upon its customers, interested state commissions and the parties on the official service list

compiled by the Secretary in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4819 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Docket No. RP05–567–000]

Northern Natural Gas Company; Notice of Filing

August 26, 2005

Take notice that on August 19, 2005, Northern Natural Gas Company (Northern) tendered for filing as part of its FERC GasTtariff, Fifth Revised Volume No. 1, to be effective November 1, 2005:

Fifth Revised Volume No. 1
Second Revised Sheet No. 263F
Second Revised Sheet No. 263G
Ninth Revised Sheet No. 263H
Eighth Revised Sheet No. 263H.1
Second Revised Sheet No. 263I

Northern states that copies of the filing were served upon its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4820 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–573–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 26, 2005.

Take notice that on August 23, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 435 to become effective September 22, 2005.

Transco states that the purpose of this filing is to revise the Form of Service Agreement for use under Transco's Rate Schedule SS–2 to allow for an extension of the contract term and to provide for a notice period prior to the termination of service by either party.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.
[FR Doc. E5–4810 Filed 9–1–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–000 and EL00–98–000]

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice Granting Extension of Time

August 26, 2005.

1. On August 25, 2005, IDACORP Energy L.P. (IDACORP), on behalf of ''a substantial number'' of participants attending the August 25, 2005 Technical Conference [1] held in the above-captioned proceeding, filed a Joint Motion for Adjustment to Filing Date for Cost Filings (Motion). The August 8, 2005 Order on Cost Recovery, Revising Procedural Schedule for Refunds, and Establishing Technical Conference [2] requires cost filings to be filed ''no later than September 10, 2005.'' [3] Movants request an extension of the cost filing deadline until September 14, 2005, to take into account the guidance provided by Staff at the Technical Conference. Movants further request action on the Motion before receipt of any answer to the motion, given the short time frame for preparing cost filing submissions, and the ''unexceptional nature of this request.'' Motion at 2.

2. Upon consideration, notice is hereby given that an extension of time to submit cost filings to the Commission is granted to and including September 14, 2005, as requested.

Magalie R. Salas,
Secretary.
[FR Doc. E5–4813 Filed 9–1–05; 8:45 am]
BILLING CODE 6717–01–P

[1] IDACORP states that parties joining in or not opposing this request include: Avista Energy, Inc., BP Energy Company, California PX, Constellation Energy Commodities Group, Inc., Coral Power, L.L.C., IDACORP Energy, L.P., NEGT Energy Trading-Power, L.P., Portland General Electric Company, Powerex Corp., Public Service Company of New Mexico, Puget Sound Energy, Inc., Sempra Energy Trading Corp., TransAlta Energy Marketing (CA) Inc., TransAlta Energy Marketing (US) Inc., Golden Energy Services, APX, and AEPCO (collectively, ''Movants''). Motion at 1. IDACORP states that it makes no representations on behalf of the California Parties, but is authorized by all other parties attending the August 25, 2005 Technical Conference to request this extension.

[2] San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services, 112 FERC ¶ 61,176 (2005).

[3] *Id.* at Ordering Paragraph (D).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 29, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER97–1781–001.
Applicants: Strategic Power Management Inc.
Description: Strategic Power Management Inc., in compliance with the Commission's order issued 5/31/05 (112 FERC ¶ 61,175 (2005)), submits statement indicating that it is wholly without market power and submits revisions to its market-based rate tariff.
Filed Date: 08/23/2005.
Accession Number: 20050825–0232.
Comment Date: 5 p.m. eastern time on Tuesday, September 13, 2005.

Docket Numbers: ER02–2559–005; ER01–1071–006; ER02–669–006; ER02–2018–006; ER01–2074–006; ER05–222–002; ER00–2391–006; ER98–2494–010; ER00–3068–006; ER05–487–001; ER04–127–003; ER03–34–005; ER98–3511–010; ER02–1903–005; ER99–2917–007; ER03–179–006; ER03–1104–002; ER03–1105–002; ER03–1332–002; ER98–3566–013; ER02–1838–006; ER03–1333–003; ER03–1103–002; ER01–838–006; ER98–3563–010; ER98–3564–010; ER03–1025–003; ER02–2120–004; ER01–1972–006; ER98–2076–009; ER03–155–005; ER03–623–006; ER98–4222–005; ER04–290–001; ER01–1710–007; ER04–187–003; ER05–236–004; ER02–2166–005; ER04–947–004; ER01–2139–008; ER03–1375–002; ER97–3359–009.
Applicants: Backbone Mountain Windpower LLC; Badger Windpower, LLC; Bayswater Peaking Facility, LLC; Blythe Energy, LLC; Calhoun Power Company I, LLC; Diablo Winds, LLC; Doswell Limited Partnership; ESI Vansycle Partners, L.P.; FPL Energy Cape, LLC; FPL Energy Cowboy Wind, LLC; FPL Energy Green Power Wind, LLC; FPL Energy Hancock County Wind, LLC; FPL Energy Maine Hydro LLC; FPL Energy Marcus Hook, L.P.; FPL Energy MH 50, LP; FPL Energy New Mexico Wind, LLC; FPL Energy North Dakota Wind, LLC; FPL Energy North Dakota Wind II, LLC; FPL Energy Oklahoma Wind, LLC; FPL Energy Power Marketing, Inc.; FPL Energy Seabrook, LLC; FPL Energy Sooner Wind, LLC; FPL Energy South Dakota Wind, LLC; FPL Energy Vansycle, LLC; FPL Energy Wyman, LLC; FPL Energy Wyman IV, LLC; FPL Energy Wyoming, LLC; FPLE Rhode Island State Energy, L.P.; Gray County Wind Energy, LLC; Hawkeye Power Partners, LLC; High Winds, LLC; Jamaica Bay Peaking Facility, LLC; Lake Benton Power Partners II, LLC; Meyersdale Windpower LLC; Mill Run Windpower, LLC; North Jersey Energy Associates, L.P.; Northeast Energy Associates, a Limited Partnership; Pennsylvania Windfarms, Inc.; POSDEF Power Company, LP; Somerset Windpower, LLC; Waymart Wind Farm, L.P., and Florida Power & Light Company.
Description: The above-referenced applicants submit revised tariff sheets to reflect a correction to the Market Behavior Rules.
Filed Date: 08/12/2005.
Accession Number: 20050824–0224.
Comment Date: 5 p.m. eastern time on Friday, September 8, 2005.

Docket Numbers: ER04–691–060; EL04–104–057; ER04–106–015.
Applicant: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits proposed revisions to its Open Acess Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume 1 in compliance with the Commission's Orders issued 6/21/05 (111 FERC ¶ 61,448 (2005)) and 8/6/04 (108 FERC ¶ 61,163 (2004)).
Filed Date: 08/19/2005.
Accession Number: 20050823–0143.
Comment Date: 5 p.m. eastern time on Friday, August 26, 2005.

Docket Number: ER05–1194–001.
Applicant: Yaka Energy LLC.
Description: Yaka Energy LLC submits an Amendment to Petition for Acceptance of Initial Rate Schedule, Waivers, and Blanket Authority filed on 7/5/05 in Docket No. ER005–1194–000.
Filed Date: 08/23/2005.
Accession Number: 20050825–0231.
Comment Date: 5 p.m. eastern time on Tuesday, September 6, 2005.

Docket Number: ER05–1215–002.
Applicant: Wholesale Electric Trading LP.
Description: Wholesale Electric Trading LP submits an amendment to its petition for acceptance of initial rate schedule, waivers and blanket authority

filed 7/15/05, as amended on 8/15/05 in Docket Nos. ER05–1215–000 and 001.

Filed Date: 08/24/2005.

Accession Number: 20050825–0230.

Comment Date: 5 p.m. eastern time on Wednesday, September 14, 2005.

Docket Number: ER05–1378–000.

Applicant: American Electric Power Service Company.

Description: American Electric Power Service Corporation, as agent for its affiliate Indiana Michigan Power Company, submits a revision to the Interconnection and Local Delivery Service Agreement No. 1262 between Wabash Valley Power Association and American Electric Power Service Company.

Filed Date: 08/19/2005.

Accession Number: 20050824–0167.

Comment Date: 5 p.m. eastern time on Friday, September 9, 2005.

Docket Number: ER05–1384–000.

Applicant: ISO New England Inc.; Northeast Utilities Service Company.

Description: ISO New England Inc. (ISO–NE) and Northeast Utilities Company, on behalf of its affiliate the Connecticut Light and Power Company (CL&P), submit the executed Standard Large Generator Interconnection Agreement by and among ISO-NE, CL&P and the University of Connecticut.

Filed Date: 08/24/2005.

Accession Number: 20050825–0234.

Comment Date: 5 p.m. eastern time on Wednesday, September 14, 2005.

Docket Number: ER05–1385–000.

Applicant: Idaho Power Company.

Description: Idaho Power Company submits revised tariff sheets to be incorporated into Attachment J to its Open Access Transmission Tariff, FERC Electric Tariff First Revised Volume No. 5.

Filed Date: 08/23/2005.

Accession Number: 20050825–0233.

Comment Date: 5 p.m. eastern time on Tuesday, September 13, 2005.

Docket Number: ER05–1386–000.

Applicant: Central Hudson Gas & Electric Corporation.

Description: Central Hudson Gas & Electric Corporation (Central Hudson) submits Fifth Revised Sheet Nos. 9, 10, 11, & 12 to FERC Rate Schedule No. 202, which set forth the terms and changes for substation service provided by Central Hudson to Consolidated Edison Company of New York, Inc. under the Rock Tavern Substation Agreement.

Filed Date: 08/24/2005.

Accession Number: 20050825–0235.

Comment Date: 5 p.m. eastern time on Wednesday, September 14, 2005.

Docket Number: ER05–1387–000.

Applicant: Southern California Edison Company.

Description: Southern California Edison Company submits revised rate sheets to the Amended and Restated Ormond Beach Generating Station Radial Lines Agreement between Southern California Edison Company and Reliant Energy Ormond Beach, L.L.C.

Filed Date: 08/24/2005.

Accession Number: 20050825–0229.

Comment Date: 5 p.m. eastern time on Wednesday, September 14, 2005.

Docket Number: ER05–1389–000.

Applicant: San Juan Mesa Wind Project, LLC.

Description: San Juan Mesa Wind Project, LLC submits application for market-based rate authorization, certain waivers and blanket authorizations and request for expedited action.

Filed Date: 08/24/2005.

Accession Number: 20050826–0193.

Comment Date: 5 p.m. eastern time on Wednesday, September 14, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4809 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–92–000]

Liberty Gas Storage, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed Liberty Gas Storage Project

August 26, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Liberty Gas Storage, L.L.C. (Liberty Gas Storage) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Liberty Gas Storage Project including:

- Two existing brine solution mining caverns owned by PPG Industries, Inc. (PPG) (PPG Cavern 15 and PPG Cavern 17) that would be converted to natural gas storage caverns capable of storing 23.4 billion cubic feet (Bcf) of natural gas; and
- A 1.3-mile-long 20-inch-diameter pipeline with a maximum allowable operating pressure (MAOP) of 3,280 pounds per square inch (psig) that would connect the natural gas storage cavern wells to the new On-site Compressor Station.

• A new compressor station (On-site Compressor Station) in Calcasieu Parish, Louisiana;

• A new compressor station (Remote Compressor Station) in Beauregard Parish, Louisiana;

• A new 23.3-mile-long, 30-inch-diameter pipeline from the On-site Compressor Station to connect to multiple interstate pipeline systems including Florida Gas Transmission (FGT), Tennessee Gas Pipeline (TGP), Texas Eastern Transmission Company (TETCO), Transcontinental Gas Pipe Line Corporation (Transco) and Trunkline Gas Company (Trunkline) in Calcasieu and Beauregard Parishes with a MAOP of 1,480 psig;

• A new meter/regulator station for deliveries to FGT at MP 2.1 on the 30-inch Pipeline in Calcasieu Parish, Louisiana;

• A new meter/regulator station for deliveries to TGP at MP 7.0 on the 30-inch Pipeline in Calcasieu Parish, Louisiana;

• A new meter/regulator station for deliveries to TETCO and Transco, located on the site of the Remote Compressor Station at MP 19.7 in Beauregard Parish, Louisiana; and

• A new meter/regulator station for deliveries to Trunkline, located adjacent to the existing Trunkline site at MP 23.3 in Beauregard Parish, Louisiana.

The purpose of the Liberty Gas Storage Project is to provide firm and interruptible storage of natural gas in the gulf coast region, including to the potential liquefied natural gas (LNG) market. The Liberty Gas Storage Project would provide related interruptible hub services on an open access basis for volumes transported on the interstate natural gas system in and from the gulf coast and south Texas areas. The Liberty Gas Storage Project would help meet the growing need for high-deliverability natural gas storage in the southeastern United States and in markets served directly and indirectly by the numerous natural gas pipelines that traverse the project area. Consequently, Liberty Gas Storage's facilities and services would serve the needs of local gas distribution, power generation, pipeline shippers, and gas marketers, as well as existing and proposed LNG terminals that may be placed into service in the region.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to Federal, State and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Gas 2, DG2E.

• Reference Docket No. CP05–92–000; and

• Mail your comments so that they will be received in Washington, DC on or before September 26, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Sign-up.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–4812 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–83–000, CP05–84–000, CP05–85–000, CP05–86–000]

Port Arthur LNG, L.P.; Port Arthur Pipeline, L.P.; Notice of Availability of the Draft Environmental Impact Statement and Draft General Conformity Determination for the Port Arthur LNG Project

August 26, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft Environmental Impact Statement (EIS) for the construction and operation of the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities (referred to as the Port Arthur LNG Project or Project) as proposed by Port Arthur LNG, L.P. and Port Arthur Pipeline, L.P. (collectively Sempra) in the above-referenced dockets.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the Port Arthur LNG Project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS evaluates alternatives to the proposal,

including system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives. The draft EIS also contains our draft General Conformity Analysis and Essential Fish Habitat Analysis.

The purpose of the Port Arthur LNG Project is to allow access to LNG supplies and thus provide a new, stable source of between 1.5 and 3.0 billion cubic feet per day of natural gas to supplement the diminishing supplies while utilizing, to the extent practicable, the existing natural gas pipeline infrastructure within the Gulf of Mexico region of the U.S.; and allow natural gas delivery to markets in the Midwestern and Northeastern markets by use of existing interstate natural gas pipeline systems. Sempra's proposed facilities would be constructed in two phases and would ultimately provide an average of 3.0 billion cubic feet per day of natural gas to the existing pipeline infrastructure in Texas and Louisiana, and to potential other end-users in the Midwestern and Northeastern natural gas markets.

The draft EIS addresses the potential environmental effects of the construction and operation of the following facilities in Jefferson and Orange Counties, Texas, and Cameron, Calcasieu, and Beauregard Parishes, Louisiana:

- A protected LNG unloading slip with ship maneuvering area (turning basin);
- LNG ship unloading system consisting of two berths each consisting of four 16-inch unloading arms and one 16-inch vapor return arm, mooring and breasting dolphins, gangway tower, firewater monitors, service utilities and associated valves and piping. LNG transfer from the ship to the on-shore storage system would be through two 36-inch-diameter unloading lines, one per berth. Each berth would be sized for an unloading rate of 17,500 cubic meters per hour (m^3/hr); although, only one ship would be unloaded at a time during Phase I;
- LNG storage system consisting of a total of six full-containment LNG storage tanks each with a nominal capacity of 160,000 cubic meters (m^3) (1,006,000 barrels). Each tank would be equipped with three can-type, fully submerged LNG in-tank pumps sized for 2,976 gallons per minute (gpm) each;
- Boil-off gas (BOG) recovery system consisting of 4 reciprocating BOG compressors each sized for 13,887 pounds per hour (lb/hr), four integrally geared return gas blowers, each sized for 32,228 lb/hr, and one direct-contact recondenser;
- LNG transfer system to transfer LNG from the recondenser to the send-out LNG vaporizers. The transfer system would consist of 16 pot-mounted LNG booster pumps (two being spares) each sized for 1,964 gpm;
- LNG vaporization system consisting of 12 shell-and-tube LNG vaporizers (two being spares) each sized for 0.305 Bcf/d. The heat source to the vaporizers would be heated water;
- Hot water heating system consisting of 8 gas-fired hot water heaters each sized for 348 million British thermal units per hour (MMBtu/hr) and 6 centrifugal hot water circulation pumps (two being spares) each sized for 11,727 gpm;
- Emergency vent system; LNG spill containment system; fire water system; fuel gas, nitrogen, instrument/plant air and service water utility systems; various hazard detection, control, and prevention systems; and cryogenic piping, electrical, and instrumentation systems;
- Utilities, buildings and support facilities; facilities for pig launchers and receivers; and metering facilities; and
- Approximately 73 miles of 36-inch-diameter natural gas pipeline and associated ancillary pipeline facilities.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.
- Reference Docket No. CP05–83–000 *et al.*;
- Label one copy of the comments for the attention of Gas Branch 2, PJ11.2; and
- Mail your comments so that they will be received in Washington, DC on or before October 17, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this Project. However, the Commission strongly encourages electronic filing of any comments or interventions to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account, which can be created by clicking on ''Login to File'' and then ''New User Account.''

In addition to or in lieu of sending written comments, we invite you to attend the public comment meetings we have scheduled as follows:

October 4, 2005, 7 p.m. (CST); VFW Post 9854, 222 Highway 109 S, Vinton, Louisiana, Telephone: (337) 589–5832.

October 5, 2005, 7 p.m. (CST); Holiday Inn Park Central, 2929 Jimmy Johnson Blvd., Port Arthur, Texas, Telephone: (409) 724–5000.

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impact described in the draft EIS. Transcripts of the meeting will be prepared.

After these comments have been reviewed, any significant new issues are investigated, and modifications are made to the draft EIS, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Anyone may intervene in this proceeding based on this draft EIS. You must file your request to intervene as specified above.[1] You do not need intervener status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the draft EIS are available from the Public Reference and Files Maintenance Branch identified above. In addition, copies of the draft EIS have been mailed to Federal, State, and local agencies; elected officials; public interest groups; individuals and affected landowners who requested a copy of the draft EIS; and parties to these proceedings.

Additional information about the Project is available from the Commission's Office of External Affairs,

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the ''eLibrary'' link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at: *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY at (202) 502–8659. The eLibrary link on the FERC Internet Web site 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 the eSubscription link on the FERC Internet Web site.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4811 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–12588–000]

Hydraco Power, Inc.; Notice of Application Accepted for Filing; Soliciting Comments, Motions To Intervene and Protests; Paper Scoping and Soliciting Scoping Comments; Establishing a Deadline for Submission of Final Amendments; and Schedule for Processing Application

August 26, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Types of Application:* Exemption from License, 5 MW or Less.

b. *Project Nos.:* P–12588–000.

c. *Date filed:* May 3, 2005.

d. *Applicant:* Hydraco Power, Inc.

e. *Name of Project:* A. H. Smith Dam Project.

f. *Location:* On the San Marcos River near the town of Martindale, Caldwell County, Texas. The project does not affect Federal lands.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2705, 2708.

h. *Applicant Contact:* Linda A. Parker, Small Hydro of Texas, Inc., 1298 FM 766, Cuero, Texas 77954. (361) 275–9395.

i. *FERC Contact:* Monte TerHaar, *monte.terhaar@ferc.gov,* (202) 502–6035.

j. *Deadline for filing comments, motions to intervene, and protests, and deadline for filing scoping comments:* 60 days from the issuance date of this notice.

Any comments (original and eight copies) should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''A.H. Smith Dam Project No. 12588–000'' to all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

l. This application has been accepted, but is not ready for environmental analysis at this time.

m. *Project Description:* Hydraco proposes to restore existing facilities and operate run-of-river, at all times providing flow over the dam. The project would cease generation and pass all flows over the dam when inflows to the impoundment are 100cfs or less.

The proposed project consists of: (1) An existing 10.5-foot-high by 86.5-foot-long concrete dam with a 20-foot-wide concrete apron; (2) an existing 3-foot-wide by 4-foot-high wooden stopgate positioned in the east bank of the dam which regulates flows to the turbines; (3) a 10.62-acre impoundment; (4) an existing 20-foot-wide by 30-foot-long brick powerhouse; (5) an existing generator with installed capacity of 150 kilowatts (kW); (6) an existing 150 kW turbine; (7) a 100-foot-long buried transmission line; and (8) an existing trashrack.

n. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov using the ''eLibrary''* link. Enter the docket number (P–12588) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy of the application is also available for inspection and reproduction at the addresses in item h above.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS'', ''SCOPING COMMENTS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *Scoping Process:*

The Commission staff intends to prepare a single Environmental Assessment (EA) for the A. H. Smith Dam Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we will solicit comments, recommendations, information, and alternatives in the Scoping Document (SD).

Copies of the SD outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, as indicated in item number n.

p. *Procedural schedule:* Recipients will have 30 days to provide the Commission with any written comments on the EA. All comments filed with the Commission will be considered in the Order taking final action on the application. However, should substantive comments requiring re-analysis be received on the EA document, we would consider preparing a subsequent EA document. The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Notice Accepting Application, and Motion to Intervene.	August 2005.
Notice of Paper Scoping	August 2005.
Interventions and/or Scoping comments due.	October 2005.
Notice Ready for Environmental Analysis/Soliciting Final Comments, Recommendations, Terms and Conditions.	October 2005.
Deadline for Agency Recommendations.	November 2005.
Notice of the availability of the EA.	December 2005.
Public Comments on EA due.	January 2006.
Ready for Commission decision on the application.	February 2006.

q. Final amendments to the application must be filed with the Commission no later than 60 days from the issuance date of this notice.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4816 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing and Soliciting Motions To Intervene, Protests, and Comments

August 26, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12590–000.

c. *Date filed:* May 9, 2005.

d. *Applicant:* Historic Hydro, LLC.

e. *Name of Project:* Holliday Project.

f. *Location:* On the west Fork of the White River, in Hamilton County, Indiana. The dam is own by PSI Energy.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert L. Aram, Holliday Hydro, LLC, 8802E 141st Street, Noblesville, IN 46060, (317) 773–0128.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of; (1) An existing 10-foot-high, 350-foot-long concrete gravity dam, (2) an existing impoundment having a surface area of 28 acres, with negligible storage and normal water surface elevation of 764 feet mean seas level, (3) an existing powerhouse containing two generating units having a total installed capacity of 350 kilowatts, (4) a proposed 1000-foot-long transmission line, and (5) appurtenant facilities. The project would have an annual generation of 1.5 gigawatt-hours that would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–4817 Filed 9–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2216–066]

New York Power Authority; Notice of Application Tendered for Filing With the Commission, Notice of Offer of Settlement, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

August 26, 2005.

Take notice that the following hydroelectric application and offer of settlement have been filed with the Commission and are available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–2216–066.

c. *Date Filed:* August 18, 2005 for application; August 19, 2005 for offer of settlement.

d. *Applicant:* New York Power Authority.

e. *Name of Project:* Niagara Power Project, which consists of the Lewiston Pump Generating Plant and the Robert Moses Niagara Power Plant.

f. *Location:* The Niagara Power Project is located on the Niagara River in the City of Niagara Falls and the Towns of Niagara and Lewiston, in Niagara County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Frederick E. Chase, Executive Director of Hydropower Relicensing, Power Authority of the State of New York, 30 South Pearl Street, Albany, NY 12207–3425, (518) 433–6738 or *chase.f@nypa.gov.*

i. *FERC Contact:* Steve Kartalia, (202) 502–6131 or *stephen.kartalia@ferc.gov.*

j. *Cooperating agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. *Deadline to request cooperating agency status:* September 19, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

l. This application has not been accepted for filing. We are not soliciting motions to intervene, protests, or final terms and conditions at this time. However, a number of entities filed motion to intervene prior to the application being filed in this case. Although these motions must be rejected because there was no proceeding in which to intervene when they were filed, once an application has been filed, the Commission does accept motions to intervene filed before public notice of the application being accepted is issued (see 75 FERC ¶ 61,318).

m. *Description of Project:* The existing project has a conventional development and a pumped storage development for a total current installed capacity of 2,538 megawatts consisting of: (a) Two 700-foot-long intake structures located on the upper Niagara River about 2.6 miles upstream from the American Falls; (b) two 4.3-mile-long, 46-foot-wide by 66.5-foot-high concrete underground water supply conduits; (c) a forebay; (d) the 974-foot-long by 240-foot-wide by 160-feet-high Lewiston Pump-Generating Plant; (e) the 1,900-acre Lewiston Reservoir at a maximum water surface elevation of 658 feet United States Lake Survey Datum; (f) the Robert Moses Niagara power plant, including an 1,100-foot-long by 190-foot-wide by 100-foot-high intake structure; (g) a switch yard; and (h) appurtenant facilities.

n. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Procedural schedule and final amendments: At this time we anticipate preparing a draft environmental impact statement (DEIS). Recipients will have 45 days to provide the Commission with any written comments on the DEIS. All comments filed with the Commission will be considered in the final environmental impact statement (FEIS). The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Notice of Acceptance of Application: October 2005.

Notice of Application Ready for Environmental Analysis: December 2005.

Notice of the Availability of the DEIS: May 2006.
Notice of the Availability of the FEIS: November 2006.
Ready for Commission's decision on the application: February 2007.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Magalie R. Salas,
Secretary.
[FR Doc. E5–4818 Filed 9–1–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Power Rates: Correction

AGENCY: Southwestern Power Administration, DOE.

ACTION: Correction to notice of proposed rate increase.

SUMMARY: Southwestern Area Power Administration published a document in the **Federal Register** (70 FR 48121) on August 16, 2005, announcing the public review and comment period on proposed rates. This rate proposal will increase annual system revenues approximately 7.3 percent from $124,325,100 to $133,342,029. Inadvertently, the amount of the proposed increase for the purchased power adder rate component ($227,100 or 0.2 percent) was not included in the initial notice.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696, *gene.reeves@swpa.gov.*

Corrections

In the **Federal Register** on August 16, 2005, in FR Doc. 05–16190:

Page 48121, under **SUMMARY**, correct the last sentence to read:

Beginning January 1, 2006, and thereafter, the proposed rates would increase annual system revenues approximately 7.3 percent from $124,325,100 to $133,342,029, which includes an increase in the purchased power adder.

Page 48122, under **SUPPLEMENTARY INFORMATION**, correct the last sentence of the third paragraph to read:

The Revised Power Repayment Study shows that additional annual revenues of $9,016,929, (a 7.3 percent increase), including the increase in the purchased power adder, beginning January 1, 2006, are needed to satisfy repayment criteria.

Page 48122, under **SUPPLEMENTARY INFORMATION**, correct the second sentence of the fourth paragraph to read:

The proposed new rates would increase estimated annual revenues from $124,325,100 to $133,342,029 and would satisfy the present financial criteria for repayment of the project and transmission * * *.

Dated: August 29, 2005.

Jon Worthington,
Assistant Administrator.
[FR Doc. 05–17501 Filed 9–1–05; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6666–9]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed 08/22/2005 Through 08/26/2005. Pursuant to 40 CFR 1506.9.

EIS No. 20050351, Draft EIS, SFW, CA, East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, Implementation, Incidental Take Permit, Cities of Brentwood, Clayton, Oakley and Pittsburg, Contra Costa County, CA, Comment Period Ends: 10/17/2005, Contact: Sheila Larsen 916–444–6600.

EIS No. 20050352, Final Supplement, NPS, WA, Elwha River Ecosystem Restoration Implementation Project, Update Information, Olympic Peninsula, Challam County, WA, Wait Period Ends: 10/03/2005, Contact: Brian Winter 360–565–1320.

EIS No. 20050353, Draft EIS, FHW, NY, Willis Avenue Bridge Reconstruction, Proposing Reconstruction of 100-year old Willis Avenue Bridge over the Harem River between Manhattan and the Bronx, New York and Bronx Counties, NY, Comment Period Ends: 10/28/2005, Contact: Robert Arnold 518–431–4125.

EIS No. 20050354, Draft EIS, UAF, 00, Shaw Air Base Airspace Training Initiative (ATI), 20th Fighter Wing Proposal to Modify the Training Airspace Overlying Parts, South Carolina and Georgia, Comment Period Ends: 10/17/2005, Contact: Linda A. DeVine 757–764–9434.

EIS No. 20050355, Draft EIS, COE, LA, Port of Iberia Project, To Determine the Feasibility of Deepening the Existing Navigation Channels between the POI and the Gulf of Mexico, Portions of the Gulf Intracoastal Waterway (GIWW) and Freshwater Bayou (FWB), LA, Comment Period Ends: 10/17/2005, Contact: Michael Salyer 504–862–2037.

EIS No. 20050356, Draft EIS, FRC, TX, Port Arthur Liquefield Natural Gas (LNG) Project, Construction and Operation, U.S. Army COE Section 10 and 404 Permits, (FERC/EIS–0182D), Jefferson and Orange Counties TX and Cameron, Calcasieu and Beauregard Parishes, LA, Comment Period Ends: 10/17/2005, Contact: Thomas Russo 1–866–208–FERC.

Amended Notices

EIS No. 20050342, Draft EIS, NOA, 00, Consolidated Atlantic Highly Migratory Species Fishery Management Plan for Atlantic Tunas, Swordfish, and Shark and the Atlantic Billfish Fishery Management Plan, Implementation, Atlantic Coast, Caribbean and Gulf of Mexico, Comment Period Ends: 10/18/2005, Contact: Karyl Brewster Geisz 301–713–2347 Revision of Notice Published in FR: 08/19/2005. Correction to Comment Period from 10/03/2005 to 10/18/2005.

Dated: August 30, 2005.

Robert W. Hargrove,
Director, NEPA Compliance Division, Office of Federal Activities.
[FR Doc. 05–17541 Filed 9–1–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6667–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (EDP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050168, ERP No. D–BLM–L65484–AK, East Alaska Draft Resource

Management Plan (RMP), Provide a Single Comprehensive Land Use Plan, Implementation, Glennallen Field Office District, AK.

Summary: EPA expressed environmental concerns about the potential impacts to wetlands, steams, aquatic wildlife and habitat from impacts not avoided or mitigated from proposed stipulations and required operating procedures. In addition, there is potential for adverse impacts to subsistence users and resources if land along the TAPS corridor is conveyed from federal management, The final EIS should include an environmentally protective strategy for managing off-road vehicles, with particular attention to sensitive wetlands and streams. Rating EC2.

EIS No. 20050203, ERP No. D–NPS–L65486–WA, Mountain Lake Fisheries Management Plan for the North Cascades National Service Complex, Implementation, North Cascades National Park, Whatcom, Skagit and Chelan Counties, WA.

Summary: EPA supports the goals of the project, but expressed environmental concerns about the long-term impacts on plankton, macroinvertebrates and amphibians. Rating EC1.

EIS No. 20050260, ERP No. D–AFS–L65490–AK, Scott Peak Project Area, Harvesting Timber and Development of Road Management, Tongrass National Forest, Petersburg Ranger District, Northeast of Kupreanof Island, AK.

Summary: EPA expressed environmental concerns about impacts to water quality from landslides and potential impacts from cumulative impacts of future sales in the area. Rating EC1.

Final EISs

EIS No. 20050276, ERP No. F–FRC–J03001–CO, Entrega Pipeline Project, Construction and Operation New Interstate Natural Gas Pipeline System, Right-of-Way Grant Issue by BLM, Meeker Hub and Cheyenne Hub, Rio Blanco and Weld Counties, CO, and Sweetwater County, WY.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20050323, ERP No. F–NOA–K39091–CA, Monterey Accelerated Research Systems (MARS) Cabled Observatory, Proposes to Install and Operate an Advanced Undersea Cabled Observatory, Monterey Bay, Pacific Ocean Offshore of Moss Landing, Monterey County, CA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20050309, ERP No. FS–AFS–L65345–WA, Deadman Creek Ecosystem Management Projects, Information of the Planning the Analysis of the Watershed, Three Rivers Ranger District, Colville National Forest, Ferry County, WA

Summary: No formal comment letter was sent to the preparing agency.

Dated: August 30, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–17542 Filed 9–1–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7964–6]

Anniston Lead and Anniston PCB Superfund Sites; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: Pursuant to section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed Section 122 Administrative Agreement and Order on Consent for removal activities the Anniston Lead and Anniston PCB Superfund Sites, which includes a de minimis settlement under section 122(g)(4) of CERCLA for the Anniston PCB Superfund Site. The proposed Section 122 Administrative Agreement and Order on Consent also includes an agreement for recovery of past response costs for the Anniston Lead Superfund Site, and for the recovery of future response costs for the Anniston Lead and Anniston PCB Superfund Sites. The following parties have returned signature pages accepting EPA's offer of the proposed Section 122 Administrative Agreement and Order on Consent: DH Industries, L.L.C.; FMC Corporation, for itself and as the successor to Kilby Steel Company, Inc., and for FMC Technologies, Inc.; Huron Valley Steel Corporation; McWane, Inc. for itself and as the successor by merger with Ransom Industries, L.P.; MeadWestvaco Corporation; MRC Holdings, Inc.; MW Custom Papers, L.L.C.; Phelps Dodge Industries, Inc.; United Defense, L.P.; United States Pipe and Foundry Company, Inc.; and Walter Industries, Inc. EPA will consider public comments on the proposed Section 122 Administrative Agreement and Order on Consent until October 3, 2005. EPA may withhold consent from, or seek to modify, all or part of the proposed Section 122 Administrative Agreement and Order on Consent if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. The proposed settlement can be viewed at *www.epa.gov/region4/waste/annistonall.htm* and copies are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency; Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8887, *Batchelor.Paula@epa.gov.*

Written comments may be submitted to Mr. Michael Sparks at the above address within 30 days of the date of publication.

Dated: August 18, 2005.

Debbie H. Jourdan,

Acting Superfund Enforcement and Information Management Branch, Waste Management Division.

[FR Doc. 05–17532 Filed 9–1–05; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Global Health Affairs.

Funding Opportunity Title: Announcement of Availability of Funds for Cooperative Agreement to Provide Medical Equipment, Pharmaceuticals, and Technology-Related Training to Physicians and Other Staff of the Indira Ghandi Children's Hospital.

Announcement Type: Cooperative Agreement—FY 2005 Initial Announcement.

Funding Opportunity Number: OGHA 05–019.

OMB Catalog of Federal Domestic Assistance: TBD, In Process.

Authority: Division F of the Consolidated Appropriations Act, 2005, Public Law 108–447 (2004).

SUMMARY: The Office of Global Health Affairs (OGHA) announces that up to $200,000 in fiscal year (FY) 2005 funds is available for a cooperative agreement to provide support for a quality of care improvement project based in a partner healthcare institution in Afghanistan. This effort is an undertaking by the Department of Health and Human Services (HHS). The primary goal of this project is to improve the quality of care at health institutions in Afghanistan through the acceptance and delivery of

donated medical equipment, pharmaceuticals, and technology-related training for physicians, nurses, midwives, and other health care workers at Indira Gandhi Children's Hospital in Kabul, Afghanistan. OGHA anticipates substantial HHS scientific and programmatic involvement in the administration of the quality improvement program. The project will be approved for up to a one-year period for a total of $200,000 (including indirect costs). Funding for the cooperative agreement is contingent upon the availability of funds.

DATES: *Application Availability:* September 2, 2005.

Optional Letter of Intent due by 5 pm ET: September 9, 2005.

Application due by 5 pm ET: September 19, 2005.

Award date: September 30, 2005.

ADDRESSES: Application kits may be requested from, and applications submitted to: Ms. Karen Campbell, Director, Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852.

I. Funding Opportunity Description

Under the authority of Section 103(a)(1); Section 103(a)(7) of public law 107–327; Public Health Service Act, Section 307, the Office of Global Health affairs (OGHA) announces the intent to allocate fiscal year (FY) 2005 funds for a cooperative agreement for activities that will provide essential biomedical technology, pharmaceuticals, and technology-related training to physicians, midwives, nurses, and ancillary staff. These technologies include but are not limited to monitoring, diagnostic and critical care equipment, and life saving technology to a partner health care institution.

This assistance is geared to support the provision of state of the art quality care to patients of Indira Gandhi Children's Hospital in Kabul, Afghanistan. Awardee is expected to arrange for the acceptance of donated medical equipment and supplies for use at this hospital. Funding is provided by OGHA in order to prepare donated medical equipment and supplies and prepare these materials for shipment and delivery in Afghanistan. The overall goal of OGHA is to reduce the maternal and infant mortality rates in Afghanistan by upgrading the level of medical equipment and services provided by select healthcare institutions.

A complete list of items required by Indira Gandhi Children's Hospital is included in the application kit.

Purposes of the Agreement

The project's main objectives include: (1) To accept and deliver donated supplies, equipment, parts and accessories for the clinical care of patients at Indira Gandhi Children's Hospital; (2) To provide and install the donated technology appropriate for the monitoring and diagnosis of medical and surgical conditions; (3) To accept, deliver and install life-support technology; (4) To develop detailed training programs in Dari, one of the primary languages of Afghanistan, on the use and application of the donated biomedical technology for physicians, nurses, respiratory therapists and other allied health professionals; (5) To ensure that the training method or module includes essential content regarding the proper procedures for adherence to infection control principles; (6) To provide supporting manuals for the proper use, care, and repair of biomedical equipment which is in the primary language, at the grade-school reading level, and with illustrations; (7) To ensure that all training is closely coordinated with the delivery of the goods and materials; (8) To provide for the proper shipping, storage, testing, evaluation and trouble-shooting of shipped high technology; (9) To provide pharmaceuticals as requested and listed in the Afghanistan Ministry of Public Health Formulary and approved by the Food and Drug Administration (FDA); and, (10) ensure no sophisticated equipment will be sent overseas unless the target institution has the capacity (people, electrical supply and ministry support) to use and continue to maintain it.

II. Award Information

The administrative and funding instrument to be used for this program will be the cooperative agreement in which substantial OGHA/HHS scientific and/or programmatic involvement is anticipated during the performance of the project. Under the cooperative agreement, OGHA/HHS will support and/or stimulate awardee activities by working with them in a non-directive partnership role. Awardee will also be expected to work directly with and in support of HHS' Centers for Disease Control and Prevention (CDC), the Health Resources Services Administration (HRSA), and the Indian Health Service (IHS).

Approximately $200,000 in FY 2005 funds is available to support the agreement. This level of support is dependent on the receipt of a sufficient number and diversity of applications of high merit.

The anticipated start date is September 30, 2005. There will only be one single award made from this announcement. The program and budget period for this agreement is for 12 months.

Although this program is provided for in the financial plans of the OGHA, the award pursuant to this RFA is contingent upon the availability of funds for this purpose.

III. Eligibility Information

1. Eligible Applicants

Applications may be submitted by non-profit entities with offices in the United States and partner country or incorporated and headquartered in the United States with offices in the United States. Additionally, organizations or consortiums of organizations, including faith-based and community based organizations, that have collective experience with accepting donated medical technology, upgrading drug formularies, training health care providers, local and international transportation, and other logistics are encouraged to apply for a grant under this announcement.

2. Cost Sharing or Matching

Cost sharing, matching funds, and cost participation is not a requirement of this agreement.

3. Other—(If Applicable)

N/A.

IV. Application and Submission Information

1. Address To Request Application Package

This Cooperative Agreement project uses the Application Form OPHS–1, Revised 8/2004, which is enclosed in the application packet. This generic form is used by many different programs funded through the Public Health Service (PHS). Some parts of it are not required; other sections need to be filled out in a fashion specific to the program. Instructions for filling out OPHS–1, Revised 8/2004 will be included in the application packet. These forms may also be obtained from the following sites by: Downloading from *https://egrants.osophs.dhhs.gov* and clicking on Grant Announcements or *http://www.grants.gov/* or by writing to Ms. Karen Campbell, Director, Office of Grants Management, Tower Building, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; or contact the Office of Grants Management, OPHS,

HHS, at (240) 453–8822. Please specify the OGHA program(s) for which you are requesting an application kit.

2. Content and Form of Application Submission

Application Materials

A separate budget page is required for the budget year requested. A line item budget (SF 424A) with coinciding justification to support each of the budget years must be submitted with the proposal. These forms will represent the full project period of Federal assistance requested. Proposals submitted without a budget and justification for each budget year requested in the application may not be favorably considered for funding. Specific instructions for submitting a detailed budget for this application will be included in the application packet. If additional information and/or clarification are required, please contact the OPHS Office of Grants Management identified in Section VII of this announcement.

All applications must be accompanied by a Project Abstract submitted on 3.5 inch floppy disk. The abstract must be typed, single-spaced, and not exceed 2 pages. Reviewers and staff will refer frequently to the information contained in the abstract, and therefore it should contain substantive information about the proposed projects in summary form. A list of suggested keywords and a format sheet for your use in preparing the abstract will be included in the application packet.

All grant applications must be accompanied by a Project Narrative. In addition to the instructions provided in OPHS–1 (Rev 8/2004) for project narrative, the specific guidelines for the project narrative are provided in the program guidelines. Format requirements are the same as for the Project Abstract Section; margins should be 1 inch at the top and 1 inch at the bottom and both sides; and typeset must be no smaller than 12 cpi and not reduced. Biographical sketches should be either typed on the appropriate form or plain paper and should not exceed two pages, with publications listed being limited only to those that are directly relevant to this project.

Application Format Requirements

If applying on paper, the entire application may not exceed 80 pages in length, including the abstract, project and budget narratives, face page, attachments, any appendices and letters of commitment and support. Pages must be numbered consecutively.

Applications submitted electronically that exceed 80 pages when printed will be deemed non-compliant. All non-compliant applications will be returned to the applicant without further consideration.

a. *Number of Copies.* Please submit one (1) original and two (2) unbound copies of the application. Please do not bind or staple the application. Application must be single sided.

b. *Font.* Please use an easily readable serif typeface, such as Times Roman, Courier, or CG Times. The text and table portions of the application must be submitted in not less than 12 point and 1.0 line spacing. Applications not adhering to 12 point font requirements may be returned.

c. *Paper Size and Margins.* For scanning purposes, please submit the application on 8½″ x 11″ white paper. Margins must be at least one (1) inch at the top, bottom, left and right of the paper. Please left-align text.

d. *Numbering.* Please number the pages of the application sequentially from page 1 (face page) to the end of the application, including charts, figures, tables, and appendices.

e. *Names.* Please include the name of the applicant on each page.

f. *Section Headings.* Please put all section headings flush left in bold type.

Application Format

Applications for funding must consist of the following documents in the following order:

i. Application Face Page. Public Health Service (PHS) Application Form OPHS–1, provided with the application package. Prepare this page according to instructions provided in the form itself.

DUNS Number

All applicant organizations are required to have a Data Universal Numbering System (DUNS) number in order to apply for a grant from the Federal Government. The DUNS number is a unique nine-character identification number provided by the commercial company, Dun and Bradstreet. There is no charge to obtain a DUNS number. Information about obtaining a DUNS number can be found at *https://www.dnb.com/product/eupdate/requestOptions.html* or call 1–866–705–5711. Please include the DUNS number next to the OMB Approval Number on the application face page. Applications will not be reviewed without a DUNS number.

Additionally, the applicant organization will be required to register with the Federal Government's Central Contractor Registry (CCR) in order to do electronic business with the Federal Government. Information about registering with the CCR can be found at *http://www.hrsa.gov/grants/ccr.htm.*

Finally, applicants applying electronically through Grants.gov are required to register with the Credential Provider for Grants.gov. Information about this requirement is available at *http://www.grants.gov/CredentialProvider.*

Applicants applying electronically through the OPHS E-Grants System are required to register with the provider. Information about this requirement is available at. *https://egrants.osophs.dhhs.gov.*

ii. Table of Contents. Provide a Table of Contents for the remainder of the application (including appendices), with page numbers.

iii. Application Checklist. Application Form OPHS–1, provided with the application package.

iv. Budget. Application Form OPHS–1, provided with the application package.

v. Budget Justification. The amount of financial support (direct and indirect costs) that an applicant is requesting from the Federal granting agency for the first year is to be entered on the Face Sheet of Application Form PHS 5161–1, Line 15a. Each application should include funds for electronic mail capability unless access by Internet is already available. The amount of financial support (direct and indirect costs) entered on the SF 424 is the amount an applicant is requesting from the Federal granting agency for the project year. Please note that if indirect costs are requested, the applicant must submit a copy of the latest negotiated rate agreement. The indirect costs rate refers to the Other Sponsored Program/Activities rate and to neither the research rate, nor the education/training program rate. Those applicants without an established indirect cost rate for sponsored programs will be held at 26% of total direct costs except, in cases where there is no established rate, applicants may only request of 10% of salaries and wages. However, if an applicant's established rate for other sponsored programs exceeds 26%, but would be advantageous to the government, the OGHA/HHS may honor that indirect rate cost.

Personnel Costs: Personnel costs should be explained by listing each staff member who will be supported from funds, name (if possible), position title, percent full time equivalency, annual salary, and the exact amount requested.

Indirect Costs: Indirect costs are those costs incurred for common or joint objectives which cannot be readily identified but are necessary to the operations of the organization, *e.g.*, the

cost of operating and maintaining facilities, depreciation, and administrative salaries. For institutions subject to OMB Circular A–21, the term ''facilities and administration'' is used to denote indirect costs. If the applicant does not have an indirect cost rate, you may obtain one by visiting the Division of Cost Allocation Web site: *http://rates.psc.gov.*

Fringe Benefits: List the components that comprise the fringe benefit rate, for example health insurance, taxes, unemployment insurance, life insurance, retirement plan, tuition reimbursement. The fringe benefits should be directly proportional to that portion of personnel costs that are allocated for the project.

Travel: List travel costs according to local and long distance travel. For local travel, the mileage rate, number of miles, reason for travel and staff member/consumers completing the travel should be outlined. The budget should also reflect the travel expenses associated with participating in meetings and other proposed trainings or workshops.

Equipment: List equipment costs and provide justification for the need of the equipment to carry out the program's goals. Extensive justification and a detailed status of current equipment must be provided when requesting funds for the purchase of computers and furniture items.

Supplies: List the items that the project will use. In this category, separate office supplies from medical and educational purchases. Office supplies could include paper, pencils, and the like; medical supplies are syringes, blood tubes, plastic gloves, etc., and educational supplies may be pamphlets and educational videotapes. Remember, they must be listed separately.

Subcontracts: To the extent possible, all subcontract budgets and justifications should be standardized, and contract budgets should be presented by using the same object class categories contained in the Standard Form 424A. Provide a clear explanation as to the purpose of each contract, how the costs were estimated, and the specific contract deliverables.

Other: Put all costs that do not fit into any other category into this category and provide an explanation of each cost in this category. In some cases, grantee rent, utilities and insurance fall under this category if they are not included in an approved indirect cost rate.)

vi. Staffing Plan and Personnel Requirements. Applicants must present a staffing plan and provide a justification for the plan that includes education and experience qualifications and rationale for the amount of time being requested for each staff position. Position descriptions that include the roles, responsibilities, and qualifications of proposed project staff must be included in Appendix XX. Copies of biographical sketches for any key employed personnel that will be assigned to work on the proposed project must be included in Appendix XX.

vii. Project Abstract. Provide a summary of the application. Because the abstract is often distributed to provide information to the public and Congress, please prepare this so that it is clear, accurate, concise, and without reference to other parts of the application. It must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the abstract:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax)
- E-Mail Address
- Web Site Address, if applicable

The project abstract must be single-spaced and limited to two pages in length.

vii. Program Narrative. This section provides a comprehensive framework and description of all aspects of the proposed program. It should be succinct, self-explanatory and well organized so that reviewers can understand the proposed project.

Use the following section headers for the Narrative:

- Introduction

This section should briefly describe the purpose of the proposed project.

- Work Plan

Describe the activities or steps that will be used to achieve each of the activities proposed in the methodology section. Use a time line that includes each activity and identifies responsible staff.

- Resolution of Challenges

Discuss challenges that are likely to be encountered in designing and implementing the activities described in the Work Plan, and approaches that will be used to resolve such challenges.

- Evaluation and Technical Support Capacity

Describe current experience, skills, and knowledge, including individuals on staff, materials published, and previous work of a similar nature.

- Organizational Information

Provide information on the applicant agency's current mission and structure, scope of current activities, and an organizational chart, and describe how these all contribute to the ability of the organization to conduct the program requirements and meet program expectations.

iii. Appendices. Please provide the following items to complete the content of the application. Please note that these are supplementary in nature, and are not intended to be a continuation of the project narrative. Be sure each appendix is clearly labeled.

(1) Appendix A: Tables, Charts, etc.

To give further details about the proposal.

(2) Appendix B: Job Descriptions for Key Personnel.

Keep each to one page in length as much as is possible. Item 6 in the Program Narrative section of the PHS 5161–1 Form provides some guidance on items to include in a job description.

(3) Appendix C: Biographical Sketches of Key Personnel.

Include biographical sketches for persons occupying the key positions described in Appendix B, not to exceed two pages in length. In the event that a biographical sketch is included for an identified individual who is not yet hired, please include a letter of commitment from that person with the biographical sketch.

(4) Appendix D: Letters of Agreement and/or Description(s) of Proposed/Existing Contracts (project specific).

Provide any documents that describe working relationships between the applicant agency and other agencies and programs cited in the proposal. Documents that confirm actual or pending contractual agreements should clearly describe the roles of the subcontractors and any deliverable. Letters of agreements must be dated.

(5) Appendix E: Project Organizational Chart.

Provide a one-page figure that depicts the organizational structure of the project, including subcontractors and other significant collaborators.

(6) Appendix F: Other Relevant Documents.

Include here any other documents that are relevant to the application, including letters of support. Letters of support must be dated.

3. Submission Dates and Times

Notification of Intent To Apply

A letter of intent is not required. However, if a letter of intent is submitted, the letter should identify the applicant organization and its intent to apply, and briefly describe the proposal to be submitted. Receipt of Letters of Intent will not be acknowledged.

This letter should be sent by September 9, 2005, by mail or fax to: Department of Health and Human Services, Office of the Secretary, Office of Global Health Affairs, 5600 Fishers Lane, Suite 18–101, Rockville, MD 20857, Facsimile Number: 301–443–2820.

Application Submission

The OPHS provides multiple mechanisms for submission of applications as described in the following sections.

Electronic Submission: The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. While applications are accepted in hard copy, the use of the electronic application submissions capabilities provided by the eGrants system is encouraged. Information about this system is available on the Office of Population Affairs Web site at *http://opa.osophs.dhhs.gov*, or may be requested from the OPHS Office of Grants Management at 240–453–8822. Applications sent via any other means of electronic communication, including facsimile or electronic mail, outside of the OPHS eGrants system will not be accepted for review.

The body of the application and required forms can be submitted using the e-Grants system. In addition to electronically submitted materials, applicants are required to provide a hard copy of the application face page (Standard Form 424 [Revised 07/03]) with the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. The application is not considered complete until both the electronic application and the hard copy of the face page with the original signature are received.

Electronic grant application submissions must be submitted no later than 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. All required hard copy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. eastern time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hard copy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically after 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hard copy original signatures to the OPHS Office of Grants Management by 5 p.m. eastern time on the next business day after the deadline date specified in the **DATES** section of the announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission, the eGrants system will provide the applicant with a confirmation page indicating the date and time (eastern time) of the electronic application submission. This confirmation page will also provide the receipt status of all indicated signatures and items to be mailed to the OPHS Office of Grants Management. As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application to ensure that all signatures and mail-in items are received.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submission prior to the application deadline.

Mailed Hard Copy Applications: Applications submitted in hard copy must include an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed applications will be considered as meeting the deadline if they are received by the OPHS Office of Grants Management on or before 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supercedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

Hand-Delivered Applications: Hand-delivered applications must be received by the OPHS Office of Grants Management, 1101 Wootten Parkway, Suite 550, Rockville, Maryland, 20852, no later than 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. Hand-delivered applications must include an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will be returned without review or comment. Applications that exceed the requested amount may also be returned without review or comment. Applicants that are judged to be in compliance will be notified by the OPHS Office of Grants Management. Accepted applications will be reviewed for technical merit in accordance with DHHS policies.

Applications should be submitted to: Director, Office of Grants Management, OPHS, HHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Technical assistance on budget and business aspects of the application may be obtained from the OPHS Office of Grants Management, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852, telephone: (240) 453–8822.

4. Intergovernmental Review

This program is not subject to the review requirements of Executive Order 12372, Intergovernmental Review of Federal Programs.

5. Funding Restrictions

Allowability, allocability, reasonableness, and necessity of direct and indirect costs that may be charged are outlined in the following documents: OMB–21 (Institutes of Higher Education); OMB Circular A–122 (Nonprofit Organizations) and 45 CFR Part 74, Appendix E (Hospitals). Copies of these circulars can be found on the Internet at: *http://www.whitehouse.gov/omb.*

6. Other Submission Requirements

N/A.

V. Application Review Information

1. Criteria

Applications will be screened by OGHA staff for completeness and for responsiveness to the program guidance. Applicants should pay strict attention addressing these criteria, as they are the basis upon which applications will be judged. Those applications judged to be non-responsive or incomplete will be returned to the applicant without review.

Applications that are complete and responsive to the guidance will be evaluated for scientific and technical

merit by an appropriate peer review group specifically convened for this solicitation and in accordance with HHS policies and procedures. As part of the initial merit review, all applications will receive a written critique. All applications recommended for approval will be discussed fully by the ad hoc peer review group and assigned a priority score for funding. Eligible applications will be assessed according the following criteria:

(1) Technical Approach (40 points):

• The applicant's presentation of a sound and practical technical approach for executing the requirements with adequate explanation, substantiation and justification for methods for handling the projected needs of the partner institution.

• The successful applicant must demonstrate a clear understanding of the scope and objectives of the cooperative agreement, recognition of potential difficulties that may arise in performing the work required, presentation of adequate solutions, and understanding of the close coordination necessary between the OGHA/HHS, Afghanistan Ministry of Public Health, U.S. Agency for International Development, and other organizations, such as the World Health Organization and United Nations Children's Fund.

• Applicants must submit a strategic plan that outlines the schedule of activities and expected products of the Group's work with benchmarks at months six, 12. The strategic plan should specifically address the expected progress of the Quality of Care program.

(4) *Personnel Qualifications and Experience (20 points):*

• Project Leadership—For the technical and administrative leadership of the project requirements, successful applicants must demonstrate documented training, expertise, relevant experiences, leadership/management skills, and availability of a suitable overall project manager and surrounding management structure to successfully plan and manage the project. Successful applicant will provide documented history of leadership in the establishment and management of training programs that involve training of health care professionals in countries other than the United States. Expertise in maternal and child health care and services including documented training, expertise, relevant experience, leadership skills, and maternal and child health specific medical expertise. Documented managerial ability to achieve delivery or performance requirements as demonstrated by the proposed use of management and other personnel resources and to successfully manage the project, including subcontractor and/or consultant efforts, if applicable, as evidence by the management plan and demonstrated by previous relevant experience.

• Partner Institutions and other Personnel—Applicants should provide documented evidence of availability, training, qualifications, expertise, relevant experience, education and competence of the scientific, clinical, analytical, technical and administrative staff and any other proposed personnel (including partner institutions, subcontractors and consultants), to perform the requirements of the work activities as evidenced by resumes, endorsements and explanations of previous efforts.

• Staffing Plan—Applicants should submit a staffing plan for the conduct of the project, including the appropriateness of the time commitment of all staff and partner institutions, the clarity and appropriateness of assigned roles, and lines of authority. Applicants should also provide an organizational chart for each partner institution named in the application showing relationships among the key personnel.

• Administrative and Organizational Framework—Adequacy of the administrative and organizational framework, with lines of authority and responsibility clearly demonstrated, and adequacy of the project plan, with proposed time schedule for achieving objectives and maintaining quality control over the implementation and operation of the project. Adequacy of back-up staffing and the evidence that they will be able to function as a team. The framework should identify the institution that will assume legal and financial responsibility and accountability for the use and disposition of funds awarded on the basis of this RFA.

(5) *Experience and Capabilities of the Organization (30 Points):*

• Applicants should submit documented relevant experience of the organization in managing projects of similar complexity and scope of the activities.

• Clarity and appropriateness of lines of communication and authority for coordination and management of the project. Adequacy and feasibility of plans to ensure successful coordination of a multiple-partner collaboration.

• Documented experience recruiting qualified medical personnel for projects of similar complexity and scope of activities.

(4) *Facilities and Resources (10 Points):*

Documented availability and adequacy of facilities, equipment and resources necessary to carry out the activities specified under Program Requirements.

2. Review and Selection Process

Applications will be reviewed in competition with other submitted applications, by a panel of peer reviewers. Each of the above criteria will be addressed and considered by the reviewers in assigning the overall score. Final award will be made by the Deputy Director, Asia and Pacific Division of the Office Global Health Affairs on the basis of score, program relevance and, availability of funds.

VI. Award Administration Information

1. Award Notices

OGHA/HHS does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter regarding the outcome of their applications. The official document notifying an applicant that an application has been approved and funded is the Notice of Award, which specifies to the awardee the amount of money awarded, the purpose of the agreement, the terms and conditions of the agreement, and the amount of funding, if any, to be contributed by the awardee to the project costs.

2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (HHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to State and local governments. Applicants funded under this announcement must be aware of and comply with these regulations. The CFR volume that includes parts 74 and 92 may be downloaded from *http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrv1_03.html.*

3. Reporting

Each party to this Cooperative Agreement has agreed to undertake the following obligations:

The applicant (or recipient) agrees to:

a. Provide a budget for the acquisition and installation of the necessary equipment to complete the HHS Project, using the provided HHS Guidelines on Medical Equipment Donation;

b. Facilitate the acquisition, refurbishment and calibration of the necessary equipment at a reduced cost;

c. Prepare the necessary items for shipping including preparation of shipping documents for entry into partner country;

d. Provide manuals for the donated equipment which can be translated into the primary language, at a sixth grade reading level and contain illustrations. Manuals must include content on the proper storage, cleaning and care and repair of the equipment;

e. Ensure that the training method or module includes essential content regarding the adherence to established infection control principles;

f. Provide technical training and examination of proficiency by the user on agreed upon technologies and supplied equipment;

g. Ensure that training is provided by a certified trainer at a time closely coordinated with the delivery of the equipment or materials; and,

h. Accompany the equipment and supplies for the purpose of overseeing the distribution, installation, and training in partner institution.

HHS agrees to:

a. Identify the funds necessary for the acceptance of the necessary equipment in keeping with the approved budget;

b. Identify the funds or transportation necessary for the shipping of goods to partner country; and,

c. Provide Guidelines on Medical Equipment Donation for partner country.

All projects are required to have an evaluation plan, consistent with the scope of the proposed project and funding level that conforms to the project's stated goals and objectives. The evaluation plan should include both a process evaluation to track the implementation of project activities and an outcome evaluation to measure changes in knowledge and skills that can be attributed to the project. Project funds may be used to support evaluation activities.

In addition to conducting their own evaluation of projects, successful applicants must be prepared to participate in an external evaluation, to be supported by OGHA/HHS and conducted by an independent entity, to assess efficiency and effectiveness for the project funded under this announcement.

Within 30 days following the end of each of quarter, submit a performance report no more than ten pages in length must be submitted to OGHA/HHS. A sample monthly performance report will be provided at the time of notification of award. At a minimum, monthly performance reports should include:

- Concise summary of the most significant achievements and problems encountered during the reporting period, *e.g.,* number of training courses held and number of trainees.
- A comparison of work progress with objectives established for the quarter using the grantee's implementation schedule, and where such objectives were not met, a statement of why they were not met.
- Specific action(s) that the grantee would like the OGHA/HHS to undertake to alleviate a problem.
- Other pertinent information that will permit monitoring and overview of project operations.
- A quarterly financial report describing the current financial status of the funds used under this award. The awardee and OGHA will agree at the time of award for the format of this portion of the report.

Within 90 days following the end of the project period a final report containing information and data of interest to the Department of Health and Human Services, Congress, and other countries must be submitted to OGHA/HHS. The specifics as to the format and content of the final report and the summary will be sent to successful applicants. At minimum, the report should contain:

- A summary of the major activities supported under the agreement and the major accomplishments resulting from activities to improve mortality in partner country.
- An analysis of the project based on the problem(s) described in the application and needs assessments, performed prior to or during the project period, including a description of the specific objectives stated in the grant application and the accomplishments and failures resulting from activities during the grant period.

Quarterly performance reports and the final report may be submitted to: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453–8822.

VII. Agency Contacts

For assistance on administrative and budgetary requirements, please contact: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453–8822.

For assistance with questions regarding program requirements, please contact: Dr. Amar Bhat, Asia-Pacific Division, Office of Global Health Affairs, Office of the Secretary, Department of Health and Human Services, 5600 Fishers Lane, Suite 18–101, Rockville, MD 20857. Phone Number: 301–443–1410.

VIII. Tips for Writing a Strong Application

Include DUNS Number. You must include a DUNS Number to have your application reviewed. Applications will not be reviewed without a DUNS number. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please include the DUNS number next to the OMB Approval Number on the application face page.

Keep your audience in mind. Reviewers will use only the information contained in the application to assess the application. Be sure the application and responses to the program requirements and expectations are complete and clearly written. Do not assume that reviewers are familiar with the applicant organization. Keep the review criteria in mind when writing the application.

Start preparing the application early. Allow plenty of time to gather required information from various sources.

Follow the instructions in this guidance carefully. Place all information in the order requested in the guidance. If the information is not placed in the requested order, you may receive a lower score.

Be brief, concise, and clear. Make your points understandable. Provide accurate and honest information, including candid accounts of problems and realistic plans to address them. If any required information or data is omitted, explain why. Make sure the information provided in each table, chart, attachment, etc., is consistent with the proposal narrative and information in other tables.

Be organized and logical. Many applications fail to receive a high score because the reviewers cannot follow the thought process of the applicant or because parts of the application do not fit together.

Be careful in the use of appendices. Do not use the appendices for information that is required in the body of the application. Be sure to cross-reference all tables and attachments located in the appendices to the appropriate text in the application.

Carefully proofread the application. Misspellings and grammatical errors will impede reviewers in understanding the application. Be sure pages are numbered (including appendices) and that page limits are followed. Limit the use of abbreviations and acronyms, and

define each one at its first use and periodically throughout application.

Dated: August 25, 2005.

Mary Lou Valdez,

Deputy Director for Policy, Office of Global Health Affairs.

Cristina V. Beato,

Acting Assistant Secretary for Health, Office of Public Health and Science.

[FR Doc. 05–17547 Filed 9–1–05; 8:45 am]

BILLING CODE 4150–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for Cooperative Agreement To Provide Technical Assistance and Support to the Afghanistan Ministry of Public Health (MOPH) in Strengthening the Management of the Women's and Children's Hospitals and Hospital Services in Kabul

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Global Health Affairs.

Announcement Type: Cooperative Agreement—FY 2005 Initial Announcement.

Funding Opportunity Number: OGHA 05–025.

OMB Catalog of Federal Domestic Assistance: TBD, In Process.

Authority: Division F of the Consolidated Appropriations Act, 2005, Public Law 108–447 (2004).

SUMMARY: The Office of Global Health Affairs (OGHA) announces that up to $475,000 in fiscal year (FY) 2005 of funds is available for one (1) cooperative agreement to provide support to strengthen the management of women's and children's hospitals by the Afghan Ministry of Public Health (MOPH) in Kabul. This effort is an undertaking by the Department of Health and Human Services (HHS) in partnership with the Afghan MOPH. The primary goal of this project is to improve the quality of care at women's and children's health institutions in Afghanistan. The OGHA anticipates substantial HHS scientific and programmatic involvement in the administration of the quality improvement program. The project will be approved for up to a one-year period for a total of $475,000 (including indirect costs). Funding for the cooperative agreement is contingent upon the availability of funds

DATES: Application Availability: September 2, 2005.

Optional Letter of Intent due by 5 p.m. ET: September 9, 2005.

Applications due by 5 p.m. ET: September 19, 2005.

Award date: September 30, 2005.

ADDRESSES: Application kits may be requested from, and applications submitted to: Ms. Karen Campbell, Director, Office of Grants Management, Office of Public Health and Science (OPHS), HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852.

I. Funding Opportunity Description

Purpose of the Agreement

HHS, in partnership with other relevant U.S. Government agencies, anticipates involvement in the development, administration and oversight of this program to improve hospital management capacity within the MOPH. The program will be for a three-year period. Approximately $475,000 (including indirect costs) will be available in the first year. Funding for the cooperative agreement in subsequent years is contingent upon the availability of funds and the performance of the awardee against measurable performance targets.

This Cooperative Agreement is intended to complement and build upon the work of the MOPH Hospital Management Task Force (HMTF) and its efforts to implement the Essential Package of Hospital Services (EPHS) and the recommendations of the Joint U.S. Government/MOPH health-facility management planning team, as outlined above. Implementation and adherence to recognized evidence-based healthcare and facility-management standards will be essential elements of successful proposals.

The awardee will work in collaboration with the MOPH's HMTF based on the approved recommendations of the Joint USG/MOPH planning mission. The plans will include but are not limited to the type of governance structure, procurement strategies, human resources management, financial management, facility and environmental safety management, sharing of services, developing a continuum of maternal and child healthcare in Kabul and centers of excellence within the consortium, developing an integrated health records system, and quality assurance. The award recipient will work with HHS to review training plans previously developed to support improvements in healthcare administration and provide a phased plan for leadership and healthcare management training as part of their planning process.

Activities: To assist the MOPH in carrying out the recommendations of the USG/MOPH team, including the development of a self-sustaining organizational structure within the MOPH that supports the management, organization and entrepreneurial growth of the healthcare hospital delivery sector in Kabul.

Assist in planning and establishing an organizational structure that facilitates the development of a network of women's and children's hospitals, herein referred to as the Kabul Women's and Children's Hospital Consortium, or the Consortium. Specifically: Develop a plan and assist in establishment of a Consortium Board of Directors that will provide governance, strategic direction and facilitate communication for the Consortium. The Board and its chair will be appointed by the MOPH.

Develop and implement a non-profit foundation to raise funds and broaden support for the Consortium. Solicit international donors' resource support for the foundation.

Implement and refine Consortium management and Board of Directors governance process. This includes assisting MOPH in the development of leadership accountability and performance contracts, objective performance assessment and measurement systems, and a performance-based salary and incentive system for healthcare managers and executives.

Summarize in a three-year plan the strategies that the Kabul Women's Children's Hospital Consortium will undertake in the restructuring of hospital service delivery. This plan will be prepared and submitted to the MOPH and HHS no later than three months of the initiation of this grant program.

Advise the HTMF staff on the establishment of a separate city-wide Kabul Hospital Council that will serve as a platform for local hospital directors for discussion, sharing of knowledge and best practices, creation of a referral system for continuity and coordination of care with the goal of improving healthcare services and health of the city of Kabul. The grantee is expected to assist the HMTF with preparing for Council meetings.

Provide technical assistance and logistical support to the MOPH in preparing, hosting and reporting the recommendations of an international healthcare management summit at a date to be determined by the MOPH. The main goal of this summit is to give the Minister a forum to describe the vision for the Afghan healthcare system, describe plans for the establishment of a hospital consortium in Kabul and gain support from the conference attendees for the MOPH vision to improve the

overall access to and quality of healthcare services in Kabul. The summit is intended to:

- Highlight MOPH's efforts to improve healthcare management including the key role of the Hospital Management Task Force in the process.
- Discuss, prioritize and coordinate international donor support for health facility management improvement efforts.
- Describe and obtain support for the establishment of Kabul Women and Children.
- Hospital Consortium and the Consortium Foundation.
- Formally adopt the concept of a Kabul Women and Children's Hospital Consortium.
- Introduce and describe the role of the Kabul Hospital Council.

In providing assistance to the MOPH for an International Healthcare Facility Management Summit, the award recipient will assist in developing a communication plan and list of invited participants, support MOPH interactions with appropriate stakeholders involved in maternal and child health (hospital directors, clinicians, non-governmental organizations, international donors, and others), complete a detailed agenda for the meeting, provide speech writing support for the MOPH, identify meeting facilitators, develop, copy and distribute all meeting invitations, materials and supporting documents and reserve and secure an appropriate location for the Summit. The award recipient will also assist the MOPH in preparing a report summarizing the Summit deliberations, recommendations and conclusions.

Assist in developing a set of standards to be used by the MOPH in evaluating the quality, performance and management of hospitals. This activity should build on the previous activities of other international donors, non-governmental groups, and multilateral organizations which have supported similar work. These standards should be modeled on standards used in other developed and developing countries and adapted to Afghan conditions. The standards should accommodate legal, religious and cultural factors found within Afghanistan. The objective is to develop over the course of the grant period a set of uniform, achievable expectations for structures, processes and outcomes for hospitals in Afghanistan and thus create an ''Afghan National Healthcare Certification Program.'' The work plan should reflect a schedule for developing the elements of the Certification Program over the course of the grant period.

Train a cadre of Afghan nationals at the MOPH capable of performing the review process according to the Afghan hospital standards described above. The goal of this activity is to enable the MOPH to certify hospitals by the end of the grant period. It is anticipated that funding and other incentives provided to Kabul-based hospitals by the MOPH would be based on their performance against these standards. The award recipient will work with the MOPH to determine what these incentives will be, the schedule of inspections, and how the Certification Program will be implemented.

The budget for the cooperative agreement is expected to support local expenses related to the summit, including meeting facilitators and administrative support staff. Conference attendees not affiliated with the grantee organization or the MOPH are expected to provide their own support.

Special Considerations

Travel Support: Applicants should be aware of and take into account the special security considerations when working in Afghanistan. Travel planning includes responsibility for all logistical arrangements for team members and will be the responsibility of the grantee. Travel expenses for attendees to the Summit will be the responsibility of the attendee or his/her organization. Travel expenses for MOPH staff attendees will be the responsibility of the MOPH.

Team Accommodation and On-site support: Accommodation and on-site support is not included and it is the responsibility of the award recipient and his/her support staff. The award recipient shall arrange all on-site resources for team members, including but not limited to food, security, emergency health care, and local transportation.

Finally, the award recipient will monitor and report progress quarterly to HHS/OGHA and conduct a comprehensive evaluation of all required elements and conditions, including outcome measures for effectiveness and efficiency.

II. Award Information

The administrative and funding instrument to be used for this program will be the cooperative agreement in which substantial OGHA/HHS scientific and/or programmatic involvement is anticipated during the performance of the project. Under the cooperative agreement, OGHA/HHS will support and/or stimulate awardee activities by working with them in a non-directive partnership role. HHS staff is substantially involved in the program activities, above and beyond routine monitoring. Through this cooperative agreement, HHS will collaborate in an advisory capacity with the award recipient, especially during the development and implementation of a mutually agreed-upon work plan. HHS will actively participate in periodic progress reviews and a final evaluation of the program.

Approximately $475,000 in FY 2005 funds is available to support the agreement. This level of support is dependent on the receipt of a sufficient number and diversity of applications of high merit.

The anticipated start date is October 1, 2005. There will only be one single award made from this announcement. The program and budget period for this agreement is for 24 months.

Although this program is provided for in the financial plans of the OGHA, the award pursuant to this RFA is contingent upon the availability of funds for this purpose.

The award recipient must comply with all HHS management requirements for meeting participation and progress and financial reporting for this cooperative agreement. (Please see HHS Activities and Program Evaluation sections below.)

HHS/OS/OGHA activities for this program are as follows:

- Organize an orientation meeting with the award recipient to brief them on applicable U.S. Government expectations, regulations, policies and key management requirements, as well as report formats and contents. The orientation could include meetings with staff from HHS agencies, the U.S. Departments of Defense and Veterans Affairs, and USAID.
- Review and approve the process used by the award recipient to select key personnel and/or post-award subcontractors and/or sub grantees to be involved in the activities performed under this agreement.
- Review and approve award recipients annual work plan and detailed budget.
- Review and approve award recipient's monitoring and evaluation plan.
- Meet on a monthly basis with award recipient to assess monthly expenditures in relation to approved work plan, and modify plans as necessary.
- Meet on a quarterly basis with award recipient to assess quarterly technical and financial progress reports, and modify plans as necessary.
- Meet on an annual basis with award recipient to review annual progress

report for each U.S. Government Fiscal Year, and to review annual work plans and budgets for the subsequent year.

• Assure experienced HHS or other subject-matter experts from other relevant U.S. Government agencies will participate in the planning, development, implementation, and evaluation of all phases of this project.

• Assist in establishing and maintaining U.S. Government, MOPH, and non-governmental organizations (NGOs) contracts and agreements necessary to carry out the program.

III. Eligibility Information

1. Eligible Applicants

Applications may be submitted by non-profit entities with offices in the United States and partner country or incorporated and headquartered in the United States with offices in the United States. Additionally, organizations or consortiums of organizations, including faith-based and community based organizations, that have collective experience with accepting donated medical technology, upgrading drug formularies, training health care providers, local and international transportation, and other logistics are encouraged to apply for a grant under this announcement.

2. Cost Sharing or Matching

Cost sharing, matching funds, and cost participation is not a requirement of this agreement.

3. Other—(If Applicable): N/A

IV. Application and Submission Information

1. Address To Request Application Package

This Cooperative Agreement project uses the Application Form OPHS–1, Revised 8/2004, which is enclosed in your application packet. This generic form is used by many different programs funded through the Public Health Service (PHS). Some parts of it are not required; other sections need to be filled out in a fashion specific to the program. Instructions for filling out OPHS–1, Revised 8/2004 will be included in the application packet. These forms may also be obtained from the following sites by: Downloading from: *https://egrants.osophs.dhhs.gov* and clicking on Grant Announcements or *http://www.grants.gov/* or by writing to Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS Tower Building, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; or contact the Office of Grants Management at (240) 453–8822. Please specify the OGHA program(s) for which you are requesting an application kit.

2. Content and Form of Application Submission

Application Materials

A separate budget page is required for the budget year requested. A line item budget (SF 424A) with coinciding justification to support each of the budget years must be submitted with the proposal. These forms will represent the full project period of Federal assistance requested. Proposals submitted without a budget and justification for each budget year requested in the application may not be favorably considered for funding. Specific instructions for submitting a detailed budget for this application will be included in the application packet. If additional information and/or clarification are required, please contact the OPHS Office of Grants Management identified in Section VII of this announcement.

All applications must be accompanied by a Project Abstract submitted on 3.5 inch floppy disk. The abstract must be typed, single-spaced, and not exceed 2 pages. Reviewers and staff will refer frequently to the information contained in the abstract, and therefore it should contain substantive information about the proposed projects in summary form. A list of suggested keywords and a format sheet for your use in preparing the abstract will be included in the application packet.

All grant applications must be accompanied by a Project Narrative. In addition to the instructions provided in OPHS–1 (Rev 8/2004) for project narrative, the specific guidelines for the project narrative are provided in the program guidelines. Format requirements are the same as for the Project Abstract Section; margins should be 1 inch at the top and 1 inch at the bottom and both sides; and typeset must be no smaller than 12 cpi and not reduced. Biographical sketches should be either typed on the appropriate form or plain paper and should not exceed two pages, with publications listed being limited only to those that are directly relevant to this project.

Application Format Requirements

If applying on paper, the entire application may not exceed 80 pages in length, including the abstract, project and budget narratives, face page, attachments, any appendices and letters of commitment and support. Pages must be numbered consecutively.

Applications submitted electronically that exceed 80 pages when printed will be deemed non-compliant. All non-compliant applications will be returned to the applicant without further consideration.

a. Number of Copies

Please submit one (1) original and two (2) unbound copies of the application. Please do not bind or staple the application. Application must be single sided.

b. Font

Please use an easily readable serif typeface, such as Times Roman, Courier, or CG Times. The text and table portions of the application must be submitted in not less than 12 point and 1.0 line spacing. Applications not adhering to 12 point font requirements may be returned.

c. Paper Size and Margins

For scanning purposes, please submit the application on 8½″ x 11″ white paper. Margins must be at least one (1) inch at the top, bottom, left and right of the paper. Please left-align text.

d. Numbering

Please number the pages of the application sequentially from page 1 (face page) to the end of the application, including charts, figures, tables, and appendices.

e. Names

Please include the name of the applicant on each page.

f. Section Headings

Please put all section headings flush left in bold type.

Application Format: Applications for funding must consist of the following documents in the following order:

i. Application Face Page

Public Health Service (PHS) Application Form OPHS–1, provided with the application package. Prepare this page according to instructions provided in the form itself.

DUNS Number

All applicant organizations are required to have a Data Universal Numbering System (DUNS) number in order to apply for a grant from the Federal Government. The DUNS number is a unique nine-character identification number provided by the commercial company, Dun and Bradstreet. There is no charge to obtain a DUNS number. Information about obtaining a DUNS number can be found at *https://www.dnb.com/product/eupdate/requestOptions.html* or call 1–866–705–5711. Please include the DUNS number next to the OMB

Approval Number on the application face page. Applications will not be reviewed without a DUNS number.

Additionally, the applicant organization will be required to register with the Federal Government's Central Contractor Registry (CCR) in order to do electronic business with the Federal Government. Information about registering with the CCR can be found at *http://www.hrsa.gov/grants/ccr.htm.*

Finally, applicants applying electronically through Grants.gov are required to register with the Credential Provider for Grants.gov. Information about this requirement is available at *http://www.grants.gov/CredentialProvider.*

Applicants applying electronically throughthe OPHS E-Grants System are required to register with the provider. Information about this requirement is available at. *https://egrants.osophs.dhhs.gov.*

ii. Table of Contents

Provide a Table of Contents for the remainder of the application (including appendices), with page numbers.

iii. Application Checklist

Application Form OPHS–1, provided with the application package.

iv. Budget

Application Form OPHS–1, provided with the application package.

v. Budget Justification

The amount of financial support (direct and indirect costs) that an applicant is requesting from the Federal granting agency for the first year is to be entered on the Face Sheet of Application Form PHS 5161–1, Line 15a. Each application should include funds for electronic mail capability unless access by Internet is already available. The amount of financial support (direct and indirect costs) entered on the SF 424 is the amount an applicant is requesting from the Federal granting agency for the project year. Please note that if indirect costs are requested, the applicant must submit a copy of the latest negotiated rate agreement. The indirect costs rate refers to the Other Sponsored Program/Activities rate and to neither the research rate, nor the education/training program rate. Those applicants without an established indirect cost rate for sponsored programs will be held at 26% of total direct costs except, in cases where there is no established rate, applicants may only request of 10% of salaries and wages. However, if an applicant's established rate for other sponsored programs exceeds 26%, but would be advantageous to the government, the OGHA/HHS may honor that indirect rate cost.

Personnel Costs: Personnel costs should be explained by listing each staff member who will be supported from funds, name (if possible), position title, percent full time equivalency, annual salary, and the exact amount requested.

Indirect Costs: Indirect costs are those costs incurred for common or joint objectives which cannot be readily identified but are necessary to the operations of the organization, *e.g.*, the cost of operating and maintaining facilities, depreciation, and administrative salaries. For institutions subject to OMB Circular A–21, the term ''facilities and administration'' is used to denote indirect costs. If the applicant does not have an indirect cost rate, you may obtain one by visiting the Division of Cost Allocation website: *http://rates.psc.gov.*

Fringe Benefits: List the components that comprise the fringe benefit rate, for example health insurance, taxes, unemployment insurance, life insurance, retirement plan, tuition reimbursement. The fringe benefits should be directly proportional to that portion of personnel costs that are allocated for the project.

Travel: List travel costs according to local and long distance travel. For local travel, the mileage rate, number of miles, reason for travel and staff member/consumers completing the travel should be outlined. The budget should also reflect the travel expenses associated with participating in meetings and other proposed trainings or workshops.

Equipment: List equipment costs and provide justification for the need of the equipment to carry out the program's goals. Extensive justification and a detailed status of current equipment must be provided when requesting funds for the purchase of computers and furniture items.

Supplies: List the items that the project will use. In this category, separate office supplies from medical and educational purchases. Office supplies could include paper, pencils, and the like; medical supplies are syringes, blood tubes, plastic gloves, etc., and educational supplies may be pamphlets and educational videotapes. Remember, they must be listed separately.

Subcontracts: To the extent possible, all subcontract budgets and justifications should be standardized, and contract budgets should be presented by using the same object class categories contained in the Standard Form 424A. Provide a clear explanation as to the purpose of each contract, how the costs were estimated, and the specific contract deliverables.

Other: Put all costs that do not fit into any other category into this category and provide an explanation of each cost in this category. In some cases, grantee rent, utilities and insurance fall under this category if they are not included in an approved indirect cost rate.)

vi. Staffing Plan and Personnel Requirements

Applicants must present a staffing plan and provide a justification for the plan that includes education and experience qualifications and rationale for the amount of time being requested for each staff position. Position descriptions that include the roles, responsibilities, and qualifications of proposed project staff must be included in Appendix XX. Copies of biographical sketches for any key employed personnel that will be assigned to work on the proposed project must be included in Appendix XX.

vii. Project Abstract

Provide a summary of the application. Because the abstract is often distributed to provide information to the public and Congress, please prepare this so that it is clear, accurate, concise, and without reference to other parts of the application. It must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the abstract:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax)
- E-Mail Address
- Web Site Address, if applicable

The project abstract must be single-spaced and limited to two pages in length.

vii. Program Narrative

This section provides a comprehensive framework and description of all aspects of the proposed program. It should be succinct, self-explanatory and well organized so that reviewers can understand the proposed project.

Use the following section headers for the Narrative:

- Introduction.

This section should briefly describe the purpose of the proposed project.

- Work Plan.

Describe the activities or steps that will be used to achieve each of the

activities proposed in the methodology section. Use a time line that includes each activity and identifies responsible staff.

• Resolution of Challenges.

Discuss challenges that are likely to be encountered in designing and implementing the activities described in the Work Plan, and approaches that will be used to resolve such challenges.

• Evaluation and Technical Support Capacity.

Describe current experience, skills, and knowledge, including individuals on staff, materials published, and previous work of a similar nature.

• Organizational Information.

Provide information on the applicant agency's current mission and structure, scope of current activities, and an organizational chart, and describe how these all contribute to the ability of the organization to conduct the program requirements and meet program expectations.

iii. Appendices

Please provide the following items to complete the content of the application. Please note that these are supplementary in nature, and are not intended to be a continuation of the project narrative. Be sure each appendix is clearly labeled.

(1) Appendix A: Tables, Charts, etc.

To give further details about the proposal.

(2) Appendix B: Job Descriptions for Key Personnel.

Keep each to one page in length as much as is possible. Item 6 in the Program Narrative section of the PHS 5161–1 Form provides some guidance on items to include in a job description.

(3) Appendix C: Biographical Sketches of Key Personnel.

Include biographical sketches for persons occupying the key positions described in Appendix B, not to exceed two pages in length. In the event that a biographical sketch is included for an identified individual who is not yet hired, please include a letter of commitment from that person with the biographical sketch.

(4) Appendix D: Letters of Agreement and/or Description(s) of Proposed/Existing Contracts (project specific) Provide any documents that describe working relationships between the applicant agency and other agencies and programs cited in the proposal. Documents that confirm actual or pending contractual agreements should clearly describe the roles of the subcontractors and any deliverable. Letters of agreements must be dated.

(5) Appendix E: Project Organizational Chart.

Provide a one-page figure that depicts the organizational structure of the project, including subcontractors and other significant collaborators.

(6) Appendix F: Other Relevant Documents.

Include here any other documents that are relevant to the application, including letters of supports. Letters of support must be dated.

3. Submission Dates and Times

Notification of Intent To Apply

A letter of intent is not required. However, if a letter of intent is submitted, the letter should identify the applicant organization and its intent to apply, and briefly describe the proposal to be submitted. Receipt of Letters of Intent will not be acknowledged.

This letter should be sent by September 9, 2005 by mail or fax to: Department of Health and Human Services, Office of the Secretary, Office of Global Health Affairs, 5600 Fishers Lane, Suite 18–101, Rockville, MD 20857, Facsimile Number: 301–443–2820.

Application Submission. The OPHS provides multiple mechanisms for submission of applications as described in the following sections.

Electronic Submission: The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. While applications are accepted in hard copy, the use of the electronic application submissions capabilities provided by the eGrants system is encouraged. Information about this system is available on the Office of Population Affairs Web site at *http://opa.osophs.dhhs.gov,* or may be requested from the OPHS Office of Grants Management at 240–453–8822. Applications sent via any other means of electronic communication, including facsimile or electronic mail, outside of the OPHS eGrants system will not be accepted for review.

The body of the application and required forms can be submitted using the e-Grants system. In addition to electronically submitted materials, applicants are required to provide a hard copy of the application face page (Standard Form 424 [Revised 07/03]) with the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. The application is not considered complete until both the electronic application and the hard copy of the face page with the original signature are received.

Electronic grant application submissions must be submitted no later than 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. All required hard copy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. eastern time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hard copy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically after 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hard copy original signatures to the OPHS Office of Grants Management by 5 p.m. eastern time on the next business day after the deadline date specified in the **DATES** section of the announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission, the eGrants system will provide the applicant with a confirmation page indicating the date and time (eastern time) of the electronic application submission. This confirmation page will also provide the receipt status of all indicated signatures and items to be mailed to the OPHS Office of Grants Management. As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application to ensure that all signatures and mail-in items are received.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submission prior to the application deadline.

Mailed Hard Copy Applications: Applications submitted in hard copy must include an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed applications will be considered as meeting the deadline if

they are received by the OPHS Office of Grants Management on or before 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supercedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

Hand-Delivered Applications: Hand-delivered applications must be received by the OPHS Office of Grants Management, 1101 Wootten Parkway, Suite 550, Rockville, Maryland 20852, no later than 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. Hand-delivered applications must include an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will be returned without review or comment. Applications that exceed the requested amount may also be returned without review or comment. Applicants that are judged to be in compliance will be notified by the OPHS Office of Grants Management. Accepted applications will be reviewed for technical merit in accordance with DHHS policies.

Applications should be submitted to: Director, Office of Grants Management, OPHS, HHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Technical assistance on budget and business aspects of the application may be obtained from the Office of Grants Management, OPHS, HHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852, telephone: (240) 453–8822.

4. Internal Government Review

This program is not subject to the review requirements of Executive Order 12372, Intergovernmental Review of Federal Programs.

5. Funding Restrictions

Allowability, allocability, reasonableness, and necessity of direct and indirect costs that may be charged are outlined in the following documents: OMB–21 (Institutes of Higher Education); OMB Circular A–122 (Nonprofit Organizations) and 45 CFR Part 74, Appendix E (Hospitals). Copies of these circulars can be found on the Internet at: *http://www.whitehouse.gov/omb.*

6. Other Submission Requirements: N/A

V. Application Review Information

1. Criteria

Applications will be screened by OGHA staff for completeness and for responsiveness to the program guidance. Applicants should pay strict attention addressing these criteria, as they are the basis upon which their applications will be judged. Those applications judged to be non-responsive or incomplete will be returned to the applicant without review.

Applications that are complete and responsive to the guidance will be evaluated for scientific and technical merit by an appropriate peer review group specifically convened for this solicitation and in accordance with HHS policies and procedures. As part of the initial merit review, all applications will receive a written critique. All applications recommended for approval will be discussed fully by the ad hoc peer review group and assigned a priority score for funding. Eligible applications will be assessed according the following criteria:

(1) *Technical Approach (40 points):*

• The applicant's presentation of a sound and practical technical approach for executing the requirements with adequate explanation, substantiation and justification for methods for handling the projected needs of the partner institution.

• The successful applicant must demonstrate a clear understanding of the scope and objectives of the cooperative agreement, recognition of potential difficulties that may arise in performing the work required, presentation of adequate solutions, and understanding of the close coordination necessary between the OGHA/HHS, Afghanistan Ministry of Public Health, U.S. Agency for International Development, and other organizations, such as the World Health Organization and United Nations Children's Fund.

• Applicants must submit a strategic plan that outlines the schedule of activities and expected products of the Group's work with benchmarks at months six, 12. The strategic plan should specifically address the expected progress of the Quality of Care program.

(4) *Personnel Qualifications and Experience (20 points):*

• Project Leadership—For the technical and administrative leadership of the project requirements, successful applicants must demonstrate documented training, expertise, relevant experiences, leadership/management skills, and availability of a suitable overall project manager and surrounding management structure to successfully plan and manage the project. Successful applicant will provide documented history of leadership in the establishment and management of training programs that involve training of health care professionals in countries other than the United States. Expertise in maternal and child health care and services including documented training, expertise, relevant experience, leadership skills, and maternal and child health specific medical expertise. Documented managerial ability to achieve delivery or performance requirements as demonstrated by the proposed use of management and other personnel resources and to successfully manage the project, including subcontractor and/or consultant efforts, if applicable, as evidence by the management plan and demonstrated by previous relevant experience.

• Partner Institutions and other Personnel—Applicants should provide documented evidence of availability, training, qualifications, expertise, relevant experience, education and competence of the scientific, clinical, analytical, technical and administrative staff and any other proposed personnel (including partner institutions, subcontractors and consultants), to perform the requirements of the work activities as evidenced by resumes, endorsements and explanations of previous efforts.

• Staffing Plan—Applicants should submit a staffing plan for the conduct of the project, including the appropriateness of the time commitment of all staff and partner institutions, the clarity and appropriateness of assigned roles, lines of authority. Applicants should also provide an organizational chart for each partner institution named in the application showing relationships among the key personnel.

• Administrative and Organizational Framework—Adequacy of the administrative and organizational framework, with lines of authority and responsibility clearly demonstrated, and adequacy of the project plan, with proposed time schedule for achieving objectives and maintaining quality control over the implementation and operation of the project. Adequacy of back-up staffing and the evidence that they will be able to function as a team. The framework should identify the institution that will assume legal and financial responsibility and accountability for the use and disposition of funds awarded on the basis of this RFA.

(5) *Experience and Capabilities of the Organization (30 Points):*

• Applicants should submit documented relevant experience of the organization in managing projects of similar complexity and scope of the activities.

• Clarity and appropriateness of lines of communication and authority for coordination and management of the project. Adequacy and feasibility of plans to ensure successful coordination of a multiple-partner collaboration.

• Documented experience recruiting qualified medical personnel for projects of similar complexity and scope of activities.

(4) *Facilities and Resources (10 Points):*

Documented availability and adequacy of facilities, equipment and resources necessary to carry out the activities specified under Program Requirements.

2. Review and Selection Process

Applications will be reviewed in competition with other submitted applications, by a panel of peer reviewers. Each of the above criteria will be addressed and considered by the reviewers in assigning the overall score. Final award will be made by the Deputy Director, Asia and Pacific Division of the Office Global Health Affairs on the basis of score, program relevance and, availability of funds.

VI. Award Administration Information

1. Award Notices

OGHA/HHS does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter regarding the outcome of their applications. The official document notifying an applicant that an application has been approved and funded is the Notice of Award, which specifies to the awardee the amount of money awarded, the purpose of the agreement, the terms and conditions of the agreement, and the amount of funding, if any, to be contributed by the awardee to the project costs.

2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (HHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to state and local governments. Applicants funded under this announcement must be aware of and comply with these regulations. The CFR volume that includes parts 74 and 92 may be downloaded from *http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrv1_03.html.*

3. Reporting

Each party to this Cooperative Agreement has agreed to undertake the following obligations:

The applicant (recipient) agrees to:

a. Provide a budget for the acquisition and installation of the necessary equipment to complete the HHS Project, using the provided HHS Guidelines on Medical Equipment Donation;

b. Facilitate the acquisition, refurbishment and calibration of the necessary equipment at a reduced cost;

c. Prepare the necessary items for shipping including preparation of shipping documents for entry into partner country;

d. Provide manuals for the donated equipment which can be translated into the primary language, at a sixth grade reading level and contain illustrations. Manuals must include content on the proper storage, cleaning and care and repair of the equipment;

e. Ensure that the training method or module includes essential content regarding the adherence to established infection control principles;

f. Provide technical training and examination of proficiency by the user on agreed upon technologies and supplied equipment;

g. Ensure that training is provided by a certified trainer at a time closely coordinated with the delivery of the equipment or materials; and,

h. Accompany the equipment and supplies for the purpose of overseeing the distribution, installation, and training in partner institution.

HHS agrees to:

a. Identify the funds necessary for the acceptance of the necessary equipment in keeping with the approved budget; and,

b. Identify the funds or transportation necessary for the shipping of goods to partner country.

All projects are required to have an evaluation plan, consistent with the scope of the proposed project and funding level that conforms to the project's stated goals and objectives. The evaluation plan should include both a process evaluation to track the implementation of project activities and an outcome evaluation to measure changes in knowledge and skills that can be attributed to the project. Project funds may be used to support evaluation activities.

In addition to conducting their own evaluation of their projects, successful applicants must be prepared to participate in an external evaluation, to be supported by OGHA/HHS and conducted by an independent entity, to assess efficiency and effectiveness for the project funded under this announcement.

Within 30 days following the end of each of quarter, submit a performance report no more than ten pages in length must be submitted to OGHA/HHS. A sample monthly performance report will be provided at the time of notification of award. At a minimum, monthly performance reports should include:

• Concise summary of the most significant achievements and problems encountered during the reporting period, *e.g.* number of training courses held and number of trainees.

• A comparison of work progress with objectives established for the quarter using the grantee's implementation schedule, and where such objectives were not met, a statement of why they were not met.

• Specific action(s) that the grantee would like the OGHA/HHS to undertake to alleviate a problem.

• Other pertinent information that will permit monitoring and overview of project operations.

• A quarterly financial report describing the current financial status of the funds used under this award. The awardee and OGHA will agree at the time of award for the format of this portion of the report.

Within 90 days following the end of the project period a final report containing information and data of interest to the Department of Health and Human Services, Congress, and other countries must be submitted to OGHA/HHS. The specifics as to the format and content of the final report and the summary will be sent to successful applicants. At minimum, the report should contain:

• A summary of the major activities supported under the agreement and the major accomplishments resulting from activities to improve mortality in partner country.

• An analysis of the project based on the problem(s) described in the application and needs assessments, performed prior to or during the project period, including a description of the specific objectives stated in the grant application and the accomplishments and failures resulting from activities during the grant period.

Quarterly performance reports and the final report may be submitted to: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453–8822.

VII. Agency Contacts

For assistance on administrative and budgetary requirements, please contact: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, HHS 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453–8822.

For assistance with questions regarding program requirements, please contact: Dr. Amar Bhat, Asia-Pacific Division, Office of Global Health Affairs, Office of the Secretary, Department of Health and Human Services, 5600 Fishers Lane, Suite 18–101, Rockville, MD 20857. Phone Number: 301–443–1410.

VIII. Tips for Writing a Strong Application

Include DUNS Number. You must include a DUNS Number to have your application reviewed. Applications will not be reviewed without a DUNS number. To obtain a DUNS number, access *www.dunandbradstreet.com* or call 1–866–705–5711. Please include the DUNS number next to the OMB Approval Number on the application face page.

Keep your audience in mind. Reviewers will use only the information contained in the application to assess the application. Be sure the application and responses to the program requirements and expectations are complete and clearly written. Do not assume that reviewers are familiar with the applicant organization. Keep the review criteria in mind when writing the application.

Start preparing the application early. Allow plenty of time to gather required information from various sources.

Follow the instructions in this guidance carefully. Place all information in the order requested in the guidance. If the information is not placed in the requested order, you may receive a lower score.

Be brief, concise, and clear. Make your points understandable. Provide accurate and honest information, including candid accounts of problems and realistic plans to address them. If any required information or data is omitted, explain why. Make sure the information provided in each table, chart, attachment, etc., is consistent with the proposal narrative and information in other tables.

Be organized and logical. Many applications fail to receive a high score because the reviewers cannot follow the thought process of the applicant or because parts of the application do not fit together.

Be careful in the use of appendices. Do not use the appendices for information that is required in the body of the application. Be sure to cross-reference all tables and attachments located in the appendices to the appropriate text in the application.

Carefully proofread the application. Misspellings and grammatical errors will impede reviewers in understanding the application. Be sure pages are numbered (including appendices) and that page limits are followed. Limit the use of abbreviations and acronyms, and define each one at its first use and periodically throughout application.

Dated: August 26, 2005.

Mary Lou Valdez,

Deputy Director for Policy, Office of Global Health Affairs.

Cristina V. Beato,

Acting Assistant Secretary for Health, Office of Public Health and Science.

[FR Doc. 05–17546 Filed 9–1–05; 8:45 am]

BILLING CODE 4150–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Guidelines for Requesting, Stockpiling, Distributing Potassium Iodide (KI) From the Strategic National Stockpile (SNS); Correction

AGENCY: Office of Public Health Emergency Preparedness (OPHEP), HHS.

SUMMARY: This document corrects the notice that appeared in the **Federal Register** on August 29, 2005, (70 FR 51065), entitled ''Federal Guidelines for Requesting, Stockpiling, Distributing Potassium Iodide (KI) From the Strategic National Stockpile (SNS)'.

We inadvertently omitted the **DATES** section of the notice to inform the public of how long we will be receiving comments.

We are adding the **DATES** section to read as follows:

DATES: Submit comments on or before November 1, 2005.

Robert G. Claypool,

Deputy Assistant Secretary, Office of Public, Health Emergency Preparedness.

[FR Doc. 05–17556 Filed 9–1–05; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement DP05–133]

Mind/Body Research and Chronic Disease Conditions; Notice of Intent To Fund a Sole Source Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 funds for a grant program to support research on the impact and effectiveness of relaxation and stress reduction on chronic health conditions. This announcement will build on research currently being conducted in this area by the Beth Israel Deaconess Medical Center (BIDMC), Mind/Body Medical Institute (MBMI). The results from this study will continue to generate new knowledge on the physiologic mechanisms of the relaxation response, mechanisms of acute changes, and identification of those most likely to benefit in a specific clinical model.

The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to the Beth Israel Deaconess Medical Center (BIDMC), Mind/Body Medical Institute (MBMI), Harvard Medical School, 824 Boylston Street, Chestnut Hill, MA 02467. No other applications will be solicited.

The BIDMC, MBMI is specifically referenced in the House of Representatives 2nd Session Conference Report 108–792. Page 1161 of the report states: ''Within amounts provided for Community Health Promotion: * * * $1,974,000 is for the Mind-Body Institute in Boston, Massachusetts to continue practice-based assessments, identification, and study of promising and heavily-used mind/body practices.''

The BIDMC, MBMI is a non-profit scientific and educational organization dedicated to the study of mind/body interactions, including the relaxation response. The institute uses its expertise to enhance the recognition and understanding of mind/body medicine's role in the practice of medicine to foster and expand the uses of mind/body interaction in health care and other appropriate settings, thereby advancing health and well-being throughout the world. Today over 9,000 patients throughout the United States participate in the institutes clinical programs.

The MBMI is the foundation of mind/body medicine as practiced at the BIDMC, MBMI. It is based on the work of Herbert Benson, MD and colleagues at Harvard Medical School. Their pioneering research led to the definition of the relaxation response. The BIDMC, MBMI trains health care professionals from the U.S. and around the world in their highly successful clinical techniques.

The mission of the BIDMC, MBMI, its long history of research in relaxation response, and the institution's extensive network of resources make it highly probable that the BIDMC, MBMI will successfully achieve the activities identified in Section 1 of this RFA; therefore, it is the only eligible organization to conduct the research supported by this RFA.

C. Funding

Approximately $1,916,915 is available in FY 2005 to fund this award September 30, 2005 and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact: Brenda Colley Gilbert, Project Officer, 4770 Buford Highway N.E., Mailstop K–92, Atlanta, GA 30341, Telephone: 770–488–8390, E-mail: *BColleyGilbert@cdc.gov.*

Dated: August 29, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–17492 Filed 9–1–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Request for Application (RFA) AA084]

Enhancement and Integration of Health Sector HIV/AIDS Strategic Information into the National Multi-Sectoral HIV/AIDS Monitoring and Evaluation System of the United Republic of Tanzania as Part of the President's Emergency Plan for AIDS Relief; Notice of Intent To Fund Limited Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to award fiscal year (FY) 2005 funds for a cooperative agreement program to enhance integration of health-sector HIV/AIDS strategic information into the national multi-sectoral HIV/AIDS database linked to the Country Response Information System (CRIS) in the United Republic of Tanzania.

The Catalog of Federal Domestic Assistance number for this program is 93.067.

B. Eligible Applicant

Assistance will only be provided to the Tanzania AIDS Commission (TACAIDS) and the Zanzibar AIDS Commission (ZAC). No other applications are solicited.

TACAIDS and ZAC are currently the only appropriate and qualified organizations to conduct a specific set of activities to support the enhancement and integration of health sector HIV/AIDS strategic information into the national multi-sectoral HIV/AIDS M&E system in the United Republic of Tanzania for the following reasons:

1. TACAIDS and ZAC are uniquely positioned, in terms of legal authority, ability, and credibility among Tanzanian citizens, to coordinate the implementation of zonal initiatives for HIV/AIDS prevention, treatment, and care.

2. TACAIDS and ZAC have developed national HIV/AIDS policies; a national multi-sectoral HIV/AIDS strategic framework, and strategic plans for enhancing national systems for collection of strategic information and M&E of HIV/AIDS in Tanzania, which allows TACAIDS and ZAC to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to build upon the existing framework of health policy and programming that TACAIDS and ZAC have initiated.

4. TACAIDS and ZAC have a mandate under the Tanzanian Constitution to coordinate multi-sectoral activities necessary for the national response to HIV/AIDS. An Act of Parliament mandates TACAIDS and ZAC to monitor and evaluate multi-sectoral HIV/AIDS activities in the United Republic of Tanzania.

C. Funding

Approximately $500,000 is available in FY 2005 to fund this award to the two identified organizations. It is expected that the awards will begin on or before October 15, 2005, and will be made for a 12-month budget period within a project period of up to four years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For program technical assistance, contact: Cecil Threat, Project Officer, Global AIDS Program, c/o American Embassy-HHS/CDC, 2140 Dar es Salaam Place, Washington, DC 20521–2140, Telephone: 255 22 212 1407, Cellphone: 255 744 222986, Fax: 255 22 212 1462.

E-mail: *Cthreat@cdc.gov.*

For financial, grants management, or budget assistance, contact: Diane Flournoy, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2072, E-mail: *dflournoy@cdc.gov.*

Dated: August 29, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–17491 Filed 9–1–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Understanding Social Disparities in Chronic Disease Health Outcomes, Program Announcement Number DP–05–132; Correction

Correction: Notice of program announcement number DP–05–132 was published in the **Federal Register** on August 12, 2005, Volume 70, Number 155, pages 47214–47215. The meeting has been cancelled.

Time and Date: 3 p.m.–5 p.m., September 1, 2005 (Closed).

Meeting Location: Teleconference.

For Further Information Contact: Gwen Cattledge, PhD, Scientific Review Administrator, National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway, MS–K92, Atlanta, GA 30341, Telephone (770) 488–4655.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Diane Allen,

Director, Acting Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–17592 Filed 8–31–05; 11:41 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10041]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration.

The mandate for the collection of information for the Long-Term Care Awareness Project originates with a presidential initiative in the FY 2000 budget for CMS. The overall goal of this initiative is to help Americans and their families with long-term health needs through a ''national campaign to educate Medicare beneficiaries about coverage available under the new program and how to evaluate long-term care options.'' Current and future beneficiaries now have the opportunity to receive information from a wide variety of printed material, telephone information, and other electronic resources. This collection of information is necessary to design and test evidence-based communication strategies for a national campaign to address the long-term health care planning needs of all Americans.

CMS is requesting OMB review and approval of this collection by October 3, 2005, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by October 1, 2005.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Long-Term Care Awareness Campaign Demonstration Project; *Use:* Data will be collected to pilot test a national campaign to educate current and future Medicare beneficiaries and their families about long-term care needs. Project findings will be used to design and implement a nationwide campaign. Respondents will be from ages 50–70; *Form Number:* CMS–10041 (OMB#: 0938–0847); *Frequency:* One-time; *Affected Public:* Individuals or Households; *Number of Respondents:* 4,500; *Total Annual Responses:* 4,500; *Total Annual Hours:* 1,350.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be received by the designees referenced below by October 1, 2005:

Centers for Medicare & Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Melissa Musotto, CMS–10041, and,

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 25, 2005.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–17524 Filed 9–1–05; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0335]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device Recall Authority

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, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on medical device recall authority.

DATES: Submit written or electronic comments on the collection of information by November 1, 2005.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. 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: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

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, including each proposed extension of an existing 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.

Medical Device Recall Authority—21 CFR Part 810 (OMB Number 0910–0432)—Extension

This collection implements medical device recall authority provisions under section 518(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360h) and part 810 (21 CFR part 810). Section 518(e) of the act gives FDA the authority to issue an order requiring the appropriate person, including manufacturers, importers, distributors, and retailers of a device, to immediately cease distribution of such device, to immediately notify health professionals and device-user facilities of the order, and to instruct such professionals and facilities to cease use of such device, if FDA finds that there is reasonable probability that the device intended for human use would cause serious adverse health consequences or death.

Section 518(e) of the act sets out a three-step procedure for issuance of a mandatory device recall order. First, if there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, FDA may issue a cease distribution and notification order requiring the appropriate person to immediately do the following: (1) Cease distribution of the device, (2) notify health professionals and device user facilities of the order, and (3) instruct those professionals and facilities to cease use of the device. Second, FDA will provide the person named in the cease distribution and notification order with the opportunity for an informal hearing on whether the order should be modified, vacated, or amended to require a mandatory recall of the device. Third, after providing the opportunity for an informal hearing, FDA may issue a mandatory recall order if the agency determines that such an order is necessary.

The information collected under the recall authority will be used by FDA to ensure that all devices entering the market are safe and effective, to accurately and immediately detect serious problems with medical devices, and to remove dangerous and defective devices from the market.

The respondents to this proposed collection of information are manufacturers, importers, distributors, and retailers of medical devices.

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
810.10(d)	2	1	2	8	16
810.11(a)	1	1	1	8	8
810.12(a) and (b)	1	1	1	8	8
810.14	2	1	2	16	32
810.15(a) through (d)	2	1	2	16	32
810.15(e)	10	1	10	1	10
810.16	2	12	24	40	960
810.17	2	1	2	8	16

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Total					1,082

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The following burden estimates are based on FDA's experience with voluntary recalls under 21 CFR part 7. FDA expects no more than two mandatory recalls per year, as most recalls are done voluntarily.

Section 810.10(d)—FDA estimates that it will take approximately 8 hours for the person named in a cease distribution and notification order to gather and submit the information required by this section. The total estimated annual burden is 16 hours.

Section 810.11(a)—Based on experience in similar situations, FDA expects that there will be only one request for a regulatory hearing per year and that it will take approximately 8 hours to prepare this request.

Section 810.12(a) and (b)—Based on experience in similar situations, FDA expects that there will be only one written request for a review of a cease distribution and notification order per year and that it will take approximately 8 hours to prepare this request.

Section 810.14—Based upon its experience with voluntary recalls, FDA estimates that it will take approximately 16 hours to develop a strategy for complying with the order.

Section 810.15(a) through (d)—Based upon its experience with voluntary recalls, FDA estimates that it will take approximately 16 hours to notify each health professional, user facility, or individual of the order.

Section 810.15(e)—Based upon its experience with voluntary recalls, FDA estimates that there will be approximately 5 consignees per recall (10 per year) who will be required to notify their consignees of the order. FDA estimates that it will take them about 1 hour to do so.

Section 810.16—FDA estimates that it would take no more than 40 hours to assemble and prepare a written status report required by a recall. The status reports are prepared by manufacturers 6 to 12 times each year. Therefore, each manufacturer would spend no more than 480 hours each year preparing status reports. If there were two FDA invoked recalls each year, the total burden hours estimated would be 960 hours each year.

Section 810.17—Based on experience with similar procedures, FDA estimates that it would take 8 hours to draft a written request for termination of a cease distribution and notification or mandatory recall order.

Dated: August 26, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–17499 Filed 9–1–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

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 on September 29, 2005, from 8 a.m. to 5 p.m.

Location: Food and Drug Administration, conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Donald W. Jehn or Pearline K. Muckelvene, Center for Biologics Evaluation and Research (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.

Agenda: On September 29, 2005, the committee will discuss new drug application (NDA) 21–882 proposed trade name EXJADE (deferasirox) Tablets for Oral Suspension, Novartis Pharmaceutical Corp., proposed for the indication of the treatment of chronic iron overload due to blood transfusions (transfusional hemosiderosis). Following this discussion, the committee will hear an overview of the research programs in the Laboratory of Hemostasis and the Laboratory of Plasma Derivatives, Division of Hematology, Office of Blood Research and Review, Center for Biologics Evaluation and Research (CBER), and in closed session will discuss the report from the laboratory site visit of February 25, 2005.

Procedure: On September 29, 2005, from 8 a.m. to 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 by September 22, 2005. Oral presentations from the public will be scheduled between approximately 11:15 a.m. and 12:15 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 22, 2005, 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.

Closed Committee Deliberations: On September 29, 2005, from approximately 4:15 p.m. to 5 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 a review of internal research programs in the Division of Hematology, Office of Blood Research and Review, Center for Biologics Evaluation and Research.

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 Donald Jehn or Pearline K. Muckelvene at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 26, 2005.

Scott Gottlieb,

Deputy Commissioner for Policy.

[FR Doc. 05–17470 Filed 9–1–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection: Comment Request; Extension of OMB No. 0925–0417/exp. 08/31/05, Responsibility of Applicants for Promoting Objectivity in Research for Which Public Health Service Funding Is Sought and Responsible Prospective Contractors—42 CFR Part 50, Subpart F

Summary: In compliance with the requirement of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director (OD), Office of Extramural Research (OER), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. Proposed information collection was previously published in the **Federal Register** on May 12, 2005, Volume 70, No. 91, page 25095 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Responsibility of Applicants for Promoting Objectivity in Research for Which Public Health Service Funding Is Sought and Responsible Prospective Contractors—42 CFR Part 50, Subpart F; *Type of Information Collection Request:* Extension, OMB 0925–0417, Expiration Date 8/31/05. *Need and Use of Information Collection:* This is a request for OMB approval for the information collection and recordkeeping requirements contained in the final rule 42 CFR Part 50 Subpart F and Responsible Contractors: 45 CFR Part 94. *Frequency of response:* On occasion. *Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; and State, Local or Tribal Government. *Type of Respondents:* Any public or private entity or organization. The annual reporting burden is as follows: *Estimated Number of Respondents:* 42,800; *Estimated Number of Responses per Respondent:* 1.60; *Average Burden Hours Per Response:* 3.40; and *Estimated Total Annual Burden Hours Request:* 232,000.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIR. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Diane Dean, Division of Grants Policy, Office of Policy for Extramural Research Administration, NIH, Rockledge 1 Building, Room 3525, 6705 Rockledge Drive, Bethesda, MD 20892–7974, or call non-toll-free number 301–435–0930, or E-mail your request, including your address to: *hahnm@od.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: August 25, 2005.

Charles Mackay,

Chief, Project Clearance Branch, OPERA, OER, National Institutes of Health.

[FR Doc. 05–17458 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing: Selected Technologies From the NIH Cancer Therapeutics Portfolio

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 contacting George G. Pipia, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852; telephone: 301/435–5560; fax: 301/402–0220; e-mail: *pipiag@mail.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Antitumor Macrocyclic Lactones

Michael R. Boyd (NCI).

U.S. Patent No. 6,353,019 issued 05 Mar 2002 (HHS Reference No. E–244–1997/0–US–07) and related foreign patent applications.

Vacuolar-Type (H+)-ATPase-Inhibiting Compounds and Uses Thereof

Michael R. Boyd (NCI).

U.S. Patent Application No. 09/914,708 filed 31 Aug 2001 (HHS Reference No. E–244–1997/3–US–06) and related foreign patent applications.

This technology covers a broad composition of matter which includes the salicylihalamides, lobatamides, and numerous other structurally related small molecules which have been shown to inhibit mammalian vacuolar ATPase at low nanomolar concentrations. The compounds are also potent inhibitors of cancer cell growth, with particular specificity for melanoma, osteosarcoma and selected lung, colon and CNS tumor cell lines. Experimental tumor and pharmacokinetic studies are underway

to select the most effective analogs for further development. The potential of these compounds to inhibit invasion and metastasis to bone sites is also under investigation.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Novel 2-Alkoxy Estradiols and Derivatives Thereof

Ravi Varma (NCI), *et al.*

U.S. Patent No. 6,136,992 issued 24 Oct 2000 (HHS Reference No. E–188–1998/1–US–01).

The present invention is directed to novel 2-alkoxy estradiols and derivatives of 2-alkoxy estradiols having anticancer activity as claimed in the U.S. Patent 6,136,992. The invention is also directed to methods of preparing these novel compounds. These compounds have improved activity against a wide variety of tumor cell lines, including lung, colon, central nervous system, melanoma, ovarian, renal, prostate and breast cancers, compared with 2-methoxy estradiols. It is expected that these compounds will be very useful in the treatment of a wide variety of cancers. In addition, the present compounds have a low affinity for the estrogen receptor and are, therefore, expected to have fewer side effects than estradiols.

In addition to licensing, the technology is available for further development through clinical collaborative research opportunities with the inventors under a clinical CRADA.

A Combined Growth Factor-Deleted and Thymidine Kinase-Deleted Vaccinia Virus Vector for Cancer Therapy

J. Andrea McCart (NCI), David L. Bartlett (NCI), and Bernard Moss (NIAID).

U.S. Patent Application No. 09/991,721 filed 13 Nov 2001, claiming priority to 28 May 1999 (HHS Reference No. E–181–1999/0–US–05).

Tumor-selective, replicating viruses may infect and kill cancer cells and efficiently express therapeutic genes in cancer cells. The current invention embodies mutant vaccinia virus expression vectors. These vectors, which are vaccinia virus growth factor-deleted and thymidine-kinase deleted, are substantially incapable of replicating in non-dividing cells, and as such have specificity for cancer cells. It is therefore believed that the vectors will be of value for cancer therapy either by directly killing cancer cells or by expressing therapeutic agents in cancer cells while sparing normal, non-dividing cells.

This research is described, in part, in: E. Chang *et al.*, ''Targeting vaccinia to solid tumors with local hyperthermia,'' *Hum Gene Ther.* 2005 Apr, 16(4):435–44; J.A. McCart, ''Oncolytic vaccinia virus expressing the human somatostatin receptor SSTR2: molecular imaging after systemic delivery using 111In-pentetreotide,'' *Mol Ther.* 2004 Sep, 10(3):553–61; H.J. Zeh, ''Development of a replication-selective, oncolytic poxvirus for the treatment of human cancers,'' *Cancer Gene Ther.* 2002 Dec, 9(12):1001–12; J.A. McCart, ''Systemic cancer therapy with a tumor-selective vaccinia virus mutant lacking thymidine kinase and vaccinia growth factor genes,'' *Cancer Res.* 2001 Dec 15, 61(24):8751–7.

SH2 Domain Binding Inhibitors

Terrence R. Burke, Jr., *et al.* (NCI).

U.S. Patent Application No. 10/362,231 filed 22 Aug 2001, claiming priority to 22 Aug 2000 (HHS Reference No. E–262–2000/0–US–03).

U.S. Patent Application No. 10/517,717 filed 17 Mar 2005, claiming priority to 28 Jun 2002 (HHS Reference No. E–262–2000/1–US–03).

Signal transduction processes underlie the transfer of extracellular information to the interior of the cell and ultimately to the nucleus. A variety of signal transduction processes are critical for normal cellular homeostasis, with protein-tyrosine kinases (PTKs) playing central roles in many of these pathways. Examples of such PTKs include the PDGF receptor, the FGF receptor, the HGF receptor, members of the EGF receptor family, such as the EGF receptor, erb-B2, erb-B3 and erb-B4, the src kinase family, Fak kinase and the Jak kinase family. Protein-tyrosine phosphorylation that results from the action of PTKs can modulate the activity of certain target enzymes as well as facilitate the formation of specific multi-protein signaling complexes through the actions of homologous protein modules termed Src homology 2 (SH2) domains, which recognize specific phosphotyrosyl containing sequences. A malfunction in this system through tyrosine kinase overexpression and/or deregulation can be manifested by various oncogenic and hyperproliferative disorders, including cancers, inflammation, autoimmune disease, hyperproliferative skin disorders, psoriasis and allergy/asthma, etc. The disclosed compounds, *e.g.* peptides, preferably, macrocyclic peptides, are Grb2 SH2 domain signaling antagonists with enhanced binding affinity. The claims of the current application are directed to compositions of matter and methods of use which provide for the diagnosis, testing and treatment of the aforementioned disease states.

SH2 Domain Binding Inhibitors

Terrence R. Burke, Jr., *et al.* (NCI).

U.S. Provisional Application No. 60/504,241 filed 18 Sep 2003 (HHS Reference No. E–315–2003/0–US–01).

U.S. Patent Application No. 10/944,699 filed 17 Sep 2004 (HHS Reference No. E–315–2003/0–US–02).

The present invention provides for ultra-potent Grb2 SH2 domain-binding compounds, or a pharmaceutically acceptable salt thereof. The compounds of the present invention represent tetrapeptide mimetics whose conformation is constrained through macrocyclization. Low picomolar binding affinity is achieved in in vitro Grb2 SH2 domain binding assays. Addition of the covered agent to the extracellular media of erbB–2 over-expressing breast cancer cells at low nanomolar concentrations results in effective intracellular blockade of Grb2 association with activated cytoplasmic erbB–2 tyrosine kinase. Antimitogenic effects are observed in erbB–2-dependent breast cancer cells in culture at sub-micromolar concentrations. The present invention further provides a pharmaceutical composition comprising a pharmaceutically or pharmacologically acceptable carrier and a compound of the present invention. The present invention also provides a method for inhibiting an SH2 domain from binding with a phosphoproteins comprising contacting an SH2 domain with a compound of the present invention. The present invention also provides a method of preventing or treating a disease, state, or condition by the use of the compound. While the invention has been described and disclosed below in connection with certain embodiments and procedures, it is not intended to limit the invention to those specific embodiments. Rather it is intended to cover all such alternative embodiments and modifications as fall within the spirit and scope of the invention.

This research is described, in part, in: Z. Shi *et al.*, ''A novel macrocyclic tetrapeptide mimetic that exhibits low-picomolar Grb2 SH2 domain-binding affinity,'' Biochem. Biophys. Res. Commun. (2003 Oct 17) 310(2):378–383, doi:10.1016/j.bbrc.2003.09.029; Z. Shi *et al.*, ''Synthesis of a 5-methylindolyl-containing macrocycle that displays ultrapotent Grb2 SH2 domain-binding

affinity,'' J. Med. Chem. (2004 Feb 12) 47(4):788–791, doi:10.1021/jm030440b.

A New Approach Toward Macrocyclization of Peptides

Terrence R. Burke, Jr., *et al.* (NCI).
U.S. Provisional Application No. 60/614,800 filed 30 Sep 2004 (HHS Reference No. E–327–2004/0–US–01).

The invention relates to cyclic peptides for use as inhibitors of oncogenic signal transduction for cancer therapy. The current invention discloses novel cyclic peptides resulting from ring closure between the alpha and beta positions of C-terminal and N-terminal residues, respectively. This allows retention of key functionality needed for binding to target proteins, which results in increased affinity.

Cyclic peptides that retain key chemical functionality may be of particular importance in inhibiting oncogenic signaling cascades for therapeutic benefit. In many oncogenic signal transduction cascades, tyrosine protein kinases phosphorylated target proteins. Propagation of the signal is achieved when these phosphorylated tyrosyl residues are bound by proteins bearing SH2 domains. Cyclic peptides that disrupt the interaction between proteins with SH2 domains and proteins with phosphorylated tyrosyl residues could block oncogenic signals and serve as powerful cancer therapeutic agents. As several moieties are required for optimal recognition by SH2 domains, the cyclic peptides of the current invention could be more effective inhibitors of SH2 domain proteins, or of other proteins where increased specificity is desired. The inventors have determined that the peptides of the current invention bind to the Grb2-SH2 domain with high affinity, supporting their potential use as therapeutic agents. The current invention is related to U.S. Provisional Application No. 60/504,241 (HHS Reference No. E–315–2003/0–US–01).

Conjugates of Ligand, Linker, and Cytotoxic Agent and Related Compositions and Methods of Use

Nadya Tarasova, Christopher J. Michejda, Marcin Dyba, Carolyn Cohran (NCI).
U.S. Patent Application No. 10/505,239 filed 19 Aug 2004, claiming priority to 27 Feb 2002 (HHS Reference No. E–057–2002/2–US–02).

Systemic toxicity of drugs is one of the most serious problems in cancer chemotherapy and frequently is dose limiting. Specific delivery of cytotoxic drugs to cancer cells remains among the most intractable problems of cancer therapy. Targeted delivery of anti-proliferation drugs through the cell surface receptors that are over expressed on cancer cells can reduce systemic toxicity and increase effectiveness of a treatment.

The present invention describes cytotoxic compounds with an intracellular target that can selectively enter tumor cells through specific receptors on the cell surface. The invention also describes a conjugate comprising a cytotoxic agent, a linker arm and a ligand capable of delivering a cytotoxic agent in a cell specific manner. Such conjugates of a cytotoxic agent and a ligand (delivery moiety) have increased selectivity for tumor cells. The toxic moiety and the ligand are joined by a linker arm that is stable in circulation, but is easily cleaved in lysosomes upon internalization of the conjugate. A panel of compounds comprised of a variety of cytotoxic warheads, against various intracellular targets linked to an assortment of ligands, has been developed and tested in a model system. Ligand moieties of these conjugates are capable of specific delivery of cytotoxic agents to receptors that are frequently over expressed in gastric, colon, lung, breast, ovarian and pancreatic tumors. These compounds have the potential to be highly effective anti-tumor agents with considerably little negative effect. This disclosed technology could provide new and exciting methodologies to treat cancer.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

DNA-Binding Polyamide Drug Conjugates

Zoltan Szekely, Humcha K. Hariprakasha, Marek W. Cholody, Christopher J. Michejda (NCI).
U.S. Patent Application No. 10/506,085 filed 01 Oct 2004, claiming priority to 27 Feb 2002 (HHS Reference No. E–060–2002/2–US–02).

Many current anti-cancer drugs have the DNA of cancer cells as their principal target. However, in most instances, the drugs are not selective and are plagued by toxicities, which are frequently dose limiting. The present invention seeks to enhance anti-tumor selectivity and decrease unspecific toxicity. It has been known that various polyamides can target the minor groove of DNA, and rules have been devised to ascertain the sequence-reading properties of the component residues of the polyamide chain. The present invention utilizes sequence-selective polyamide technology together with groups that modify DNA, either by sequence-selective alkylation or strand cleavage. The DNA-modifying moieties that are used for this purpose are novel derivatives based on the cyclopropylbenzindole (CBI) core structure. These compounds alkylate the DNA only when bound into the minor groove, and they provide some DNA-sequence recognizing capability of their own. The DNA-modifying agents are either embedded in the polyamide chain as components of the chain or are located at the termini. These compounds are highly toxic to cancer cells that over-express a targeted DNA sequence (*e.g.* the c-Myc oncogene promoter sequence) and are much less toxic to non-cancerous tissue. The compounds of the present invention represent a novel method for targeting DNA of cancer cells.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

New Building Blocks for DNA Binding Agents

Zoltan Szekely *et al.* (NCI).
U.S. Provisional Application No. 60/508,543 filed 03 Oct 2003 (HHS Reference No. E–291–2003/0–US–01).
PCT Application No. PCT/US04/32617 filed 01 Oct 2004, which published as WO 2005/032594 on 14 Apr 2005 (HHS Reference No. E–291–2003/0–PCT–02).

There remains a need for therapeutic conjugates that have improved antitumor selectivity and nucleic acid sequence-binding specificity. Ideally such conjugates will have fewer side effects and lower cytotoxicity to healthy cells and tissues. The knowledge of the geometry of conjugates allows for a rational design of therapeutic conjugates, ones that have increased specificity of binding to a minor groove of the DNA, while maintaining maximum activity of the alkylating subgroup of the conjugates. The present invention provides such conjugates. The conjugates of the present invention bind to the minor grove of DNA in a sequence-specific manner and deliver an alkylating moiety to a specific site on the DNA. The present invention provides a pharmaceutical composition comprising a pharmaceutically or pharmacologically acceptable carrier and compounds of the present invention. The present invention also provides a method of preventing or treating a disease or condition by the use of the compound. The NIH inventors currently are testing the conjugates in in-vitro assay and are

starting pre-clinical studies of the conjugates using animal cancer models.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Maleiimide Anti-Tumor Phosphatase Inhibitors

Christopher J. Michejda *et al.* (NCI).
U.S. Provisional Application No. 60/546,841 filed 22 Feb 2004 (HHS Reference No. E–110–2004/0–US–01).
PCT Application No. PCT/US05/05742 filed 22 Feb 2005 (HHS Reference No. E–110–2004/0–PCT–02).

The present invention describes novel phosphatase inhibitors that appear to target the CDC25 family of phosphatases. The new compounds have potent activity against human liver cancer cells in vitro and in vivo against an orthotopic liver cancer in rats. In tumor cells, these new inhibitors appear to target the phosphorylation status of several cell cycle proteins that are important for cell survival and thus could represent a novel class of chemotherapeutic agents targeting cancer cells.

2-Amino-O4-Substituted Pteridines and Their Use as Inactivators of O6-Alkylguanine-DNA Alkyltransferase

Robert C. Moschel *et al.* (NCI).
U.S. Provisional Application No. 60/534,519 filed 06 Jan 2004 (HHS Reference No. E–274–2003/0–US–01).
PCT Application No. PCT/US04/41577 filed 10 Dec 2004 (HHS Reference No. E–274–2003/0–PCT–02).

This invention is directed to 2-amino-O4-benzylpteridine derivatives targeted for use in cancer treatment in combination with chemotherapeutic agents such as 1,3-bis(2-chloroethyl)-1-nitrosurea (BCNU) or temozolomide. The derivatives of the present invention inactivate the O6-alkylguanine-DNA-alkyltransferase repair protein and thus enhance activity of such chemotherapeutic agents. Examples of these derivatives have advantages over the earlier O6-benzylguanine compounds from this research group. Some compounds of the current invention are more water soluble compared to O6-benzylguanine and they exhibit greater specificity for inactivating O6-alkylguanine-DNA-alkyltransferase in certain tumor cells, compared to normal cells.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Beta-Glucuronidase Cleavable Prodrugs of O6-Alkylguanine-DNA Alkyltransferase Inactivators

Robert C. Moschel *et al.* (NCI).
U.S. Provisional Application No. 60/608,045 filed 08 Sep 2004 (HHS Reference No. E–307–2004/0–US–01).

The present invention relates to prodrugs of inactivators of O6-alkylguanine-DNA alkyltransferase. The prodrugs are cleaved by the beta-glucuronidase enzyme found in tumor cells or co-administered to the patient, and the drugs are targeted for use in cancer treatment in combination with antineoplastic alkylating agent such as 1,3-bis(2-cloroethyl)-1-nitrosouria or temozolomide.

Identification of a Tricyclic Amino Amide (NSC–644221) Inhibitor of the Hypoxic Signaling Pathway

Giovanni Melillo (NCI).
U.S. Provisional Application No. 60/618,279 filed 12 Oct 2004 (HHS Reference No. E–185–2004/0–US–01).
U.S. Provisional Application No. 60/570,615 filed 12 May 2004 (HHS Reference No. E–185–2004/1–US–01).
PCT Application filed 11 May 2005 (HHS Reference No. E–185–2004/2–PCT–01).

This invention describes the identification of a tricyclic (1,4-dioxane) amino amide with confirmed potent activity in inhibiting HIF–1 transcriptional activity.

HIF–1 is a transcription factor and plays an important role in adaptation of cancer cells to an hypoxic environment. HIF–1 significantly increases the ability of cancer cells to survive under strenuous conditions. It contributes to the ability of cancer cells to migrate and invade surrounding tissue, and is important for the formation of new blood vessels that are essential for growth and metastasis of cancer cells. Thus HIF–1 mediates survival and spreading of cancer cells. Previous studies have shown that HIF–1 is also important in human cancers, and therefore, inhibition of HIF–1 activity is contemplated in the field as a therapy for cancer patients.

The inventors, using a cell-based high throughput screen, identified a new compound, NSC–644221, with potent inhibitory activity of the HIF–1 pathway. The compound inhibits expression of HIF–1 and reduces its accumulation in the cell. This compound also inhibits expression of endogenous genes that are under control of HIF–1, such as Vascular Endothelial Growth Factor (VEGF) that is essential for the formation of new blood vessels. Preliminary experiments in xenograft models have indicated that NSC–644221 reaches the tumor tissue when administered intraperitoneally and inhibits HIF–1-dependent luciferase expression in U251–HRE cells.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Inhibitors of the Protein Kinase Chk2 to Abrogate Apoptosis and Sensitize Cancer Cells to DNA Targeted Therapies

Yves Pommier *et al.* (NCI).
U.S. Provisional Application filed 29 Jul 2005 (HHS Reference No. E–211–2005/0–US–01).

Chk2 is a protein kinase activated in response to DNA double strand breaks. In normal tissues, Chk2 phosphorylates and thereby activates substrates that induce programmed cell death, or apoptosis, via interactions with p53, E2F1, PML proteins. In cancer tissues, where apoptosis is suppressed, Chk2 phosphorylates and inactivates cell cycle checkpoints (via interactions with Cdc25, phosphatases and Brca1 proteins), which allows cancer cells to repair and tolerate DNA damage. Hence, Chk2 inhibitors would be expected to protect normal tissues by reducing apoptosis, and to sensitize cancer cells to DNA-targeted agents.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: August 25, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–17457 Filed 9–1–05; 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, DHHS.

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.

Method for Inducing T-Cell Proliferation

Warren J. Leonard *et al.* (NHLBI).

U.S. Provisional Application No. 60/555,898 filed 23 Mar 2004 (HHS Reference No. E–104–2004/0–US–01); U.S. Utility Application No. 11/084,408, filed 18 Mar 2005 (HHS Reference No. E–104–2004/0–US–02).

Licensing Contact: Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

This technology relates to the use of thymic stromal lymphopoietin (TSLP) or TSLP agonists to induce CD4+ T cell proliferation as well as the use of TSLP antagonists to treat IgE-mediated disorders such as asthma or allergies. The T cell proliferation application of this technology could be of particular relevance for patients in whom this cell population has been significantly reduced by *e.g.*, HIV/AIDS infection or another condition resulting in immunodeficiency. The patent application describes methods of treating individuals afflicted with an immunodeficiency by administering CD4+ T cells that have been isolated and induced to proliferate using TSLP or by direct administration of TSLP or a nucleic acid encoding TSLP. The need for appropriate treatment methods for conditions such as asthma and allergies are well recognized. The patent application describes administration of a TSLP antagonist to an individual suffering from an IgE-mediated disorder to remove or lessen the symptoms. TSLPR knockout mice are also described in the patent application and available for licensing through a biological materials license agreement.

Vaccines Using Universally Inactivated Viruses, Parasites, and Tumor Cells

Yossef Raviv *et al.* (NCI).

U.S. Provisional Application filed 22 Mar 2004 (HHS Reference No. E–303–2003/0–US–01); PCT Application filed 22 Mar 2005 (HHS Reference No. E–303–2003/0–PCT–02).

Licensing Contact: Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

The current technology describes the universal inactivation of viruses, parasites, and tumor cells by hydrophobic, photoactivatable compounds. These non-toxic compounds, such as 1,5-iodoanpthylazide (INA), will selectively accumulate in the innermost regions of biological membrane bilayers, where the compounds will bind to proteins and lipids upon irradiation with light, thus inactivating deeply embedded proteins while maintaining integrity and activity of the proteins on the surface. This inactivation preserves the structural and conformational integrity and therefore immunogenicity of the agent in question, which overcomes a potential problem associated with some other vaccines such as those containing killed pathogens. As representative examples, the patent application describes experimental results obtained using HIV, SIV, and Ebola viruses. The inactivation approach presented in this technology provides for a safe, non-infectious composition for vaccination against the corresponding agent, whereas some vaccines, such as those involving live-attenuated microbial agents, still have a risk of infectivity associated with them.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

High Expression Level Vectors Combining of mRNA Transport Elements for Use in Mammalian Cells

Barbara K. Felber *et al.* (NCI).

U.S. Provisional Application No. 60/471,988 filed 19 May 2003 (HHS Reference No. E–223–2003/0-US–01); U.S. Provisional Application No. 60/472,223, filed 20 May 2003 (HHS Reference No. E–258–2003/0–US–01); PCT Application No. PCT/US04/15776 filed 19 May 2004, which published as WO2004/113547 on 29 Dec 2004 (HHS Reference No. E–223–2003/1–PCT–01).

Licensing Contact: Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

This technology relates to improving levels of gene expression using a combination of a constitutive RNA transport element (CTE) with a mutant form of another RNA transport element (RTE). The combination of these elements results in a synergistic effect on stability of mRNA transcripts, which in turn leads to increased expression levels. Using HIV–1 gag as reporter mRNA, one mutated RTE in combination with a CTE was found to improve expression of unstable mRNA by about 500-fold. Similarly this combination of elements lead to synergistically elevated levels of HIV–1 Env expression. The function of CTEs and RTEs is conserved in mammalian cells, so this technology is a simple and useful way of obtaining high levels of expression of otherwise poorly expressed genes and can be used in a number of applications such as but not limited to improvements of gene therapy vectors, expression vectors for mammalian cells.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Recombinant Plasmids Containing HIV Reverse Transcriptase

Stephen H. Hughes and Paul L. Boyer (NCI).

HHS Reference Nos. E–034–1991/0, /1, /2, /3, and /4—Research Tools.

Licensing Contact: Sally Hu; 301/435–5606; *hus@mail.nih.gov.*

NIH offers below HIV–1 Reverse Transcriptase (RT) Expression plasmids that are available for licensing via biological material licenses (BML). In an appropriate strain of *E. coli*, these plasmids cause the expression of an HIV–1 RT heterodimer (p66/p51). In the expression plasmid, the RT coding region is flanked by synthetic initiation and termination codons. The amino terminus of the RT made in *E. coli* has two additional amino acids relative to the viral enzyme (MV); these have no obvious effect on enzymatic activity. The carboxy terminus of p66 carries a 6-histidine tag that facilitates purification. The plasmid also causes the expression of a low level of HIV–1 protease; this leads to the conversion of the approximately half of the p66 synthesized in *E. coli* to p51. The p66/p51 heterodimer can be easily extracted from the *E. coli* host and purified by metal-chelate chromatography. Expression constructs for many of the common drug-resistant versions of HIV–1 RT (a partial list is given below) and for a number of other mutants are available. Alternate RT expression plasmids that encode versions of HIV–1 RT that do not have his tags and plasmids that separately encode p51 and p66 (allowing subunit selective mutagenesis) are also available. The HIV–1 RT expression plasmids can be used to generate wild-type and drug resistant RTs that can be used in both biological and medical research. The RTs are particularly useful in the screening and development of RT

inhibitors *in vitro* and can be used to test drug candidates for their effectiveness against common drug resistant mutants of HIV–1 RT. Please contact Dr. Hughes directly (*hughes@ncifcrf.gov*) if you want additional information about RT expression plasmids that are not listed below.

Vector	Description	Reference No.
Wild-type HIV–1 RT	full length, wild type	E–034–1991/0
L100I	NNRTI resistant	E–034–1991/1
K103N	NNRTI resistant	E–034–1991/1
V106A	NNRTI resistant	E–034–1991/1
V108I		
E138K	NNRTI resistant	E–034–1991/1
Y181I		
Y181C	NNRTI resistant	E–034–1991/1
Y188L		
Y188H	NNRTI resistant	E–034–1991/1
G190A		
G190S		
P236L	NNRTI resistant	E–034–1991/1
RTs that carry some combinations of NNRTI mutations, *e.g.*, K103N+Y181I, are also available.		
K65R	NRTI resistant	E–034–1991/2
T69G		
L74V	NRTI resistant	E–034–1991/1
M184I	Lamivudine (3TC) resistant	
M184V	Lamivudine (3TC) resistant	E–034–1991/1
AZT–R (5 mutations)	AZT resistant	E–034–1991/1
Δ67 complex	Multi-NRTI resistant	E–034–1991/4
Q151M	Multi-NRTI resistant	E–034–1991/4
Q151M Complex	Multi-NRTI resistant	E–034–1991/4
SSGR/T215Y	Multi-NRTI resistant	E–034–1991/4
SSSR/T215Y	Multi-NRTI resistant	E–034–1991/4

Dated: August 20, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–17517 Filed 9–1–05; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given by the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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 Advisory Council on Minority Health and Health Disparities.

Date: September 20, 2005.

Closed: 8:30 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892.

Open: 10:30 a.m. to 5:30 p.m.

Agenda: The agenda will include Opening Remarks, Administrative Matters, Director's Report, NCMHD, IC Health Disparities Research Report, NCMHD Program Highlights, and other business of the Council.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892.

Contact Person: Donna Brooks, Asst. Director for Administration, National Center on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, 301–435–2135, *brooksd@ncmhd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: August 25, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–17514 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: September 22–23, 2005.

Open: September 22, 2005, 8:30 a.m. to 3 p.m.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute and discussions concerning institute programs.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Room, Bethesda, MD 20892.

Closed: September 22, 2005, 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Room, Bethesda, MD 20892.

Open: September 23, 2005, 8:30 a.m. to 12:30 p.m.

Agenda: Discussions of program policy and issues.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Room, Bethesda, MD 20892.

Contact Person: Lore Anne McNicol, PhD, Director, Division of Extramural Research, National Eye Institute, National Institutes of Health, Bethesda, MD 20892, (301) 451–2020.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nei.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: August 25, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–17516 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Longitudinal Studies in Sardinia.

Date: September 15, 2005.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes on Aging, Gateway Building, 7201 Wisconsin Avenue Room 2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892–7924, (301) 402–7700, *rv23r@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 on Aging Special Emphasis Panel, Evolution of Aging and Dementia in Female Primates.

Date: September 19, 2005.

Time: 9:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue Room 2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Jon E. Rolf, PhD, Health Scientist Administrator, Scientific Review Office, National Institutes of Health, National Institute on Aging, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814–7924, (301) 402–7703, *rolfj@nia.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 on Aging Special Emphasis Panel, Transgenerational Field Trial.

Date: October 4–5, 2005.

Time: 5:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jon E. Rolf, PhD, Health Scientist Administrator, Scientific Review Office, National Institutes of Health, National Institute on Aging, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814, (301) 402–7703, *rolfj@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Study of Elderly Sleep Cycle.

Date: October 5–6, 2005.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Bita Nakhai, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov*

Name of Committee: National Institute on Aging Initial Review Group, Behavior and Social Science of Aging Review Committee.

Date: October 6–7, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Jon E. Rolf, PhD, Senior Health Science Advisor, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814, 301–402–7703, *rolfj@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Olfactory Aging.

Date: October 6–7, 2005.

Time: 6 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: William Cruce, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, National Institute on Aging, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov*

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.

Date: October 6–7, 2005.

Time: 6:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Alicja L. Markowska, PhD, DSC, National Institute on Aging, National Institutes of Health, Gateway Building Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–496–9666, *markowsa@nia.nih.gov*

Name of Committee: National Institute on Aging Special Emphasis Panel, Retirement Cognitions.

Date: October 7, 2005.

Time: 11:15 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Jon E. Rolf, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814, 301–402–7703, *rolfj@nia.nih.gov*

Name of Committee: National Institute on Aging Special Emphasis Panel, Male Hormone and Aging.

Date: October 11, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, NIA/SRO/2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Bita Nakhai, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Neuronal Stress and Aging.

Date: October 12, 2005.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, 301–496–7705, *husl@exmur.nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Aging Muscle.

Date: October 26–27, 2005.

Time: 6:30 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7706, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 26, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–17459 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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/or contract set forth contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: September 22, 2005.

Open: 8 a.m. to 1:15 p.m.

Agenda: (1) A report by the Director, NICHD; (2) a presentation by the Division of Epidemiology, Statistics and Prevention Research; (3) a report of the Subcommittee on Planning and Policy; (4) a Concept Review Presentation; and other business of the Council.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 1:15 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Yvonne T. Maddox, PhD, Deputy Director, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business of professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/nachhd.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 25, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–17460 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Small Research Grants (RO3s).

Date: September 6, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH–NIAMS Institute, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 30814.

Contact Person: Eric H. Brown, MS, PhD, Scientific Review Administrator, National Institute of Arthritis, Musculoskeletal & Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Room 824, MSC 4872, Bethesda, MD 20892–4872 (301) 594–4955, *browneri@mail.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 26, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–17463 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Review of an Unsolicited P01.

Date: September 22, 2005.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Cheryl P. Lapham, PhD, Scientific Review Administrator, Scientific Review Program, National Institutes of Allergy and Infectious Diseases, DEA/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Room 3127, Bethesda, MD 20892–7616, 301–402–4598, *clapham@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Minor H Antigens and Kidney Transplantation.

Date: September 23, 2005.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Sujata Vijh, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 594–0985, *vijhs@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.955, Allergy, Immunology and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 25, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–17515 Filed 9–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Final Notice for FY 2005 Formula Allocation for Targeted Assistance Grants to States for Services to Refugees

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Final notice of availability of allocations for FY 2005 targeted assistance grants to States for services to refugees [1] in local areas of high need.

[CFDA No. 93.584, Refugee and Entrant Assistance—Targeted Assistance Grants]

SUMMARY: This final notice announces the availability of funds and award procedures for FY 2005 Targeted Assistance Program (TAP) grants to States for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and where specific needs exist for supplementation of currently available resources.

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for targeted assistance includes refugees, asylees, Cuban and Haitian entrants, certain Amerasians from Viet Nam who are admitted to the U.S. as immigrants, certain Amerasians from Viet Nam who are U.S. citizens and victims of a severe form of trafficking who receive certification or eligibility letters from ORR, and certain other specified family members of trafficking victims. See Section II of this notice on ''Authorization,'' and refer to 45 CFR 400.43 and the ORR State Letter #01–13 on the Trafficking Victims Protection Act dated May 3, 2001, as modified by ORR State Letter #02–01, January 4, 2002, and ORR State Letter #04–12, June 18, 2004. The term ''refugee,'' used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

Qualification of counties for eligibility for targeted assistance program grants is determined once every three years as stated in the FY 1999 Notice of Proposed Availability of Targeted Assistance Allocations to States which was published in the **Federal Register** on March 10, 1999 (64 FR 11927). The FY 2002–FY 2004 three-year project cycle has expired. FY 2005 is the year for the re-qualification of counties for the three-year project cycle, FY 2005, FY 2006, and FY 2007 for TAP funds. Qualifications of counties are based on the arrivals of refugees (see Footnote 1, eligible population) during the 5-year period from FY 2000 through FY 2004, and on the concentration of the arrivals population as a percentage of the general population. Counties that qualify for TAP FY 2005 funds on the basis of the most current 5-year population are listed in this proposed notice in Table 1, Table 2, Table 4, and Table 6.

Under this final notice, a total of 48 counties (Table 1) qualify for targeted assistance grants. Of these, 6 new counties (Table 2) qualify for targeted assistance grants, and 11 counties (Table 3) which previously received targeted assistance grants no longer qualify for targeted assistance program funding.

Application Deadline: Application deadline for targeted assistance program funding will be September 12, 2005. A full application is required this qualifying year, FY 2005. Six (6) new counties are eligible for targeted assistance. Counties that have received TAP funds in the past and will continue to qualify for TAP have not been required to submit a full application since FY 2002. Application requirements in the second and third of a 3-year project cycle will be less extensive.

FOR FURTHER INFORMATION CONTACT: Kathy Do, Division of Budget, Policy and Data Analysis (DBPDA), (202) 401–4579; e-mail: *kdo@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This final notice announces the availability of Fiscal Year 2005 funds for targeted assistance grants for services to refugees (see Footnote 1 for eligible population) in counties where, because of factors such as unusually large refugee populations and high refugee concentrations, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,081,000 in FY 2005 funds for the targeted assistance

program (TAP) as part of the FY 2005 appropriation under the Consolidated Appropriations Act, 2005, (Pub. L. 108–447).

The Director of the Office of Refugee Resettlement (ORR) plans to use the $49,081,000 in targeted assistance funds as follows:

- $44,173,066 will be allocated to States under the 5-year population formula, as set forth in this final notice.
- $4,907,934 (10% of the total) will be used to award discretionary grants to States under continuation grant awards.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c)(2); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Viet Nam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Viet Nam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513); section 107(b)(1)(A) of the Trafficking Victims Protection Act of 2000 (Pub. L. 106–386), and as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108–193), insofar as it states that a victim of a severe form of trafficking and certain other specified family members shall be eligible for federally funded or administered benefits and services to the same extent as a refugee.

III. Client and Service Priorities

Targeted assistance funding must be used to assist refugee families to achieve economic independence. To this end, States and counties are required to ensure that a coherent family self-sufficiency plan (FSSP), employment development plan (EDP), or individual employability plan (IEP) is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79, 400.156(g), and 400.317). Each family self-sufficiency plan or employment development plan should address a family's needs for both employment-related services and other needed social services. The plan must include: (1) A determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; (3) employability plans for every employable member of the family; and (4) a plan to address the family's social services needs that may be barriers to self-sufficiency. In local jurisdictions that have targeted assistance and refugee social services programs, one family self-sufficiency plan may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded through the targeted assistance program are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years). (See 45 CFR 400.315).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i) of the INA), funds awarded under this program are intended to help fulfill the congressional intent that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with 45 CFR 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

A portion of a local area's allocation may be used for services that are not directed toward the achievement of a specific employment objective in less than one year but that are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State. (See 45 CFR 400.316).

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''ensure that women have the same opportunities as men to participate in training and instruction.'' Additionally, in accordance with 45 CFR 400.317, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staff to ensure adequate service access by refugee women. The Director, ORR, also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee

self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit. States and counties are expected to make every effort to obtain child care services, preferably subsidized child care, for children in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, child care may be treated as an employment-related service under the targeted assistance program. Refugees who are participating in targeted assistance-funded or social services-funded employment services or have accepted employment are eligible for child care services for their children. States and counties are expected to use child care funding from other publicly-administered programs such as child care services funded under the Temporary Assistance for Needy Families (TANF) or under the Child Care and Development Block Grant (CCDBG) as a primary resource. States and counties are encouraged to work with service providers to ensure mainstream access for refugees to other publicly funded resources for child care. For an employed refugee, targeted assistance-funded child care should be limited to situations in which no other publicly funded child care funding is available. In these cases, child care services funded by targeted assistance should be limited to one year after the refugee becomes employed.

In accordance with 45 CFR 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services that are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Short-term vocational or job-skills training, on-the-job training (OJT), or English language training (ELT), however, need not be refugee-specific.

ORR strongly encourages States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of mutual assistance associations (MAAs), whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also strongly encourages MAAs to ensure that their management and board composition reflect the major target populations to be served.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee environment. States and counties are encouraged to consider as eligible for TAP funds entities that are public or private non-profit agencies which may include faith-based, refugee or community-based organizations. Additionally, coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this final notice will be contingent upon the completeness of a State's application as described in section IX, below.

IV. Discussion of Comments Received

Five States submitted comments in response to the proposed notice of FY 2005 funds for targeted assistance. The comments are summarized below and are followed by ORR's response.

Comment: Two States submitted information requesting participation in the targeted assistance program.

Response: Of the two requesting States, one is found to have a county which ranked within the top 48 counties qualified for targeted assistance funds, therefore, the State is included in this qualifying project cycle (FY 2005—FY 2007). County data (refugees, asylees, and secondary migrants) submitted by the other State failed to make the cut-off point. The county is ranked number 62. Data on secondary migrants is not considered for targeted assistance population count due to the improbable task of tracking in-migration and out-migration for all targeted assistance counties nationwide in order to arrive at adjusted population estimates.

Comment: Two States requested re-consideration of their counties due to unprecedented new arrivals of secondary migration of refugees.

Response: As stated in the above response, data on secondary migration is not considered for targeted assistance population count.

Comment: One State requested reconsideration of one of its counties which was eliminated in this qualifying cycle.

Response: ORR conducted the final re-allocation task taking into account all eligibility factors which are outlined in the statute for which data are available. The said county ranked number 69 on the list.

ORR understands that discontinuing funding in the counties that no longer qualify for TAP will undoubtedly have an effect on the services in those counties. However, funds must be directed to those counties that are most impacted by recent arrivals as required by statute.

V. Eligible Grantees

Eligible grantees are: 1. Agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 2005 targeted assistance awards; and 2. non-State agencies funded under the Wilson-Fish program which administer, in lieu of a State, a statewide refugee assistance program containing counties which qualify for FY 2005 targeted assistance formula funds. All such grantees will hereinafter be referred to as ''the State''.

The Director of ORR determines the eligibility of counties for inclusion in the FY 2005 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application to ORR on behalf of all county governments of the qualified counties in that State. Subsequent to the

approval of the State's agency application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State agency.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with 45 CFR 400.319, the FY 2005 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 2005 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 2005 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to this final notice are not subject to review by State and area wide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

VI. Qualification and Allocation

For FY 2005, ORR used the formula which bases allocation of targeted assistance funds on the most current 5-year arrivals data on refugees (*See* Footnote 1, eligible population). Targeted assistance services are limited to the arrival population residing in qualified counties who have been in the U.S. five years or less. As stated in the FY 1999 notice of proposed availability of targeted assistance allocations to States which was published on March 10, 1999 (64 FR 11927), the Director of ORR proposes to determine the qualification of counties for targeted assistance once every three years. The FY 2002—FY 2004 three-year project cycle has expired. This final notice consists of the 48 qualified counties for the FY 2005—FY 2007 three-year project cycle for TAP funds. Counties qualified for TAP FY 2005 funds on the basis of the most current 5-year (10/1/99—9/30/04) population are listed in Tables 1, 2, 4, and 6 in this final notice.

A. Qualifying Counties

For FY 2005 targeted assistance funds, a county (or group of adjacent counties with the same Standard Metropolitan Statistical Area, or SMSA) or independent city, was required to: rank above a selected cut-off point of jurisdictions for which data were reviewed, based on two criteria: (a) The number of refugee arrivals placed in the county during the most recent 5-year period (FY 2000—FY 2004); and (b) the 5-year refugee arrival population as a percent of the county overall population.

With regards to the first qualification criteria, each county was ranked on the basis of its 5-year refugee arrival population and its concentration of refugees, with a relative weighting of 2 to 1 respectively, because it is believed that large numbers of arrivals (see Footnote 1, eligible population) into a county create a significant impact, regardless of the ratio of refugees to the county general population.

ORR decided to limit the number of qualified counties based on ranking order to the top 48 counties (Table 1) in order to target a sufficient level of funding to the most impacted counties. Each county was ranked in terms of the sum of a county's rank on refugee arrivals and its rank on concentration. A county had to rank within the top 48 counties to qualify for targeted assistance funds.

ORR screened data on all counties that have received awards for targeted assistance since FY 1983, and on all other counties that could potentially qualify for TAP funds based on the criteria published in the proposed notice. Analysis of these data indicates that: (a) Forty-eight (48) counties qualify for targeted assistance funds, Table 1; (b) eleven (11) counties which have previously received targeted assistance would no longer qualify, Table 3; and (c) six (6) new counties qualify for FY 2005 targeted assistance funds, Table 2.

The 48 counties listed in this final notice as qualified to apply for FY 2005 TAP funding would remain qualified for TAP funding through FY 2007. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2008, when ORR will again review data on all counties that could potentially qualify for TAP funds based on the criteria contained in the proposed notice published in the June 17, 2005, **Federal Register** [70 FR, vol. 116 (June 17, 2005)]. It is believed that a more frequent re-determination of county qualification for targeted assistance would not provide qualifying counties a sufficient period of time within a stable funding climate to adequately address the refugee impact in their counties, while a less frequent re-determination of county qualification would pose the risk of not considering new population impacts in a timely manner.

B. Allocation Formula

The FY 2005 targeted assistance amount, $44,173,066, is allocated by formula to States for the 48 qualified counties based on the initial placements in these counties during the 5-year period from FYs 2000 through 2004 (October 1, 1999–September 30, 2004). Data from the ORR Refugee Arrivals Data System (RADS) was used for the final allocation of funds for targeted assistance. This includes the total number of refugees, Cuban/Haitian entrants, parolees, and Amerasians from Viet Nam. Data on victims of severe forms of trafficking was from the certification and eligibility letters issued by ORR. Trafficking victims have been eligible for services since October 2000 and their family members since December 2003. Data on the number of asylees who have been served in FYs 2000 through 2004 through the refugee resettlement program or social service system were provided by States, including those in response to the proposed notice. For FYs 2000 through 2004, Havana parolees were derived from actual data.

For FY 2005 allocation, many States responded to ORR's voluntary process for data submission on their number of asylees, entrants, or trafficking victims prior and after issuance of the proposed allocations notice. This voluntary process helped minimize adjustments of final allocations. States used the standardized EXCEL format suggested by ORR to submit data on asylees, entrants, and/or victims of a severe form of trafficking served during the 5-year period from FYs 2000 through 2004 (October 1, 1999–September 30, 2004). Data for each population group was submitted separately on an EXCEL spreadsheet. Data submitted was verified by ORR against the ORR arrivals database (RADS), and as a result of this process, adjustments were included in this final notice for FY 2005 allocations for targeted assistance funds.

Documentation submitted by States include the name of state, name of county, name of refugee (see Footnote 1, eligible population), alien number, date of birth and date of arrival in the U.S. for each of the eligible populations claimed for targeted assistance funding. Listings of refugees who were not identified by their alien numbers (A-Numbers) were not considered.

Additionally, in FY 2005, ORR asked States to submit list of asylees that they have served in their Targeted Assistance employment services programs. About 49,000 names were submitted. ORR matched these names and A-Numbers with the data that ORR had received from the U.S. Citizenship and Immigration Services (USCIS) and the Executive Office of Immigration Review (EOIR). However, only about 47 percent or 23,337 of the names submitted were found to match with the records in the database. The primary reasons for the unmatched submissions were that the asylum claim was granted outside the five-year eligibility period, the A-Number did not appear in the ORR database, or the name submitted did not match the A-Number and name in the ORR database. The reason for the lack of the A-number occurred when the head of household applied for asylum but failed to list his/her family members in the asylum claim. The family members eventually received derivative asylum status based upon the head of household claim. These family members may have received ORR-funded services, however, their names do not appear in the database of asylum claimants because they were not included in the initial asylum application of the head of household. Therefore, these individuals remain unverifiable.

VII. Allocations

Table 1 lists the 48 qualifying counties, the State, the number of refugee arrivals (see Footnote 1, eligible population) in those counties during the 5-year period from October 1, 1999–September 30, 2004, the concentration percent to the county overall population, the sum of ranks population, and each county's rank, based on the qualification formula described above.

Table 2 lists the 6 new eligible counties that qualify under the targeted assistance criteria.

Table 3 lists the 11 counties which no longer qualify for TAP funds based upon the qualification formula.

Table 4 lists the final targeted assistance allocations by county for FY 2005.

Table 5 lists the final allocations by State for FY 2005.

Table 6 lists the targeted assistance areas.

VIII. Application and Implementation Process

Under the FY 2005 targeted assistance program, States may apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

Pursuant to 45 CFR 400.210(b), FY 2005 targeted assistance funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than ninety days after the end of the two-year expenditure period. If final reports are not received on time, the Department will de-obligate any unexpended funds, including any un-liquidated obligations, on the basis of the State's last filed report.

The requirements regarding the discretionary portion of the targeted assistance program will be addressed under separate continuation grant awards. Continuation applications for these funds are therefore not subject to provisions contained in this notice but to other requirements which will be conveyed separately.

IX. Application Requirements

In applying for targeted assistance funds, a State agency is required to provide the following:

A. Assurance that the targeted assistance funds will be used in accordance with the requirements for grants in 45 CFR part 400.

B. Assurance that the targeted assistance funds will be used in compliance with the administrative requirements for grants in 45 CFR part 92.

C. Assurance that targeted assistance funds will be used primarily for the provision of services which are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 2005 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

D. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other refugee programs, such as social services, cash and medical assistance.

E. The name of the local agency administering the funds, the name and telephone number of the responsible person, if administered locally.

F. The amount of funds to be awarded to the targeted county or counties. In instances where a State receives targeted assistance funding for impacted counties contained in a standard metropolitan statistical area (SMSA) that includes a county or counties located in a neighboring State, the State receiving those funds must provide a description of coordination and planning activities undertaken with the State Refugee Coordinator of the neighboring State in which the impacted county or counties are located. These planning and coordination activities should result in a proposed allocation plan for the equitable distribution of targeted assistance funds by county based on the distribution of the eligible population by county within the SMSA. The proposed allocation plan must be included in the State's application to ORR.

G. Assurance that county targeted assistance plans will include:

1. A description of the local planning process for determining targeted assistance priorities and services, taking into consideration all other ORR-funded services available to the refugee population, including formula social services.

2. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, and a description of characteristics and needs of targeted populations. (As per 45 CFR 400.314).

3. Description of specific strategies and services to meet the needs of targeted populations.

4. The relationship of targeted assistance services to other services available to refugees/entrants in the county including formula allocated ORR social services to States/Wilson-Fish agencies.

5. Analysis of available employment opportunities in the local community. Examples of acceptable analysis of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, review of studies on employment opportunities/forecasts which would be appropriate to the refugee populations.

6. Description of the monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

H. Assurance that the local administrative budget will not exceed 15% of the local allocation. Targeted assistance grants are cost-based awards.

Neither a State nor a county is entitled to a certain amount for administrative costs. Rather, administrative cost requests should be based on projections of actual needs. All TAP counties will be allowed to spend up to 15% of their allocation on TAP administrative costs, as need requires. However, States and counties are strongly encouraged to limit administrative costs to the extent possible to maximize available funding for services to refugees.

I. For any State that administers the program directly or otherwise provides direct services to the refugee/entrant/asylee population in a qualified county (with the concurrence of the county), the State must have the same information contained in a county plan prior to issuing a Request for Proposals (RFP) for services. States that administer the TAG program directly may spend no more than 5% of the total allocation, and up to 10% of the county's allocation, on administrative costs that are reasonable, allocable, and necessary.

J. A description of the State's plan for conducting fiscal and programmatic monitoring and evaluations of the targeted assistance program, including frequency of on-site monitoring.

K. A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan. As stated previously, States that administer the program directly in lieu of the county (through a mutual agreement with the qualifying county), may spend no more than 5% of the total award, and up to 10% of the county's TAG allocation on administrative costs. The administrative costs must be reasonable, allocable, and necessary. Allocable costs for State contracting and monitoring for targeted assistance, if charged, must be charged to the targeted assistance grant and not to general State administration.

X. Results or Benefits Expected

All applicants must establish proposed targeted assistance performance goals for each of the six ORR performance outcome measures for each impacted county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The six ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

States that are currently grantees for targeted assistance funds should base projected annual outcome goals on past performance. Current grantees should have adequate baseline data for all of the six ORR performance outcome measures based on a history of targeted assistance program experience.

States identified as new eligible targeted assistance grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New grantees may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

New qualifying counties within States that are current grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New counties may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

Proposed targeted assistance outcome goals should reflect improvement over past performance and strive for continuous improvement during the project period from one year to another.

Final targeted assistance outcome goals are due on November 15, 2005, in conjunction with the ORR Government Performance and Results Act (GPRA) cycle.

XI. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form (424A). Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. The Office of Refugee Resettlement is particularly interested in the following:

A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project. States that administer the program locally in lieu of the county, through a mutual agreement with the qualifying county, may request administrative costs that add up to, but may not exceed, 10% of the county's TAP allocation to the State's administrative budget.

XII. Reporting Requirements

States are required to submit quarterly reports on the outcomes of the targeted assistance program, using Schedule A and Schedule C of the ORR–6 Quarterly Performance Report (0970–0036).

XIII. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this program notice are approved under the following valid OMB control numbers: 424 (0348–0043); 424A (0348–0044); 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Financial Status Report (SF–269) (0348–0039) and ORR Quarterly Performance Report (0970–0036).

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.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

Dated: August 18, 2005.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

BILLING CODE 4184–01–P

Table 1--Top 48 Eligible Counties

	County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
1	Dade County	FL	72,960	3.238%	3
2	Ramsey/Hennepin	MN	12,160	0.747%	22
3	Sacramento County	CA	9,342	0.764%	25
4	City of St. Louis	MO	5,061	1.454%	33
5	Dekalb County	GA	6,070	0.912%	34
6	Multnomah County	OR	8,414	0.470%	45
7	King/Snohomish County	WA	9,445	0.367%	52
8	Jefferson County	KY	4,112	0.593%	60
9	Hillsborough County	FL	4,737	0.474%	61
10	Broward County	FL	6,399	0.394%	63
11	Palm Beach County	FL	4,599	0.407%	70
12	Maricopa County	AZ	7,530	0.245%	72
13	Suffolk County	MA	3,248	0.471%	74
14	Onondaga County	NY	2,844	0.621%	75
15	Ingham County	MI	2,330	0.834%	76
16	Oneida County	NY	2,186	0.928%	79
17	Duval County	FL	3,143	0.404%	85
18	Polk County	IA	2,324	0.620%	90
19	Fairfax County	VA	3,537	0.268%	93
20	Harris County	TX	6,931	0.204%	93
21	Orange County	FL	3,115	0.348%	94
22	New York	NY	13,704	0.171%	96
23	Kent County	MI	2,504	0.436%	97
24	Davis/Salt Lake	UT	3,566	0.237%	101
25	Erie County	NY	2,728	0.287%	105
26	Montgomery/Prince George's	MD	3,574	0.213%	105
27	Denver	CO	2,202	0.397%	109
28	San Diego County	CA	5,337	0.190%	111
29	Los Angeles County	CA	12,232	0.128%	112
30	Dallas/Tarrant Counties	TX	6,387	0.174%	113
31	Franklin County	OH	2,595	0.243%	118
32	Davidson County	TN	2,089	0.367%	119
33	Richmond	VA	1,525	0.771%	120
34	Baltimore County	MD	2,145	0.329%	120
35	Guilford County	NC	1,902	0.452%	121
36	Collier County	FL	1,630	0.648%	122
37	Ada County	ID	1,703	0.566%	123
38	Spokane County	WA	1,842	0.441%	124
39	Santa Clara County	CA	3,195	0.190%	128
40	Minnehaha County	SD	1,262	0.851%	129
41	Cass County	ND	1,223	0.993%	130
42	Cook/Kane Counties	IL	6,902	0.119%	131
43	Hamden County	MA	1,803	0.395%	132
44	Philadelphia	PA	2,983	0.197%	132
45	Fulton County	GA	2,084	0.255%	133
46	Mecklenberg County	NC	1,924	0.277%	134
47	Monroe County	NY	1,963	0.267%	134
48	Clark County	NV	2,708	0.197%	137

Table 2 -- Six New Counties That Qualify

	County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
1	Orange County	FL	3,115	0.348%	94
2	Montgomery/Prince George's	MD	3,574	0.210%	105
3	Franklin County	OH	2,595	0.240%	118
4	Baltimore	MD	2,145	0.330%	120
5	Collier County	FL	1,630	0.650%	122
6	Mecklenberg County	NC	1,924	0.280%	134

Table 3-- Eleven Counties That No Longer Qualify

	County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
1	Pinellas County	FL	2,064	0.220%	144
2	Warren County	KY	989	1.070%	149
3	Erie County	PA	1,285	0.460%	149
4	Lancaster County	NE	1,193	0.480%	158
5	District of Columbia	DC	1,360	0.240%	172
6	Kansas City	MO	1,624	0.200%	183
7	Orange County	CA	2,361	0.080%	190
8	Cuyahoga County	OH	1,761	0.130%	205
9	San Francisco	CA	1,674	0.100%	217
10	Wayne County	MI	1,335	0.060%	257
11	Blackhawk County	IA	515	0.400%	258

Table 4— Final Targeted Assistance Allocations By County: FY 2005

County	State	Refugees 1/	Entrants	Havana Parolees 2/	Asylees Traffickees	Total Arrivals FY00--FY04	$44,173,066 Total FY 2005 Allocation
1 Maricopa County	Arizona	6,623	765	9	133	7,530	$1,213,074
2 Los Angeles County	California	9,701	35	92	2404	12,232	1,970,558
3 Sacramento County	California	9,260	0	3	79	9,342	1,504,982
4 San Diego County 3/	California	4,142	3	14	1178	5,337	859,783
5 Santa Clara County	California	2,696	2	2	495	3,195	514,710
6 Denver County 3/	Colorado	2,048	0	0	154	2,202	354,739
7 Broward County	Florida	307	1,672	1,449	2971	6,399	1,030,870
8 Collier County	Florida	104	362	990	174	1,630	262,591
9 Miami-Dade County	Florida	5,216	21,164	41,470	5110	72,960	11,753,751
10 Duval County	Florida	2,703	66	161	213	3,143	506,333
11 Hillsborough County	Florida	1,201	990	2,071	475	4,737	763,124
12 Orange County	Florida	750	445	677	1243	3,115	501,822
13 Palm Beach County	Florida	322	1,716	1,551	1010	4,599	740,892
14 DeKalb County	Georgia	5,890	9	23	148	6,070	977,868
15 Fulton County	Georgia	1,989	10	23	62	2,084	335,729
16 Ada County 3/	Idaho	1,690	0	1	12	1,703	274,351
17 Cook/Kane	Illinois	6,415	23	100	364	6,902	1,111,902
18 Polk County	Iowa	2,324	0	0	0	2,324	374,393
19 Jefferson County 3/	Kentucky	2,092	1,958	31	31	4,112	662,437
20 Baltimore County	Maryland	1,768	0	3	374	2,145	345,556
21 Montgomery/Prince George's	Maryland	1,950	5	21	1598	3,574	575,766
22 Hampden County 3/	Massachusetts	1,777	0	0	26	1,803	290,461
23 Suffolk County 3/	Massachusetts	2,544	91	7	606	3,248	523,248
24 Ingham County	Michigan	1,359	955	16		2,330	375,360
25 Kent County	Michigan	2,211	260	31	2	2,504	403,391
26 Hennepin/Ramsey	Minnesota	11,964	5	5	186	12,160	1,958,959
27 City of St. Louis	Missouri	5,005	0	2	54	5,061	815,320
28 Clark County 3/	Nevada	1,458	1,161	89		2,708	436,255
29 Erie County	New York	2,266	440	3	19	2,728	439,477
30 Monroe County	New York	1,588	356	12	7	1,963	316,236
31 New York	New York	11,190	237	147	2130	13,704	2,207,695
32 Oneida County	New York	2,181	0	0	5	2,186	352,161
33 Onodaga County	New York	2,023	817	4		2,844	458,164
34 Guilford County	North Carolina	1,799	2	23	78	1,902	306,409
35 Mecklenberg County	North Carolina	1,722	13	22	167	1,924	309,954
36 Cass 3/	North Dakota	1,222	0	0	1	1,223	197,024
37 Franklin County	Ohio	2,282	3	4	306	2,595	418,051
38 Multnomah	Oregon	7,603	715	5	91	8,414	1,355,483
39 Philadelphia County	Pennsylvania	2,854	14	23	92	2,983	480,557
40 Minnehaha County 3/	South Dakota	1,251	0	4	7	1,262	203,306
41 Davidson County	Tennessee	2,043	6	40		2,089	336,535
42 Dallas/Tarrant	Texas	5,941	8	76	362	6,387	1,028,937
43 Harris County	Texas	5,175	1,404	34	318	6,931	1,116,574
44 Davis/Salt Lake	Utah	3,454	5	1	106	3,566	574,477
45 Fairfax County	Virginia	2,981	1	17	538	3,537	569,806
46 City of Richmond	Virginia	1,497	13	7	8	1,525	245,675
47 King/Snohomish	Washington	9,434	0	11		9,445	1,521,576
48 Spokane County	Washington	1,842	0	0		1,842	296,744
Total		165,857	35,731	49,274	23,337	274,199	$ 44,173,066

Table 5 - Final Targeted Assistance Allocations By State
FY 2005

State	$44,173,066 Total FY 2005 Allocation
Arizona	$1,213,074
California	4,850,033
Colorado	354,739
Florida	15,559,383
Georgia	1,313,597
Idaho	274,351
Illinois	1,111,902
Iowa	374,393
Kentucky	662,437
Maryland	921,322
Massachusetts	813,709
Michigan	778,751
Minnesota	1,958,959
Missouri	815,320
Nevada	436,255
New York	3,773,733
North Carolina	616,363
North Dakota	197,024
Ohio	418,051
Oregon	1,355,483
Pennsylvania	480,557
South Dakota	203,306
Tennessee	336,535
Texas	2,145,511
Utah	574,477
Virginia	815,481
Washington	1,818,320
Total	$44,173,066

Table 6 - Targeted Assistance Areas

State	Targeted Assistance Area	Definition
Arizona	Maricopa County	
California	Los Angeles County	
	Sacramento County	
	San Diego	
	Santa Clara County	
Colorado	Denver	
Florida	Broward County	
	Collier County	
	Dade County	
	Duval County	
	Hillsborough County	
	Orange County	
	Palm Beach County	
Georgia	DeKalb County	
	Fulton County	
Idaho	Ada County	
Illinois	Cook and Kane Counties	
Iowa	Polk County	
Kentucky	Jefferson County	
Maryland	Baltimore County	
	Montogomery/Prince George's County	
Massachusetts	Hampden County	
	Suffolk County	
Michigan	Ingham County	
	Kent County	
Minnesota	Hennepin/Ramsey	
Missouri	City of St. Louis	
Nevada	Clark County	
New York	Erie County	
	Monroe County	
	New York	Bronx, Kings, Queens, New York, and Richmond Counties
	Oneida County	
	Onondaga County	
North Carolina	Cuilford County	
	Mecklenberg County	
North Dakota	Cass County	
Ohio	Franklin County	
Oregon	Multnomah	Clackamas, Multnomah, and Washington Counties, Oregon, and Clark County, Washington
Pennsylvania	Philadelphia County	
South Dakota	Minnehaha County	
Texas	Dallas/Tarrant	
	Harris County	
Tennessee	Davidson County	
Utah	Davis/Salt Lake	Davis, Salt Lake, and Utah Counties
Virginia	Fairfax	Arlington and Fairfax Counties and the cities of Falls Church, Fairfax, and Alexandria
	City of Richmond	
Washington	King/Snohomish	
	Spokane County	

[FR Doc. 05–17373 Filed 9–1–05; 8:45 am]
BILLING CODE 4184–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239–561–8200/800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories*, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Express Analytical Labs, 3405 7th Ave., Suite 106, Marion, IA 52302, 319–377–0500.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare, Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.).

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272, (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 550 17th Ave., Suite 300, Seattle, WA 98122, 206–923–7020/800–898–0180, (Formerly: DrugProof, Division of Dynacare/Laboratory of Pathology, LLC; Laboratory of Pathology of Seattle, Inc.; DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: NOVAMANN (Ontario), Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.
Northwest Toxicology, a LabOne Company, 2282 South Presidents Drive, Suite C, West Valley City, UT 84120, 801–606–6301/800–322–3361, (Formerly: LabOne, Inc., dba Northwest Toxicology; NWT Drug Testing, NorthWest Toxicology, Inc.; Northwest Drug Testing, a division of NWT Inc.).
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134.
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7897 x7.
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–824–6152, (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750, (Formerly: Associated Pathologists Laboratories, Inc.).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories).
Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130.
Sciteck Clinical Laboratories, Inc., 317 Rutledge Road, Fletcher, NC 28732, 828–650–0409.
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.
Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400, (Formerly: St. Lawrence Hospital & Healthcare System).
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–17316 Filed 9–1–05; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2005–0064]

Notice of Meeting of National Infrastructure Advisory Council (NIAC)

AGENCY: Directorate of Information Analysis and Infrastructure Protection, DHS.

ACTION: Notice of meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet in open session.

DATES: Tuesday, October 11, 2005, from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The National Press Club in Washington DC.

FOR FURTHER INFORMATION CONTACT: Jenny Menna, NIAC Designated Federal Officer, Department of Homeland Security, Washington, DC 20528; telephone 703–235–5316.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*). At this meeting, the NIAC will be briefed on the status of several Working Group activities in which the Council is currently engaged.

Public Comments: You may submit comments, identified by DHS–2005–0064, by *one* of the following methods:

- EPA Federal Partner EDOCKET Web Site: *http://www.epa.gov/feddocket*. Follow instructions for submitting comments on the Web site.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *gail.kaufman@associates.dhs.gov*. When submitting comments electronically, please include by DHS–2005–0064, in the subject line of the message.
- Mail: Jenny Menna, Department of Homeland Security, Directorate of Information Analysis and Infrastructure Protection, Washington, DC 20528. To ensure proper handling, please

reference by DHS–2005–0064, on your correspondence. This mailing address may be used for paper, disk or CD–ROM submissions.

• Hand Delivery/Courier: Jenny Menna, Department of Homeland Security, Directorate of Information Analysis and Infrastructure Protection, Washington, DC 20528. Contact Telephone Number 703–235–5316.

Docket: For access to the docket to read background documents or comments received, go to *http://www.epa.gov/feddocket*. You may also access the Federal eRulemaking Portal at *http://www.regulations.gov*.

Dated: August 29, 2005.

Jenny Menna,

Designated Federal Officer for the NIAC.

DRAFT AGENDA OF OCTOBER 11, 2005 MEETING

I. Opening of Meeting	Nancy J. Wong, U.S. Department of Homeland Security (DHS)/Designated Federal Officer, NIAC.
II. Roll Call of Members	Nancy J. Wong.
III. Opening Remarks and Introductions	NIAC Chairman, Erle A. Nye, Chairman Emeritus, TXU and Corp. NIAC Vice Chairman, John T. Chambers, Chairman and CEO, Cisco Systems, Inc.
IV. Approval of July Minutes	NIAC Chairman Erle A. Nye.
V. Status Reports on Current Working Group Initiatives	NIAC Chairman Erle A. Nye Presiding.
A. Intelligence Coordination	NIAC Vice Chairman John T. Chambers, Chairman & CEO, Cisco Systems, Inc.
B. Education and Workforce Preparation	Alfred R. Berkeley III, Chairman, Pipeline Trading, LLC., NIAC Member. Dr. Linwood Rose, President, James Madison University, NIAC Member.
VI. Final Reports and Deliberations	NIAC Chairman Erle A. Nye Presiding.
A. Final Report of Risk Management Approaches to Protection	Martha Marsh, President & CEO, Stanford Hospital and Clinics, NIAC Member. Thomas E. Noonan, Chairman, President & CEO, Internet Security Systems, Inc., NIAC Member.
B. Deliberation and Approval of Recommendations of Final Report	NIAC Members.
C. Final Report on Sector Partnership Model Implementation	Martin G. McGuinn, Chairman & CEO, Mellon Financial Corporation, NIAC Member. Marilyn Ware, Chairman Emerita, American Water, NIAC Member.
D. Deliberation and Approval of Recommendations of Final Report	NIAC Members.
VII. New Business	NIAC Chairman Erle A. Nye, NIAC. Members. TBD.
A. Deliberation and Voting on New Initiatives	NIAC Members.
B. Review of Revised NIAC Charter	Nancy J. Wong.
VIII. Adjournment	NIAC Chairman Erle A. Nye.

[FR Doc. 05–17535 Filed 9–1–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21322]

Collection of Information Under Review by Office of Management and Budget (OMB): 1625–0015

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Request (ICR)—1625–0015, Bridge Permit Application Guide—abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before October 3, 2005.

ADDRESSES: To make sure that your comments and related material do not reach the docket [USCG–2005–21322] or OIRA more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th St NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at (202) 493–2298 and (b) OIRA at (202) 395–6566, or e-mail to OIRA at *oira-docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*. (b) OIRA does not have a Web site on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn:

Ms. Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–2326.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone (202) 267–2326 or fax (202) 267–4814, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, (202) 366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to DMS or OIRA must contain the OMB Control Number of the Information Collection Request (ICR) addressed. Comments to DMS must contain the docket number of this request, [USCG 2005–21322]. For your comments to OIRA to be considered, it is best if OIRA receives them on or before the October 3, 2005.

Public participation and request for comments: We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*, and they will include any personal information you have provided. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2005–21322], indicate the specific section of this document or the ICR to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**, but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard and OIRA will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has already published the 60-day notice (70 FR 32839, June 6, 2005) required by 44 U.S.C. 3506(c)(2). That notice elicited no comment.

Information Collection Request

Title: Bridge Permit Application Guide.

OMB Control Number: 1625–0015.

Type of Request: Extension of a currently approved collection.

Affected Public: Public and private owners of bridges over navigable waters of the United States.

Forms: None.

Abstract: The collection of information is a request for a bridge permit submitted as an application for approval by the Coast Guard of any proposed bridge project. An applicant must submit to the Coast Guard a letter of application along with letter-size drawings (plans) and maps showing the proposed project and its location.

Burden Estimates: The estimated burden has been decreased from 4,000 hours to 2,240 hours a year.

Dated: August 24, 2005.

Nathaniel Heiner,

Acting Assistant Commandant for Command, Control, Communications Computers and Information Technology.

[FR Doc. 05–17471 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2005–22219]

Northeast Gateway Energy Bridge, L.L.C., Liquefied Natural Gas Deepwater Port License Application

AGENCY: Coast Guard, DHS; Maritime Administration, DOT.

ACTION: Notice of application.

SUMMARY: The Coast Guard and the Maritime Administration (MARAD) announce that they have received an application for the licensing of a natural gas deepwater port, and that the application appears to contain the required information. This notice summarizes the applicant's plans and the procedures that will be followed in considering the application.

DATES: The Deepwater Port Act of 1974, as amended, requires any public hearing on this application to be held not later than May 1, 2006, and requires a decision on the application to be made not later than July 31, 2006.

ADDRESSES: The public docket for USCG–2005–22219 is maintained by the: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

Docket contents are available for public inspection and copying, at this address, in room PL–401, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Facility's telephone is 202–366–9329, its fax is 202–493–2251, and its Web site for electronic submissions or for electronic access to docket contents is *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Roddy Bachman, U.S. Coast Guard, telephone: 202–267–1752, email: *RBachman@comdt.uscg.mil.* If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone: 202–366–0271.

SUPPLEMENTARY INFORMATION:

Receipt of Application

On June 13, 2005, the Coast Guard and MARAD received an application from Northeast Gateway Energy Bridge, L.L.C., a subsidiary of Excelerate Energy Limited Partnership, for all Federal authorizations required for a license to own, construct, and operate a deepwater port governed by the Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act). On August 19, 2005, we determined that the application contains all information required by the Act.

Background

According to the Act, a deepwater port is a fixed or floating manmade structure other than a vessel, or a group of structures, located beyond State seaward boundaries and used or intended for use as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to any State.

Adeepwater port must be licensed by the Secretary of Transportation. Statutory and regulatory requirements for licensing appear in 33 U.S.C. 1501 *et seq.* and in 33 CFR Part 148. Under delegations from and agreements between the Secretary of Transportation and the Secretary of Homeland Security, applications are processed by the Coast Guard and MARAD. Each application is considered on its merits.

The Act provides strict deadlines for processing an application. Once we determine that an application contains the required information, we must hold public hearings on the application within 240 days, and the Secretary of Transportation must render a decision on the application within 330 days. We will publish additional **Federal Register** notices to inform you of these public hearings and other procedural milestones, including environmental review. The Secretary's decision, and other key documents, will be filed in the public docket.

At least one public hearing must take place in each adjacent coastal State. For purposes of the Act, Massachusetts is the adjacent coastal State for this application. Other States can apply for adjacent coastal State status in accordance with 33 U.S.C. 1508(a)(2).

Summary of the Application

Northeast Gateway Energy Bridge, L.L.C., has proposed a facility to import liquefied natural gas (LNG) into the New England region providing a base load delivery of 400 million cubic feet per day (MMcfd) and capable of peak deliveries of approximately 800 MMcfd or more. The facility will be located offshore in Massachusetts Bay, approximately 13 miles south-southeast of the city of Gloucester, MA, in federal waters approximately 270 to 290 feet in depth, commonly referred to as Block 125.

Northeast Gateway will deliver natural gas to onshore markets via a new 24-inch pipeline, approximately 16.4 miles in length, from the proposed deepwater port to the existing offshore 30-inch Algonquin HubLine Pipeline System. The proposed new pipeline lateral will be owned and operated by Algonquin Gas Transmission. Algonquin is seeking Federal Energy Regulatory Commission approval for the pipeline concurrent with this deepwater port application. The new pipeline will also be included in the National Environmental Policy Act review as part of the deepwater port application process.

The Northeast Gateway facility will consist of two subsea submerged turret loading buoys (STL buoys), two flexible risers, two pipeline end manifolds (PLEMs), and two subsea flow lines. Each STL buoy will connect to a PLEM using the flexible riser assembly, and the PLEM will connect to the subsea flow line. A fleet of specially designed Energy Bridge regasification vessels (EBRVs), each capable of transporting approximately 4.9 million cubic feet (138,000 cubic meters) of LNG, will deliver natural gas to the Northeast Gateway deepwater port.

The EBRVs will vaporize the LNG in a closed Loop mode of recirculating fresh water on-board the ship requiring no intake or discharge of seawater. Natural gas fired boilers will be used to generate steam for the regasification facilities as well as to provide vessel electrical needs in normal operation.

Dated: August 29, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security,and Environmental Protection, U.S. Coast Guard.

H. Keith Lesnick,

Senior Transportation, Specialist, Deepwater Ports, Program Manager, U.S. Maritime Administration.

[FR Doc. 05–17553 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22260]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Towing Vessel Inspection Working Group of the Towing Safety Advisory Committee (TSAC) will meet to discuss matters relating to these specific issues of towing safety. The meetings will be open to the public.

DATES: The Towing Vessel Inspection Working Group will meet on Wednesday, September 14, 2005 from 9 a.m. to 4:30 p.m. and on Thursday, September 15, 2005 from 8:30 a.m. to 2:30 p.m. The meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 7, 2005. Requests to have a copy of your material distributed to each member of the Working Group should reach the Coast Guard on or before September 7, 2005.

ADDRESSES: The Working Group will meet in the Gallery 2 room of the Arlington Hilton Hotel, 950 N. Stafford St., Arlington, VA 22203. Please bring a government-issued ID with photo (*e.g.*, driver's license). Send written material and requests to make oral presentations to Mr. Gerald Miante, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice and related documents are available on the Internet at *http://dms.dot.gov* under the docket number USCG–2005–22260.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Miante, Assistant Executive Director of TSAC, telephone 202–267–0214, fax 202–267–4570, or e-mail *gmiante@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended).

Agenda of Working Group Meetings:

The agenda for the Towing Vessel Inspection Working Group tentatively includes the following items:

(1) Safety management system requirements to be included in a subchapter devoted to the inspection for certification of towing vessels;

(2) Equipment requirements and personnel standards to be included in a subchapter devoted to the inspection for certification of towing vessels; and

(3) Audit and oversight requirements, including the use of third parties, to be included in a subchapter devoted to the inspection for certification of towing vessels.

Procedural:

The meetings are open to the public. Please note that the meetings 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 Assistant Executive Director (as provided above in **FOR FURTHER INFORMATION CONTACT**) no later than September 7, 2005. Written material for distribution at the meeting should reach the Coast Guard no later than September 7, 2005.

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 Mr. Miante at the number listed in **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: August 29, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–17512 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD05–05–070]

Implementation of Sector North Carolina

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard announces the stand-up of Sector North Carolina and its subordinate units, Marine Safety Unit (MSU) Wilmington and Sector Field Office (SFO) Cape Hatteras. Sector North Carolina is subordinate to the Fifth Coast Guard District.

DATES: This change was effective July 29, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–05–070 and are available for inspection or copying at Fifth District Marine Safety Division, 431 Crawford Street, Portsmouth, VA 23704 between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Commander Brian Hall, Fifth District Marine Safety Division at 757–398–6520.

SUPPLEMENTARY INFORMATION: The Sector North Carolina Commander has the authority, responsibility, and missions of the prior Group Fort Macon Commander, Group Cape Hatteras Commander and Commanding Officer Marine Safety Office (MSO) Wilmington, Captain of the Port (COTP), Officer in Charge, Marine Inspection (OCMI), Federal On Scene Coordinator (FOSC), Federal Maritime Security Coordinator (FMSC), and Search and Rescue Mission Coordinator (SMC). The Deputy Sector Commander is designated alternate COTP, FMSC, FOSC, SMC and Acting OCMI. The Deputy Sector Commander also assumes active search suspension (ACTSUS) authority in the absence of the Sector Commander. A COTP sub-zone for the Cape Fear River port area has also been established. The Commanding Officer (CO) MSU Wilmington is subordinate to the Sector Commander and has COTP authority for the Cape Fear River sub-zone. The Supervisor SFO Cape Hatteras is subordinate to the Sector Commander and will provide remote support to the Northern Outer Banks Sub-units. A continuity of operations order has been issued ensuring that all previous Group Fort Macon, Group Cape Hatteras, and MSO Wilmington practices and procedures will remain in effect until superseded by an authorized Coast Guard official and/or documents. This continuity of operations order addresses existing COTP regulations, orders, directives and policies.

Sector North Carolina is located at 2301 East Fort Macon Road, Atlantic Beach, NC 28512–5633. A command center supporting Sector North Carolina is located at this location. Sector North Carolina is composed of a Response Department, Prevention Department, and Logistics Department. All existing missions and functions performed by Group Fort Macon, Group Cape Hatteras, and MSO Wilmington have been realigned under this new organizational structure as of July 29, 2005. Group Fort Macon, Group Cape Hatteras, and MSO Wilmington no longer exist as organizational entities. The boundary of the Sector North Carolina Marine Inspection Zone, COTP Zone and SMC Area of Responsibility (AOR) is as follows: the boundary starts at the sea on the North Carolina-Virginia border at 36 degrees 33 minute N. Latitude, 75 degrees 52.5 minutes W. Longitude, and proceeds westerly along the North Carolina-Virginia boundary to the Tennessee boundary; thence southwesterly along the North Carolina-Tennessee boundary to the Georgia boundary; thence easterly along the North Carolina-Georgia boundary to the South Carolina boundary; thence easterly along the North Carolina-South Carolina boundary on the sea at 36 degrees 32.69 minutes N. latitude, 75 degrees 50.17 minutes W. longitude. The offshore boundary starts at the North Carolina-South Carolina border and proceeds southeasterly to the outermost extent of the Exclusive Economic Zone (EEZ) at 30 degrees 54.93 minutes N. latitude, 73 degrees 00.06 minutes W. longitude; thence northeasterly along the outermost extent of the EEZ to a point at 36 degrees 33 minutes N. latitude, 67 degrees 44.09 minutes W. longitude; then west to the North Carolina-Virginia border at the point 36 degrees 33 minutes N latitude, 75 degrees 52.5 minutes W.

The boundary of MSU Wilmington COTP Zone is encompassed by the Sector North Carolina Zone and starts at a point at 34 degrees 26 minutes N. latitude, 77 degrees 31 minutes W. longitude along the intersection of the Pender County and Onslow County lines on the Atlantic Coast and proceed northerly along the boundary Pender County and Onslow County to the intersection of the Pender County, Duplin County and Onslow County lines; thence northerly along the boundary of the Duplin and Onslow County to the intersection of the Duplin County, Onslow County and Jones County lines; thence northwesterly along the boundary of Duplin County and Jones County to the intersection of the Duplin County, Jones County, and Lenoir County lines; thence northwesterly along the boundary of Duplin County and Lenoir County to the intersection of the Duplin County, Lenoir County, and Wayne County lines; thence westerly along the boundary of Duplin County and Wayne County to the intersection of the Duplin County, Wayne County, and Sampson County lines; thence northerly along the boundary of Sampson County and Wayne County to the intersection of the Sampson County, Wayne County, and Johnston County lines; thence westerly along the boundary of Sampson County and Johnston County to the intersection of the Sampson County, Johnston County, and Harnett County lines; thence southwesterly along the boundary of Sampson County, Harnett County and Cumberland County lines; thence westerly along the boundary of Cumberland County and Harnett County to the intersection of the Cumberland County, Harnett County, and Moore County lines; thence southerly along the boundary of Cumberland County and Moore County to the intersection of the Cumberland County, Moore County, and Hoke County lines; thence westerly along the boundary of Hoke County and Moore County to the intersection of the Hoke County, Moore County, Richmond County, and Scotland County line;

thence southeasterly along the boundary of Hoke County and Scotland County to the intersection of the Hoke County, Scotland County, and Robeson County lines; thence southwesterly along the boundary of Robeson County and Scotland County to the intersection of the Robeson County, Scotland County, and the North Carolina—South Carolina boundary; thence southeasterly along the North Carolina—South Carolina boundary to a point at 33 degrees 51.5 minutes N latitude, 78 degrees 33 minutes W longitude along the intersection of the North Carolina—South Carolina boundary on the Atlantic Coast: thence southeasterly to a point on a bearing of 122 degrees at 33 degrees 17.91 minutes N latitude, 77 degrees 31.77 minutes West longitude; thence north to a point at 34 degrees 26 minutes N latitude, 77 degrees 31 minutes W longitude.'' A chart that depicts this area can be found on the Fifth District Web page at *http://www.uscg.mil/d5/D5_Units/Sectors.htm.*

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones.

Sector North Carolina: Sector Commander: CAPT Dean Lee, Deputy Sector Commander: CDR Dale Jones, Address: Commander, U.S. Coast Guard Sector North Carolina, 2301 East Fort Macon Road, Atlantic Beach, NC 28512–5633.

Contact: General Number, (252) 247–4500. Chief, Prevention Department: (252) 247–4520; Chief, Response Department: (252) 247–4535; Chief, Logistics Department: (252) 247–4450.

Marine Safety Unit, Wilmington: Commanding Officer: CDR Byron Black, Address: U.S. Coast Guard Marine Safety Unit Wilmington, 721 Medical Center Drive Suite 100, Wilmington, North Carolina 28401: (910) 772–2200.

Sector Field Office, Cape Hatteras: Supervisor: LT Joseph Abeyta, Address: U.S. Coast Guard Sector Field Office Cape Hatteras, 114 Woodhill Drive, Nags Head, North Carolina 27959: (252) 305–5188.

Dated: August 18, 2005.

L.L. Hereth,

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

[FR Doc. 05–17467 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Bureau of Customs and Border Protection Trade Symposium: ''Globalizing Trade Security and Facilitation—Realizing the Promise of the WCO Framework''

AGENCY: Bureau of Customs and Border Protection, Homeland Security.

ACTION: Notice of trade symposium.

SUMMARY: This document announces that the Bureau of Customs and Border Protection (CBP) will convene a major trade symposium that will feature joint discussions by CBP personnel, members of the trade community, and other government agencies on the agency's role on international trade security initiatives and programs. Members of the international trade and transportation communities and other interested parties are encouraged to attend, and those attending are requested to register early.

DATES: Wednesday, November 2, 2005 (Trade Compliance Workshop—2 to 5 p.m. and Opening Reception 6–8 p.m.); Thursday, November 3, 2005 (Panels and Multi-Session Workshops 8:30–5 p.m. and Open Forum Reception with Senior Managers 5–6 p.m.); Friday, November 4, 2005 (Half-day Session (Panel Discussions 8–12 p.m.)) will be held.

ADDRESSES: The Trade Symposium will be held at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of Trade Relations at (202) 344–1440 or at *traderelations@dhs.gov.* ACS Client Representatives; CBP Account Managers; Regulatory Audit Trade Liaisons; or to obtain the latest information on the program or to register on-line, visit the CBP Web site at *http://www.cbp.gov.* Requests for special needs should also be sent to the Office of Trade Relations at *traderelations@dhs.gov.*

SUPPLEMENTARY INFORMATION: The keynote speaker will be announced at a later date. The cost is $235.00 per individual and includes all symposium activities. Interested parties are requested to register early, as space is limited. Registration will open to the public on or about September 23, 2005. All registrations must be made on-line at the CBP Web site (*http://www.cbp.gov* and must be confirmed with payment by October 7, 2005 by credit card only. The JW Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington DC, has reserved a block of rooms for Wednesday through Friday, November 2–4, 2005 at a rate of U.S. $239.00 per night. Reservations may be made directly with the hotel at (202) 393–2000 or 1–800–228–9290 and reference the ''CBP Trade Symposium''.

Dated: August 17, 2005.

Michael C. Mullen,

Director, Office of Trade Relations.

[FR Doc. 05–17554 Filed 9–1–05; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2361–05]

RIN 1615–ZA29

Extension of the Designation of Burundi for Temporary Protected Status; Extension of Employment Authorization Documentation for Eligible TPS Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: The designation of Burundi for Temporary Protected Status (TPS) will expire on November 2, 2005. This Notice extends TPS for Burundi for 12 months, until November 2, 2006, and sets forth procedures for nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) with TPS to re-register and to apply for an extension of their employment authorization documents (EADs) for the additional 12-month period. Certain nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

The Department of Homeland Security recognizes that some re-registrants may not receive their new employment authorization documents until after their current documents expire on November 2, 2005. Accordingly, when eligible TPS beneficiaries re-register for TPS and appear at a U.S. Citizenship and Immigration Services Application Support Center for collection of biometrics, stickers will be affixed to their employment authorization documents to extend the validity of the cards through February 2006.

DATES: The extension of the designation of TPS for Burundi is effective as of November 2, 2005, and will remain in effect until November 2, 2006. The 60-day re-registration period begins September 2, 2005 and will remain in effect until November 1, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Kopp Keyack, Residence and Status Services, Office of Program and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, telephone (202) 514–4754. This is a toll call.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act.
ASC—U.S. Citizenship and Immigration Services, Application Support Center.
DHS—Department of Homeland Security.
DOS—Department of State.
EAD—Employment Authorization Document.
RIC—U.S. Citizenship and Immigration Services, Resource Information Center.
TPS—Temporary Protected Status.
USCIS—U.S. Citizenship and Immigration Services.

What Authority Does the Secretary of Homeland Security Have To Extend the Designation of TPS for Burundi?

Under section 244 of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state (or part thereof) for TPS. 8 U.S.C. 1254a(b)(1). The Secretary of Homeland Security may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). 8 U.S.C. 1254a(a)(1).

At least 60 days before the expiration of the TPS designation, or any extension thereof, section 244(b)(3)(A) of the Act requires the Secretary to review, after consultation with appropriate agencies of the Government, the conditions in a foreign state designated for TPS to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of the TPS designation. 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state no longer meets the conditions for the TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act. 8 U.S.C. 1254a(b)(3)(B). Finally, section 244(b)(3)(C) of the Act provides for the extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary, a period of 12 or 18 months) unless the Secretary determines that a foreign state (or part thereof) no longer meets the conditions for the designation at least 60 days before the designation or extension is due to end. 8 U.S.C. 1254a(b)(3)(C).

Why Is the Secretary of Homeland Security Extending the TPS Designation for Burundi for an Additional Year?

On November 4, 1997, the Attorney General published a Notice in the **Federal Register** at 62 FR 59735 designating TPS for Burundi based upon the ongoing armed conflict and extraordinary and temporary conditions within the country. The Attorney General subsequently extended the designation for one year finding that the conditions prompting designation continued to exist. In November 1999, the Attorney General extended and re-designated TPS for Burundi by publishing a Notice in the **Federal Register** at 64 FR 61123, based upon ongoing armed conflict and extraordinary and temporary conditions. Since that date, the Attorney General and the Secretary of Homeland Security, respectively, have extended TPS for Burundi five times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 67404, 66 FR 46027, 67 FR 55875, 68 FR 52405, 69 FR 60165. The most recent extension became effective on November 2, 2004, and is due to end on November 2, 2005.

Over the past year, the Department of Homeland Security (DHS) and the Department of State (DOS) have continued to review conditions in Burundi. Based on this review, DHS has concluded that a 12-month extension is warranted because, although there has been progress in the peace process, both the armed conflict and extraordinary and temporary conditions that prompted designation persist. Further, DHS has determined that it is not contrary to the national interest of the United States to permit aliens who are eligible for TPS based on the designation of Burundi to remain temporarily in the United States. See 8 U.S.C. 1254a(b)(1)(C).

On June 27, 2005, DOS submitted a memorandum to U.S. Citizenship and Immigration Services (USCIS) recommending an extension of TPS for Burundi (DOS Recommendation). The DOS Recommendation noted that while there have been some steps towards long-term peace, progress has been slower than expected. Specifically, the DOS Recommendation explains that despite a cease-fire on May 15, 2005, violence has continued with attacks on some neighborhoods of the capital, Bujumbura, as recently as June. Questions also remain regarding the extent of civilian control over the military. While there has been some improvement in security conditions in parts of Burundi, fighting and resulting displacement of the population continues around Bujumbura. USAID reports that, as of February 2005, sporadic attacks temporarily displaced between 25,000 to 50,000 residents each month, impeding humanitarian assistance. In May 2004, the Security Council authorized a United Nations Operation in Burundi (UNOB). The UNOB has been extended several times, most recently until December 1, 2005, to help create the necessary security conditions for the provision of humanitarian assistance and to carry out the disarmament and demobilization portions of the national Disarmament, Demobilization and Reintegration program. The World Bank estimates that there are some 55,000 combatants to be demobilized; as of May 10, 2005, only 10,000 former combatants had entered the national demobilization process.

Burundi has an estimated population of 6.8 million people. Currently, there are approximately 800,000 Burundian refugees, approximately 12 percent of the total population, the vast majority of whom are in neighboring Tanzania, with smaller numbers in Rwanda, the Democratic Republic of Congo and other countries in the region. The State Department reported that last year the United Nations High Commissioner for Refugees estimated that 150,000 to 175,000 Burundian nationals would return annually. However, the USCIS Resource Information Center (RIC) reported that approximately 158,000 refugees have returned to Burundi since 2002. RIC Report, June 23, 2005.

There are an estimated 120,000 internally displaced persons (IDPs) within Burundi. This number, however, shifts according to the pace of conflict.

As a result of 12 years of armed conflict, the humanitarian situation in Burundi continues to be dire. According to the RIC Report:

- Two million people required food aid in March 2005, an increase of 40 percent from 2004;
- One million two hundred thousand Burundi nationals lack basic shelter;
- The poverty level doubled to 67 percent between 1990 and 2003. Sixty-eight percent of the population lives on one dollar a day or less compared to 40 percent in 1993.

Based upon this review, the Secretary of Homeland Security, after consultation with appropriate Government agencies, finds that the conditions that prompted the designation of Burundi for TPS continue to be met. *See* 8 U.S.C. 1254a(b)(3)(A). The armed conflict is ongoing, and there are extraordinary and temporary conditions in Burundi that prevent eligible Burundian nationals (or aliens having no nationality who last habitually resided in Burundi) from returning in safety, assuming these aliens meet the other statutory requirements for TPS. The Secretary of Homeland Security also finds that it is not contrary to the national interest of the United States to permit aliens who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* 8 U.S.C. 1254a(b)(1)(C). On the basis of these findings, the Secretary of Homeland Security concludes that the designation of Burundi for TPS should be extended for an additional 12-month period. *See* 8 U.S.C. 1254a(b)(3)(C).

If I Currently Have Benefits Through the TPS Designation of Burundi, Should I Re-register for TPS?

Yes. If you already have received benefits through the TPS designation of Burundi, your benefits will expire on November 2, 2005. Accordingly, you must comply with the re-registration requirements described below in order to maintain TPS benefits through November 2, 2006. TPS benefits include temporary protection against removal from the United States, as well as employment authorization, during the TPS designation period. 8 U.S.C. 1254a(a)(1).

If I am Currently Registered for TPS, or Have a Pending Application for TPS, How Do I Re-register Under the Extension?

All persons previously granted TPS under the designation of Burundi who wish to maintain such status must re-register under the extension by filing the following:

(1) Form I–821, Application for Temporary Protected Status, without fee;

(2) Form I–765, Application for Employment Authorization (see the chart below to determine whether you must submit the one hundred seventy-five dollar ($175) filing fee with Form I–765) or a fee waiver request;

(3) A biometric service fee of seventy dollars ($70) if you are 14 years of age or older, or if you are under 14 and are requesting an Employment Authorization Document (EAD). The biometric service fee will not be waived. 8 CFR 103.2(e)(4)(i), (iii). An application submitted without the required fees will be returned to the applicant.

(4) Unlike previous registration periods, you do not need to submit photographs with your TPS application because a photograph will be taken when you appear at a USCIS Application Support Center (ASC) for collection of biometrics. Biometric collection also includes capture of your signature and fingerprints.

Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions if they wish to renew their TPS benefits.

What Edition of the Form I–821 Must be Submitted?

Form I–821 has been revised. Only the Form I–821 with a revision date of November 5, 2004 will be accepted. The bottom of each page of the revised form reads, ''Form I–821 (Rev. 11/05/04)N.'' Submissions of older versions of Form I–821 will be rejected.

Where Can I Obtain a Copy of the Revised Form I–821 Dated 11/5/04?

Immigration forms, including the revised Form I–821, are available from the toll-free USCIS Forms line, 1–800–870–3676, from your local USCIS district office, or from the USCIS Web site: *http://www.uscis.gov.*

Where and When Should the Forms and Fees Be Submitted?

Submit the completed forms and applicable fee(s), if any, to the USCIS Chicago, Illinois Lockbox, as noted below, during the 60-day re-registration period that begins September 2, 2005 and ends November 1, 2005.

Who Is Eligible to Receive a Sticker To Extend the Validity of His or Her EAD From November 2, 2005 Through February 2006?

An individual who is a national of Burundi (or an alien having no nationality who last habitually resided in Burundi), who has applied for and received an EAD under the TPS designation of Burundi, and who has not had TPS withdrawn or denied may have a temporary extension sticker affixed to his/her current TPS-related EAD when the individual re-registers for TPS and appears at an ASC for collection of biometrics. The sticker will indicate ''February 2006'' and will thereby extend the validity of the EAD until February 28, 2006. USCIS district offices will not be providing EAD extension stickers. This benefit will be available only through ASCs.

How May Employers Determine Whether an EAD Has Been Automatically Extended Through February 2006 and Is Therefore Acceptable for Completion of the Form I–9?

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I–9 until February 2006, employers of Burundian TPS beneficiaries whose EADs have been extended by an extension sticker must accept such EAD if presented. Employers will see a sticker that indicates ''February 2006'' on either: (1) A Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' or (2) a Form I–688B bearing the notation ''274a.12(a)(12)'' or ''274a.12(c)(19)'' on the face of the card under ''Provision of Law.'' This sticker extends validity of the EAD through February 28, 2006.

Employers should not request proof of Burundian citizenship. Unless put on notice that an employee is unauthorized to work, employers presented with an EAD that contains a valid extension sticker, if it appears to be genuine and appears to relate to the employee, should accept the EAD as a valid ''List A'' document and should not ask for additional Form I–9 documentation. This action by the Secretary of DHS does not affect the right of an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force and that this Notice does not supersede or in any way limit applicable employment verification rules and policy guidance. For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1–800–357–2099 to speak to a USCIS representative. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155 or 1–800–362–2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 or 1–800–237–2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

Where Should an Applicant Submit His or Her Application for Re-Registration or for Late Initial Registration?

The Form I–821, Form I–765, fees, and all supporting documentation

should be filed at the USCIS Chicago, Illinois Lockbox at: U.S. Citizenship and Immigration Services, Attn: TPS Burundi, P.O. Box 87583, Chicago, IL 60680–0583 or, for non-United States Postal Service deliveries: U.S. Citizenship and Immigration Services, Attn: TPS Burundi, 427 S. LaSalle—3rd Floor, Chicago, IL 60605.

Please note that the above-stated addresses are not the same as where you have submitted your forms during previous re-registration periods. Aliens re-registering or filing for late initial registration for TPS under the designation of Burundi should not send their TPS forms and fees directly to a USCIS district office. Failure to follow these instructions will delay processing of your TPS re-registration application and may result in your application being returned to you.

Who Must Submit the $175 Filing Fee for the Form I–765?

(1) Although all re-registrants must submit the Form I–765, only those re-registrants requesting an EAD, regardless of age, must submit the $175 filing fee or a properly documented fee waiver request pursuant to 8 CFR 244.20.

(2) Persons between the ages of 14 and 65 (inclusive) filing under the late initial registration provisions who are requesting an EAD also must submit the $175 fee or a fee waiver request pursuant to 8 CFR 244.20.

(3) Aliens who are submitting Form I–765 only for data-gathering purposes (as explained in the chart below) are not required to submit a $175 filing fee, nor are they required to submit a fee waiver request.

Note that TPS re-registrants and applicants for late initial registration may wish to consider whether obtaining an EAD will be helpful to them for reasons other than verifying employment eligibility (for example, as a photo identity document and/or in order to demonstrate eligibility for a driver's license in some states).

If	Then
You are re-registering for or renewing a TPS-related EAD, regardless of your age.	You must complete and file the Form I–765, Application for Employment Authorization, with the $175 fee or a fee waiver request in accordance with 8 CFR 244.20.
You are not requesting an EAD	You must complete and file Form I–765 (for data-gathering purposes only) with no fee or fee waiver request.[1]
You are applying for a TPS-related EAD under the late initial registration provisions and are between the ages of 14 and 65 (inclusive).	You must complete and file Form I–765 with the $175 fee or a fee waiver request.
You are applying for a TPS-related EAD under the late initial registration provisions *and* are under age 14 or over age 65.	You must complete and file Form I–765 (for data-gathering purposes only) with no fee.

[1] An applicant who does not want an EAD does not need to submit the $175 fee, but must complete and submit Form I–765 for data-gathering purposes.

Who Must Submit the $70 Biometric Service Fee?

The $70 biometric service fee must be submitted by all aliens 14 years of age and older who are re-registering for TPS, renewing temporary treatment benefits, or filing for late initial registration. In addition, since a photograph, signature, and fingerprint are required to produce an EAD, any applicant under the age of 14 choosing to apply for an EAD must submit the $70 biometric service fee. The biometric service fee cannot be waived. 8 CFR 103.2(e)(4)(i), (iii).

Does TPS Lead to Lawful Permanent Residence?

No. TPS is a temporary benefit that does not lead to lawful permanent residence by itself or confer any other immigration status. 8 U.S.C. 1254a(e), (f)(1), and (h). TPS also does not cure any immigration status violations, including periods of unlawful presence that may have accrued prior to an alien's filing of a prima facie eligible application for TPS which is ultimately granted, following withdrawal of TPS, or after termination of a TPS designation. When a country's TPS designation is terminated, TPS beneficiaries will have the same immigration status they held prior to TPS (unless that status has since expired or been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will have no lawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation and who have not acquired another immigration status are expected to plan for their departure from the United States.

May I Apply for Another Immigration Benefit While I am Registered for TPS?

Yes. Registration for TPS does not prevent you from applying for another non-immigrant status, from filing for adjustment of status based on an immigrant petition, or from applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of nonimmigrant status and adjustment of status, an alien is considered as being in, and maintaining, lawful status as a nonimmigrant during the period in which he or she is granted TPS. 8 U.S.C. 1254a(f)(4).

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii).

Does This Extension Allow Nationals of Burundi (or Aliens Having No Nationality Who Last Habitually Resided in Burundi) To Apply for TPS if They Entered the United States After November 9, 1999?

No. This is a Notice of an extension of the TPS designation of Burundi, not a Notice re-designating Burundi for TPS. An extension of a TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those beyond the current TPS eligibility requirements for Burundi. To be eligible for benefits under this extension, nationals of

Burundi (or aliens having no nationality who last habitually resided in Burundi) must have been continuously physically present in the United States and must have continuously resided in the United States since November 9, 1999.

Are Certain Aliens Ineligible for TPS?

Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony, or two or more misdemeanors, committed in the United States are ineligible for TPS under section 244(c)(2)(B) of the Act, 8 U.S.C. 1254a(c)(2)(B), as are aliens described in the bars to asylum in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A).

What Is Late Initial Registration?

Some aliens who did not file for TPS during the initial registration period may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A) and (c)(2) and 8 CFR 244.2(f)(2) and (g). To apply for late initial registration an applicant must:

(1) Be a national of Burundi (or an alien who has no nationality and who last habitually resided in Burundi);

(2) Have continuously resided in the United States since November 9, 1999;

(3) Have been continuously physically present in the United States since November 9, 1999; and

(4) Be admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period for the initial designation (from November 4, 1997 to November 3, 1998), or during the registration period for the re-designation (from November 9, 1999 to November 2, 2000), he or she:

(1) Was a nonimmigrant or had been granted voluntary departure or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration within 60 days of the expiration or termination of the above-described conditions. 8 CFR 244.2(g). All late initial registration applications for TPS pursuant to the TPS extension of Burundi should be submitted to the USCIS lockbox address listed above.

What Happens When This Extension of TPS Expires on November 2, 2006?

At least 60 days before this extension of the TPS designation for Burundi expires on November 2, 2006, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review conditions in Burundi and determine whether the conditions for designation continue to be met at that time, or whether the TPS designation should be terminated. 8 U.S.C. 1254a(b)(3). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

Notice of Extension of Designation of TPS for Burundi

By the authority vested in the Secretary of Homeland Security under sections 244(b)(3)(A) and (b)(3)(C) of the Act, DHS has determined, after consultation with the appropriate Government agencies, that the conditions that prompted designation of Burundi for TPS continue to be met. Accordingly, DHS orders as follows:

(1) The designation of Burundi under section 244(b)(1)(C) of the Act is extended for an additional 12-month period from November 2, 2005, to November 2, 2006. 8 U.S.C. 1254a(b)(3)(C).

(2) There are approximately 30 nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who was granted TPS during one of the initial designation periods (or through late initial registration) and who re-registered during the subsequent extensions of this designation, if any, must re-register for TPS during the 60-day re-registration period from September 2, 2005 until November 1, 2005.

(4) To re-register, the alien must file the following: (1) Form I–821, Application for Temporary Protected Status, without fee; (2) Form I–765, Application for Employment Authorization; and (3) a biometric services fee of $70 if the alien is age 14 or older, or if the alien is under age 14 and requesting an EAD. Applications submitted without the required fees will be returned to the applicant. If the alien requests an EAD, he or she must submit $175 or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with Form I–765. An alien who does not request employment authorization must still file Form I–765 along with Form I–821, but he or she is not required to submit the fee or a fee waiver request for filing Form I–765. Failure to re-register during the re-registration period without good cause will result in the withdrawal of TPS. 8 U.S.C. 1254a(c)(3)(C). Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions to renew temporary treatment benefits. Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension ends on November 2, 2006, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review the designation of Burundi for TPS and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. *Id.*

(6) Information concerning the extension of designation of Burundi for TPS will be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Dated: August 22, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–17579 Filed 8–31–05; 10:06 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2360–05]

RIN 1615–ZA28

Extension of the Designation of Sudan for Temporary Protected Status; Extension of Employment Authorization Documentation for Eligible TPS Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: The designation of Sudan for Temporary Protected Status (TPS) will expire on November 2, 2005. This Notice extends TPS for Sudan for 18 months, until May 2, 2007, and sets forth procedures necessary for nationals of Sudan (or aliens having no

nationality who last habitually resided in Sudan) with TPS to re-register and to apply for an extension of their employment authorization documents (EADs) for the additional 18-month period. Certain nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

The Department of Homeland Security recognizes that some re-registrants may not receive their new employment authorization documents until after their current documents expire on November 2, 2005. Accordingly, when eligible TPS beneficiaries re-register for TPS and appear at a U.S. Citizenship and Immigration Services Application Support Center for collection of biometrics, stickers will be affixed to their employment authorization documents to extend the validity of the cards through February 2006.

DATES: The extension of the designation of TPS for Sudan is effective November 2, 2005, and will remain in effect until May 2, 2007. The 60-day re-registration period begins September 2, 2005 and will remain in effect until November 1, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Kopp Keyack, Residence and Status Services, Office of Program and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, telephone (202) 514–4754. This is a toll call.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act.
ASC—USCIS Application Support Center.
DHS—Department of Homeland Security.
DOS—Department of State.
EAD—Employment Authorization Document.
RIC—USCIS Resource Information Center.
TPS—Temporary Protected Status.
U.N.—United Nations.
UNHCR—United Nations High Commissioner for Refugees.
USCIS—U.S. Citizenship and Immigration Services.

What Authority Does the Secretary of Homeland Security Have To Extend the Designation of TPS for Sudan?

Under section 244 of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state (or part thereof) for TPS. 8 U.S.C. 1254a(b)(1). The Secretary of Homeland Security may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). 8 U.S.C. 1254a(a)(1).

At least 60 days before the expiration of the TPS designation, or any extension thereof, section 244(b)(3)(A) of the Act requires the Secretary to review, after consultation with appropriate agencies of the Government, the conditions in a foreign state designated for TPS to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of the TPS designation. 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state no longer meets the conditions for the TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act. 8 U.S.C. 1254a(b)(3)(B). Finally, section 244(b)(3)(C) of the Act provides for the extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary, a period of 12 or 18 months) unless the Secretary determines that a foreign state (or part thereof) no longer meets the conditions for the designation at least 60 days before the designation or extension is due to end. 8 U.S.C. 1254a(b)(3)(C).

Why Did the Secretary of Homeland Security Decide To Extend the TPS Designation for Sudan?

On November 4, 1997, the Attorney General published a Notice in the **Federal Register** at 62 FR 59737 designating Sudan for TPS based on an ongoing armed conflict and extraordinary and temporary conditions within the country. The Attorney General extended this designation the next year, determining that the conditions warranting such designation continued to be met. 63 FR 59337. On November 9, 1999, the Attorney General extended and re-designated Sudan by publishing a Notice in the **Federal Register**, based upon the ongoing armed conflict and extraordinary and temporary conditions within the country. 64 FR 61128. Subsequent to that date, the Attorney General, and now the Secretary of Homeland Security, extended TPS for Sudan four times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 67407, 66 FR 46031, 67 FR 55877, and 68 FR 52410. In the most recent designation, which took place October 7, 2004, the Secretary of Homeland Security extended and re-designated Sudan for TPS due to the ongoing armed conflict in the Darfur region and the extraordinary and temporary conditions resulting from the ongoing conflict. 69 FR 60168. The most recent extension and re-designation became effective on November 2, 2004, and are due to end on November 2, 2005.

Over the past year, the Department of Homeland Security (DHS) and the Department of State (DOS) have continued to review conditions in Sudan. Based on this review, DHS has concluded that an 18-month extension is warranted because the ongoing, armed conflict and extraordinary and temporary conditions that prompted designation persist. Further, DHS has determined that it is not contrary to the national interest of the United States to permit aliens who are eligible for TPS based on the designation of Sudan to remain temporarily in the United States. *See* 8 U.S.C. 1254a(b)(1)(C).

On June 28, 2005, DOS submitted a memorandum to U.S. Citizenship and Immigration Services (USCIS) recommending an extension of TPS for Sudan (DOS Recommendation). The DOS Recommendation noted that although the Government of Sudan and the rebel Sudan People's Liberation Army/Movement signed a Comprehensive Peace Agreement on January 9, 2005, sporadic violence continues in southern Sudan, with an estimated 9,000 new refugee outflows since January. Several groups, including numerous Sudanese militias and the Ugandan Lord's Resistance Army, continue to threaten the long-term security of the region. *Id.*

The USCIS Resource Information Center (RIC) reported on June 23, 2005, that two million people were killed during the war in southern Sudan. RIC Report. Another two million southern Sudanese rely on assistance provided by Operation Lifeline Sudan. *Id.* There are over 500,000 refugees from southern Sudan in Uganda, Ethiopia, the Democratic Republic of Congo, and Kenya. DOS Recommendation. The United Nations High Commissioner for Refugees (UNHCR) plans to organize the return of refugees to Southern Sudan beginning in fall 2005. *Id.* As of June 2005, very few UNHCR-registered refugees have returned to southern Sudan. *Id.*

The DOS Recommendation also explained that armed conflict continues in the western region of Darfur and an estimated 180,000 people have been killed in conflict during the past two years. Further, approximately two

million people have been internally displaced and another 200,000 have fled to neighboring Chad as a result of the conflict. There are reports of widespread killings, rapes, beatings, looting and burning of property throughout the region.

Access to humanitarian aid is limited. In April 2005, the United Nations (U.N.) reported that up to four million people might face food shortages over the next 18 months. DOS Recommendation. Two million people are in need of food aid in Darfur. RIC Report. The killing of three aid workers in December 2004 and general insecurity hampered humanitarian agencies from accessing areas of Darfur in need. *Id.* The number of internally displaced persons in all of Sudan rose from 4 million to 6 million due to the armed conflict in Darfur. *Id.*

Based upon this review, the Secretary of Homeland Security finds, after consultation with the appropriate Government agencies, finds that the conditions that prompted the designation of Sudan for TPS continue to be met. *See* 8 U.S.C. 1254a(b)(3)(A). The armed conflict is ongoing and there exists extraordinary and temporary conditions in Sudan that prevent aliens who are nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) from returning in safety, assuming these aliens meet the other statutory requirements for TPS. The Secretary of Homeland Security also finds that it is not contrary to the national interest of the United States to permit aliens who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* 8 U.S.C. 1254a(b)(1)(C). On the basis of these findings, the Secretary of Homeland Security concludes that the designation of Sudan for TPS should be extended for an additional 18-month period. *See* 8 U.S.C. 1254a(b)(3)(C).

If I Currently Have Benefits Through the TPS Designation of Sudan, Should I Re-register for TPS?

Yes. If you already have received benefits through the TPS designation of Sudan, your benefits will expire on November 2, 2005. Accordingly, you must comply with the re-registration requirements described below in order to maintain TPS benefits through May 2, 2007. TPS benefits include temporary protection against removal from the United States, as well as employment authorization, during the TPS designation period. 8 U.S.C. 1254a(a)(1).

If I Am Currently Registered for TPS, or Have a Pending Application for TPS, How Do I Re-register Under the Extension?

All persons previously granted TPS under the designation of Sudan who wish to maintain such status must re-register under the extension by filing the following:

(1) Form I–821, Application for Temporary Protected Status, without fee;

(2) Form I–765, Application for Employment Authorization (*see* the chart below to determine whether you must submit the one hundred seventy-five dollar ($175) filing fee with Form I–765) or a fee waiver request;

(3) A biometric service fee of seventy dollars ($70) if you are 14 years of age or older, or if you are under 14 and are requesting an Employment Authorization Document (EAD). The biometric service fee will not be waived. 8 CFR 103.2(e)(4) (i), (iii). An application submitted without the required fees will be returned to the applicant.

(4) Unlike previous registration periods, you do not need to submit photographs with your TPS application because a photograph will be taken when you appear at an USCIS Application Support Center (ASC) for collection of biometrics. Biometric collection also includes capture of your signature and fingerprints.

Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions if they wish to renew their TPS benefits.

What Edition of the Form I–821 Must Be Submitted?

Form I–821 has been revised. Only the Form I–821 with a revision date of November 5, 2004 will be accepted. The bottom of each page of the revised form reads, ''Form I–821 (Rev. 11/05/04)N.'' Submissions of older versions of Form I–821 will be rejected.

Where and When Should the Forms and Fees Be Submitted?

Submit the completed forms and applicable fee, if any, to the USCIS Chicago, Illinois Lockbox, as noted below, during the 60-day re-registration period that begins September 2, 2005 and ends November 1, 2005.

Who Is Eligible To Receive a Sticker To Extend the Validity of His or Her EAD From November 2, 2005 Through February 2006?

An individual who is a national of Sudan (or an alien having no nationality who last habitually resided in Sudan), who has applied for and received an EAD under the TPS designation of Sudan, and who has not had TPS withdrawn or denied will have a temporary extension sticker affixed to his/her current TPS-related EAD when the individual re-registers for TPS and appears at an ASC for collection of biometrics. The sticker will indicate ''February 2006'' and will thereby extend the validity of the EAD until February 28, 2006. USCIS district offices will not be providing EAD extension stickers. This benefit will be available only through ASCs.

How May Employers Determine Whether an EAD Has Been Automatically Extended Through February 2006 and Is Therefore Acceptable for Completion of the Form I–9?

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I–9 until February 2006, employers of Sudanese TPS beneficiaries whose EADs have been extended by an extension sticker must accept such EAD if presented. Employers will see a sticker that indicates ''February 2006'' on either: (1) a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' or (2) a Form I–688B bearing the notation ''274a.12(a)(12)'' or ''274a.12(c)(19)'' on the face of the card under ''Provision of Law.'' This sticker extends validity of the EAD through February 28, 2006.

Employers should not request proof of Sudanese citizenship. Unless put on notice that an employee is unauthorized to work, employers presented with an EAD that contains a valid extension sticker, if it appears to be genuine and appears to relate to the employee, should accept the EAD as a valid ''List A'' document and should not ask for additional Form I–9 documentation. This action by the Secretary of DHS does not affect the right of an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force and that this Notice does not supersede or in any way limit applicable employment verification rules and policy guidance. For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1–800–357–2099 to speak to a USCIS representative. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer

Hotline at 1–800–255–8155 or 1–800–362–2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 or 1–800–237–2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html*.

Where Should an Applicant Submit His or Her Application for Re-Registration or for Late Initial Registration?

The Form I–821, Form I–765, fees, and all supporting documentation should be filed at the USCIS Chicago, Illinois Lockbox at: U.S. Citizenship and Immigration Services, Attn: TPS Sudan, P.O. Box 87583, Chicago, IL 60680–0583 or, for non-United States Postal Service (USPS) deliveries: U.S. Citizenship and Immigration Services, Attn: TPS Sudan, 427 S. LaSalle—3rd Floor, Chicago, IL 60605.

Please note that the above-stated addresses are not the same as where you have submitted your forms during previous re-registration periods. Aliens re-registering or filing for late initial registration for TPS under the designation of Sudan should not send their TPS forms and fees directly to a USCIS district office. Failure to follow these instructions will delay processing of your TPS re-registration application and may result in your application being returned to you.

Who Must Submit the $175 Filing Fee for the Form I–765?

(1) Although all re-registrants must submit the Form I–765, only those re-registrants requesting an EAD, regardless of age, must submit the $175 filing fee or a properly documented fee waiver request pursuant to 8 CFR 244.20.

(2) Persons between the ages of 14 and 65 (inclusive) filing under the late initial registration provisions who are requesting an EAD also must submit the $175 fee or a fee waiver request pursuant to 8 CFR 244.20.

(3) Aliens who are submitting Form I–765 only for data-gathering purposes (as explained in the chart below) are not required to submit a $175 filing fee, nor are they required to submit a fee waiver request.

Note that TPS re-registrants and applicants for late initial registration may wish to consider whether obtaining an EAD will be helpful to them for reasons other than verifying employment eligibility (for example, as a photo identity document and/or in order to demonstrate eligibility for a driver's license in some states).

If	Then
You are re-registering for or renewing a TPS-related EAD, regardless of your age.	You must complete and file the Form I–765, Application for Employment Authorization, with the $175 fee or a fee waiver request in accordance with 8 CFR 244.20.
Your are not requesting an EAD	You must complete and file Form I–765 (for data-gathering purposes only) with no fee or fee waiver request.[1]
You are not applying for a TPS-related EAD under the late initial registration provisions and are between the ages of 14 and 65 (inclusive).	You must complete and file Form I–765 with the $175 fee or fee waiver request.
You are applying for a TPS-related EAD under the late initial registration provisions and are under age 14 or over age 65.	You must complete and file Form I–765 (for data-gathering purposes only) with no fee.

[1] An applicant who does not want an EAD does not need to submit the $175 fee, but must complete and submit Form I–765 for data-gathering purposes.

Who Must Submit the $70 Biometric Service Fee?

The $70 biometric service fee must be submitted by all aliens 14 years of age and older who are re-registering for TPS, renewing temporary treatment benefits, or filing for late initial registration. In addition, since a photograph, signature, and fingerprint are required to produce an EAD, any applicant under the age of 14 choosing to apply for an EAD must submit the $70 biometric service fee. The biometric service fee cannot be waived. 8 CFR 103.2(e)(4)(i), (iii).

Does TPS Lead to Lawful Permanent Residence?

No. TPS is a temporary benefit that does not lead to lawful permanent residence by itself or confer any other immigration status. 8 U.S.C. 1254a(e), (f)(1), and (h). TPS also does not cure any immigration status violations, including periods of unlawful presence that may have accrued prior to an alien's filing of a prima facie eligible application for TPS that is ultimately granted, following withdrawal of TPS, or after termination of a TPS designation. When a country's TPS designation is terminated, TPS beneficiaries will have the same immigration status they held prior to TPS (unless that status has since expired or been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will have no lawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation and who have not acquired another immigration status are expected to plan for their departure from the United States.

May I Apply for Another Immigration Benefit While Registered for TPS?

Yes. Registration for TPS does not prevent you from applying for another non-immigrant status, from filing for adjustment of status based on an immigrant petition, or from applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of nonimmigrant status and adjustment of status, an alien is considered as being in, and maintaining, lawful status as a nonimmigrant during the period in which he or she is granted TPS. 8 U.S.C. 1254a(f)(4).

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii).

Does This Extension Allow Nationals of Sudan (or Aliens Having No Nationality Who Last Habitually Resided in Sudan) To Apply for TPS if They Entered the United States After October 7, 2004?

No. This is a Notice of an extension of the TPS designation of Sudan, not a Notice re-designating Sudan for TPS. An extension of a TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those beyond the current TPS eligibility requirements for Sudan. To be eligible for benefits under this extension, nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) must have been continuously physically present and continuously resided in the United States since October 7, 2004.

Are Certain Aliens Ineligible for TPS?

Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony, or two or more misdemeanors, committed in the United States are ineligible for TPS under section 244(c)(2)(B) of the Act, 8 U.S.C. 1254a(c)(2)(B), as are aliens described in the bars to asylum in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A).

What Is Late Initial Registration?

Some aliens who did not file for TPS during the initial registration period may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A) and (c)(2) and 8 CFR 244.2(f)(2) and (g). To apply for late initial registration an applicant must:

(1) Be a national of Sudan (or alien who has no nationality and who last habitually resided in Sudan);

(2) Have continuously resided in the United States since October 7, 2004;

(3) Have been continuously physically present in the United States since October 7, 2004; and

(4) Be admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period for the initial designation (from November 4, 1997 to November 3, 1998), during the registration period for the first re-designation (from November 9, 1999 to November 2, 2000), or during the registration period for the most recent re-designation (from October 7, 2004 to April 5, 2005), he or she:

(1) Was a nonimmigrant or had been granted voluntary departure or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration within 60 days of the expiration or termination of the above-described conditions. 8 CFR 244.2(g). All late initial registration applications for TPS pursuant to the TPS extension of Sudan should be submitted to the USCIS lockbox address listed above.

What Happens When This Extension of TPS Expires on May 2, 2007?

At least 60 days before this extension of the TPS designation for Sudan expires on May 2, 2007, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review conditions in Sudan and determine whether the conditions for designation continue to be met at that time, or whether the TPS designation should be terminated. 8 U.S.C. 1254a(b)(3). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

Notice of Extension of Designation of TPS for Sudan

By the authority vested in the Secretary of Homeland Security under sections 244 (b)(3)(A) and (b)(3)(C) of the Act, DHS has determined, after consultation with the appropriate Government agencies, that the conditions that prompted designation of Sudan for TPS continue to be met. Accordingly, DHS orders as follows:

(1) The designation of Sudan under section 244(b)(1)(C) of the Act is extended for an additional 18-month period from November 2, 2005, to May 2, 2007. 8 U.S.C. 1254a(b)(3)(C).

(2) There are approximately 648 nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of Sudan (or an alien having no nationality who last habitually resided in Sudan) who was granted TPS during one of the initial designation periods (or through late initial registration) and who re-registered during the subsequent extensions of this designation, if any, must re-register for TPS during the 60-day re-registration period from September 2, 2005 until November 1, 2005.

(4) To re-register, the alien must file the following: (1) Form I–821, Application for Temporary Protected Status, without fee; (2) Form I–765, Application for Employment Authorization; and (3) a biometric services fee of $70 if the alien is age 14 or older, or if the alien is under age 14 and requesting an EAD. Applications submitted without the required fees will be returned to the applicant. If the alien requests an EAD, he or she must submit $175 or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with Form I–765. An alien who does not request employment authorization must still file Form I–765 along with Form I–821, but he or she is not required to submit the fee or a fee waiver request for filing Form I–765. Failure to re-register without good cause will result in the withdrawal of TPS. 8 U.S.C. 1254a(c)(3)(C). Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions to renew temporary treatment benefits. Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension ends on May 2, 2007, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review the designation of Sudan for TPS and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. *Id.*

(6) Information concerning the extension of designation of Sudan for TPS will be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Dated: August 22, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–17578 Filed 8–31–05; 10:06 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Impact Statement/ Environmental Impact Report and Receipt of an Application for an Incidental Take Permit for the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, Contra Costa County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice announces the availability of the draft East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (Plan), draft Implementing Agreement, and draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for public review and comment. In response to receipt of an application from the East Contra County Habitat Conservation Plan Association (Association), the Fish and Wildlife Service (Service) is considering the proposed action of issuing a 30-year permit for 28 species. The proposed permit would authorize take of individual members of species listed under the Federal Endangered Species Act of 1973, as amended (ESA). The permit is needed because take of species could occur during proposed urban development activities, rural infrastructure projects, and preserve management activities within a 175,435-acre planning area located in eastern Contra Costa County, California.

DATES: Two public meetings will be held on: Thursday, October 27, 2005, from at 1 p.m. to 3 p.m. and 6 p.m. to 8 p.m. Written comments should be received on or before December 1, 2005.

ADDRESSES: The public meetings will be held at: Pittsburg City Hall, 65 Civic Drive, Pittsburg, California 94565. Send comments by mail or facsimile to: (1) Lori Rinek, Division Chief, U.S. Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825; facsimile (916) 414–6713; and (2) John Kopchik, Principal Planner, Contra Costa County Community Development Department, 651 Pine Street, Fourth Floor North Wing, Martinez, California 94553, facsimile (925) 335–1299.

FOR FURTHER INFORMATION CONTACT: (1) Sheila Larsen, Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division, Sacramento Fish and Wildlife Office, telephone (916) 414–6600; or (2) John Kopchik, Principal Planner, Contra Costa County Community Development Department, e-mail *jkopc@cd.cccounty.us*, telephone (925) 335–1227.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the draft Plan, draft Implementing Agreement and draft EIS/EIR are available for public review from 9 a.m. to 5 p.m., at the Contra Costa County Community Development Department (see **ADDRESSES**). These documents also are available on the Association's Web site at: *http://www.cocohcp.org*.

In addition, copies of all documents are also available at the following Contra Costa County Library locations: 751 Third Street, Brentwood, CA; 6125 Clayton Road, Clayton, CA; Freedom High School, 1050 Neroly Road, Oakley, CA; 80 Power Avenue, Pittsburg, CA; Riverview Middle School, 205 Pacifica Avenue, Bay Point, CA.

You also may obtain copies of these documents for review by contacting Lori Rinek [see **FOR FURTHER INFORMATION CONTACT**]. Documents also will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office [see **ADDRESSES**].

Meetings

The initial Notice of Intent to prepare a draft EIS/EIR and hold a public scoping meeting on July 17, 2003, was published in the **Federal Register** on June 5, 2003 (68 FR 33736). Information on past and upcoming meetings is available on the Association's Web site at *http://www.cocohcp.org*.

Background Information

Section 9 of the Federal ESA of 1973, as amended, and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened (16 U.S.C. 1538). The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Under limited circumstances, the Service may issue permits to authorize incidental take of listed fish or wildlife; *i.e.*, take that is incidental to, and not the purpose of, otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

Although take of listed plant species is not prohibited under the Federal ESA, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included on an incidental take permit would receive assurances under the Services ''No Surprises'' regulation 50 CFR 17.22(b)(5) and 17.32(b)(5).

The Service has received an application for an incidental take permit for implementation of the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (Plan). The application has been prepared and submitted by the East Contra County Habitat Conservation Plan Association (Association), a joint powers authority consisting of the following seven agencies: Contra Costa County; the cities of Brentwood, Clayton, Oakley, and Pittsburg; Contra Costa Water District; and, East Bay Regional Park District. The Association has prepared the Plan to satisfy the application requirements for a section 10(a)(1)(B) permit under the Federal ESA, of 1973, as amended, and a section 2835 permit under the California Natural Community Conservation Planning Act of 2002 (NCCPA). Thus the Plan constitutes a Habitat Conservation Plan pursuant to the Federal ESA, and a Natural Community Conservation Plan pursuant to the California NCCPA.

The Association seeks a 30-year incidental take permit for covered activities within a proposed 175,435-acre planning area, located entirely in eastern Contra Costa County, California. The Association has requested a permit for 28 species, 8 of which are currently listed as threatened or endangered under the Federal ESA. Of these 28 species, the Association requests a permit and assurances for 17 animal species and assurances for 11 plant species. Proposed covered species include 3 wildlife species currently listed as endangered under the Federal ESA [San Joaquin kit fox (*Vulpes macrotus mutica*), longhorn fairy shrimp (*Brachinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*)] and 5 wildlife species currently listed as threatened under the Federal ESA [Alameda whipsnake (*Masticophis lateralis euryxanthus*), giant garter snake (*Thamnophis gigas*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), and vernal pool fairy shrimp (*Brachinecta lynchi*)]. Proposed covered species also include 9 wildlife species and 11 plant species

that are not listed under the Federal ESA at the current time: Townsend's western big-eared bat (*Corynorhinus townsendii townsendii*), tricolored blackbird (*Agelaius tricolor*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularia hypugea*), Swainson's hawk (*Buteo swainsonii*), silvery legless lizard (*Anniella pulchra pulchra*), western pond turtle (*Clemmys marmorata*), foothill yellow-legged frog (*Rana boylii*), midvalley fairy shrimp (*Brachinecta mesovallensis*), Mount Diablo manzanita (*Arctostaphylos auriculata*), brittlescale (*Atriplex depressa*), San Joaquin spearscale (*Atriplex joanquiniana*), big tarplant (*Blepharizonia plumosa* ssp. *plumosa*), Mount Diablo fairy lantern (*Calochortus pulchellus*), recurved larkspur (*Delphinium recurvatum*), round-leaved filaree (*Erodium macrophyllum*), Diablo helianthella (*Helianthella castanea*), Brewer's dwarf flax (*Hesperolinon breweri*), showy madia (*Madia radiata*), and adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*).

If the proposed Plan is approved and the permit issued, take authorization of covered listed wildlife species would be effective at the time of permit issuance. Take of the currently non-listed covered wildlife species would be authorized concurrent with the species' listing under the Federal ESA, should they be listed during the duration of the permit.

The proposed Plan is intended to be a comprehensive and multi-jurisdictional document, providing for regional species conservation and habitat planning, while allowing the prospective permitees (the County and the cities that are members of the Association) to better manage anticipated growth and development. The proposed Plan also is intended to provide a coordinated process for permitting and mitigating the take of covered species as an alternative to the current project-by-project approach.

If the proposed Plan is approved and a permit is issued to the Association, project proponents would submit applications for incidental take authorization to their local land use authority (members of the Association holding a valid permit) as part of the standard project review and approval process. The local land use authority would review these applications for completeness and for compliance with the terms of the Plan. Take authorization would be issued to these parties by the local land use authority if the application is complete and compliant with the Plan. As part of the standard approval process, projects would require separate, project-level environmental review under the California Environmental Quality Act and, in some cases, the National Environmental Policy Act.

An Implementing Entity created by the Association would be responsible for conducting broad conservation and management measures, such as acquiring and maintaining preserve land, restoring and enhancing habitat, tracking the success of the conservation strategy, and instituting any necessary changes. Projects conducted by the Implementing Entity would be consistent with the Plan and receive coverage for take.

In order to comply with the requirements of the Federal ESA, California ESA, and the California NCCPA, the proposed Plan addresses a number of required elements, including: species and habitat goals and objectives; evaluation of the effects of covered activities on covered species, including indirect and cumulative effects; a conservation strategy; a monitoring and adaptive management program; descriptions of changed circumstances and remedial measures; identification of funding sources; and an assessment of alternatives to take of listed species.

In order to define a reasonable range of expected growth, the proposed Plan defines two permit areas: the initial urban development area and the maximum urban development area. Although the initial and maximum urban development areas bound the range of the proposed permit area, the final permit area may lie somewhere in between, depending on local land use decisions that occur during the proposed 30-year permit term. The proposed Plan therefore encompasses a range of alternative permit areas. Both the initial and maximum urban development areas are based on current general plans of the local jurisdictions.

The proposed initial urban development area is defined by: (1) The Urban Limit Line (ULL) of Contra Costa County and the city limits of the participating cities (Pittsburg, Clayton, Oakley, and Brentwood), whichever is largest; (2) the footprint of specific rural infrastructure projects outside the ULL; and (3) the boundary of any land acquired in fee title or conservation easement and managed under the Plan. Up to 8,949 acres of ground-disturbing urban development activities within the ULL are proposed to be permitted under the initial urban development area.

The proposed maximum urban development area is the largest extent to which the permit area could expand under the terms of the proposed Plan. Under this scenario, an additional 4,252 acres of ground-disturbing urban development activities within the permit area (for a maximum of 13,201 acres) could be allowed, as long as the conditions of the Plan are met.

Proposed covered activities and projects within the Plan fall within three distinct categories: Activities and projects associated with urban growth within the urban development area; rural infrastructure projects (totaling approximately 1,302 acres outside the ULL); and activities that occur inside the Plan preserves. Proposed activities within the Plan preserves include the following: Construction and maintenance of recreational or management facilities; habitat enhancement, restoration and creation; surveys for covered species, vegetation communities, and other resources; and emergency activities, including firefighting, and repair of existing facilities due to floods or fire. During the permit term, the proposed neighboring lands provision would allow agricultural lands within 1 mile of the preserve boundary to be eligible for take coverage during the course of routine agricultural activities with certain provisions and restrictions.

The conservation strategy was designed to minimize and mitigate the impacts of covered activities, contribute to the recovery of listed covered species, and protect and enhance populations of non-listed covered species, as proposed. The proposed conservation strategy provides for the establishment, enhancement, and long-term management of the preserves for the benefit of covered vegetation communities, covered species, and overall biodiversity and ecosystem functions. The proposed preserves would also serve to achieve other complementary goals such as recreation, grazing, and crop production, as long as the primary biological goals of the Plan are met and not compromised. The system of new preserves would likely be linked to existing protected lands to form a network of protected areas outside the area where new urban growth is proposed to be permitted under the Plan.

National Environmental Policy Act Compliance

Proposed permit issuance triggers the need for compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). Accordingly, a joint NEPA/CEQA document has been prepared. The Service is the Lead Agency responsible for compliance under NEPA, and the Association is the Lead Agency with responsibility for compliance with CEQA. As NEPA lead

agency, the Service is providing notice of the availability of the draft EIS/EIR, which evaluates the impacts of proposed issuance of the permit and implementation of the Plan, and as well as a reasonable range of alternatives.

The draft EIS/EIR analyzes three alternatives in addition to the proposed Plan, described above. The proposed Plan is considered Conservation Strategy A (Alternative 1). The three alternatives are described below.

The Conservation Strategy B Alternative (Alternative 2) would provide for the same size planning area, located entirely in eastern Contra Costa County, with the same preserve size as the proposed Plan, except that the location of the preserve would be modified. Modification of the preserve locations would result in increased protection of chaparral and cultivated agriculture and decreased protection of grassland. Conservation Strategy B would also involve less riparian restoration than the proposed Plan. Other elements of the proposed Plan would remain the same under Conservation Strategy B, including species and communities covered, conservation measures, monitoring and adaptive management, and implementation approach.

Compared to the Proposed Plan, the Reduced Development Area Alternative (Alternative 3) would provide for a reduced level of take due to a reduced permit area. Existing open space or agricultural lands within the ULL that are not currently designated for development would be conserved. Under this alternative, the permit area would be 9,330 acres. Other elements of the proposed Plan would remain the same under the Reduced Development Area Alternative, including species and communities covered, conservation measures, monitoring and adaptive management, and implementation approach.

Under the No-Action/No-Project alternative (Alternative 4), the proposed Plan would not be adopted, and permits pursuant to Section 10(a)(1)(B) of the Act and Section 2835 of the NCCPA would not be issued by the Service and California Department of Fish and Game, respectively. Compliance with the Federal and California ESAs would continue to be addressed on a case-by-case basis.

Public Comments

The Service and Association invite the public to comment on the draft Plan, draft EIS/EIR, and draft Implementing Agreement during a 90-day public comment period beginning on the date of this notice. The comment period is opened for 90 days to eliminate the need for an extension subsequent to the close of the comment period. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

The Service will evaluate the application, associated documents, and comments submitted to them to prepare a final EIS/EIR. A permit decision will be made no sooner than 30 days after the publication of the final EIS/EIR and completion of the Record of Decision.

This notice is provided pursuant to section 10(a) of the Federal ESA and Service regulations for implementing NEPA, as amended (40 CFR 1506.6). We provide this notice in order to allow the public, agencies, or other organizations to review and comment on these documents.

Dated: August 17, 2005.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, CA.

[FR Doc. 05–16899 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–030–1320–EL, NDM91535]

Notice of Availability of Coal Lease Final Environmental Impact Statement, North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability (NOA) of a Final Environmental Impact Statement (FEIS) on a Coal lease application received for Federal coal tracts in the West Mine Area, Freedom Mine, Mercer County, North Dakota; NDM91535.

SUMMARY: Under the National Environmental Policy Act (NEPA); provisions in the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*); implementing regulations and other applicable statutes the Bureau of Land Management (BLM) announces the availability of the Federal coal leasing FEIS.

The FEIS analyzes the impacts of issuing a Federal coal lease within the West Mine Area of the Freedom Mine, located in Mercer County, North Dakota, and includes 5571 acres of Federal coal.

DATES: Written comments on the FEIS will be accepted for 30 days following the date that the Environmental Protection Agency (EPA) publishes their NOA of the FEIS in the **Federal Register**. The BLM will notify all parties on the EIS mailing list of the dates when comments will be accepted.

ADDRESSES: Please address questions, comments, or concerns to the North Dakota Field Office, Bureau of Land Management, Attn: Allen J. Ollila, 2933 Third Avenue West, Dickinson, North Dakota 58601–2619, fax them to (701) 227–8510, or send e-mail comments to the attention of Allen J. Ollila at *mtndfo@blm.gov*. Copies of the FEIS are available for public inspection at local public libraries and at the following BLM office locations: External Affairs Office, Montana State Office, 5001 Southgate Drive, Billings, MT 59107; North Dakota Field Office, 2933 Third Avenue West, Dickinson, ND 58601–2619.

FOR FURTHER INFORMATION CONTACT: Allen J. Ollila or Lonny R. Bagley at the above address or telephone: (701) 227–7700.

SUPPLEMENTARY INFORMATION: On January 16, 2002, Coteau filed an application with BLM to lease Federal coal deposits beneath private surface at the following locations:

NDM91535

T. 144 N., R. 88 W., 5th P.M.
Sec. 2: Lots 3, 4, S½NW¼
Sec. 4: Lots 1, 2, S½NE¼, S½
Sec. 6: All
Sec. 8: N½NE¼, SE¼NE¼, NW¼, N½SW¼
T. 144 N., R. 89 W., 5th P.M.
Sec. 12: E½
T. 145 N., R. 88 W., 5th P.M.
Sec. 4: Lots 1, 2, 3, 4, S½N½, SE¼, S½SW¼
Sec. 10: N½
Sec. 14: All
Sec. 22: All
Sec. 26: N½NE¼, SW¼NE¼, NW¼SE¼, W½
Sec. 28: E½NE¼, SW¼NE¼, SE¼NW¼, S½
Sec. 34: N½N½, SE¼NE¼, E½SE¼, SW¼SE¼, SW¼

Containing 5,571 acres (more or less), Mercer County, North Dakota.

The Federal coal tract being considered for leasing is in the West Mine Area of the Freedom Mine, located north and west of Beulah, North Dakota. The operator (Coteau Properties Company) of this mine applied to lease the tract as a maintenance tract, to extend the life of their existing mining operation under the provisions of the Leasing By Application regulations at 43 CFR 3425.

Private & State coal reserves within the West Mine Area currently have an approval to mine, and a reclamation plan from the Public Service Commission, State of North Dakota. Coteau Properties Company also has an approved air quality permit for

operations at the Freedom Mine. The Draft Environmental Impact Statement (DEIS) was available for public review from April 30, 2004, to June 29, 2004. The EPA and the BLM each published a Notice of Availability in the **Federal Register** on April 30 and May 7, 2004, respectively. A formal public hearing on this application was held pursuant to 43 CFR 3425.4 on Wednesday June 23, 2004, at the Heritage Center, Bismarck, North Dakota. The purpose of the hearing was to solicit public comments on the DEIS, the fair market value, the maximum economic recovery, and the proposed competitive sale of coal included in the proposed tract. Three public meetings were also held on Tuesday June 1, 2004, at 4 Bears Casino & Lodge, New Town, North Dakota; on Wednesday June 2, 2004, at the Civic Center, Beulah, North Dakota; and on Thursday June 3, 2004, at Prairie Knights Casino & Lodge, Fort Yates, North Dakota. The purpose of the meetings was to present the DEIS to the public and to solicit comments regarding the DEIS. The 60-day comment period on the DEIS ended on June 29, 2004. All comments were considered during the preparation of the final EIS.

The draft and final EIS analyze leasing the tract as applied for. To avoid bypassing coal or to increase competitive interest in the unleased Federal coal in this area, BLM identified and evaluated other tract configurations. The tract configuration that BLM has identified as the preferred configuration is described and analyzed as alternative C in the EIS. The EIS also analyzes the alternative of rejecting the application to lease Federal coals (the No Action Alternative).

To protect cultural values a small portion of Federal coal was bypassed. This preferred alternative was selected in consultation with American Indian Tribes. The Proposed Actions and Alternatives that are considered in the EIS are in conformance with the ''Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management North Dakota Field Office'' (1987).

The Office of Surface Mining Reclamation and Enforcement (OSM) is a cooperating agency in the preparation of this EIS. If the tract is leased as a maintenance tract, the new lease must be incorporated into the existing mining and reclamation plan for the Freedom Mine and the Secretary of the Interior must approve each revision to the MLA (Mineral Leasing Act) mining plan for the mine before the Federal coal can be mined. OSM is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the office of the Secretary of the Interior if these tracts are leased.

A Record of Decision (ROD) will be prepared for the LBA tract being considered for leasing. Comments received on the FEIS will be considered during preparation of the ROD. Comments, including names and street addresses of respondents, will be available for public review at the Bureau of Land Management, North Dakota Field Office, 2933 Third Avenue West, Dickinson, North Dakota, during regular business hours (8 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

[Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.]

Karen A. Wolf,

Acting Field Manager.

[FR Doc. 05–17502 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ 422–1610–DO–090A–241E]

Notice of Intent To Prepare the San Pedro Riparian National Conservation Area and Tucson Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Field Office, Tucson, Arizona intends to prepare a Resource Management Plan and Environmental Impact Statement (RMP/EIS) for the San Pedro Riparian National Conservation Area and Tucson planning effort. When approved, the RMP will replace those portions of the existing Phoenix Resource Management Plan (1989) and Safford District Resource Management Plan (1992, 1994) within the Tucson Field Office administrative boundary.

DATES: The scoping period commences with the publication of this notice and will continue for at least 60 days. Public meetings will be held approximately late 2005 to early 2006. All public meetings will be announced through the local media, newsletters, and the BLM Web site (*http://www.az.blm.gov*) at least 15 days prior to the first meeting (the Web site availability is subject to change). Public notice will be provided specifying the date, time, and location that the meetings will occur and include notification of when the scoping period will close and when comments are due. Formal opportunities for public participation will be provided upon publication of the Draft RMP/EIS.

ADDRESSES: Comments may be submitted by any of the following methods:

- Web Site: *http://www.az.blm.gov* (subject to change).
- E-mail: *AZ_TucsonRMP@blm.gov.*
- Fax: (520) 258–7238.
- Mail: Tucson Field Office, 12661 East Broadway, Tucson, Arizona 85748–7208.

Documents pertinent to this proposal may be examined at the Tucson Field Office upon request. Public comments, including names and street addresses of respondents, will be available for public review at Bureau of Land Management, 12661 East Broadway, Tucson, Arizona 85748 during regular business hours (7:30 a.m. to 4 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Linda Marianito, Planning and Environmental Coordinator, (520) 258–7241, or e-mail *Linda_Marianito@blm.gov.*

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Field Office, Tucson, Arizona intends to prepare a Resource Management Plan and Environmental Impact Statement (RMP/EIS) for the San Pedro Riparian National Conservation Area and Tucson planning effort.

The two planning areas, the San Pedro RNCA and the Tucson Field

Office, are located in Cochise, Gila, Pima, Pinal, and Santa Cruz Counties, Arizona. This planning activity encompasses approximately 465,000 acres of public land. The plan will fulfill the needs and obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and BLM management policies. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns. Interested governmental entities will be given the opportunity to request Cooperating Agency status in the planning process.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and RMP/EIS alternatives. These issues also guide the planning process. Comments on issues and planning criteria can be submitted in writing to the BLM at any public scoping meetings, or they may be mailed to the BLM at the address listed above.

The changing needs and interests of the public necessitate a revision to the existing Safford District and Phoenix RMPs for this area. Preliminary issues and management concerns have been identified by BLM personnel, other agencies, and in meetings with individuals and user groups. The major issue themes that will be addressed in the plan effort include: (1) Protecting and sustaining cultural and natural resources; (2) accommodating public demands for resources and providing for appropriate uses; and, (3) providing direct community services. After gathering public comments on what issues the plan should address, the suggested issues will be placed in one of three categories.

1. Issues to be resolved in the plan.
2. Issues resolved through policy or administrative action.
3. Issues beyond the scope of this plan.

In addition to these major issues, a number of management questions and concerns will be addressed in the plan. The public is encouraged to help identify these questions and concerns during the scoping phase.

An interdisciplinary approach will be used to develop the plan in order to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include specialists with expertise in rangeland management, minerals and geology, outdoor recreation, archaeology, paleontology, wildlife and fisheries, threatened and endangered species, wilderness, lands and realty, hydrology, soils, interpretation and education, sociology and economics.

Joanie Losacco,
Acting Arizona State Director.

[FR Doc. 05–17505 Filed 9–1–05; 8:45 am]
BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1220–DU]

Final Supplementary Rules Regarding Operation of Motorized Vehicles and Bicycles and Closure of Public Lands to Recreational Target Shooting

AGENCY: Bureau of Land Management; Royal Gorge Field Office, Interior.

ACTION: Notice of final supplementary rules for public lands within El Paso, Fremont, Park and Teller Counties, Colorado.

SUMMARY: The Bureau of Land Management (BLM)'s Royal Gorge Field Office is implementing supplementary rules. These supplementary rules implement three decisions from the Gold Belt Travel Management Plan, approved August 18, 2004. The rules apply to the public lands within the Gold Belt Travel Management Plan area under the management of the Royal Gorge Field Office, in El Paso, Fremont, Park, and Teller Counties, Colorado. The rules are needed in order to protect the area's natural resources and provide for public health and safety.

DATES: The rules are effective October 3, 2005.

ADDRESSES: You may send inquiries or suggestions to the Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Cañon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Roy L. Masinton, Field Manager, or Leah Quesenberry, Outdoor Recreation Planner, Royal Gorge Field Office, 3170 East Main Street, Cañon City, Colorado 81212, telephone 719–269–8500. Individuals who use a telecommunications device for the deaf (TDD) may contact them individually through the Federal Information Relay Service at 1–800/877–8339, 24 hours a day, seven days a week.

I. Background
II. Discussion of the Supplementary Rules
III. Procedural Matters

I. Background

A ''Notice of Intent To Prepare the Gold Belt Travel Management Plan (TMP) and Amend the Royal Gorge Resource Management Plan'' was announced in the **Federal Register** on June 18, 2002 (67 FR 41442). The completion of the Gold Belt Travel Management Plan Environmental Assessment led to a 30-day public comment period, starting on January 15, 2004. Following analysis of the public comments, a decision on the Gold Belt TMP was issued on August 18, 2004. The decision restricts Off-Highway Vehicle use to designated roads and trails in the TMP area and provides for the supplementary rules.

II. Discussion of Supplementary Rules

These supplementary rules apply to the public lands within the Gold Belt Travel Management Plan area. This area consists of 138,600 acres of public lands within El Paso, Fremont, Park, and Teller Counties, Colorado, in the following described townships:

Colorado, Sixth Principal Meridian

T. 15 S., R. 70 W. through 72 W.
T. 16 S., R. 68 W. through 72 W.
T. 17 S., R. 68 W. through 72 W.
T. 18 S., R. 68 W. through 71 W.

These supplementary rules implement three decisions from the Gold Belt Travel Management Plan, approved August 18, 2004. They include:

(1) A supplementary rule limiting motorized travel for parking, camping, and retrieving game to a maximum of 100 feet from designated roads and trails in the Gold Belt Travel Management Plan area (138,600 acres of public lands).

(2) A supplementary rule restricting mountain bikes to designated roads and trails in the Gold Belt Travel Management Plan area (138,600 acres of public lands).

(3) The closure of approximately 13,200 acres of public lands to recreational target shooting in the following areas: Garden Park Fossil Area (3,000 acres), the Shelf Road campgrounds and climbing area (2,900 acres), a one-quarter mile wide corridor along Phantom Canyon Road (4,200 acres), and Penrose Commons (3,100 acres). Licensed hunters in legitimate pursuit of game during the proper season with appropriate firearms, as defined by the Colorado Division of Wildlife, are exempt from this closure.

BLM has determined that these rules are necessary to prevent damage to public lands and natural resources, reduce user conflicts, protect public safety, and reduce vandalism to public and private property.

The proposed supplementary rules were published in the **Federal Register**

on March 8, 2005 (70 FR 11264). We received no comments on the proposed supplementary rules, and therefore publish them unchanged as final supplementary rules. The supplementary rules were also inadvertently published in the **Federal Register** on April 20, 2005 (70 FR 20591). The supplementary rules are being published and implemented under the authority of 43 CFR 8341.1, 8364.1, and 8365.1–6. This notice, with detailed maps, will be posted at the Royal Gorge Field Office.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not a significant regulatory action and are not subject to review by Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. These supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. They merely impose limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

National Environmental Policy Act

BLM prepared an environmental assessment (EA) in support of the Gold Belt Travel Management Plan and found that the supplementary rules implementing the plan decisions would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). A detailed statement under NEPA is not required. BLM has placed the EA, Finding of No Significant Impact (FONSI), and Decision Record on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These supplementary rules should have no effect on business entities of whatever size. They merely would impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment, and human health and safety. Therefore, BLM has determined under the RFA that these rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These supplementary rules are not a ''major rule'' as defined at 5 U.S.C. 804(2). They would not result in an effect on the economy of $100 million or more, in an increase in costs or prices, or in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment, and human health and safety.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year; nor do these supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment, and human health and safety. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The reasonable restrictions that would be imposed by these supplementary rules would not deprive anyone of property or interfere with anyone's property rights. Therefore, the Department of the Interior has determined that these supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The supplementary rules 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. Government vehicles are expressly excluded from the effect of the vehicle restrictions. The shooting restrictions in these supplementary rules do not apply to hunting with a state hunting license. Therefore, in accordance with Executive Order 13132, BLM has determined that these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that these supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b) (2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have found that these supplementary rules do not include policies that have tribal implications. Formal consultation with 16 tribes was completed for the Gold Belt Travel Management Plan.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, BLM has determined that the supplementary rules will not have substantial direct effects on energy supply, distribution or use, including any shortfall in supply or price increase. The restrictions on vehicle use should have no substantial effect on fuel consumption, and no other provision in the supplementary rules has any relationship to energy supply, distribution, or use.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Author

The principal author of these supplementary rules is Leah Quesenberry, Outdoor Recreation Planner, Royal Gorge Field Office, Bureau of Land Management.

Supplementary Rules for the Gold Belt Travel Management Plan Area

Under 43 CFR 8341.1, 8364.1, and 8365.1–6, the Bureau of Land Management will enforce the following rules on the public lands within the Gold Belt Travel Management Plan area, Royal Gorge Field Office, Colorado. You must follow these rules:

Rules

1. In the Gold Belt Travel Management Plan area (138,600 acres of public land)—

a. You must not park a motorized vehicle farther than 100 feet from a designated road or trail;

b. You must not use a motorized vehicle for camping more than 100 feet from a designated road or trail;

c. You must not use a motorized vehicle for retrieving game more than 100 feet from a designated road and trail.

2. You must not ride mountain bikes other than on designated roads and trails on public lands in the Gold Belt Travel Management Plan area.

3. You must not engage in recreational target shooting on public lands in the following areas: Garden Park Fossil Area (3,000 acres), the Shelf Road campgrounds and climbing area (2,900 acres), a one-quarter mile wide corridor along Phantom Canyon Road (4,200 acres), and Penrose Commons (3,100 acres).

Exceptions

These supplementary rules do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or other emergency purposes, or to any other vehicle use that is expressly authorized or otherwise officially approved by BLM. The prohibition of target shooting in rule 3 has no effect on hunting by licensed hunters in legitimate pursuit of game during the proper season with appropriate firearms, as defined by the Colorado Division of Wildlife.

Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7 if you violate any of these supplementary rules on public lands within the boundaries established in the rules, you may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Ron Wenker,

State Director, Colorado State Office.

[FR Doc. 05–17503 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–411–1232–FH]

Floating Permit To Change at Gila Box Riparian National Conservation Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Change the permit required for floating the Gila River from a Recreation Use Permit to a Special Recreation Permit.

SUMMARY: The Federal Lands Recreation Enhancement Act (FLREA) requires that the Bureau of Land Management (BLM) change its fee collection at the Gila Box Riparian National Conservation Area (RNCA) from Recreation Use Permits to Special Recreation Permits. This change will only affect the Gila River floatboat put-in facility along the Gila River. The fee remains the same.

DATES: This change becomes effective immediately upon termination of the required 30-day public notification process following publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Jeff Wilbanks, BLM Safford Field Office, 711 14th Avenue, Safford, AZ 85546; call (928) 348–4573; or e-mail *Jeff_Wilbanks@blm.gov.*

SUPPLEMENTARY INFORMATION: Congress passed the FLREA in 2004 as Public Law 108–447.

Dated: July 7, 2005.

Bonnie Winslow,

Acting Field Manager.

[FR Doc. 05–17506 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–1220–MA]

Establishment of Special Recreation Management Special Recreation Permit Fee Area, and Interim Final Supplementary Rules on Public Lands Within the Knolls Special Recreation Management Area Managed by the Salt Lake Field Office, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of Special Recreation Management Special Recreation Permit Fee Area, and Interim Final Supplementary Rules with request for comments.

SUMMARY: In accordance with the Knolls Recreation Area Management Plan, the Bureau of Land Management (BLM), Salt Lake Field Office, is establishing a special recreation permit fee area, and issuing interim final supplementary rules and requesting comments. These interim final supplementary rules will apply to public lands within the Knolls Special Recreation Management Area (SRMA) and will be effective until the publication of a final supplementary rule. The BLM has determined these interim final supplementary rules are necessary to enhance the safety of visitors, protect natural resources, improve recreation opportunities, and protect public health.

DATES: The interim final supplementary rules are effective September 2, 2005. We invite comments until November 1, 2005.

ADDRESSES: Mail or hand deliver all comments concerning the interim final supplementary rules to the Bureau of Land Management, Salt Lake Field Office, 2370 S. 2300 W. Salt Lake City, Utah 84119 or e-mail comments to *Mail_UT-Salt_Lake@ut.blm.gov.*

FOR FURTHER INFORMATION CONTACT: Mandy Rigby, Outdoor Recreation Planner, 2370 S. 2300 W. Salt Lake City, Utah 84119, 801–977–4300.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments on the interim final supplementary rules should be specific, confined to issues pertinent to the interim final supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. BLM may not necessarily consider or include in the Administrative Record for the

final rule comments that BLM receives after the close of the comment period (see **DATES**), unless they are postmarked or electronically dated before the deadline, or comments delivered to an address other than those listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the Salt Lake Field Office, 2370 S. 2300 W. Salt Lake City, Utah 84119, during regular business hours (7:45 a.m. to 3:45 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, fax or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Background

The BLM is establishing these interim final supplementary rules under the authority of 43 CFR 8365.1–6, which allows BLM State Directors to establish such rules for the protection of persons, property, and public lands and resources. This provision allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations. Upon completion, the rules will be available for inspection in the Salt Lake Field Office; the rules will be posted at the Knolls Special Recreation Management Area; and they will be published in a newspaper of general circulation in the affected vicinity. The overall program authority for the operation of this recreation site is found in sections 302 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1740).

BLM finds good cause to publish these supplementary rules on an interim final basis, effective the date of publication, because of health and safety concerns due to current off-highway vehicle use within the Knolls SRMA. A high amount of visitation is occurring within the SRMA, which has led to numerous safety concerns including, but not limited to: glass and campfire remains left in sand dune areas, target shooting, use of dangerous motorcycle jumps, and excessive motor vehicle speed on maintained roads.

The Knolls SRMA will be established as a fee site requiring the issuance of individual Special Recreation Permits. The permit requirement and an associated fee payment under 43 CFR 2932.31 will be enforced beginning on March 1, 2006.

The public has been extensively involved in planning for the management of the area through the Knolls Recreation Area Management Plan (RAMP) process and review under National Environmental Policy Act (NEPA). The Knolls RAMP includes a list of the supplementary rules that are to be published concerning rules of conduct for public use within the SRMA. With the exception of the prohibition of ramps and jumps without a permit (see Section II.2 [l] below), all of the interim final supplementary rules were identified in the RAMP. The prohibition against jumps and ramps is a result of recent incidents of these structures being constructed on sand dunes in the SRMA, whose use can result in serious injuries and death. The comment period for these interim final supplementary rules will allow the public to comment on this additional supplementary rule, as well as the supplementary rules discussed in the RAMP.

The Salt Lake Field Office has taken the following steps to involve the public in planning for the area and developing the policies contained in the interim final supplementary rules:

- As part of the NEPA process, we published public notice of the initiation of the Knolls RAMP and the environmental review process on July 11, 2003.
- In February 2004, members of the public, affected agencies, and interested organizations were notified of the completion of Draft Knolls RAMP. Several methods were used to solicit review and comments including the mailing of copies of the Draft RAMP, a news release issued in local papers and on the Internet, and a mass mailing of informational postcards.
- An open house meeting was conducted on February 24, 2004. Those attending included members of the public, representatives from state and Federal agencies, and off-highway vehicle clubs and organizations.
- Comments were accepted through mail, personal delivery, or by e-mail. The Draft Knolls RAMP was available for review at the Field Office or on the Internet until March 2004. Comments received were responded to in the Final Knolls RAMP completed in July 2004.

Under these circumstances, the BLM finds good cause to issue these interim final supplementary rules to allow for the protection of public health and safety. The public is now invited to provide additional comments on the interim final supplementary rules. See the **DATES** and **ADDRESSES** sections for information on submitting comments.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These interim final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These interim final supplementary rules will not have an effect of $100 million or more on the economy. They are not intended to affect commercial activity, but contain rules of conduct for public use of a certain recreational area. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities. These interim final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The interim final supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. They mere impose certain rules on recreational activities on a limited portion of the public lands in Utah in order to protect human health, safety, and the environment.

Clarity of the Interim Final Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these interim final supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the interim final supplementary rules clearly stated?

(2) Do the interim final supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the interim final supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) air or reduce their clarity?

(4) Would the interim final supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the interim final supplementary rules in the **SUPPLMENTARY INFORMATION** section of this preamble helpful in understanding the interim final supplementary rules? How could this description be more helpful in making the interim final supplementary rules easier to understand?

Please send any comments you have on the clarity of the interim final supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the interim final supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The interim final supplementary rules merely contain rules of conduct for the Knolls SRMA. These rules are designed to protect the environment and the public health and safety. A detailed statement under NEPA is not required. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The interim final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands. Therefore, BLM has determined under the RFA that these interim final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These interim final supplementary rules do not constitute a ''major rule'' as defined at 5 U.S.C. 804(2). The interim final supplementary rules merely contain rules of conduct for recreational use of certain public lands. The interim final supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These interim final supplementary rules do not impose an unfunded mandate on state, local, or Tribal governments or the private sector of more than $100 million per year; nor do these interim final supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The interim final supplementary rules do not require anything of state, local, or Tribal governments. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The interim final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The interim final supplementary rules do not address property rights in any form, and do not cause the impairment of anybody's property rights. Therefore, the Department of the Interior has determined that these interim final supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The interim final supplementary rules 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. The interim final supplementary rules affect land in only one state, Utah, and do not address jurisdictional issues involving the state government. Therefore, in accordance with Executive Order 13132, BLM has determined that these interim final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that these interim final supplementary rules will not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with Executive Order 13175, we have found that these interim final supplementary rules do not include policies that have Tribal implications. The interim final supplementary rules do not affect lands held for the benefit of Indians, Aleuts, or Eskimos.

Paperwork Reduction Act

These interim final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Author

The principal author of these interim final supplementary rules is Mandy Rigby, Outdoor Recreation Planner, Salt Lake Field Office, Bureau of Land Management.

Interim Final Supplementary Rules for the Knolls Special Recreation Management Area

Sec. 1 Definitions

Knolls Special Recreation Management Area (SRMA). The Knolls SRMA encompasses public lands located in:

T. 1 S., R. 12 W., SLM, Secs. 19–23 south of the railroad grade, and 26–35.

T. 2 S., R. 12 W., SLM, Secs. 2–11, and 14–18.

T. 1 S., R. 13 W., SLM, Secs. 19–24 south of the railroad grade, and 25–36.

T. 2 S., R. 13 W., SLM, Secs. 1–13.

Off-highway vehicle. Any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding: (1) Any nonamphibious registered motorboat; (2) Any military, fire, emergency, or law enforcement vehicle being used for emergency purposes; (3) Any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) Vehicles in official use; and (5) Any combat or combat support vehicle when used in times of national defense emergencies.

Primary vehicle: A street legal vehicle used for transportation to the recreation site.

Dangerous weapon(s): Any weapon that in the manner of its use, or intended use, is capable of causing death or serious bodily injury.

Sec. 2 Prohibited Acts

a. You must not discharge or use firearms or other dangerous weapons for the purpose of target shooting. This does not include the discharge of firearms or dangerous weapons while person(s) are engaged in bona fide hunting activities during established hunting seasons and are properly licensed for these activities.

b. You must not use or possess to use any glass containers outside of enclosed vehicles, camp trailers, or tents.

c. You must not use or possess to use as firewood any materials containing nails, screws, or other metal hardware, including, but not limited to, wood pallets and/or construction debris.

d. You must not use an accelerant for the purposes of igniting a campfire. However, you may ignite any campfire or other material used for cooking purposes, by using any commercially purchased charcoal igniter or other non-hazardous fuels.

e. You must not drive a motor vehicle through any campfire, or through any flaming debris or other flaming material(s).

f. You must not burn any potentially hazardous material including, but not limited to, gasoline, oil, plastic, and magnesium.

g. You must not ignite a campfire outside the confines of a fire pan or other container. All ashes and unburned fuel from campfires may be disposed of in a small pit excavated with hand tools as long as the material being disposed of is mostly ash. You must not dispose of non-flammable materials in a fire on public lands. BLM may authorize large bonfires, which would go beyond the limit of a fire pan, by permit on a case-by-case basis.

h. You must not operate a motorized vehicle in excess of the posted speed limit on any maintained roadway within the SRMA.

i. You must not operate a motorized vehicle in excess of 15 m.p.h. off of established or maintained roadways within 50 feet of any animals, people, or vehicles.

j. You must not operate or use any audio device, including, but not limited to, a radio, television, musical instrument, other noise producing device, or motorized equipment between the hours of 10 p.m. and 6 a.m. in a manner that makes unreasonable noise that disturbs other visitors.

k. You must not operate an off-highway vehicle without a properly installed spark arrestor.

l. You must not use or possess any man-made ramp or jump, for the purposes of performing acrobatic or aerial stunts.

m. You must not enter, camp, park or stay longer than one half hour within the SRMA without properly paying required permit fees. Permits must be purchased and visibly displayed in the windshield of all primary vehicles with the date side facing out.

n. You must not camp or use motorized vehicles within 200 feet of any perennial water source or impoundment.

Sec. 3 Penalties

Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. 43 U.S.C. 1733(a); 43 CFR 8360.0–7. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Dated: June 15, 2005.

Sally Wisely,

State Director.

[FR Doc. 05–17507 Filed 9–1–05; 8:45 am]

BILLING CODE 4310–DK–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: The National Park Service (NPS) Volunteers-In-Parks (VIP) program (Pub. L. 91–357) is collecting information from volunteers in the form of a survey for the purposes of evaluating the program and its effectiveness. In order to effectively manage the increasing trend of volunteerism in the NPS, it is imperative that the agency assess its strengths and weaknesses and determine methods for improved efficiency. A servicewide volunteer program assessment has not been conducted to date. Current VIPs will be surveyed (mail-back/Internet-based questionnaire) during this process to collect information about the current status and needs of the program. In addition, follow-up focus groups (3 with up to 20 participants each) and telephone interviews (up to 40) will be conducted to acquire detailed data expanding on questionnaire results). Recommendations for improvements will be made based on the findings. This process will not only aid in creating an improved, streamlined program, but may also serve as a model for other Federal agencies.

	Estimated numbers of	
	Responses	Burden hours
Volunteers-In-Parks Program Assessment	6,100	1,630

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites comments on the need for gathering the information in the proposed survey. Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Public comments will be accepted on or before November 1, 2005.

Send Comments To: Joy M. Pietschmann, National Park Service, Servicewide Volunteer Program Coordinator, 1849 C Street NW., 2450, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joy M. Pietschmann, 202–513–7141.

SUPPLEMENTARY INFORMATION: *Title:* National Park Service Volunteers-In-Parks Program Assessment.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of Request: Request for new clearance.

Description of Need: The NPS Volunteers-In-Parks program is authorized by the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g–18j). The Volunteers in the Parks Act of 1969 as originally enacted was Public Law 91–357. Volunteering is an American tradition that over the years has made an immeasurable contribution to communities, organizations, and individuals throughout the country. Volunteers are vital to the success of the NPS. The VIP program can accept and use voluntary help and services from the public, in a way that is mutually beneficial to the NPS and the volunteer. In FY2004 140,000 volunteers donated 5 million hours of service to their national parks at a value of $85.9 million. VIPs come from every state and many different countries to help preserve and protect America's natural and cultural

heritage for the enjoyment of this and future generations. Over the past 35 years, this program has consistently grown to become one of the government's largest, most successful volunteer programs. Between FY2003 and 2004, the program experienced its biggest increase in history: The number of VIPs increased by 14% and the number of hours by 11%. In order to effectively manage the increasing trend of volunteerism in the NPS, it is imperative that the organization assess its strengths and weaknesses and determine methods for improved efficiency. A servicewide volunteer program assessment has not been conducted to date. Volunteers (6,000) will be surveyed during this process (mail-back/Internet-based questionnaire) to collect information about the current status and needs of the program. In addition, follow-up focus groups (3 with up to 20 participants each) and telephone interviews (up to 40) will be conducted to acquire detailed data expanding on questionnaire results). Results will be reported at the servicewide level, the regional level (seven NPS regions), and the volunteer work category level (to include, at minimum, work in the areas of interpretation, natural resource management, park maintenance, campground hosting, and cultural resource management). Recommendations for improvements will be made based on the findings. This process will not only aid in creating an improved, streamlined program, but may also serve as a model for other Federal agencies.

Automated data collection: This information will primarily be collected electronically through a designated, secure Web site. Non-automated methods (mail-back questionnaire) will be available for those without access to electronic means.

Description of respondents: National Park Service Volunteers-In-Parks.

Estimated average number of respondents: Approximately 6,100 respondents.

Estimated average number of responses: Approximately 6,100 responses.

Estimated average burden hours per response: One-quarter burden hour per response to the mail-back/internet-based questionnaire (≈6,000 responses); One and one-half burden hour for participants in the follow-up focus groups (≈60 responses); One burden hour for participants in the follow-up interviews (≈responses).

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 1,630 hours.

Dated: July 19, 2005.

Leonard E. Stowe,

National Park Service Information Collection Clearance Officer.

[FR Doc. 05–17487 Filed 9–1–05; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement/ General Management Plan: Ebey's Landing National Historical Reserve, Island County, WA; Notice of Availability

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), and the Council on Environmental Quality Regulations (40 CFR part 1500–1508), the National Park Service has prepared a Draft Environmental Impact Statement for the proposed general management plan for Ebey's Landing National Historical Reserve (Reserve) located in northwestern Washington. In addition to a ''no-action'' alternative (which would maintain current management), the Draft EIS describes and analyzes two ''action'' alternatives which respond to public concerns and issues identified during the scoping process, as well as NPS's conservation planning requirements. These alternatives present varying management strategies that address visitor use and preservation of cultural and natural resources that protect and reflect the rural community on Whidbey Island from 19th century exploration and settlement in Puget Sound to the present time. The potential environmental consequences of each alternative, and mitigation strategies, are identified and analyzed; a determination as to the ''environmentally preferred'' alternative is also provided in the Draft EIS.

Scoping: A Notice of Intent announcing preparation of the Draft EIS and general management plan was published in the **Federal Register** on May 22, 2000. Public involvement has included public meetings, presentations and meetings with organizations located within the Reserve and additional organizations, newsletter mailings, local press releases, website postings, and postcards. Preceding the formal EIS analysis process, the NPS had organized an interdisciplinary planning team to initiate the general management plan process for the Reserve. The team included the Reserve's Trust Board and staff, representatives from Washington State, Island County and Town of Coupeville, and NPS staff from the Pacific West Region Office in Seattle, Washington. The purpose of these initial meetings was to help characterize the scale and extent of the planning process.

The formal public scoping efforts began in June 2000 with release of a scoping newsletter to approximately 650 people on the Reserve's mailing list. In addition, over 2800 newsletters were distributed at local public places such as libraries, civic buildings, businesses, and parks. The planning team received 36 letters during the official public scoping period ending August 15, 2000. In addition, during June 2000, three public scoping meetings were held in Seattle, Washington and Coupeville, Washington (in total, 141 verbal comments were recorded). Individual scoping meetings were also held between August 2000 and January 2001 with organizations located within the Reserve to discuss issues of mutual interest. Other meetings with other interested organizations were also scheduled.

Proposed Plan and Alternatives: Alternative A constitutes the No-Action alternative and serves as an environmental baseline to facilitate comparisons between the ''action'' alternatives. Alternative A assumes that existing programs, facilities, staffing, and funding would generally continue at their current levels. The NPS would dispose of NPS-owned and managed farms within the Reserve to the private sector after placing conservation easements on them.

Alternative B is the ''agency preferred'' alternative. The Reserve's Trust Board, and the NPS, in cooperation with partners, would enhance existing programs and resources management, as well as administrative, maintenance, and visitor services within the Reserve. To maintain and protect the rural landscape, the NPS would continue to purchase conservation easements on priority properties based upon a new land protection plan. The NPS would exchange NPS-owned farms to private farm owners for additional protection on other properties within the Reserve. Historic buildings would be rehabilitated to the Secretary of the Interior's Standards. The county would be encouraged to develop a zoning overlay for the Reserve to aid in land use control. In addition, a minor boundary adjustment would be recommended. To orient and inform visitors about the Reserve, three gateway kiosks would be developed along State Route 20 and a visitor center/contact

station would be operated within an historic building in Coupeville or within the historic district (three development concept plans for three sites are included). As documented in the Draft EIS this alternative is deemed to be ''environmentally preferred''.

Alternative C changes the management structure of the Reserve from a Trust Board of volunteers to a paid Commission structure. Many actions are similar to Alternative B but with some distinctions. Approximately five acres of NPS-owned land at Farm II would be retained for administrative and maintenance use before exchanging the remaining farmland to a private farm owner for additional protection on other properties within the Reserve. One of the three gateways would be in a historic building in the north of the Reserve. The Reserve would partner for a visitor contact facility at a proposed marine science center.

Public Review and Comment: The Draft GMP/EIS has now been released for public review, and a limited number of printed copies are available upon request (see below). In addition, the document may be reviewed at the public library in Coupeville. Also a Draft General Management Plan Alternatives Newsletter is being issued concurrently. Written comments may be submitted using several methods. Responses are encouraged online using the electronic comment form accessed at the NPS Planning, Environment and Public Comment System (*http://parkplanning.nps.gov/ebla*). A postage-paid comment response form is included in the Alternatives Newsletter (additional pages may be attached to this form as necessary). Written comments may be directly mailed to: Rob Harbour, Reserve Manager, Ebey's Landing National Historical Reserve, P.O. Box 774, 162 Cemetery Road, Coupeville, WA 98239. In addition, oral comments may be offered at one of several public workshops to be conducted in fall, 2005. Confirmed details on dates, locations and times for these workshops will be announced in local newspapers, in the Alternatives Newsletter, via the park's website, or may be obtained by telephone at (360) 678–6084.

All written comments must be postmarked or transmitted not later than 60 days after the EPA's notice of filing is published in the **Federal Register** (immediately upon confirmation of this date it will be announced on the park's website). All comments will become part of the public record. If individuals submitting comments request that their name or address be withheld from public disclosure, the request will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of comments. There also may be circumstances in which the NPS will withhold from the record a respondent's identity, as allowable by law. As always: The NPS will make available to public inspection all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses; and anonymous comments may not be considered.

Decision: Following the opportunity to review the Draft EIS/GMP, all public and agency comments received will be carefully considered in preparing the final document. The Final EIS is anticipated to be completed during the Fall/Winter 2006 and its availability will be similarly announced in the **Federal Register** and via local and regional press media. As a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region; subsequently the approved plan would be implemented by the Trust Board, Ebey's Landing National Historical Reserve, in conjunction with the Reserve Manager.

Dated: May 26, 2005.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. 05–17483 Filed 9–1–05; 8:45 am]

BILLING CODE 4312–6W–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of the National Park Subsistence Resource Commission (SRC) meetings for Cape Krusenstern National Monument and Kobuk Valley National Park

AGENCY: National Park Service, Interior.

SUMMARY: The National Park Service (NPS) announces the SRC meeting schedule for the following NPS areas within the Alaska Region: Cape Krusenstern National Monument, and Kobuk Valley National Park and Denali National Park. The purpose of each meeting is to develop and continue work on subsistence hunting program recommendations and other related subsistence management issues. Each meeting is open to the public and will have time allocated for public testimony. The public is welcomed to present written or oral comments to the SRC.

The NPS SRC program is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act. Draft meeting minutes will be available for public inspection approximately six weeks after each meeting: Superintendent Western Arctic National Parklands, P.O. Box 1029, Kotzebue, AK 99752.

DATES: The meeting times and locations are:

1. Cape Krusenstern National Monument SRC, Tuesday, October 4, 2005, Wednesday, October 5, 2005, and Thursday, October 6, 2005, from 9 a.m. to approximately 5 p.m. at the U.S. Fish and Wildlife Service Office in Kotzebue, Alaska.

2. Kobuk Valley National Park SRC, Tuesday, October 4, 2005, Wednesday, October 5, 2005, and Thursday, October 6, 2005, from 9 a.m. to approximately 5 p.m. at the U.S. Fish and Wildlife Service Office in Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT: Ken Adkisson, Subsistence Program Manager, Western Arctic National Parklands at (907) 443-6104 or Willie Goodwin, Subsistence Manager at (907) 442–3890.

SUPPLEMENTARY INFORMATION: SRC meeting locations and dates may need to be changed based on weather or local circumstances. Notice of each meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. The agendas for each meeting include the following:

1. Call to order (SRC Chair)
2. SRC Roll Call and Confirmation of Quorum
3. SRC Chair and Superintendent's Welcome and Introductions
4. Review and Approve Agenda
5. Review and adopt minutes from last meeting
6. Status of SRC Membership—Election of Chair and Vice Chair
7. Commission Member Reports
8. Superintendent and NPS Staff Reports
9. Federal Subsistence Board Update
10. New Business
11. Agency and Public Comments
12. SRC Work Session. Prepare correspondence and hunting program recommendations
13. Set time and place of next SRC meeting
14. Adjournment

Judith Gottlieb,

Acting Regional Director, Alaska Region.

[FR Doc. 05–17484 Filed 9–1–05; 8:45 am]

BILLING CODE 4312–HN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Plan of Operations, Categorical Exclusion, Big Thicket National Preserve, TX

AGENCY: National Park Service, Department of the Interior

ACTION: Notice of Availability of a Plan of Operations and Categorical Exclusion for a 30-day public review at Big Thicket National Preserve.

SUMMARY: Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations, part 9, subpart B, that the National Park Service (NPS) has received from Krescent Energy Company, LLC, a Plan of Operations to conduct the Tyler 3–D ''Cable-Only'' Seismic Survey of the Upper Neches River Corridor Unit of Big Thicket National Preserve, within Tyler and Jasper Counties, Texas. The NPS has prepared a Categorical Exclusion on this proposal.

DATES: The above documents are available for public review and comment through October 3, 2005.

ADDRESSES: The Plan of Operations and Categorical Exclusion are available for public review and comment in the Office of the Superintendent, Art Hutchinson, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas 77701. Copies of the Plan of Operations are available, for a duplication fee; and copies of the Categorical Exclusion are available upon request, and at no cost, from the Superintendent, Art Hutchinson, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas 77701.

FOR FURTHER INFORMATION CONTACT: Mr. Haigler ''Dusty'' Pate, Oil and Gas Program Manager, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas 77701, Telephone: 409 951–6822, e-mail at *Haigler_Pate@nps.gov.*

SUPPLEMENTARY INFORMATION: If you wish to submit comments on these documents within the 30 days; mail them to the street address provided above, hand-deliver them to the park at the street address provided above, or electronically file them to the e-mail address provided above. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 16, 2005.

Michael George,

Acting Superintendent, Big Thicket National Preserve, National Park Service.

[FR Doc. 05–17485 Filed 9–1–05; 8:45 am]

BILLING CODE 4312–CB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Plan of Operations, Categorical Exclusion, Big Thicket National Preserve, TX

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of a Plan of Operations and Categorical Exclusion for a 30-day public review at Big Thicket National Preserve.

SUMMARY: Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations, Part 9, Subpart B, that the National Park Service (NPS) has received from Century Exploration Houston, Inc., a Plan of Operations to conduct the JASPO 3–D ''Cable-Only'' Seismic Survey of the Lower Neches River Corridor Unit of Big Thicket National Preserve, within Hardin, Jasper, and Orange Counties, Texas. The NPS has prepared a Categorical Exclusion on this proposal.

DATES: The above documents are available for public review and comment through October 3, 2005.

ADDRESSES: The Plan of Operations and Categorical Exclusion are available for public review and comment in the Office of the Superintendent, Art Hutchinson, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas 77701. Copies of the Plan of Operations are available, for a duplication fee; and copies of the Categorical Exclusion are available upon request, and at no cost, from the Superintendent, Art Hutchinson, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas 77701.

FOR FURTHER INFORMATION CONTACT: Mr. Haigler ''Dusty'' Pate, Oil and Gas Program Manager, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas 77701, Telephone: 409 951–6822, e-mail at Haigler_Pate@nps.gov.

SUPPLEMENTARY INFORMATION: If you wish to submit comments on these documents within the 30 days; mail them to the street address provided above, hand-deliver them to the park at the street address provided above, or electronically file them to the e-mail address provided above. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 16, 2005.

Michael George,

Acting Superintendent, Big Thicket National Preserve, National Park Service.

[FR Doc. 05–17486 Filed 9–1–05; 8:45 am]

BILLING CODE 4312–CB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104–TAA–7 (Second Review); Investigation Nos. AA1921–198–200 (Second Review)]

Sugar From the European Union; Sugar from Belgium, France, and Germany

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the countervailing duty order on sugar from the European Union would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2] The Commission also determines that revocation of the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Marcia E. Miller dissenting.

antidumping findings on sugar from Belgium, France, and Germany would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Background

The Commission instituted these reviews on September 1, 2004 (69 FR 53466) and determined on December 6, 2004 that it would conduct full reviews (69 FR 75568, December 17, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on February 2, 2005 (70 FR 5480). The hearing was held in Washington, DC, on June 28, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on August 29, 2005. The views of the Commission are contained in USITC Publication 3793 (August 2005), entitled *Sugar from the European Union, and Sugar from Belgium, France, and Germany: Investigation Nos. 104-TAA–7 (Second Review) and AA1921–198–200 (Second Review).*

Issued: August 29, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–17489 Filed 9–1–05; 8:45 am]

BILLING CODE 7020–02–P

[3] Commissioner Marcia E. Miller dissenting.

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application for Cancellation of Removal (42a) for Certain Permanent Residents; (42b) and Adjustment of Status for Certain Nonpermanent Residents.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 110, page 33762 on June 9, 2005, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 3, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Cancellation of Removal (42a) for Certain Permanent Residents; (42b) and Adjustment of Status for Certain Nonpermanent Residents.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: EOIR–42A, EOIR–42B. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual aliens determined to be removable from the United States. Other: None. Abstract: This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 11,000 respondents will complete the form annually with an average of 5 hours, 45 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 64,130 total annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: August 29, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–17462 Filed 9–1–05; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar

character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.
organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

Volume I

Massachusetts
MA20030001 (Jun. 13, 2003)
MA20030002 (Jun. 13, 2003)
MA20030017 (Jun. 13, 2003)
MA20030018 (Jun. 13, 2003)
New York
NY20030004 (Jun. 13, 2003)
NY20030007 (Jun. 13, 2003)
Rhode Island
RI20030001 (Jun. 13, 2003)

Volume II

Pennsylvania
PA20030008 (Jun. 13, 2003)

Volume III

Georgia
GA20030003 (Jun. 13, 2003)
GA20030006 (Jun. 13, 2003)
GA20030022 (Jun. 13, 2003)
GA20030032 (Jun. 13, 2003)
GA20030033 (Jun. 13, 2003)
GA20030036 (Jun. 13, 2003)
GA20030040 (Jun. 13, 2003)
GA20030050 (Jun. 13, 2003)
GA20030055 (Jun. 13, 2003)
GA20030058 (Jun. 13, 2003)
GA20030066 (Jun. 13, 2003)
GA20030073 (Jun. 13, 2003)
GA20030078 (Jun. 13, 2003)
GA20030084 (Jun. 13, 2003)
GA20030085 (Jun. 13, 2003)
GA20030086 (Jun. 13, 2003)
GA20030087 (Jun. 13, 2003)
GA20030088 (Jun. 13, 2003)
Mississippi
MS20030050 (Jun. 13, 2003)
MS20030055 (Jun. 13, 2003)
MS20030056 (Jun. 13, 2003)

Volume IV

Illinois
IL20030001 (Jun. 13, 2003)
Indiana
IN20030001 (Jun. 13, 2003)
IN20030002 (Jun. 13, 2003)
IN20030003 (Jun. 13, 2003)
IN20030004 (Jun. 13, 2003)
IN20030005 (Jun. 13, 2003)
IN20030006 (Jun. 13, 2003)
IN20030008 (Jun. 13, 2003)
IN20030012 (Jun. 13, 2003)
IN20030014 (Jun. 13, 2003)
Minnesota
MN20030007 (Jun. 13, 2003)
Ohio
OH20030001 (Jun. 13, 2003)
OH20030003 (Jun. 13, 2003)
OH20030009 (Jun. 13, 2003)
OH20030012 (Jun. 13, 2003)
OH20030013 (Jun. 13, 2003)
OH20030014 (Jun. 13, 2003)
OH20030020 (Jun. 13, 2003)
OH20030022 (Jun. 13, 2003)
OH20030023 (Jun. 13, 2003)
OH20030026 (Jun. 13, 2003)
OH20030027 (Jun. 13, 2003)
OH20030032 (Jun. 13, 2003)
OH20030033 (Jun. 13, 2003)
OH20030035 (Jun. 13, 2003)
OH20030036 (Jun. 13, 2003)

Volume V

Arkansas
AR20030008 (Jun. 13, 2003)
AR20030027 (Jun. 13, 2003)
Iowa
IA20030003 (Jun. 13, 2003)
IA20030004 (Jun. 13, 2003)
IA20030005 (Jun. 13, 2003)
IA20030008 (Jun. 13, 2003)
Louisiana
LA20030005 (Jun. 13, 2003)
LA20030015 (Jun. 13, 2003)
LA20030034 (Jun. 13, 2003)
Nebraska
NE20030001 (Jun. 13, 2003)
NE20030003 (Jun. 13, 2003)
NE20030004 (Jun. 13, 2003)
NE20030005 (Jun. 13, 2003)
NE20030007 (Jun. 13, 2003)
NE20030009 (Jun. 13, 2003)
NE20030010 (Jun. 13, 2003)
NE20030011 (Jun. 13, 2003)
NE20030019 (Jun. 13, 2003)
NE20030021 (Jun. 13, 2003)
New Mexico
NM20030001 (Jun. 13, 2003)

Volume VI

Alaska
AK20030001 (Jun. 13, 2003)
AK20030002 (Jun. 13, 2003)
AK20030005 (Jun. 13, 2003)
AK20030006 (Jun. 13, 2003)
AK20030008 (Jun. 13, 2003)
Colorado
CO20030012 (Jun. 13, 2003)
CO20030013 (Jun. 13, 2003)
Idaho
ID20030002 (Jun. 13, 2003)
Oregon
OR20030001 (Jun. 13, 2003)
Wyoming
WY20030001 (Jun. 13, 2003)
WY20030002 (Jun. 13, 2003)
WY20030003 (Jun. 13, 2003)
WY20030004 (Jun. 13, 2003)
WY20030005 (Jun. 13, 2003)
WY20030009 (Jun. 13, 2003)

Volume VII

Nevada
NV20030001 (Jun. 13, 2003)
NV20030003 (Jun. 13, 2003)
NV20030004 (Jun. 13, 2003)

NV20030005 (Jun. 13, 2003)
NV20030009 (Jun. 13, 2003)

General Wage Determination Publication

General Wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon And Related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 26th day of August 2005.

Shirley Ebbesen,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–17335 Filed 9–1–05; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The petition for modification notice we published in the **Federal Register** on August 22, 2005 (70 FR 48984) had the wrong MSHA I.D. Number (15–28826) for the Hopkins County Coal, LLC, Elk Creek Mine, docket number M–2005–059–C. The correct I.D. Number is 15–18826.

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Bridger Coal Company

[Docket No. M–2005–060–C]

Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942 has filed a petition to modify the application of 30 CFR 75.1100–2(e)(2) (Quantity and location of firefighting equipment) to its Bridger Underground Mine (MSHA I.D. No. 48–01646) located in Sweetwater County, Wyoming. The petitioner requests a modification of the existing standard to permit the use of two portable fire extinguishers or one extinguisher having at least twice the minimum capacity in 30 CFR 75.1100–1(e) at each temporary electrical installation at the Bridger Underground Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Andalex Resources, Inc.

[Docket No. M–2005–061–C]

Andalex Resources, Inc., P.O. Box 902, Price, Utah 84501 has filed a petition to modify the application of 30 CFR 75.500(d) (Permissible electric equipment) to its Aberdeen Mine (MSHA I.D. No. 42–02028) located in Carbon County, Utah. The petitioner requests a modification of the existing standard to permit the use of low-voltage or battery-powered non-permissible, electronic testing, diagnostic equipment or other, in or inby the last open crosscut under controlled conditions. The petitioner proposes to use the following equipment or other within 150 feet of pillar workings: Laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, insulation testers (meggers), voltage, current power measurement devices and recorders, pressure and flow measurement devices, battery drills, signal analyzer device, ultrasonic thickness gauges, electronic component testers, and electronic tachometers, other testing diagnostic equipment that may be approved by the MSHA District Office. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Chino Mines Company

[Docket No. M–2005–006–M]

Chino Mines Company, P.O. Box 7, Hurley, New Mexico 88043 has filed a petition to modify the application of 30 CFR 56.6309 (Fuel oil requirements for ANFO) to its Chino Mine (MSHA I.D. No. 29–00708) located in Grant County, New Mexico. The petitioner proposes to use recycled waste oil blended with diesel fuel to produce ammonium nitrate-fuel oil for use as a blasting agent. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via Federal eRulemaking Portal: *http://www.regulations.gov*; e-mail: *zzMSHA-Comments@dol.gov*; Fax: (202) 693–9441; or Regular Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before October 3, 2005. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 26th day of August 2005.

Rebecca J. Smith,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 05–17478 Filed 9–1–05; 8:45 am]

BILLING CODE 4510–43–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employee's Certification.
(2) *Form(s) submitted:* G–346.
(3) *OMB Number:* 3220–0140.
(4) *Expiration date of current OMB clearance:* 11/30/2005.
(5) *Type of request:* Revision of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 7,560.
(8) *Total annual responses:* 7,560.
(9) *Total annual reporting hours:* 630.
(10) *Collection description:* Under Section 2 of the Railroad Retirement Act, spouses of retired railroad employees may be entitled to an annuity. The collection obtains information from the employee about

the employee's previous marriages, if any, to determine if any impediment exists to the marriage between the employee and his or her spouse.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–17525 Filed 9–1–05; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27051; 812–13000]

First Trust Exchange-Traded Fund, et al.; Notice of Application

August 26, 2005.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

Summary of Application: Applicants request an order that would permit (a) Open-end management investment companies, the series of which consist of the component securities of certain domestic equity securities indexes, to issue shares (''Shares'') that can be redeemed only in large aggregations (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated prices on the The Nasdaq Stock Market (''Nasdaq'') or a national securities exchange, as defined in section 2(a)(26) of the Act (each, an ''Other Exchange,'' and together with Nasdaq, the ''Exchanges''); (c) dealers to sell Shares to purchasers in the secondary market unaccompanied by a prospectus when prospectus delivery is not required by the Securities Act of 1933 (''Securities Act''); and (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units.

Applicants: First Trust Exchange-Traded Fund (''Initial Trust''); First Trust Advisors, L.P. (''Advisor''); and First Trust Portfolios, L.P. (''Distributor'').

Filing Dates: The application was filed on August 12, 2003, and amended on August 23, 2005. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 19, 2005, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303; Applicants, 1001 Warrenville Road, Lisle, IL 60532.

FOR FURTHER INFORMATION CONTACT: John Yoder, Attorney-Adviser, at (202) 551–6878, or Stacy Fuller, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. The Initial Trust is an open-end management investment company registered under the Act and organized as a Massachusetts business trust. The Initial Trust currently has one series (the ''Initial Fund'') and intends to establish other series (''Future Funds,'' and together with the Initial Fund, ''Funds''). The Advisor is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will serve as the investment adviser to the Initial Fund. The Advisor may in the future retain one or more sub-advisers (''Sub-Advisors'') to manage the Funds'' portfolios. Any Sub-Advisor will be registered under the Advisers Act or exempt from registration. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act''), will serve as the principal underwriter and distributor of Shares.

2. Each Fund will invest in a portfolio of equity securities (''Portfolio Securities'') selected to correspond generally to the price and yield performance of a specified domestic equity securities index (''Underlying Index''). The Dow Jones Select Microcap Index is the Underlying Index for the Initial Fund. In the future, the Initial Trust may offer Future Funds and other registered open-end management investment companies (''Future Trusts,'' and together with the Initial Trust, ''Trusts'') may offer series (included in the defined term Future Funds) based on other Underlying Indexes. Any Future Fund will (a) comply with the terms and conditions of any order granted pursuant to the application and (b) be advised by the Advisor or an entity controlling, controlled by or under common control with the Advisor (included in the defined term Advisor). No entity that creates, compiles, sponsors or maintains an Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, Advisor, Sub-Advisor, Distributor, or promoter of a Fund.

3. The investment objective of each Fund will be to provide investment results that generally correspond, before fees and expenses, to the price and yield performance of the Underlying Index. Intra-day values of the Underlying Index will be disseminated every 15 seconds throughout the trading day. In seeking to achieve the investment objective, each Fund will utilize either a replication or a representative sampling strategy.[1] A Fund using a replication strategy generally will invest in the component securities of the Underlying Index (''Component Securities'') in the same approximate proportions as in the Underlying Index. When, for example, a

[1] A Fund will invest at least 90% of its assets in the relevant Component Securities (as defined below). A Fund may invest up to 10% of its assets in futures, options and swap contracts, cash and cash equivalents, and stocks not included in the Underlying Index but which the Advisor or Sub-Advisor believes will help the Fund track its Underlying Index.

Component Security is illiquid, or when there are practical difficulties or substantial costs involved in holding every security in an Underlying Index, a Fund may use a representative sampling strategy pursuant to which it will invest in some but not all of the relevant Component Securities.[2] Applicants anticipate that a Fund that utilizes a representative sampling strategy will not track the performance of its Underlying Index with the same degree of accuracy as an investment vehicle that invests in every Component Security in the same weighting as the Underlying Index. Applicants expect that each Fund will have a tracking error relative to the performance of its Underlying Index of less than 5 percent.

4. Shares of the Funds will be sold at a price of between $40 and $250 per Share in Creation Units of between 25,000 and 150,000 Shares. With respect to the Initial Fund, Shares will be priced at approximately $45 and sold in Creation Units of 50,000 Shares at a total price per Creation Unit of approximately $2,250,000. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor (''Authorized Participant''). An Authorized Participant must be either (a) a broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation, a clearing agency that is registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC,'' and such participant, ''DTC Participant''). Creation Units generally will be issued in exchange for an in-kind deposit of securities and cash, though a Fund may sell Creation Units on a cash-only basis in limited circumstances. An investor wishing to purchase a Creation Unit from a Fund will have to transfer to the Fund a ''Portfolio Deposit'' consisting of: (a) A portfolio of securities that has been selected by the Advisor or Sub-Advisor to correspond generally to the performance of the relevant Underlying Index (''Deposit Securities''), and (b) a cash payment to equalize any differences between the market value per Creation Unit of the Deposit Securities and the net asset value (''NAV'') per Creation Unit (''Balancing Amount'').[3] An investor purchasing a Creation Unit from a Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from the Fund incurring costs in connection with the purchase of the Creation Units.[4] Each Fund will disclose the maximum Transaction Fee charged by the Fund in its prospectus (''Prospectus'') and the method of calculating the Transaction Fees in its Prospectus or statement of additional information (''SAI'').

5. Orders to purchase Creation Units of a Fund will be placed with the Distributor who will be responsible for transmitting orders to the Funds. The Distributor will issue confirmations of acceptance to purchasers of Creation Units and delivery instructions to the Trust (to implement the delivery of Creation Units), and will maintain records of the orders and confirmations. The Distributor will also be responsible for delivering Prospectuses to purchasers of Creation Units.

6. Persons purchasing Creation Units from a Fund may hold the Shares or sell some or all of them in the secondary market. Shares of the Funds will be listed on an Exchange, which will either be Nasdaq or an Other Exchange and traded in the secondary market in the same manner as other equity securities. It is expected that one or more members of the listing Exchange will act, with respect to Nasdaq,[5] as a market maker (''Market Maker'') or, with respect to any Other Exchange,[6] as a specialist (''Specialist''), and maintain a market on the Exchange for the Shares. The price of Shares traded on an Exchange will be based on a current bid/offer market. Purchases and sales of Shares in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs (which could include institutional investors). The Market Maker or Specialist, in providing for a fair and orderly secondary market for Shares, also may purchase Creation Units for use in its market-making activities. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[7] Applicants expect that the price at which the Shares trade will be disciplined by arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV, which should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

8. Shares will not be individually redeemable. Shares will only be redeemable in Creation Units from a Fund. To redeem, an investor will have to accumulate enough Shares to constitute a Creation Unit. Redemption orders must be placed by or through an Authorized Participant. An investor redeeming a Creation Unit generally will receive (a) a portfolio of securities designated to be delivered for Creation Unit redemptions on the date that the request for redemption is submitted (''Fund Securities''), which may not be identical to the Deposit Securities required to purchase Creation Units on that date, and (b) a ''Cash Redemption Payment,'' consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amount of the Cash Redemption Payment may differ from the Balancing Amount if the Fund Securities are not identical to the Deposit Securities on that day. An investor may receive the cash equivalent of a Fund Security in certain circumstances, such as if the investor is constrained from effecting transactions in the security by regulation or policy. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

9. Applicants state that no Trust or Fund will be marketed or otherwise held out as a traditional open-end

[2] The stocks selected for inclusion in a Fund by the Advisor will have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the relevant Underlying Index taken in its entirety.

[3] On each day that the Trust is open for business (''Business Day''), prior to the opening of trading on the Exchange, the Advisor or Sub-Advisor will make available the list of the names and the required number of shares of each Deposit Security required for the Portfolio Deposit for the Fund. That Portfolio Deposit will apply to all purchases of Creation Units until a new Portfolio Deposit for the Fund is announced. Each Fund reserves the right to permit or require the substitution of an amount of cash in lieu of depositing some or all of the Deposit Securities in certain circumstances. The Exchange will disseminate every 15 seconds throughout the trading day via the facilities of the Consolidated Tape Association an amount representing, on a per Share basis, the sum of the current value of the Deposit Securities and the estimated Balancing Amount.

[4] When a Fund permits a purchaser to substitute cash for Deposit Securities, the purchaser may be assessed a higher Transaction Fee to offset the brokerage and other transaction costs incurred by the Fund to purchase the requisite Deposit Securities.

[5] The listing requirements established by Nasdaq require that at least two Market Makers be registered in Shares in order for the Shares to maintain a listing on Nasdaq. Registered Market Makers must make a continuous two-sided market in a listing or face regulatory sanctions.

[6] Other Exchanges will assign a Specialist to make a market in Shares.

[7] Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. DTC or DTC Participants will maintain records reflecting the beneficial owners of Shares.

investment company or mutual fund. Rather, applicants state that each Fund will be marketed as an ''exchange-traded fund,'' ''investment company,'' ''fund'' and ''trust.'' All marketing materials that refer to redeemability or describe the method of obtaining, buying or selling Shares will prominently disclose that Shares are not individually redeemable and that Shares may be acquired or redeemed from the Fund in Creation Units only. The same type of disclosure will be provided in the Prospectus, SAI, shareholder reports and investor educational materials issued or circulated in connection with Shares. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Trust to register as an open-end management investment company and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary substantially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants request an exemption from section 24(d) to permit dealers selling Shares to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.[8]

8. Applicants state that Shares will be listed on an Exchange and will be traded in a manner similar to other equity securities, including the shares of closed-end investment companies. Applicants note that dealers selling shares of closed-end investment companies in the secondary market generally are not required to deliver a prospectus to the purchaser. Applicants contend that Shares, as a listed security, merit a reduction in the compliance costs and regulatory burdens resulting from the imposition of prospectus delivery obligations in the secondary market. Because Shares will be exchange-listed, prospective investors will have access to several types of market information about Shares. Applicants state that information regarding market price and volume will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and volume information for Shares also will be published daily in the

[8] Applicants do not seek relief from the prospectus delivery requirement for non-secondary market transactions, such as purchases of Shares from the Fund or an underwriter. Applicants state that persons purchasing Creation Units will be cautioned in the Prospectus that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Distributor, breaks them down into the constituent Shares and sells them directly to its customers, or if it chooses to couple the purchase of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. The Prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The Prospectus also will state that dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with Shares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

financial section of newspapers. In addition, the website maintained for each Trust will include, for each Fund, the prior Business Day's NAV, the mid-point of the bid-ask spread at the time of calculation of the NAV (''Bid-Ask Price''), a calculation of the premium or discount of the Bid-Ask Price against such NAV, and data in chart format displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.[9]

9. Investors also will receive a short product description (''Product Description''), describing a Fund and its Shares. Applicants state that, while not intended as a substitute for a Prospectus, the Product Description will contain information about Shares that is tailored to meet the needs of investors purchasing Shares in the secondary market.

Section 17(a)(1) and (2) of the Act

10. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Applicants state that because the definition of ''affiliated person'' includes any person owning 5% or more of an issuer's outstanding voting securities, every purchaser of a Creation Unit will be affiliated with a Fund so long as fewer than twenty Creation Units are in existence, and any purchaser that owns more than 25% of a Fund's outstanding Shares will be an affiliated person of the Fund. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b), to permit persons that are affiliated persons of the Funds solely by virtue of a 5% or more, or more than 25%, ownership interest (and affiliated persons of such affiliated persons that are not otherwise affiliated with the Funds) to purchase and redeem Creation Units through ''in-kind'' transactions.

11. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting the affiliated persons of a Fund described above from purchasing or redeeming Creation Units through ''in-kind'' transactions. The deposit procedure for in-kind purchases and the redemption procedure for in-kind redemptions will be the same for all purchases and redemptions. Deposit Securities and Fund Securities will be valued in the same manner as the Fund's Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for the affiliated persons of a Fund, or the affiliated persons of such affiliated persons, described above, to effect a transaction detrimental to other holders of Shares. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Applicants will not register a Future Fund by means of filing a post-effective amendment to a Trust's registration statement or by any other means, unless either (a) applicants have requested and received with respect to such Future Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission; or (b) the Future Fund will be listed on an Exchange without the need for a filing pursuant to rule 19b–4 under the Exchange Act.

2. Each Prospectus and Product Description will clearly disclose that, for purposes of the Act, Shares are issued by the Funds and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

3. As long as a Trust operates in reliance on the requested order, the Shares will be listed on an Exchange.

4. Neither a Trust nor any Fund will be advertised or marketed as an open-end fund or a mutual fund. Each Prospectus will prominently disclose that Shares are not individually redeemable shares and will disclose that the owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

5. The Web site maintained for a Trust, which is and will be publicly accessible at no charge, will contain the following information, on a per Share basis, for each Fund: (a) The prior Business Day's NAV and the Bid-Ask Price and a calculation of the premium or discount of the Bid-Ask Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid-Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each Fund will state that the website for the Fund has information about the premiums and discounts at which Shares have traded.

6. The Prospectus and annual report for each Fund will also include: (a) The information listed in condition 5(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the Fund), (i) the cumulative total return and the average annual total return based on NAV and Bid-Ask Price, and (ii) the cumulative total return of the relevant Underlying Index.

7. Before a Fund may rely on the order, the Commission will have approved, pursuant to rule 19b–4 under the Exchange Act, an Exchange rule requiring Exchange members and member organizations effecting transactions in Shares to deliver a Product Description to purchasers of Shares.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4806 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

[9] The Bid-Ask Price per Share of a Fund is determined using the highest bid and the lowest offer on the primary listing Exchange at the time of calculation of such Fund's NAV.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–28020]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 26, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 27, 2005, to the Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 27, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

KeySpan Corporation, et al. (70–09957)

KeySpan Corporation (''KeySpan'') and its wholly owned captive insurance company subsidiary, KeySpan Insurance Company (''KIC''), One MetroTech Center Brooklyn, New York 11201 have filed a post-effective amendment (''Application'') with the Commission under sections 6(a), 7, 12(b) and 13(b) of the Act and rules 45, 54, 90 and 91 under the Act.

By order dated April 24, 2003, HCAR No. 27669 (''First Captive Order''), the Commission authorized KeySpan to organize a subsidiary to engage in activities associated with a captive insurance company. In accordance with the First Captive Order, KeySpan formed KIC, which is authorized to provide certain insurance services to KeySpan and its subsidiaries (''KeySpan System'' and/or ''System Companies''). By order dated February 3, 2004, HCAR No. 27795 (''Second Captive Order''), the Commission authorized KeySpan to expand the authority granted to the Applicants under the First Captive Order in order to allow KIC to provide additional insurance services covering property, boiler and machinery ''all-risk'' insurance services. KeySpan and KIC now seek an expansion of the authorization granted to KeySpan under the First Captive Order and the Second Captive Order (collectively referred to herein as the ''Captive Orders'').

Under the Captive Orders, KIC is authorized to provide several major types of coverage to the KeySpan System, including automobile liability, workers' compensation, general liability, property, and boiler and machinery ''all-risk'' insurance. In addition, KIC is authorized to provide general liability and workers' compensation insurance to its principal contractors under an Owner's Controlled Insurance Program (''OCIP''). The contractors provide scheduled gas main construction and maintenance to the KeySpan System. Except for the general liability and workers' compensation insurance provided to the principal contractor under OCIP, KIC will not extend or provide to any non-affiliated company any insurance services, unless otherwise expressly authorized by the Commission.

KIC assumes the risk of the more predictable loss layer from the commercial insurers for automobile and general liability losses, workers' compensation, property, boiler and machinery ''all-risk'' insurance. Commercial insurance will continue to be purchased for ''unpredictable'' losses above the predictable loss layers from various commercial insurance companies, as was done under the program prior to the formation of KIC. To the extent that KIC procures insurance at a lower cost than that which could be obtained through traditional insurers, the savings in the premiums flow through ratably to the KeySpan System companies through the operation of the allocation methodology used to establish premiums.

Applicants now propose that KIC would offer the following additional insurance services to the KeySpan System:

- Excess Liability—A reduction of costs could be realized by all system companies, in an amount equal to the percentage of coverage taken on by KIC, if KIC were to take a position in the upper layers of the Excess General Liability insurance purchased from the commercial market. Specifically, the KIC would take a specific percentage of the Company's $265 million excess of $35 million excess liability program, not to exceed 25 percent. Applicants assert that this limitation of 25 percent would serve to mitigate any potentially adverse event while saving the System Companies a potential 20 percent when compared to current market pricing.
- Service/Maintenance Contracts Insurance—KIC could be used to underwrite the risks posed to the service companies through warranty contracts. Currently the home energy service companies are being asked by State regulatory agencies to evidence financial backing of these contracts which does not exist at this time. Applicants assert that a savings of approximately 20 percent could be realized by using KIC versus utilizing the commercial insurance market.
- Subsidiary Deductible Buy-Down Options—KIC can be used to offer separate deductibles to operating entities according to their individual appetite for risk. Applicants assert that this would assist the operating entities, especially the smaller ones, in maintaining fiscal responsibility and would place their deductibles more in-line with their business operational risk.
- Weather Insurance—KeySpan currently uses the commercial market to hedge against adverse weather fluctuations in New England. Savings on the profit and administration paid to insurance companies would benefit the System Companies. Applicants state that System Companies would save approximately 15% by using KIC.
- Certified Terrorism Coverage—If the Terrorism Risk Insurance Act of 2002 (''TRIA'') is extended beyond December 31, 2005, KIC can offer this line of coverage because of its status as a licensed insurance company in the State of Vermont. This would save approximately 10–15% in current costs paid to the commercial market. In the event of a certified terrorism loss, KIC would have access to TRIA and would be able to recoup the loss associated with the event, subject to applicable deductible and co-insurance provisions.
- Joint Venture Opportunities—KIC can be a vehicle for insuring predictable risks associated with joint ventures, partnerships or other business combinations.

KeySpan currently insures excess liability, weather insurance, and certified terrorism coverage through the traditional commercial insurance market. It has various deductibles ranging from $1 million to $3 million. It purchases limits up to $2.5 billion from the commercial insurance market. KeySpan does not presently purchase service/maintenance contracts

insurance, subsidiary deductible buy-down options, or joint venture opportunities insurance from the commercial insurance market but intends to provide coverage in these areas ranging from $5 million to $15 million through KIC.

Applicants state that KIC can be used as a vehicle to lower costs to the KeySpan System companies by acting as a buffer layer between current commercial market deductibles and planned increases in such deductibles. KeySpan could engage the commercial market at higher deductibles than currently possible because KIC would insure the increased risk associated with higher deductibles. Increasing the commercial market deductibles would allow the KeySpan System to reduce commercial market premiums. The premium charged by KIC for this buffer layer would be calculated based on expected losses, utilizing the same method as used by commercial insurance companies. Applicants state that, the premium charged by KIC would not include an additional charge for profit or administration and would therefore provide further savings to the KeySpan System companies.

Applicants state that, to the extent that KIC can provide insurance at a lower cost than that which could be obtained through traditional insurers, the savings would continue to flow through ratably to the KeySpan System companies through the allocation methodology used to establish premiums, as described above. Moreover, there would be no additional staffing requirements for KeySpan System companies. KIC would not be operated to generate profits beyond what is necessary to maintain adequate reserves.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4807 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Bancorp International Group, Inc. File No. 500–1; Order of Suspension of Trading

August 31, 2005.

It appears to the Securities and Exchange Commission that all of the securities currently trading in the name of Bancorp International Group, Inc. (''BCIT'') and purportedly signed by Thomas Megas as President and M. Puig as Secretary are counterfeit. BCIT is quoted on the Pink Sheets LLC.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of BCIT.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in BCIT is suspended for the period from 9:30 a.m. e.d.t., August 31, 2005 through 11:59 p.m. e.d.t., on September 14, 2005.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–17593 Filed 8–31–05; 11:53 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52341; File No. SR–BSE–2005–20]

Self-Regulatory Organizations; Boston Stock Exchange; Order Granting Approval to Proposed Rule Change Relating to Trade Shredding

August 26, 2005.

I. Introduction

On June 23, 2005, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (''Act'') [1] and Rule 19b–4 thereunder,[2] the proposed rule change relating to trade shredding. The proposed rule change was published for notice and comment in the **Federal Register** on July 22, 2005.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The BSE proposed to add language to its existing BSE Rules to prohibit BSE members from splitting large orders into multiple smaller orders for any purpose other than best execution. The text of BSE Rules as the BSE is proposing to amend it is below. New text is in italics.

* * * * *

Chapter II

Dealings on the Exchange

Sec. 4.

Units of Trading

The unit of trading in bonds shall be $1000 in par value thereof.

The unit of trading in stocks shall be 100 shares, except that the Exchange may fix a smaller number of shares in any particular instance.

Bids or offers for less than the unit of trading shall specify the par value of the bonds or number of shares of stock covered by the bid or offer.

A customer's order in the unit of trading, or multiples thereof, in any security traded on the Exchange, the primary market for which is on another Exchange, may not be split into odd-lots. *A member may not split any order into multiple smaller orders for any purpose other than seeking the best execution of the entire order.*

* * * * *

III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[4] particularly Section 6(b)(5) of the Act which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[5] The Commission believes that the proposed rule change should help eliminate the distortive practice of trade shredding, and, therefore, promote just and equitable principles of trade.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–BSE–2005–20), be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4804 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240. 19b–4.

[3] *See* Securities Exchange Act Release No. 52033 (July 14, 2005), 70 FR 42396.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52342; File No. SR-NASD–2004–125]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Regarding Procedures for Denying Listing on Nasdaq

August 26, 2005.

I. Introduction

On August 18, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding its procedures for denying listing on Nasdaq. On February 9, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on March 4, 2005.[3] The Commission received 2 comments on the proposal as amended by Amendment No. 1.[4] On July 1, 2005, Nasdaq filed Amendment No. 2 to the proposed rule change in response to the comment letters.[5] This order approves the proposed rule change, as amended. Simultaneously, the Commission provides notice of, and grants accelerated approval to, Amendment No. 2.

II. Description of Proposed Rule Change

Nasdaq proposes to enhance, clarify, and increase the transparency of its procedures for denying or limiting initial or continued listing on Nasdaq. Among others, Nasdaq proposes to clarify the various decisionmakers responsible for denying or limiting listing on Nasdaq, proper documentation of decisions, conducts deemed appropriate for such decisionmakers, and procedural deadlines involved. Also, more specifically, Nasdaq proposes to define more clearly the decision-makers authorized to exercise discretion to grant exceptions, how exceptions are documented, and when exceptions must expire. Further, Nasdaq proposes minor miscellaneous changes to the rules.

III. Summary of Comments and Nasdaq's Response

The Commission received two comment letters on the proposed rule change.[6] Generally, the commenters supported the proposed rule change. However, the commenters also expressed concern regarding proposed NASD Rule 4802, which provides 90 and 60-day time limits on exceptions to the listing standards granted by Nasdaq Listing Qualifications Panel (''Panel'') and the Nasdaq Listing and Hearing Review Council (''Listing Council''), respectively. Furthermore, one commenter sought clarifications regarding proposed NASD IM–4803,[7] proposed NASD Rule 4806(d), and proposed NASD Rule 4802(f).[8]

The commenters expressed concern that the time limits in proposed NASD Rule 4802 would result in an inflexible application of exceptions. One commenter argued that that the proposed 90 and 60-day time limits on exceptions to the listing standards are inconsistent with the Commission's observation in *In the Matter of Tassaway, Inc.* that Nasdaq's rules with respect to delisting ''do not lend themselves to mechanical and inflexible administration.''[9] Likewise, to illustrate, another commenter provided that an issuer with a viable plan to regain compliance in 91 days from a Panel Decision, rather than 90 days required in the proposal, would be automatically delisted.[10]

Nasdaq responded in Amendment No. 2 that it believes that strict time limits are appropriate. Nasdaq explained that the Commission also held in *In the Matter of Tassaway, Inc.* that prospective investors in Nasdaq securities are ''entitled to assume that the securities in [Nasdaq] meet [Nasdaq's] standards. Thus, the presence in [Nasdaq] of non-complying securities could have a serious deceptive effect.''[11] Nasdaq also replied that where, for example, an issuer gains compliance shortly after the expiration of a 90-day Panel exception, such issuer would have been out of compliance for an extended period of time. In Amendment No. 2, Nasdaq continued to explain that in its experience an issuer that must rely on an extended exception period in order to regain compliance with the listing standards frequently falls again out of compliance within a short period and is eventually delisted. Moreover, Nasdaq argued that investors in Nasdaq listed companies are entitled to an expectation that such companies meet the listing standards and would be permitted to remain listed under an exception for only a limited period of time. Accordingly, Nasdaq affirmed its belief that continued inclusion of non-complying companies would be inappropriate and that the proposed 90 and 60-day time limits strike a balance between flexible application of the rules and the rights and expectations of prospective investors. Nasdaq also noted that delisted issuers that believe they would regain compliance in the near term are able to appeal the Panel Decision to the Listing Council.

The commenters also expressed concern that the proposed NASD Rule 4802 would not permit a Panel or Listing Council discretion to grant additional time to regain compliance where an issuer fails to meet the filing requirement contained in NASD Rule 4310(c)(14).[12] Nasdaq recognized that as a result of increased demands placed upon public companies by the Sarbanes-Oxley Act, certain issuers may face transitional difficulties complying with NASD Rule 4310(c)(14). Nevertheless, Nasdaq affirmed its belief that the imposition of the proposed time limits would not result in inequitable results. Nasdaq, however, stated that it intends to closely monitor, and propose adjustments to, the time limits applicable to exceptions to the filing requirement if such adjustments appear advisable in future.

One commenter noted that the 90-day and 60-day exception periods are based on the date of the applicable decision, which is not a fixed date.[13] As such, the commenter expressed concern that the proposed NASD Rule 4802 ''provides insufficient practical guidance to companies subject to delisting.''[14] Nasdaq agreed that the exception periods are not sufficiently precise and that different non-complying issuers could remain listed for varying amounts

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 51268 (February 28, 2005), 70 FR 10716.

[4] *See* letters to Jonathan G. Katz, Secretary, Commission, from David A. Donohoe, Jr., President, Donohoe Advisory Associates LLC, dated March 25, 2005 (''Donohoe Letter'') and Lyle Roberts and H. Hubert Yang, Wilson Sonsini Goodrich & Rosati, dated April 1, 2005 (''Wilson Letter''). The letters are described in Section III, *infra*.

[5] Amendment No. 2 made modifications to the rule text and the purpose section in response to comment letters.

[6] *See supra* note 4.

[7] *See* Donohoe Letter at 3–4.

[8] *See* Dohonoe Letter at 4.

[9] *See* Donohoe Letter at 1 and 4. *See* Securities Exchange Act Release No. 11291 (March 13, 1975), 45 SEC 706, 6 SEC Docket 427.

[10] *See* Wilson Letter at 2.

[11] *See supra* note 9.

[12] *See* Donohoe Letter at 2 and Wilson Letter at 2.

[13] *See* Wilson Letter at 2.

[14] *Id.*

of time, depending on the time required to schedule a hearing and to issue a decision. Consequently, in response to the commenter's concern, Nasdaq proposed to amend the time limits for exceptions to provide that a Panel exception may not exceed the earlier of 90 days from the date of the Panel Decision or 180 days from the date of the Staff Determination with respect to the deficiency for which the exception is granted, and a Listing Council exception may not exceed the earlier of 60 days from the date of the Listing Council Decision or 180 days from the date of the Panel Decision.

Another commenter sought clarification regarding proposed NASD IM–4803.[15] The commenter asked that Nasdaq clarify its position on the Panel's authority to grant exceptions to issuers seeking to demonstrate compliance with income requirement on The Nasdaq SmallCap Market or the total assets and total revenue requirement on the Nasdaq National Market.[16] Nasdaq responded by affirming that Nasdaq staff would not accept a plan to regain compliance with these requirements. Nasdaq explained that each of these rules requires compliance based on a completed fiscal year and, as such, non-compliance would be determined based on an issuer's annual periodic filing. Because an issuer could regain compliance only with another annual periodic filing, such plan would always be unacceptable, because the curative filing would not be made for approximately 12 months.

One commenter requested clarification on whether an issuer that retained its Nasdaq listing, but is subject to Panel monitoring under proposed NASD Rule 4806(d) because it fell out of compliance with equity or filing continued listing requirements, would be entitled to an oral hearing in the event that the issuer fell out of compliance with the equity or filing requirement during the monitoring period.[17] In response, Nasdaq proposed to amend the proposed rule change to clarify that in such situation the issuer would be provided with the opportunity for an oral hearing pursuant to the terms of NASD Rule 4805, since the issuer would have been in full compliance with applicable listing standards for a period of time. However, because the purpose of proposed NASD Rule 4806(d) is to expedite review of issuers that repeatedly fail to satisfy the listing standards, Nasdaq also proposed to clarify that in the situation where the Panel grants an issuer an exception from continued listing standards pertaining to the shareholder equity and periodic report filing, but the Panel opts not to monitor the issuer pursuant to NASD Rule 4806(d)(2), and issuer regains compliance but falls out of compliance again within a one-year period, (i) the issuer would not be permitted to provide the Listing Department with a plan to regain compliance, if it would otherwise be permitted to do so under proposed NASD Rule 4803, (ii) the Listing Department would not be permitted to grant additional time for the issuer to regain compliance, and (iii) the Panel conducting the subsequent hearing would consider the issuer's prior non-compliance.

Further, Nasdaq proposed to give the Panel the option to monitor an issuer directly in all cases where the Panel concludes that there is a likelihood that the issuer would fail to maintain compliance with any continued listing standard in the one-year period following its decision.[18] If a Panel monitors an issuer and any subsequent deficiency occurs during the monitoring period, as in the scenario above, the issuer would not be permitted to provide the Listing Department with a plan to regain compliance and the Listing Qualifications Department would be unable to grant additional time for the issuer to regain compliance. Additionally, the Panel would promptly consider this deficiency.[19] Again, the issuer would be entitled to an oral hearing pursuant to the terms of NASD Rule 4805.

IV. Discussion

After careful review of the proposal, the comment letters, and Nasdaq's response to comments, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.[20] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 15A(b)(6) of the Act[21] because it is designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change strikes a reasonable balance between Nasdaq's obligation to protect investors and their confidence in the market, with its obligation to perfect the mechanism of free and open market.

A. Review of Deficiency and Discretion To Grant Exceptions

Nasdaq's proposes certain rule changes to enhance, clarify, and increase the transparency of its procedures for denying or limiting initial or continued listing. First, Nasdaq's provides in proposed NASD Rule 4803 that in the event of an issuer's deficiency, the Listing Department would either initiate proceedings to deny or limit listing or notify the issuer of the deficiency and provide 15 days to submit a plan to regain compliance with the listing standards. Nasdaq staff would then be required to initiate proceedings to deny or limit listing or grant the issuer up to 105 days to regain compliance.[22] The staff's authority to grant an exception, however, would not apply to quantitative listing standards that, by their terms, specify a period during which an issuer may seek to regain compliance before being subject to delisting[23] or to qualitative listing standards that are considered fundamental to an investor's participation in, or to Nasdaq's relationship with, the issuer.[24]

The Commission believes that proposed NASD Rule 4803 is consistent with the Act. Specifically, the Commission believes that proposed NASD Rule 4803 clarifies and increases the transparency of the Listing

[15] *See* Donohoe Letter at 3 and 4.

[16] *See* Donohoe Letter at 3.

[17] *See* Donohoe Letter at 4.

[18] Nasdaq represented that whether or not the Panel opts to monitor an issuer, the Nasdaq Listing Qualifications Department would monitor the issuer's compliance with all Nasdaq listing standards, as it does for all Nasdaq-listed issuers.

[19] A commenter also requested clarification regarding the ability of Panel and Listing Council to relist an issuer under the maintenance requirements, notwithstanding proposed NASD Rule 4802(f). *See* Donohoe Letter at 4. Nasdaq responded that it believes that such discretion should exist under its listing rules and intends to file a separate rule proposal in the near term that would codify the limits of discretion in this regard.

[20] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] If an issuer is already the subject of a Staff Determination by the Listing Department pursuant to NASD Rule 4804, the Listing Department would not provide the issuer with the opportunity to submit a plan, nor could the staff grant an exception, with respect to a new deficiency. Rather, the new deficiency would be considered by the relevant Adjudicatory Body as provided by NASD Rule 4810(e) (redesignated as NASD Rule 4802(d)).

[23] These standards include the requirements for number of market makers (NASD Rules 4310(c)(1), 4320(e)(1), and 4450(a)(6), (b)(6), and (h)(5)); market value of publicly held shares (NASD Rules 4310(c)(7) and 4450(a)(2), (b)(3), and (h)(2)); market value of listed securities (NASD Rules 4310(c)(2), 4320(e)(2), and 4450(b)(1)); and bid price (NASD Rules 4310(c)(4) and 4450(a)(5), (b)(4), and (h)(3)).

[24] These standards include the requirements to provide Nasdaq with responsive and accurate information (NASD Rule 4330); file periodic reports (NASD Rules 4350(b) and 4360(b)); hold annual meetings and solicit proxies (NASD Rules 4350(e) and (g) and 4360(e) and (g)); and execute a listing agreement (NASD Rules 4350(j) and 4360(h)).

Department's procedures for reviewing deficiencies. Also, the Commission believes that proposed NASD Rule 4803 provides fair procedures for issuers. The Commission notes that Nasdaq's proposal to grant issuers with up to 105 days to regain compliance is appropriate because it provides issuers additional time while not causing undue delay between the identification of deficiencies and the determination to limit or prohibit initial or continued listing. Further, by making clear which listing standards are subject to exceptions, the Commission believes that the proposal provides issuers with greater guidance regarding factors relevant to listing and delisting procedures.

The Commission believes that the proposed amendments to NASD Rule 4810 (redesignated as NASD Rule 4802) are consistent with the Act. The Commission notes that Nasdaq proposes to clarify the decision-makers authorized to exercise discretion to grant an exception to its listing standards, how the exception is documented, and when the exception must expire. Pursuant to proposed NASD Rule 4810(b) (redesignated as NASD Rule 4802(b)), a Panel may grant an exception from any of the listing standards set forth in NASD Rule 4000 Series for a period not to exceed the earlier of 90 days from the date of the Panel Decision or 180 days from the date of the Staff Determination, and the Listing Council may grant an exception for a period not to exceed the earlier of 60 days from the date of the Listing Council Decision or 180 days from the date of the Panel Decision.

The Commission believes that by clarifying how exceptions are granted and for how long, the proposed rule change helps issuers better understand the factors relevant to listing and delisting procedures. The Commission agrees that the proposed rule strikes a balance between flexible application of the rules and the rights and expectations of prospective investors in Nasdaq securities. The Commission believes that Nasdaq proposed timeframes for exceptions help prevent non-complying issuers from remaining listed for an undue amount of time. Moreover, the Commission notes that Nasdaq intends to monitor the time limits applicable to exceptions as they relate to filing requirements in NASD Rule 4310(c)(14) and to propose adjustments, if advisable. Lastly, the Commission notes that Amendment No. 2 addresses the commenter's concern that the exception periods are imprecise and provide insufficient guidance to issuers (because the time periods may vary among issuers based on the scheduling of hearing dates and dates of decisions) by providing that a Panel exception would not exceed the earlier of 90 days from the date of the Panel Decision or 180 days from the date of the Staff Determination, and a Listing Council exception would not exceed the earlier of 60 days from the date of the Listing Council Decision or 180 days from the date of the Panel Decision.

The Commission believes that Nasdaq's amendment to NASD Rule 4830 is consistent with the Act. In the proposed rule change, Nasdaq proposes to amend NASD Rule 4830 (redesignated as NASD Rule 4806) to give the Panel the option to monitor an issuer for up to one year if the Panel concludes that there is a likelihood that the issuer would fail to maintain compliance with any listing standard during that period following the date it regains compliance.

The Commission expects Nasdaq to quickly institute delisting proceedings for issuers that fall below Nasdaq listing standards during the one-year period following the date such issuers regain compliance. Nasdaq, in turn, proposes that where the Panel opts to monitor an issuer, it would promptly schedule an oral hearing pursuant to the terms of NASD Rule 4805 if the issuer fails to maintain compliance with any of the listing standards. Where the Panel opts to monitor an issuer, and where an issuer is granted an exception from continued listing standards, regains compliance, and falls out of compliance again within a one-year period (i) the issuer would not be permitted to provide the Listing Department with a plan to regain compliance, if it would otherwise be permitted to do so under proposed NASD Rule 4803, (ii) the Listing Department would not be permitted to grant additional time for the issuer to regain compliance, and (iii) the Panel conducting the subsequent hearing would consider the issuer's prior non-compliance. Nasdaq represents that the Panel would opt to monitor an issuer directly in all cases where the Panel concludes that there is a likelihood that the issuer would fail to maintain compliance with any listing standard in the one-year period following its decision.

Likewise, Nasdaq proposes that if the Panel opts not to monitor an issuer and within one year the issuer again fails to maintain compliance, the Listing Department would promptly provide the issuer with a Staff Determination. Even if the Panel opts not to monitor an issuer, if the Panel grants an issuer an exception from continued listing standards pertaining to the shareholder equity or periodic report filing, and the issuer regains compliance but fails to maintain such compliance for a one-year period, the expedited delisting procedures described above would apply. Again, such issuer would be entitled to an oral hearing pursuant to the terms of NASD Rule 4805. The Commission believes that to uphold the quality of its market, it is reasonable for Nasdaq to implement procedures that allow an expedited resolution to a repeatedly deficient issuer.

B. Exception to Shareholder Approval Requirement

The Commission believes that Nasdaq's proposal to amend NASD Rule 4350(i)(2) is consistent with the Act. The Commission believes that Nasdaq's proposal to require an independent committee approve an issuer's reliance on an exception to shareholder approval requirements, the issuance of a press release when such exception is used, and the stipulation that communications between the issuer and the Listing Qualifications Department regarding the exception must be in writing should help provide transparency to investors and reduce the potential for abuse of this exception.

C. Public Interest Authority

The Commission also finds that Nasdaq's proposal to amend NASD Rule 4300 is consistent with the Act. Nasdaq proposes in NASD Rule 4300 to clarify that the Listing Department must issue a Staff Determination under NASD Rule 4815 (redesignated as NASD Rule 4804) when Nasdaq staff exercises its authority under NASD Rule 4300 to limit or prohibit the initial or continued listing of an issuer's securities. Nasdaq also proposes to supplement the rule with interpretive material that explains, among others things, the factors used in evaluating whether the regulatory misconduct of an individual associated with an issuer should be used as a basis to deny listing. The Commission believes that these proposals may enhance the transparency of Nasdaq's procedures for denying or limiting initial or continued listing on Nasdaq.

D. Supplementing the Record

Nasdaq proposes to amend NASD Rule 4810(c) and (d) (redesignated as NASD Rule 4802(c)) to provide an Adjudicatory Body at each level of review with broad authority to supplement the record on its own motion. Nasdaq also proposes to amend NASD Rule 4875 (redesignated as NASD Rule 4812) to provide that all documents submitted to Nasdaq or NASD in connection with a NASD Rule

4800 Series proceeding shall be retained in accordance with applicable record retention policies. The ability to supplement the record with necessary information would help ensure that the Adjudicatory Body's decision is informed and appropriate. Therefore, the Commission believes that it is important that each Adjudicatory Body has the authority to supplement it record on its own motion. The Commission also believes the new NASD Rule 4812 is consistent with the Act because Nasdaq proposes to comply with the rules thereunder.[25]

E. Procedural Deadlines

Nasdaq proposes to amend NASD Rule 4885 (redesignated NASD Rule 4814) to provide that, if notice has not been properly given or if other extenuating circumstances exist, the Nasdaq Office of General Counsel may equitably adjust the time period provided by the rules for the filing of written submissions, the scheduling of hearings, or the performance of other procedural actions by the issuer or the Adjudicatory Body. Nasdaq also proposes to amend NASD Rule 4885 to provide that an issuer may waive any notice period specified by NASD Rule 4800 Series. The Commission believes that Nasdaq's proposed amendments to NASD Rule 4885 would facilitate fairness in the listing and delisting procedures.

F. Listing Council Subcommittees

The Commission believes that Nasdaq's proposal to amend NASD Rule 4840 (redesignated NASD Rule 4807) is consistent with the Act. Nasdaq proposes to make transparent the current practice of using subcommittees for the review of the complete written record of an appeal. The Commission believes that Nasdaq's proposal may enhance the transparency of Nasdaq's procedures for appeals. Also, in the Commission's view, the practice of a subcommittee reviewing complete written record of an appeal and recommending a disposition of the matter to the Listing Council should provide an efficient and fair framework for handling the review process.

G. Content and Approval of Decisions

Nasdaq proposes to amend NASD Rule 4870 (redesignated NASD Rule 4811) to establish explicit standards for the content of decisions by the Adjudicatory Bodies. Nasdaq also proposes to amend the rules relating to the issuance of decisions to require explicitly the documentation of affirmative approval of decisions by each Adjudicator. The Commission believes that these proposed amendments may enhance the transparency of Nasdaq's procedures for denying or limiting initial or continued listing on Nasdaq.

H. Ex Parte Communications and Recusals and Disqualifications

The Commission finds that Nasdaq's proposals regarding *ex parte* communications are consistent with the Act. Nasdaq proposes certain changes to NASD Rule 4890 (redesignated as NASD Rule 4815), such as requiring recusal, disqualification, or removal for Adjudicators who engaged in *ex parte* communications or recusal, disqualification, or personnel action for Nasdaq staff engaged in the same. Nasdaq also proposes to make its procedures for recusals more transparent by adopting proposed NASD Rule 4816. Further, Nasdaq proposes to delete NASD Rule 4890(d), which provides that an issuer's proposal to resolve matters at issue in a Rule 4800 listing determination proceeding constitutes a waiver of any claims regarding *ex parte* communications. The Commission believes the proposed safeguards enhance fairness and openness in Nasdaq's delisting proceedings. The Commission also believes that deleting NASD Rule 4890(d) is reasonable because an *ex parte* communication does not provide a basis for denying listing to an otherwise qualified issuer. Therefore, there is no need to construe an issuer's submission of a proposal to resolve matters at issue in the Rule 4800 proceeding as a waiver of any claims that Adjudicators engaged in *ex parte* communications.

I. Other Changes

The Commission also believes that Nasdaq's proposal to amend NASD Rule 4803 and NASD Rule 4804 regarding disclosures to news media about the receipt of a Staff Determination appropriate because it conforms to the new Form 8–K requirements. Likewise, the Commission believes that Nasdaq's proposal to amend NASD Rule 4830(d) (redesignated NASD Rule 4806(c)) consistent with the Act. The Commission believes that Nasdaq's clarification that a second Panel convened after the first fails to reach a unanimous decision may act through a majority of the Panel increases the transparency of procedures for denying or limiting initial or continued listing on Nasdaq.

V. Accelerated Approval of Amendment No. 2

The Commission finds good cause for approving the proposed Amendment No. 2 before the thirtieth day of publication of notice of filing thereof in the **Federal Register**. Nasdaq filed Amendment No. 2 in response to comments received after the publication of notice of filing of the proposed rule change, as amended, to address the commenters' concerns and to make several technical corrections to the proposed rule language. Specifically, Amendment No. 2 proposed to amend the time limits for exceptions to provide that a Panel exception may not exceed the earlier of 90 days from the date of the Panel Decision or 180 days from the date of the Staff Determination, and a Listing Council exception may not exceed the earlier of 60 days from the date of the Listing Council Decision or 180 days from the date of the Panel Decision. Further, Amendment No. 2 proposed to give the Panel the option to monitor an issuer directly in all cases where the Panel concludes there is a likelihood that the issuer would fail to maintain compliance with any listing standard in the one-year period following its decision. In the case of such monitoring, Amendment No. 2 provides that where an issuer is granted an exception from continued listing standards, regains compliance, and falls out of compliance again within a one-year period (i) the issuer would not be permitted to provide the Listing Department with a plan to regain compliance, if it would otherwise be permitted to do so under proposed NASD Rule 4803, (ii) the Listing Department would not be permitted to grant additional time for the issuer to regain compliance, and (iii) the Panel conducting the subsequent hearing would consider the issuer's prior non-compliance. Similar expedited procedures would apply to an issuer that repeatedly falls below compliance with stockholder equity and periodic filing requirements, even if the Panel opts not to monitor the issuer. As mentioned above, Amendment No. 2 also proposed to make certain technical corrections to the proposed rule language.

The Commission believes that Nasdaq's proposed changes in Amendment No. 2 strengthen and clarify the proposed rule change in direct response to issues raised by commenters and raise no new regulatory issues. Based on the above, the Commission finds good cause for

[25] *See* 17 CFR 240.17a–6.

accelerating approval of Amendment No. 2.[26]

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the amendment is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2004–125 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–NASD–2004–125. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–NASD–2004–125 and should be submitted on or before September 23, 2005.

[26] The Commission further notes that both the rule filing and the amendments thereto have been available since their respective filing dates on NASD's Web site *http://www.nasd.com*).

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change, as amended, (SR–NASD–2004–125) is approved, and that Amendment No. 2 to the proposed rule change be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4803 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52352; File No. SR–NASD–2005–58]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to the Reporting of Data to Clearing Firms by Correspondent Firms

August 26, 2005.

I. Introduction

On May 2, 2005, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 3150 and Rule 3230 governing the reporting of data to clearing firms by correspondent firms. On July 14, 2005, NASD filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on July 26, 2005.[4] The Commission received one comment letter on the proposed rule change.[5] This order approves the proposed rule change, as amended.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1, which replaced and superseded the original filing in its entirety, clarifies which piggybacking arrangements will be subject to the rule and modifies certain rule language to conform with other terms used in NASD rules.

[4] Securities Exchange Act Release No. 52059 (July 19, 2005), 70 FR 43204 (July 26, 2005).

[5] *See* letter from James Rogan, Chairman, SIA Clearing Firms Committee, Securities Industry Association (''SIA''), to Jonathan G. Katz, Secretary, Commission, dated August 12, 2005 (''SIA letter'').

II. Description

NASD proposes to amend NASD Rule 3150 (governing reporting requirements for clearing firms) and NASD Rule 3230 (governing clearing agreements) to permit regulators and clearing firms to distinguish between data belonging to an introducing firm and data belonging to its ''piggybacking'' firm(s). Broker-dealers that contract for clearing services with an introducing firm are often referred to as ''piggybacking'' firms, or ''piggybackers.'' Under this arrangement, only the introducing firm has a contractual arrangement with the clearing firm, which clears for both the introducing firm and the introducing firm's piggybacking firms. The proposed rule change would require clearing firms to report data to NASD about each piggybacking firm separately from the introducing firm's own customer and proprietary data. The proposed rule change would apply only if the piggybacking relationship with the introducing firm is established on or after the effective date of the proposed rule change.

III. Comment Received

The commenter discussed a concern that the SIA Clearing Firms Committee had with a prior version of the proposed rule change relating to which intermediary account relationships would be subject to the proposed rule change.[6] Specifically, the SIA letter stated that ''we are pleased to see that subsection (b) has now been modified so that Rule 3150 will only apply to intermediary clearing arrangements which are actually established after the effective date of the rule.''[7]

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association[8] and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.[9] The Commission finds specifically that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[10] of the Act, which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to

[6] *See* SIA letter supra note 5.

[7] *Id.*

[8] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78*o*–3(b)(6).

promote just and equitable principles of trade, and in general, to protect investors and the public interest. The Commission notes that the NASD proposal, as amended, will allow regulators and clearing firms to determine whether data being reported to clearing firms belongs to an introducing firm or a piggybacking firm. The Commission believes that this ability will enhance the surveillance component of NASD's National Examination Program and may facilitate any future Securities Investor Protection Corporation (''SIPC'') liquidations of a broker-dealer.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–NASD–2005–58), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4828 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52343; File No. SR–NSCC–2005–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes to Insurance Processing Service and Revisions to Fee Schedule

August 26, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 10, 2005, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change and on August 22, 2005, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to expand the types of Insurance Processing Service (''IPS'') data that may be transmitted through NSCC pursuant to Rule 57 (''Insurance Processing Service'') and to amend Addendum A (''Fee Schedule'') of NSCC's Rules & Procedures to establish additional IPS fees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On May 27, 2005, the Commission approved NSCC rule filing SR–NSCC–2005–02,[3] which enhanced NSCC's Automated Customer Account Transfer Service (''ACATS'') and IPS rules to provide for Inforce Transactions (''IFT''), a new IPS service. The enhancements permit delivering and receiving broker-dealers to communicate changes relating to the broker-dealer of record for applicable insurance products using ACATS. The information is transmitted through a link from ACATS to IFT, which conveys the information to the insurance company that issued the eligible insurance product. IFT also communicates to ACATS whether the insurance company has confirmed the change, has rejected the change, or has requested a modification to the request.

In addition to establishing fees for the IFT service, the proposed rule change provides for additional IFT administrative account maintenance capabilities that may be used outside of ACATS to perform changes that do not require firm-to-firm account transfers. Initially these functions will allow changing the registered representatives and changing the brokerage account number associated with an applicable insurance product. NSCC intends to make additional account maintenance capabilities available to its members through IFT.[4]

These fees and functions are as follows:

(1) Customer Account Transfer Output (''CAT Output''), which provides ACATS generated insurance registration information to insurance carriers. ($0.95 per transaction, charged to the insurance carrier only);

(2) Customer Account Transfer Confirm (''CAT Confirm''), which allows insurance carriers to confirm back to the broker-dealers insurance registration changes received. ($0.40 per transaction, charged to both the insurance carrier and the receiving broker-dealer);

(3) Time Expired Transaction (''TEX''), which is utilized if either the insurance carrier or broker-dealer has not completed its transaction within 20 business days. In such cases, IPS will generate a TEX transaction to inform both sides that the ACATS transaction has expired. ($0.95 per transaction, charged to both the insurance carrier and the receiving broker-dealer);

(4) Beneficiary Update Request (''BEN Request''), which allows broker-dealers to provide beneficiary information on an insurance policy when the policy contains multiple beneficiaries. (No charge);

(5) Beneficiary Confirm (''BEN Confirm''), which allows the insurance carrier to confirm BEN Request transactions back to the broker-dealer. (No charge);

(6) Registered Representative Change Request (''REP Request''), which allows broker-dealers to change the registered representative on an insurance policy. ($0.70 per transaction, charged to both the insurance carrier and the broker-dealer);

(7) Registered Representative Change Confirm (''REP Confirm''), which allows insurance carriers to confirm back to the broker-dealers REP Request transactions. ($0.30 per transaction, charged to both the insurance carrier and the broker-dealer);[5]

(8) Brokerage Identification Number Change Request (''BIN Request''), which allows broker-dealer to change the brokerage account number affiliated with an insurance policy held at an insurance carrier. ($0.50 per transaction,

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Securities Exchange Act Release No. 51753 (May 27, 2005), 70 FR 32859 (June 6, 2005) [SR–NSCC–2005–02].

[4] NSCC will file with the Commission a proposed rule change before implementing further changes to IPS.

[5] The REP Request and REP Confirm functions may be used both in conjunction with ACATS and as a stand-alone IPS/IFT function.

charged to both the insurance carrier and the broker-dealer); and

(9) Brokerage Identification Number Change Confirm (''BIN Confirm''), which allows the insurance carrier to confirm back to the broker-dealers BIN Request transactions. ($0.20 per transaction, charged to both the insurance carrier and the broker-dealer).[6]

The above fees apply to both test and production transactions. Fees for production transactions will be effective on September 1, 2005. Fees for test transactions will not be assessed until January 1, 2006.

The proposed change is consistent with Section 17A of the Act[7] and the rules and regulations thereunder applicable to NSCC because it effects a change in an existing service that will facilitate the transmission of information for annuity and life insurance products in a standardized and automated format using NSCC's connectivity. In addition, the proposed rule change establishes fees, providing for the equitable allocation of dues, fees, and other charges among NSCC members. Standardization and automation of information related to annuity and life insurance products can be expected to reduce processing errors and delays that are typically associated with manual processes.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(4)[9] thereunder because it effects a change in an existing service of NSCC that does not adversely affect the safeguarding of securities or funds in NSCC's control or for which NSCC is responsible and does not significantly affect NSCC's or its members' respective rights or obligations. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2005–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NSCC–2005–09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://www.nscc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2005–09 and should be submitted on or before September 23, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4805 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

[6] The BIN Request and BIN Confirm functions are stand-alone IPS/IFT functions only.

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(4).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52351; File No. SR-PCX–2005–92]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Relating to Complex Orders

August 26, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On August 17, 2005, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The PCX filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend PCX Rule 6.91, ''Complex Orders on the PCX Plus System,'' to better describe the allocation methodology for individual

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 revises the proposal to correct a typographical error in the original filing and to make minor changes clarifying the text of the proposed rule and the PCX's description of the proposal.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] The PCX has requested that the Commission waive both the five-day pre-filing notification requirement and the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

orders or quotes residing in the Consolidated Book that execute against complex trades. The text of the proposed rule change is available on the PCX's Web site (*http://www.pacificex.com*), at the PCX, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt clarifying language to better describe the allocation methodology for individual orders or quotes residing in the Consolidated Book that execute against complex trades. The Commission recently approved PCX Rule 6.91, which sets forth the procedures used to trade complex orders on the PCX Plus system.[7] PCX Rule 6.91 does not specifically state what the allocation methodology for individual orders or quotes residing in the Consolidated Book that execute against complex trades will be.

According to the PCX, the Exchange intended at all times and built its complex order trading system in such a way that the allocation methodology for these types of trades would be governed by PCX Rule 6.75, ''Priority and Allocation Procedures,'' with the exception that there would be no guaranteed participation for Lead Market Makers (''LMMs'') when two separate orders in the Consolidated Book matched up against a complex order in the complex trading engine (''CTE''). The PCX believes that removing the LMM guaranteed participation is appropriate because it creates more incentive for PCX market makers to improve prices when submitting orders into the CTE. With improved prices in the CTE, the PCX believes that it is more likely that individual legs of the complex order will match up against orders in the Consolidated Book, thus providing more liquidity for customer orders. The PCX believes that improving prices and creating more competition among PCX market makers for complex order trade allocations is beneficial to the public. According to the PCX, the proposed rule change now clearly states the allocation methodology for these types of trades.

Amendment No. 1 revises the proposal to correct a typographical error in the original filing and to make minor clarifying changes to the text of PCX Rule 6.91(c)(3)(i) and to the PCX's description of the proposal.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[12] a proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The PCX has asked the Commission to waive the five-day pre-filing requirement and the 30-day operative delay. The PCX notes that the proposal clarifies the intent of PCX Rule 6.91. In addition, the PCX believes that the proposal will allow more efficient and effective market operation by enabling the PCX to provide a competitive means of trading complex orders.

The Commission waives the five-day pre-filing requirement. In addition, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal merely clarifies the intent of PCX Rule 6.91 and does not raise significant regulatory issues.[13] For these reasons, the Commission designates that the proposed rule change become operative immediately.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

[7] *See* Securities Exchange Act Release No. 52060 (July 19, 2005), 70 FR 42610 (July 25, 2005) (order approving File No. SR–PCX–2005–71).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the proposed rule change to have been filed on August 17, 2005, the date on which the PCX filed Amendment No. 1.

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–92 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–PCX–2005–92. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–PCX–2005–92 and should be submitted on or before September 23, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4827 Filed 9–1–05; 8:45 am]

BILLING CODE 8010–01–P

[15] CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

2005 Reallocation of the Tariff-Rate Quota for Raw Cane Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the country-by-country reallocations of the FY 05 in-quota quantity increase of the tariff-rate quotas for imported raw cane sugar.

DATES: *Effective Date:* September 2, 2005.

ADDRESSES: Inquiries may be mailed or delivered to Elizabeth Leier, Director of Agricultural Trade Policy, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Elizabeth Leier, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains tariff-rate quotas for imports of raw cane and refined sugar.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007).

The in-quota quantity increase of the tariff-rate quota for raw cane sugar for the remainder of FY 05 (ending September 30, 2005) has been established by the Secretary of Agriculture at 76,609 metric tons, raw value (84,447 short tons). In addition, I have determined to reallocate 53,409 metric tons from countries that have stated they will be unable to fill the FY 2005 quota. The total quantity of 130,018 metric tons raw value is being allocated to the following countries:

Country	FY 2005 Reallocation
Argentina	8,890
Australia	17,159
Belize	2,274
Bolivia	1,654
Brazil	29,977
Colombia	4,962
Dominican Republic	1,220
Ecuador	2,274
El Salvador	5,375
Fiji	1,861
Guatemala	9,923
Guyana	2,481
Honduras	2,067
Mauritius	2,481
Mozambique	2,688
Nicaragua	4,342
Panama	5,995
Peru	8,476
South Africa	4,755
Swaziland	3,308
Taiwan	2,481
Thailand	2,894
Zimbabwe	2,481

These allocations are based on the countries' historical shipments to the United States. The allocations of the raw cane sugar tariff-rate quota to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin.

Conversion factor: 1 metric ton = 1.10231125 short tons.

Rob Portman,

United States Trade Representative.

[FR Doc. 05–17544 Filed 9–1–05; 8:45 am]

BILLING CODE 3190–W5–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Colfax and Dodge Counties, NE

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Colfax and Dodge Counties, Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Kosola, Realty/Environmental Officer, FHWA, Federal Building, Room 220, 100 Centennial Mall North, Lincoln, Nebraska 68508–3851, (402) 437–5765. Mr. Arthur Yonkey, Planning and Project Development Engineer, Nebraska Department of Roads, Box 94759, 1500 Highway 2, Lincoln, Nebraska 68509, (402) 479–4795.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Nebraska Department of Roads, will prepare an Environmental Impact Statement (EIS) for a proposal to improve Highway US–30 in east-central Nebraska in Colfax and Dodge Counties. The proposed improvements to US–30 will provide a four-lane highway between Schuyler and Fremont,

Nebraska, for a distance of about 30 miles. Existing US–30 is a two-lane rural highway generally serving east-west vehicle traffic. Alternatives under consideration include: (1) Taking no action; (2) reconstruction of US–30 on existing alignment; and (3) providing a four-lane highway on new alignment.

A conflict resolution effort has been initiated to help resolve issues surrounding potential roadway alignments. An Advisory Panel made up of stakeholders has been formed to advise the decision-making authorities. Local citizen input is provided for through contact with panel representatives, or agency contacts.

Agency scoping and a public scoping/information meetings were held previously during preparation of an Environmental Assessment (EA) for this project. A Draft EIS will be prepared and a public hearing will be held. Public notice will be given for any additional information meetings and the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Nebraska Department of Roads at the address provided.

(Catalog of Federal Domestic Assistance Project Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: August 26, 2005.

Edward W. Kosola,

Realty/Environmental Officer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska.

[FR Doc. 05–17527 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2005–20721]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt four individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to qualify as drivers of CMVs in interstate commerce.

DATES: The exemptions are effective September 2, 2005. The exemptions expire on September 3, 2007.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, (202) 366–4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* and/or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

Background

Authority To Grant Exemptions

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide FMCSA with authority to grant exemptions from its safety regulations. On December 8, 1998, the Federal Highway Administration's Office of Motor Carriers, the predecessor to FMCSA, published an interim final rule implementing section 4007 (63 FR 67600). On August 20, 2004, FMCSA published a Final Rule (69 FR 51589) on this subject. By this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR part 381).

The agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The agency must also provide an opportunity for public comment on the request.

The agency must then examine the safety analyses and the public comments, and determine whether the exemption would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)). If the agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption, and the regulatory provision or provisions from which an exemption is being granted. The notice must also specify the effective period of the exemption (up to two years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Establishment of FMCSA's Diabetes Exemption Program

FMCSA published a notice of intent to issue exemptions to drivers with ITDM on July 31, 2001 (66 FR 39548). On September 3, 2003, the agency published a notice of final disposition announcing its decision to issue exemptions to certain insulin-using diabetic drivers of CMVs from the diabetes mellitus prohibition under 49 CFR 391.41(b)(3). [68 FR 5241] The notice of final disposition explained that in considering exemptions, FMCSA must ensure that the issuance of diabetes exemptions will not be contrary to the public interest and that the exemption achieves an acceptable level of safety. The agency indicated it will only grant exemptions to insulin-using diabetic drivers that meet the eligibility criteria provided in its notice of final disposition.

Because FMCSA established eligibility criteria for use in determining whether the granting of a diabetes exemption would achieve the requisite level of safety, the agency only publishes for public comment, the names of exemption applicants that satisfy the eligibility requirements, based upon the information provided by the applicant. Applicants that do not meet the requirements are notified by letter that their applications are denied and the agency periodically publishes the names of those individuals to satisfy the statutory requirement for disclosing such information to the public.

On May 5, 2005, FMCSA published a notice of receipt of diabetes exemption applications from five individuals, and requested comments from the public (70

FR 20721). The five individuals are: Gerald E. Huelle, Lee R. Kumm, Mitchell L. Pullen, Charles E. Wheat, Sr. and Steven R. Zoller. The public comment period closed on June 6, 2005. Five comments were received, and fully considered by FMCSA in reaching the final decision to grant the exemptions.

FMCSA has evaluated the eligibility criteria of the five applications and made a determination that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3). One applicant, Charles E. Wheat, notified FMCSA that he has discontinued use of insulin and withdrew his application for an exemption.

Diabetes Mellitus and Driving Experience of the Applicants

The agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that: A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some insulin-treated diabetic drivers to operate CMVs is feasible. The September 3, 2003, notice of final disposition provides the protocol for allowing such drivers to operate CMVs in interstate commerce.

These four applicants have had ITDM for 4 to 37 years. These applicants report no more than one hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified the driver's demonstrated willingness to properly monitor and manage their diabetes. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The four applicants have driven CMVs with their ITDM for careers ranging from 4 to 37 years. While possessing a valid commercial driver's license (CDL) or non-CDL to operate a CMV, they have been authorized to drive in intrastate commerce, even though their ITDM disqualifies them from driving in interstate commerce. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. These applicants satisfied testing standards for their State of residence. In the past 3 years, one of the drivers has had a conviction for a traffic violation (speeding), and no crashes were reported.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the May 5, 2005, notice (70 FR 23904). Because there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, as well as driving records and experience with ITDM. To qualify for an exemption from the diabetes standard, FMCSA requires verifiable evidence that he or she has driven a commercial vehicle safely with ITDM for 3 years.

The applicants' intrastate driving experience and history provide an adequate basis for validating their ability to drive safely in interstate commerce. Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption. The agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to Gerald E. Huelle, Lee R. Kumm, Mitchell L. Pullen and Steven R. Zoller.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document.

Discussion of Comments

FMCSA received five comments in this proceeding. The comments were considered and are discussed below.

Medical Requirements and Documentation

Two physicians and one professional medical society commented on specific issues relative to medical requirements for diabetes exemption applicants.

(1) Dr. Brahman Levy, M.D. commented on the importance of ascertaining the level of glucose control, such as with glycosylated hemoglobin (HgbA1c) levels, and asked how co-morbid medical conditions, (*e.g.*, hypertension, obesity) would be considered in the application evaluation process.

FMCSA requires each applicant for a diabetes exemption to submit two measures of HgbA1c, to confirm the endocrinologist's report of applicant ability to adequately control blood glucose levels. Each applicant is required to submit documentation by an endocrinologist who has conducted a complete medical examination. The applicant must also submit documentation from an examining physician stating he or she has no other disqualifying conditions, including diabetes-related complications.

(2) Dr. Daniel E. Jimenez, M.D. asked for detailed medical information about each of the applicants, and information about the type of driving performed (*e.g.*, intracity, intrastate, interstate). Dr. Jimenez opposes granting exemptions to drivers with ITDM in general, because (1) the demands of commercial driving make it difficult to maintain vigilance over meal schedules and types of food to eat; (2) these drivers may have demonstrated non-compliance (with treatment, health regimen), and (3) drivers with ITDM are likely to have co-morbid conditions.

FMCSA has examined detailed medical information about each of the applicants as specified in the notice of final disposition announcing FMCSA's decision to issue exemptions to certain insulin-using diabetic drivers published September 3, 2003 (68 FR 52441), but has not included the details in the notice of applications in accordance with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191, also known as HIPAA) (45 CFR 160.102). This is the citation for the implementing regulations listed by the United States Department of Health and Human Services. The issue of comorbidity is addressed in previous discussion (refer to Levy comments).

(3) The American College of Occupational and Environmental

Medicine (ACOEM) states that (1) the medical documentation of each applicant should be reviewed by a physician who understands the safety risks inherent in commercial operations or the criteria for the evaluation should be included in the summary of each driver's qualifications published in the **Federal Register** and (2) additional medical testing and evaluation is merited (*e.g.*, exercise stress test, cardiac and renal function assessment).

In response to ACOEM's first comment, the notice of final disposition published on September 3, 2003 (68 FR 52441), requires each applicant to be examined by an endocrinologist who performs a complete medical examination, including a comprehensive evaluation of the applicant's medical history and current status, and evaluation by an ophthalmologist or optometrist. As indicated previously, all applicant health data were not published in accordance with HIPPA. Close monitoring of these drivers with ITDM by an endocrinologist and other medical specialists, as well as physical qualification by a medical examiner, are required.

Americans With Disabilities Act

The American Diabetes Association expressed concerns about the application process for the exemption program. The American Diabetes Association also alleged discrimination against drivers with ITDM.

FMCSA has developed a plan and initiated numerous improvements in the application process for exemption program applicants, including the initiation of work on web-based solutions to streamline the application process and work on re-evaluating the eligibility and monitoring criteria. FMCSA notes that the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005: A Legacy for Users (SAFETEA–LU) provides specific changes to the driving requirement for interstate operators with ITDM. These changes eliminate the three-year CMV driving requirement and significantly reduce the required time for management of the diabetic condition with insulin treatment.

FMCSA's exemption process supports drivers with ITDM who seek to operate in interstate commerce. In addition, the FMCSRs are not contrary to the Americans with Disabilities Act (ADA) of 1990. The mandates of the ADA do not require that FMCSA alter the driver qualification requirements contained in 49 CFR Part 391. The Senate report on the ADA, submitted by its Committee on Labor and Human Resources, included the following explanation:

> With respect to covered entities subject to rules promulgated by the Department of Transportation regarding physical qualifications for drivers of certain classifications of motor vehicles, it is the Committee's intent that a person with a disability applying for or currently holding a job subject to these standards must be able to satisfy these physical qualification standards in order to be considered a qualified individual with a disability under Title I of this legislation. S. Rep. 101–116, at 27 (1989).

Ability To Predict Safety Outcomes

The Advocates for Highway and Auto Safety (Advocates) oppose granting exemptions to drivers with ITDM. Major areas of concern include: (1) Past driving history is not a predictor for future safe driving capability, (2) reliance upon previous three-year driving record is an inaccurate screening criterion, and (3) concern is significant about individual driver ability to monitor individual blood sugar while operating commercial (particularly long-haul) vehicles.

In response to the first two comments, the agency considers previous driving experience to be an appropriate means for predicting future performance, and monitors the driving record through the Commercial Driver's License Information System (CDLIS). CDLIS is a computer system linked to individual databases maintained by the 51 jurisdictions in the United States. In response to the third comment, the agency relies on the expert medical opinion of the endocrinologist and the medical examiner, who are required to analyze individual ability to control and manage the diabetic condition, including the individual ability and willingness of the driver to monitor blood glucose level on an ongoing basis.

Advocates also referred to comments filed with docket no. FMCSA–2001–9800–121 regarding the establishment of the Federal diabetes exemption program. The agency responded to these comments in its September 3, 2003, notice of final determination announcing the establishment of the Federal diabetes exemption program.

Conclusion

After considering the comments to the docket and based upon its evaluation of the four exemption applications, the FMCSA exempts Gerald E. Huelle, Lee R. Kumm, Mitchell L. Pullen, and Steven R. Zoller from the diabetes requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for two years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

FMCSA notes that Section 4129 of SAFETEA–LU requires the agency to initiate a rulemaking within 90 days of enactment to amend the Federal physical qualifications rules for truck and bus drivers to allow individuals who use insulin to treat their diabetes to operate CMVs in interstate commerce. Therefore, FMCSA will initiate a rulemaking to revise its safety regulations to allow certain insulin-treated diabetic drivers to operate CMVs in interstate commerce.

The new rule would allow health care professionals to make individual determinations about insulin-treated diabetics' ability to safely operate a CMV in interstate commerce, based on guidelines established by the agency, through a public notice-and-comment rulemaking process. Upon completion of the rulemaking required by section 4129, diabetic drivers would no longer be required to apply for, or renew exemptions to operate CMVs in interstate commerce. Until the agency issues a Final Rule, however, insulin-treated diabetic drivers must continue to apply for exemptions from FMCSA, and request renewals of such exemptions in a timely manner.

Issued on: August 29, 2005.

Warren E. Hoemann,

Deputy Administrator.

[FR Doc. 05–17466 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–21685]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From PINOVA

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for an exemption received from PINOVA on behalf of 29 motor carriers that transport short lightered wood logs and stumps from various points in North Carolina, South Carolina, Georgia, Florida, Mississippi, and Alabama to PINOVA's plant in Brunswick, Georgia. PINOVA seeks the exemption because it believes compliance with the commodity-specific rule for securing logs and stumps prevents the company from using more efficient and effective cargo securement methods. PINOVA believes the alternative cargo securement method used by its motor carriers would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: Comments must be received on or before October 3, 2005.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2005–21685 by any of the following methods:

- Web site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket and to read background documents or comments received, go to *http://dms.dot.gov* and/or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–0676; Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. On December 8, 1998, the Federal Highway Administration's Office of Motor Carriers, the predecessor to FMCSA, published an interim final rule implementing section 4007 (63 FR 67600). On August 20, 2004, FMCSA published a final rule (69 FR 51589) on this subject. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 315(a)). The agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The agency must also provide an opportunity for public comment on the request.

The agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption, and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to two years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

The Application for Exemption

PINOVA is the world's only producer of refined pale wood rosin, vinsol® resin, and natural wood turpentine from long leaf yellow pine and slash pine lightered wood/fat wood (lightered wood). According to PINOVA's petition, ''[l]ightered wood material is formed when resin collects over a period of 50 years or more in the trunk and root system of mature long leaf yellow pine and slash pine trees after the trees have died or been cut.'' Refined pale wood rosin and Vinsol® resin are made from the resin found in the trunk and root system of the long leaf yellow pine and the slash pine, which are only found along the southeast coastal plain of the United States. PINOVA contracts with motor carriers to transport lightered wood material from various points in the southeast coastal plain to its Brunswick, Georgia, plant.

PINOVA applied for an exemption on behalf of the motor carriers that transport lightered wood because 49 CFR 393.116(a)(3) requires that firewood, stumps, log debris and other such short logs be transported in a vehicle or container enclosed on all four sides. However, lightered wood logs and other lightered wood material, including short logs and stumps less than 4 feet in length, are typically transported on flatbed logging or stake trucks. This means the typical method of securement (*i.e.* flatbed logging or stake truck) used by PINOVA's contract carriers is now prohibited by § 393.116(a)(3).

PINOVA requested a class exemption from 49 CFR 303.226(a)(3) for current and future commercial motor vehicle owners and drivers who transport lightered wood/fat wood material from points in North Carolina, South Carolina, Georgia, Florida, Mississippi, and Alabama to its plant in Brunswick, Georgia. PINOVA requested that these vehicles be allowed to transport short lightered wood logs on a flatbed logging or stake truck, provided the material is securely embedded in longer lightered wood logs which are secured according to FMCSA's rules for securing longwood and shortwood logs.

PINOVA believes that granting the exemption would not adversely affect safety. The company argues that the carriers have safely transported lightered wood logs and related material, including short logs less than 4 feet in length, on flatbed logging and stake trucks for more than 50 years. The company believes the track record demonstrates that shorter material may be safely transported on vehicles without walls on all four sides provided the wood is securely embedded inside

longer material that is properly secured with tie downs, as required by FMCSA's cargo securement regulations. A copy of the PINOVA application is in the docket referenced at the beginning of this notice.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on PINOVA's application for an exemption from 49 CFR 393.116(a)(3). The agency will consider all comments received before the close of business on the comment closing date indicated at the beginning of this notice. Comments will be available for examination in the docket at the location listed under the address section of this notice. The agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: August 29, 2005.

Warren E. Hoemann,

Deputy Administrator.

[FR Doc. 05–17508 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–20858; Notice 3]

DOT Chemical, Notice of Appeal of Denial of Petition for Decision of Inconsequential Noncompliance

DOT Chemical has appealed a decision by the National Highway Traffic Safety Administration that denied its petition for a determination that its noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 116, ''Motor vehicle brake fluids,'' is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published on April 14, 2005, in the **Federal Register** (70 FR 19837). On July 18, 2005, NHTSA published a notice in the **Federal Register** denying DOT Chemical's petition (70 FR 41254), stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of DOT Chemical's appeal is published in accordance with NHTSA's regulations (49 CFR 556.7 and 556.8) and does not represent any agency decision or other exercise of judgment concerning the merits of the appeal.

Affected are a total of approximately 50,000 containers of DOT 4 brake fluid, lot numbers KMF02 and KMF03, manufactured in June 2004. FMVSS No. 116 requires that, when tested as referenced in S5.1.7 ''Fluidity and appearance at low temperature,'' S5.1.9 ''Water tolerance,'' and S5.1.10 ''Compatibility,'' the brake fluid shall show no crystallization or sedimentation. The subject brake fluid shows crystallization and sedimentation when tested as referenced in S5.1.7 at –40 °F and –58 °F, sedimentation when tested as referenced in S5.1.9 at –40 °F, and crystallization when tested as referenced in S5.1.10 at –40 °F.

DOT Chemical asserted that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. DOT Chemical stated that there are fiber-like crystals in the fluid, which are borate salts, and

> are a natural part (no contamination) of DOT 4 brake fluid production (just fallen out of solution in some packaged goods) and have not demonstrated any flow restrictions even at extended periods of low temperatures at minus 40 °F. Furthermore, when the fluid is subjected to temperatures in a normal braking system, the crystals go back into solution in some cases not to reappear at all at ambient temperatures.

NHTSA reviewed the petition and determined that the noncompliance is not inconsequential to motor vehicle safety. In its denial, NHTSA noted that it granted petitions for determinations of inconsequential noncompliance of FMVSS No. 116 to Dow Corning Corporation (59 FR 52582, October 18, 1994) and to First Brands Corporation (59 FR 62776, December 6, 1994). In the case of Dow, the FMVSS No. 116 noncompliance arose from a ''slush-like crystallization'' that dispersed ''under slight agitation or warming.'' NHTSA accepted Dow's argument that its 'slush-like crystallization'' does not consist of 'crystals that are either water-based ice, abrasive, or have the potential to clog brake system components.'' NHTSA concurred with Dow's conclusion that ''the crystallization that occurred ought not to have an adverse effect upon braking.'' In the case of First Brands, the FMVSS No. 116 noncompliance arose from a ''soft non-abrasive gel'' that also dispersed under slight agitation or warming.

NHTSA determined that facts leading to the grants of the inconsequential noncompliance petitions of Dow and First Brands are not analogous to the facts in DOT Chemical's situation. In contrast, DOT Chemical's noncompliance results from ''fiber-like crystals'' made of borate salts. These borate salt crystals did not disperse under slight agitation or warming, but had to be physically removed by filtration. DOT Chemical asserted that ''[f]iltration, using Whatman #40 filter paper (25–30 micron particle size) removed all crystals. The crystals are approximately 30–50 microns in width and 3–5 mm in length.'' DOT Chemical did not explain how it can assure that crystals smaller than 25 microns in width did not remain in the brake fluid.

In its denial of DOT Chemical's petition, NHTSA stated that—even assuming that all larger-sized crystals were removed from the fluid—the agency is concerned that crystals that are of a size smaller than 25 microns by 3–5 mm would remain in the brake fluid. The thread-like nature of this type of crystallization has the potential to clog brake system components, particularly in severe cold operation conditions. Impurities such as these in the brake system may cause the system to fail, *i.e.*, to lose the ability to stop the vehicle over time due to the accumulation of compressible material in the brake lines. These impurities may also result in the failure of individual brake system components due to the corrosive nature of the contaminants themselves.

In consideration of the foregoing, NHTSA decided that the petitioner did not meet its burden of persuasion that the noncompliance it described is inconsequential to motor vehicle safety. Accordingly, its petition was denied.

In its appeal from NHTSA's denial, DOT Chemical states that ''[t]he words and phrases used in the [original] petition were not identical to the descriptions in the previous cases. DOT Chemical wishes to clear up any misunderstandings from the original petition and reword to match the precedent cases.''

DOT Chemical provides the following statements in its appeal:

—Our choice of the word ''crystals'' can also be described as ''slush-like crystallization'' (as in the granted petition in 1994) or a ''soft non-abrasive gel,'' a look at the sample is worth a thousand words or even rubbing the material between the fingers.

—Our ''crystals'' dispersed and/or went completely into solution ''under slight agitation or warming'' (as in the granted petition in 1994).

—Slight Agitation: In DOT Chemical's petition the phrase ''DOT Chemical tested the fluid, agitated the material before testing to insure that the crystals were part of each test'' we believe implied that the

material went into solution when agitated. We simply needed to make sure that the test material was not just decanted brake fluid without ''crystals.'' When agitated, ''crystals'' or ''slush-like crystallization'' was not seen.

—Warming: In DOT Chemical's petition the phrase ''when the fluid is subjected to temperatures in a normal braking system, the crystals go back into solution in some cases not to reappear at all at ambient temperatures'' we believe implied the warming scenario mentioned in the granted petition cases.

—In the case of the granted petitions stating that ''its 'slush-like crystallization' does not consist of 'crystals that are either water-based ice, abrasive, or have the potential to clog brake system components' '' we believe implies the same thing as our statements ''There is no contamination in this fluid'' and ''the crystals are a natural part (no contamination.''

—In the case of the granted petitions stating that ''the crystallization that occurred ought not to have an adverse effect upon braking'' we believe is carried to an additional degree by DOT Chemical's testing of the material at –40 °F through the viscometer (with dimensions and drawing provided) and stating that the diameter is much smaller than brake system lines. Specific phrases in DOT Chemical's appeal are ''The crystals presented no problems with obstruction,'' ''results again showed no obstruction,'' and ''have not demonstrated any flow restrictions even at extended periods of low temperatures at minus 40 °F.'' Much time was spent on the flow and low temperatures because all tests passed except partial test failures concerning sedimentation and low temperatures.

Interested persons are invited to submit written data, views, and arguments on the petition appeal described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590–0001. Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov*. Click on ''Help'' to obtain instructions for filing the document electronically. Comments may be faxed to 1–202–493–2251, or may be submitted to the Federal eRulemaking Portal: go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

The petition appeal, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition appeal is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: October 3, 2005.

Authority (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: August 29, 2005.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 05–17479 Filed 9–1–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–22236]

Annual List of Defect and Noncompliance Decisions Affecting Nonconforming Imported Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Annual list of defect and noncompliance decisions affecting nonconforming vehicles imported by registered importers.

SUMMARY: This document contains a list of vehicles recalled by their manufacturers during Calendar Year 2004 (January 1, 2004 through December 31, 2004) to correct a safety-related defect or a noncompliance with an applicable Federal motor vehicle safety standard (FMVSS). The listed vehicles are those that NHTSA has decided are substantially similar to vehicles imported into the United States that were not originally manufactured and certified to conform to all applicable FMVSS. The registered importers of those nonconforming vehicles are required to provide their owners with notification of, and a remedy for, the defects or noncompliances for which the listed vehicles were recalled.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards (FMVSS) shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle of the same model year that was originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115. Once NHTSA decides that a nonconforming vehicle is eligible for importation, it may be imported by a person who is registered with the agency pursuant to 49 U.S.C. 30141(c). Before releasing the vehicle for use on public streets, roads, or highways, the registered importer must certify to NHTSA, pursuant to 49 U.S.C. 30146(a), that the vehicle has been brought into conformity with all applicable FMVSS.

If a vehicle originally manufactured for importation into and sale in the United States is decided to contain a defect related to motor vehicle safety, or not to comply with an applicable FMVSS, 49 U.S.C. 30147(a)(1)(A) provides that the same defect or noncompliance is deemed to exist in any nonconforming vehicle that NHTSA has decided to be substantially similar and for which a registered importer has submitted a certificate of conformity to the agency. Under 49 U.S.C. 30147(a)(1)(B), the registered importer is deemed to be the nonconforming vehicle's manufacturer for the purpose of providing notification of, and a remedy for, the defect or noncompliance.

To apprise registered importers of the vehicles for which they must conduct a notification and remedy (*i.e.*, ''recall'') campaign, 49 U.S.C. 30147(a)(2) requires NHTSA to publish in the **Federal Register** notice of any defect or noncompliance decision that is made with respect to substantially similar U.S. certified vehicles. Annex A contains a list of all such decisions that were made during Calendar Year 2004. The list identifies the Recall Number that was assigned to the recall by NHTSA after the agency received the manufacturer's notification of the defect or noncompliance under 49 CFR part 573. After December 31, 2005, NHTSA will publish a comparable list of all defect and noncompliance decisions affecting nonconforming imported vehicles that are made during the current calendar year.

Under 49 U.S.C. 30120(a), a manufacturer may remedy a safety-related defect or noncompliance in a motor vehicle by repairing the vehicle,

replacing the vehicle with an identical or reasonably equivalent vehicle, or by refunding the purchase price, less a reasonable allowance for depreciation. For each of the vehicles listed, the manufacturer elected to remedy the defect or noncompliance by repair, and not by replacing the vehicle or by refunding the purchase price.

Authority: 49 U.S.C. 30147(a)(2); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle, Safety Compliance.

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS

Make	Model	Model year	NHTSA recall No.
ACURA	3.2CL	2001	04V176000
ACURA	3.2CL	2002	04V176000
ACURA	3.2CL	2003	04V176000
ACURA	3.2TL	2000	04V176000
ACURA	3.2TL	2001	04V176000
ACURA	3.2TL	2002	04V176000
ACURA	3.2TL	2003	04V176000
ACURA	MDX	2001	04V176000
ACURA	MDX	2002	04V176000
ACURA	TL	1999	03V423000
AUDI	A6	1998	04V133000
AUDI	A6	1999	04V133000
AUDI	A6	2000	04V133000
AUDI	A6	2001	04V133000
BMW	X5	2004	04V409000
BUICK	CENTURY	1999	04V375000
BUICK	LESABRE	1998	04V090000
BUICK	LESABRE	1999	04V090000
BUICK	LESABRE	2000	04V090000
BUICK	PARK AVENUE	1998	04V090000
BUICK	PARK AVENUE	1999	04V090000
BUICK	PARK AVENUE	2000	04V090000
BUICK	REGAL	1996	03V527000
BUICK	REGAL	1997	03V527000
BUICK	REGAL	1998	03V527000
BUICK	REGAL	1999	04V375000
BUICK	RENDEZVOUS	2003	04V150000
BUICK	RENDEZVOUS	2004	04V150000
CADILLAC	DEVILLE	1995	04V110000
CADILLAC	DEVILLE	1996	04V110000
CADILLAC	DEVILLE	1997	04V110000
CADILLAC	ELDORADO	1995	04V110000
CADILLAC	ELDORADO	1997	04V110000
CADILLAC	ESCALADE	2003	04V045000
CADILLAC	ESCALADE EXT	2002	04V129000
CADILLAC	ESCALADE EXT	2003	04V129000
CADILLAC	SEVILLE	1995	04V110000
CADILLAC	SEVILLE	1996	04V110000
CADILLAC	SEVILLE	1997	04V110000
CHEVROLET	ASTRO	2003	03V328000
CHEVROLET	AVALANCHE	2002	04V129000
CHEVROLET	AVALANCHE	2003	04V045000
CHEVROLET	AVALANCHE	2003	04V129000
CHEVROLET	AVALANCHE	2004	04V129000
CHEVROLET	BLAZER	2003	04V132000
CHEVROLET	BLAZER	2004	04V132000
CHEVROLET	CAVALIER	1998	04V036000
CHEVROLET	CAVALIER	1999	04V036000
CHEVROLET	CAVALIER	2000	04V036000
CHEVROLET	CAVALIER	2001	04V036000
CHEVROLET	CORVETTE	1997	04V060000
CHEVROLET	CORVETTE	1998	04V060000
CHEVROLET	CORVETTE	1999	04V060000
CHEVROLET	CORVETTE	2000	04V060000
CHEVROLET	CORVETTE	2001	04V060000
CHEVROLET	CORVETTE	2002	04V060000
CHEVROLET	CORVETTE	2003	04V060000
CHEVROLET	EXPRESS	2003	04V225000
CHEVROLET	IMPALA	2000	04V090000
CHEVROLET	IMPALA	2004	04V287000
CHEVROLET	LUMINA	1997	03V527000
CHEVROLET	LUMINA	1998	03V527000
CHEVROLET	MALIBU	1997	03V527000

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	NHTSA recall No.
CHEVROLET	MALIBU	1998	03V527000
CHEVROLET	MALIBU	2000	03V327000
CHEVROLET	MALIBU	2001	03V327000
CHEVROLET	MONTE CARLO	1997	03V527000
CHEVROLET	MONTE CARLO	1998	03V527000
CHEVROLET	MONTE CARLO	2000	04V090000
CHEVROLET	S–10	2003	04V132000
CHEVROLET	SILVERADO	2000	04V129000
CHEVROLET	SILVERADO	2001	04V129000
CHEVROLET	SILVERADO	2002	04V129000
CHEVROLET	SILVERADO	2003	04V045000
CHEVROLET	SILVERADO	2003	04V129000
CHEVROLET	SILVERADO	2003	04V225000
CHEVROLET	SILVERADO	2004	04V045000
CHEVROLET	SILVERADO	2004	04V129000
CHEVROLET	SILVERADO	2004	04V225000
CHEVROLET	SILVERADO	2005	04V376000
CHEVROLET	SUBURBAN	2003	04V045000
CHEVROLET	SUBURBAN	2004	04V045000
CHEVROLET	TAHOE	2003	04V045000
CHEVROLET	TAHOE	2004	04V045000
CHEVROLET	TRAILBLAZER	2002	04V046000
CHEVROLET	TRAILBLAZER	2002	04V201000
CHEVROLET	TRAILBLAZER	2003	04V046000
CHEVROLET	TRAILBLAZER EXT	2002	04V046000
CHEVROLET	TRAILBLAZER EXT	2003	04V046000
CHEVROLET	VENTURE	2004	04V177000
CHRYSLER	300	2005	04V333000
CHRYSLER	300	2005	04V334000
CHRYSLER	300	2005	04V335000
CHRYSLER	300M	1999	04V021000
CHRYSLER	CIRRUS	1995	04V021000
CHRYSLER	CIRRUS	1996	04V021000
CHRYSLER	CIRRUS	1997	04V021000
CHRYSLER	CIRRUS	1998	04V021000
CHRYSLER	CIRRUS	1999	04V021000
CHRYSLER	CONCORDE	1993	04V021000
CHRYSLER	CONCORDE	1994	04V021000
CHRYSLER	CONCORDE	1995	04V021000
CHRYSLER	CONCORDE	1996	04V021000
CHRYSLER	CONCORDE	1997	04V021000
CHRYSLER	CONCORDE	1998	04V021000
CHRYSLER	CONCORDE	1999	04V021000
CHRYSLER	LHS	1994	04V021000
CHRYSLER	LHS	1995	04V021000
CHRYSLER	LHS	1996	04V021000
CHRYSLER	LHS	1997	04V021000
CHRYSLER	LHS	1998	04V021000
CHRYSLER	LHS	1999	04V021000
CHRYSLER	PT CRUISER	2001	04V268000
CHRYSLER	PT CRUISER	2002	04V268000
CHRYSLER	PT CRUISER	2003	04V268000
CHRYSLER	PT CRUISER	2005	04V268000
CHRYSLER	SEBRING	2004	04V313000
CHRYSLER	SEBRING	2004	04V336000
CHRYSLER	TOWN AND COUNTRY	1998	04V480000
CHRYSLER	TOWN AND COUNTRY	1999	04V480000
CHRYSLER	TOWN AND COUNTRY	2000	04V480000
DODGE	CARAVAN	1998	04V480000
DODGE	CARAVAN	1999	04V480000
DODGE	CARAVAN	2000	03V505000
DODGE	CARAVAN	2000	04V480000
DODGE	CARAVAN	2002	04V386000
DODGE	CARAVAN	2003	04V386000
DODGE	CARAVAN	2004	04V386000
DODGE	DAKOTA	2000	04V596000
DODGE	DAKOTA	2001	03V505000
DODGE	DAKOTA	2001	04V596000
DODGE	DAKOTA	2002	03V505000
DODGE	DAKOTA	2002	04V216000
DODGE	DAKOTA	2002	04V596000

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	NHTSA recall No.
DODGE	DAKOTA	2003	04V216000
DODGE	DAKOTA	2003	04V596000
DODGE	DAKOTA	2004	04V216000
DODGE	DURANGO	2000	04V596000
DODGE	DURANGO	2001	04V596000
DODGE	DURANGO	2002	04V216000
DODGE	DURANGO	2002	04V596000
DODGE	DURANGO	2003	04V216000
DODGE	DURANGO	2003	04V596000
DODGE	GRAND CARAVAN	1998	04V480000
DODGE	GRAND CARAVAN	1999	04V480000
DODGE	GRAND CARAVAN	2000	03V505000
DODGE	GRAND CARAVAN	2000	04V480000
DODGE	GRAND CARAVAN	2002	04V386000
DODGE	GRAND CARAVAN	2003	04V386000
DODGE	GRAND CARAVAN	2004	04V386000
DODGE	INTREPID	1993	04V021000
DODGE	INTREPID	1994	04V021000
DODGE	INTREPID	1995	04V021000
DODGE	INTREPID	1996	04V021000
DODGE	INTREPID	1997	04V021000
DODGE	INTREPID	1998	04V021000
DODGE	INTREPID	1999	04V021000
DODGE	RAM	1998	04V185000
DODGE	RAM	1999	04V185000
DODGE	RAM	2000	04V185000
DODGE	RAM	2001	04V185000
DODGE	RAM	2002	04V185000
DODGE	RAM	2003	04V185000
DODGE	RAM	2004	04V385000
DODGE	RAM 2500	2004	04V221000
DODGE	STRATUS	1995	04V021000
DODGE	STRATUS	1996	04V021000
DODGE	STRATUS	1997	04V021000
DODGE	STRATUS	1998	04V021000
DODGE	STRATUS	1999	04V021000
EAGLE	VISION	1993	04V021000
EAGLE	VISION	1994	04V021000
EAGLE	VISION	1995	04V021000
EAGLE	VISION	1996	04V021000
EAGLE	VISION	1997	04V021000
FORD	CROWN VICTORIA	2003	04V328000
FORD	E150	2003	04V444000
FORD	E150	2003	04V445000
FORD	E250	2003	04V444000
FORD	E250	2003	04V445000
FORD	E350	2003	04V444000
FORD	E350	2003	04V445000
FORD	E350	2004	04V444000
FORD	E350	2004	04V445000
FORD	E450	2003	04V444000
FORD	E450	2003	04V445000
FORD	E450	2004	04V445000
FORD	E550	2003	04V444000
FORD	E550	2003	04V445000
FORD	ESCAPE	2001	03V507000
FORD	ESCAPE	2001	04V165000
FORD	ESCAPE	2002	04V165000
FORD	ESCAPE	2003	04V165000
FORD	EXCURSION	2003	04V327000
FORD	EXPLORER	2002	04V442000
FORD	EXPLORER	2003	04V442000
FORD	F150	2004	04V200000
FORD	F150	2004	04V443000
FORD	F250	2003	04V327000
FORD	F250	2004	04V229000
FORD	F350	2003	04V327000
FORD	F350	2004	04V229000
FORD	FOCUS	2000	03V482000
FORD	FOCUS	2001	03V482000
FORD	FREESTAR	2004	04V446000

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	NHTSA recall No.
FORD	RANGER	2004	04V331000
FORD	TAURUS	1999	04V332000
FORD	TAURUS	2000	04V106000
FORD	TAURUS	2000	04V332000
FORD	TAURUS	2001	04V106000
FORD	TAURUS	2001	04V332000
FORD	TAURUS	2002	04V106000
FORD	TAURUS	2003	04V105000
FORD	TAURUS	2003	04V106000
FORD	TAURUS	2004	04V330000
GMC	ENVOY	2002	04V046000
GMC	ENVOY	2002	04V201000
GMC	ENVOY	2002	04V289000
GMC	ENVOY	2003	04V046000
GMC	ENVOY XL	2002	04V046000
GMC	ENVOY XL	2003	04V046000
GMC	SAFARI	2003	03V328000
GMC	SAVANA	2003	04V045000
GMC	SAVANA	2003	04V225000
GMC	SIERRA	2000	04V129000
GMC	SIERRA	2001	04V129000
GMC	SIERRA	2002	04V129000
GMC	SIERRA	2003	04V045000
GMC	SIERRA	2003	04V129000
GMC	SIERRA	2003	04V225000
GMC	SIERRA	2004	04V045000
GMC	SIERRA	2004	04V129000
GMC	SIERRA	2004	04V225000
GMC	SONOMA	2003	04V132000
GMC	YUKON	2003	04V045000
GMC	YUKON	2004	04V045000
GMC	YUKON XL	2003	04V045000
HARLEY DAVIDSON	FLHRCI	2003	04V218000
HARLEY DAVIDSON	FXD	2003	04V218000
HARLEY DAVIDSON	XL883	2003	04V218000
HONDA	ACCORD	1998	03V423000
HONDA	ACCORD	1999	03V423000
HONDA	ACCORD	2000	04V256000
HONDA	ACCORD	2001	04V256000
HONDA	ACCORD	2003	04V176000
HONDA	ACCORD	2004	04V176000
HONDA	CIVIC	2001	04V086000
HONDA	CIVIC	2002	04V086000
HONDA	CR–V	2002	04V255000
HONDA	CR–V	2003	04V255000
HONDA	INSIGHT	2000	04V086000
HONDA	INSIGHT	2001	04V086000
HONDA	ODYSSEY	1999	03V423000
HONDA	ODYSSEY	2002	04V176000
HONDA	ODYSSEY	2003	04V176000
HONDA	ODYSSEY	2004	04V176000
HONDA	PILOT	2003	04V176000
HONDA	S2000	2000	04V257000
HUMMER	H2	2003	04V045000
HYUNDAI	ELANTRA	2001	03V496000
HYUNDAI	ELANTRA	2002	03V496000
HYUNDAI	ELANTRA	2002	04V178000
HYUNDAI	ELANTRA	2003	03V496000
HYUNDAI	ELANTRA	2003	04V178000
HYUNDAI	ELANTRA	2004	04V208000
HYUNDAI	SANTA FE	2001	03V520000
HYUNDAI	SANTA FE	2002	03V520000
HYUNDAI	SANTA FE	2003	03V520000
HYUNDAI	SANTA FE	2003	04V131000
HYUNDAI	SANTA FE	2004	03V520000
HYUNDAI	SANTA FE	2004	04V131000
HYUNDAI	SONATA	2002	04V178000
HYUNDAI	TIBURON	2002	03V496000
HYUNDAI	TIBURON	2002	04V178000
HYUNDAI	TIBURON	2003	03V496000
HYUNDAI	TIBURON	2003	04V178000

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	NHTSA recall No.
INTERNATIONAL	4300	2002	03V062000
INTERNATIONAL	4300	2005	04V508000
INTERNATIONAL	4700	1999	04V269000
INTERNATIONAL	4700	2000	04V269000
INTERNATIONAL	4700	2001	04V269000
INTERNATIONAL	4900	1999	04V269000
INTERNATIONAL	4900	2000	04V269000
INTERNATIONAL	4900	2001	04V269000
INTERNATIONAL	4900	2002	04V269000
INTERNATIONAL	7400	2002	04V144000
INTERNATIONAL	7400	2002	04V306000
INTERNATIONAL	7400	2003	04V144000
INTERNATIONAL	7400	2003	04V306000
INTERNATIONAL	7500	2002	04V144000
INTERNATIONAL	7500	2002	04V306000
INTERNATIONAL	7500	2003	04V144000
INTERNATIONAL	7500	2003	04V306000
INTERNATIONAL	7600	2003	04V306000
INTERNATIONAL	7600	2004	04V306000
INTERNATIONAL	9100	1997	04V100000
INTERNATIONAL	9100	1998	04V100000
INTERNATIONAL	9100	1999	04V100000
INTERNATIONAL	9100	2000	04V100000
INTERNATIONAL	9100	2001	04V100000
INTERNATIONAL	9200	1995	04V100000
INTERNATIONAL	9200	1996	04V100000
INTERNATIONAL	9200	1997	04V100000
INTERNATIONAL	9200	1998	04V100000
INTERNATIONAL	9200	1999	04V100000
INTERNATIONAL	9200	2000	04V100000
INTERNATIONAL	9200I	2000	04V100000
INTERNATIONAL	9300	1995	04V100000
INTERNATIONAL	9300	1996	04V100000
INTERNATIONAL	9300	1997	04V100000
INTERNATIONAL	9300	1998	04V100000
INTERNATIONAL	9300	1999	04V100000
INTERNATIONAL	9400	1995	04V100000
INTERNATIONAL	9400	1996	04V100000
INTERNATIONAL	9400	1997	04V100000
INTERNATIONAL	9400	1998	04V100000
INTERNATIONAL	9400	1999	04V100000
INTERNATIONAL	9400	2000	04V100000
INTERNATIONAL	9400	2001	04V100000
INTERNATIONAL	9900	1999	04V100000
INTERNATIONAL	9900	2000	04V100000
INTERNATIONAL	9900	2001	04V100000
INTERNATIONAL	9900	2002	04V100000
INTERNATIONAL	9900I	2000	04V100000
ISUZU	TROOPER	1992	04V199000
ISUZU	TROOPER	1993	04V199000
ISUZU	TROOPER	1994	04V199000
ISUZU	TROOPER	1995	04V199000
JAGUAR	S-TYPE	2003	04V024000
JAGUAR	S-TYPE	2003	04V488000
JEEP	GRAND CHEROKEE	2004	04V048000
JEEP	GRAND CHEROKEE	2004	04V112000
KENWORTH	T300	2003	04V169000
KENWORTH	T600	2004	04V174000
KENWORTH	T600	2004	04V356000
KENWORTH	T600	2004	04V360000
KENWORTH	T800	2004	04V174000
KENWORTH	T800	2004	04V356000
KENWORTH	T800	2004	04V360000
KIA	RIO	2001	04V179000
KIA	RIO	2002	04V179000
KIA	SEPHIA	2000	04V305000
KIA	SPORTAGE	1999	04V305000
KIA	SPORTAGE	2000	04V305000
LAND ROVER	DISCOVERY II	1999	04V005000
LAND ROVER	DISCOVERY II	2000	04V005000
LAND ROVER	DISCOVERY II	2000	04V006000

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	NHTSA recall No.
LINCOLN	TOWN CAR	2003	04V328000
MAZDA	MPV	2001	04V234000
MAZDA	TRIBUTE	2001	03V515000
MAZDA	TRIBUTE	2001	04V175000
MAZDA	TRIBUTE	2002	04V175000
MERCURY	COUGAR	1999	04V421000
MERCURY	COUGAR	2000	04V421000
MERCURY	COUGAR	2001	04V421000
MERCURY	COUGAR	2002	04V421000
MERCURY	SABLE	1999	04V332000
MINI	COOPER S	2004	04V348000
MITSUBISHI	MONTERO	2002	04V319000
MITSUBISHI	MONTERO	2003	04V319000
NISSAN	FRONTIER	1999	04V230000
NISSAN	FRONTIER	2000	04V230000
NISSAN	FRONTIER	2001	04V230000
NISSAN	FRONTIER	2002	04V230000
NISSAN	MAXIMA	2004	04V326000
NISSAN	XTERRA	2000	04V230000
NISSAN	XTERRA	2001	04V230000
NISSAN	XTERRA	2002	04V230000
NISSAN	XTERRA	2003	04V230000
OLDSMOBILE	88	1998	04V090000
OLDSMOBILE	ALERO	2000	03V327000
OLDSMOBILE	ALERO	2001	03V327000
OLDSMOBILE	AURORA	1995	04V110000
OLDSMOBILE	AURORA	1996	04V110000
OLDSMOBILE	AURORA	1997	04V110000
OLDSMOBILE	BRAVADA	2002	04V046000
OLDSMOBILE	BRAVADA	2002	04V201000
OLDSMOBILE	BRAVADA	2002	04V289000
OLDSMOBILE	BRAVADA	2003	04V046000
OLDSMOBILE	CUTLASS	1997	03V527000
OLDSMOBILE	CUTLASS SUPREME	1996	03V527000
OLDSMOBILE	CUTLASS SUPREME	1997	03V527000
OLDSMOBILE	INTRIGUE	1998	03V527000
PLYMOUTH	BREEZE	1996	04V021000
PLYMOUTH	BREEZE	1997	04V021000
PLYMOUTH	BREEZE	1998	04V021000
PLYMOUTH	BREEZE	1999	04V021000
PLYMOUTH	GRAND VOYAGER	1998	04V480000
PLYMOUTH	GRAND VOYAGER	1999	04V480000
PLYMOUTH	GRAND VOYAGER	2000	04V480000
PLYMOUTH	VOYAGER	1998	04V480000
PLYMOUTH	VOYAGER	1999	04V480000
PLYMOUTH	VOYAGER	2000	04V480000
PONTIAC	BONNEVILLE	1998	04V090000
PONTIAC	BONNEVILLE	1999	04V090000
PONTIAC	BONNEVILLE	2000	04V090000
PONTIAC	GRAND AM	1998	04V036000
PONTIAC	GRAND AM	2000	03V327000
PONTIAC	GRAND AM	2001	03V327000
PONTIAC	GRAND AM	2004	04V301000
PONTIAC	GRAND PRIX	1996	03V527000
PONTIAC	GRAND PRIX	2004	04V287000
PONTIAC	GRAND PRIX	2004	04V299000
PONTIAC	MONTANA	2004	04V177000
PONTIAC	SUNFIRE	1998	04V036000
PONTIAC	SUNFIRE	1999	04V036000
PONTIAC	SUNFIRE	2000	04V036000
PONTIAC	SUNFIRE	2001	04V036000
PONTIAC	SUNFIRE	2004	04V300000
PORSCHE	CAYENNE S	2003	04V069000
SUBARU	IMPREZA	2002	04V128000
SUBARU	IMPREZA	2002	04V342000
SUBARU	IMPREZA	2003	04V128000
SUBARU	IMPREZA	2003	04V342000
SUBARU	LEGACY	2001	04V128000
SUBARU	LEGACY	2002	04V128000
SUBARU	OUTBACK	2001	04V128000
SUBARU	OUTBACK	2002	04V128000

ANNEX A.—CALENDAR YEAR 2004 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	NHTSA recall No.
SUBARU	OUTBACK	2003	04V128000
SUZUKI	GRAND VITARA	1999	03V512000
SUZUKI	GRAND VITARA	1999	04V427000
SUZUKI	GRAND VITARA	2000	03V512000
SUZUKI	GRAND VITARA	2000	04V427000
SUZUKI	GRAND VITARA	2002	03V512000
SUZUKI	GRAND VITARA	2002	04V427000
SUZUKI	VZ800	2003	04V350000
TOYOTA	CAMRY	2002	04V346000
TOYOTA	CAMRY	2003	04V346000
TOYOTA	CAMRY	2004	04V346000
TOYOTA	HIGHLANDER	2001	04V181000
TOYOTA	HIGHLANDER	2002	04V181000
TOYOTA	HIGHLANDER	2003	04V181000
TOYOTA	HIGHLANDER	2004	04V181000
TRIUMPH	SPEED TRIPLE	2001	04V156000
TRIUMPH	TT600	2000	04V156000
VOLKSWAGEN	JETTA	1999	04V096000
VOLKSWAGEN	JETTA	2000	04V096000
VOLKSWAGEN	JETTA	2001	04V096000
VOLKSWAGEN	JETTA	2002	04V096000
WESTERN STAR	4900SA	2004	04V120000

[FR Doc. 05–17465 Filed 9–1–05; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34738]

Paducah & Louisville Railway, Inc.—Acquisition—CSX Transportation, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Decision No. 2 in STB Finance Docket No. 34738; Notice of Acceptance of Primary Application and Related Filings; Issuance of Procedural Schedule.[1]

SUMMARY: The Surface Transportation Board (Board) is accepting for consideration: the primary application filed August 3, 2005, by Paducah & Louisville Railway, Inc. (P&L) and CSX Transportation, Inc. (CSXT); the Sub-No. 1 related filing filed August 3, 2005, by Evansville Western Railway, Inc. (EVWR); and the Sub-No. 2 related filing filed August 3, 2005, by Four Rivers Transportation, Inc. (FRTI) and P&L.

The primary application seeks Board approval under 49 U.S.C. 11321–26 for P&L's acquisition of an approximately 124.5-mile CSXT line (the Evansville-Okawville Line or the Line) running between Evansville, IN (milepost OOH–324.0), and Okawville, IL (milepost OOH–445.7), including the 2.8-mile Mt. Vernon Branch (at Mt. Vernon, IN, between milepost OZJ–300 and milepost OZJ–302.8). The proposal is for P&L to purchase the track, ties, switches, and other track material (the improvements) and to lease for 20 years (with a 5-year extension available) the real property. This proposal is referred to as the P&L Transaction, and FRTI/P&L/EVWR[2] and CSXT are referred to collectively as applicants.

The related filings seek authority for P&L to immediately transfer the improvements and assign its lease of the real property to its newly created wholly owned subsidiary, EVWR. This proposal is referred to as the EVWR Transaction, and the P&L Transaction and the EVWR Transaction are referred to collectively as the P&L/EVWR Transaction. The Sub-No. 1 filing seeks an exemption under 49 U.S.C. 10502 and 49 CFR 1150.31 to permit EVWR to purchase the improvements, take assignment of the lease of the real property, and operate the Line. The Sub-No. 2 filing seeks an exemption under 49 U.S.C. 10502 and 49 CFR 1180.2(d)(2) to permit P&L to continue in control of EVWR, and to permit FRTI to continue in control of P&L and EVWR, when EVWR becomes a rail carrier upon acquisition of the Line.

The Board finds that the P&L Transaction is a ''minor transaction'' under 49 CFR 1180.2(c), and the Board adopts a procedural schedule for consideration of the primary application and the related filings, under which the Board's final decision would be issued on December 12, 2005.

DATES: The effective date of this decision is September 2, 2005. Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than September 12, 2005, a notice of intent to participate. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application or either of the related filings, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by October 12, 2005. Responses to comments, protests, requests for conditions, and other opposition, and rebuttal in support of the primary application or either of the related filings must be filed by October 27, 2005. If a public hearing or oral argument is held, it will be held the week of November 14, 2005. The Board will issue its final decision on December 12, 2005. For further information respecting dates, see Appendix A (Procedural Schedule).

ADDRESSES: Any filing submitted in this proceeding must be submitted either via

[1] This decision covers: the application filed in STB Finance Docket No. 34738, *Paducah & Louisville Railway, Inc.—Acquisition—CSX Transportation, Inc.;* the exemption notice filed in STB Finance Docket No. 34738 (Sub-No. 1), *Evansville Western Railway, Inc.—Acquisition and Operation Exemption—Paducah & Louisville Railway, Inc.;* and the exemption notice filed in STB Finance Docket No. 34738 (Sub-No. 2), *Four Rivers Transportation, Inc. And Paducah & Louisville Railway, Inc.—Continuance in Control Exemption—Evansville Western Railway, Inc.* The application filed in STB Finance Docket No. 34738 is referred to as the ''primary application.'' The exemption notices filed in STB Finance Docket No. 34738 (Sub-Nos. 1 and 2) are referred to collectively as the ''related filings.''

[2] EVWR is a wholly owned subsidiary of P&L, which is itself a wholly owned subsidiary of FRTI.

the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's Web site at *http://www.stb.dot.gov* at the ''E-FILING'' link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (and also an IBM-compatible floppy disk with any textual submission in any version of either Microsoft Word or WordPerfect) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each filing in this proceeding must be sent (and may be sent by e-mail only if service by e-mail is acceptable to the recipient) to each of the following: (1) Secretary of the United States Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) William A. Mullins (representing FRTI, P&L, and EVWR), Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037; (4) Louis E. Gitomer (representing CSXT), Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005; and (5) any other person designated as a POR on the service list notice (as explained below, the service list notice will be issued as soon after September 12, 2005, as practicable).

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565–1655. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: CSXT, a Class I railroad,[3] owns and operates about 23,000 miles of railroad in the United States (in Alabama, Connecticut, the District of Columbia, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia) and in Canada (in Ontario and Quebec).

FRTI is a noncarrier holding company.

P&L, a wholly owned subsidiary of FRTI, is a Class II railroad that operates entirely in Kentucky over an approximately 262-mile line that extends between Louisville and Clayburn. P&L has been operating since 1986 and has built its traffic base from about 77,000 carloads in its first full year of operation (1987) to a high of 216,000 carloads in its best year. In addition to originating and terminating local traffic on its line, P&L interchanges: with CSXT, Norfolk Southern Railway Company (NS), Louisville and Indiana Railroad Company (L&I), and Canadian Pacific Railway Company (CP) at Louisville; with CSXT at Central City and Madisonville; and with Canadian National Railway Company (CN) and BNSF Railway Company (BNSF) at Paducah. P&L employs 223 persons, including 45 management or salaried employees and 178 craft employees represented by either 7 or 8 unions.[4] P&L owns 41 locomotives and it owns and/or leases 1,155 revenue service cars, 23 non-revenue cars, and 25 pieces of self-propelled maintenance-of-way (MOW) equipment.

EVWR, a wholly owned subsidiary of P&L, is a noncarrier. The proposals contemplate that EVWR would become a Class III railroad once the Line is acquired by P&L and is transferred to EVWR. P&L advises that its reasons for proposing to have the Line transferred to and operated by EVWR are both to permit P&L to retain certain substantial tax advantages available to it as a Kentucky railroad that P&L would lose if it were to operate a railroad outside of Kentucky and to protect P&L from potential liabilities and risks associated with operating a railroad outside of Kentucky. P&L states that EVWR would have its own employees, its own management, and its own financial arrangements, and that EVWR would publish tariffs, interline, and otherwise operate as a railroad independent of P&L. P&L notes, however, that EVWR and P&L would share a common management until such time as EVWR could hire its own management team. And, P&L adds, EVWR and P&L would also enter into a contract whereby P&L would provide management oversight and certain administrative services to EVWR.

The Evansville-Okawville Line. The 124.5-mile east-west Evansville-Okawville Line that would be acquired by P&L and transferred to EVWR has been operated by CSXT as its St. Louis Subdivision. Points located on the Line (going from east to west) include Evansville, Mt. Vernon, and Upton (in Indiana) and Epworth, Carmi, Trumbull, Enfield, Inland, McLeansboro, Delafield, Opdyke, Mt. Vernon, Woodlawn, Ashley, Nashville, Addieville, and Okawville (in Illinois).[5] The Line runs parallel to rail lines of CSXT and NS to the north, and the various points located on the Line are within the regions served by the Ohio, Wabash, and/or Mississippi Rivers. The various points located on the Line are also served by an extensive highway network, which includes Interstate Highway 64 (which runs parallel to the Line in an east-west direction) and Interstate Highway 57 (which crosses the Line in a north-south direction).

Interchange on the Line currently occurs at Woodlawn, IL, with BNSF, and at Mt. Vernon, IL, with Union Pacific Railroad Company (UP). CSXT and EVWR would conduct interchange at the east end of the Line and in CSXT's Howell Yard, both in Evansville, IN. P&L states that CSXT, BNSF, and UP would provide interchange with EVWR and would maintain competitive routes and rates over connections with EVWR.

Operation of The Line by EVWR. P&L states: that EVWR would assume the common carrier obligation respecting the Line, and would operate the Line as an independent rail carrier affiliated with P&L; that EVWR expects to hire 3 management and 19 non-management employees (5 locomotive engineers, 5 trainmen, 5 MOW employees, 2 signal and communication employees, and 2 mechanical employees); that EVWR would commence operations with approximately 7 locomotives leased from P&L and would lease additional locomotives from P&L or third parties as business dictates; that EVWR would acquire or lease from P&L and third parties the MOW equipment necessary to operate and maintain the Line; and that, for its car supply, EVWR would use the existing (largely privately owned) cars on the Line, would use CSXT-supplied equipment as necessary, and would lease additional car supply from third parties as business dictates.

P&L asserts that, although EVWR would be a noncarrier subsidiary, it has not been created to avoid P&L's collective bargaining agreements or to avoid union operations over the Line. Rather, P&L explains: that EVWR intends to become a fully unionized

[3] The Board's regulations divide railroads into three classes based on annual carrier operating revenues. Class I railroads are those with annual carrier operating revenues of $250 million or more (in 1991 dollars); Class II railroads are those with annual carrier operating revenues of more than $20 million but less than $250 million (in 1991 dollars); and Class III railroads are those with annual carrier operating revenues of $20 million or less (in 1991 dollars). *See* 49 CFR Part 1201, General Instruction 1–1(a).

[4] *Compare* PLRY–1 at 9 (7 unions) *with* PLRY–1 at 10 (8 unions).

[5] 5 Two points located on the Line are called ''Mt. Vernon,'' one in Indiana and the other in Illinois. The 2.8-mile Mt. Vernon Branch is located at Mt. Vernon, IN.

carrier, and P&L and EVWR intend to enter into any necessary implementing agreements required to accomplish that purpose; that EVWR expects to have any employees hired to operate and maintain the Line work under essentially the same agreements that would apply if P&L were doing the work; and that EVWR expects that its employees will be represented by the same unions that would represent the employees if the Line were to be operated by P&L.

P&L states that EVWR would provide service to all customers on the Line 7 days per week with (1) one 2-person crew departing Mt. Vernon, IN, on Sunday, Tuesday, and Thursday, and returning from Okawville on Monday, Wednesday, and Friday, setting out and picking up cars at industries and interchange points en route; (2) another 2-person crew performing station and industry switching at Mt. Vernon, IN; (3) another 2-person crew performing station switching and interchange to/from CSXT at Evansville; and (4) two 2-person crews performing loading of unit coal trains at Epworth, IL, transiting to Mt. Vernon, IN, for unloading, and returning.

Financial Arrangements. Applicants state that, to acquire the Improvements, P&L would pay CSXT a certain amount (the precise amount has been submitted under seal) and P&L would immediately transfer those Improvements to EVWR for the same amount. Applicants further state that P&L would assign its lease in the real property to EVWR, and EVWR would be responsible for paying annual rental for the real property (the precise amount has been filed under seal) plus additional rental depending upon the number of carloads.

CSXT states that it does not plan any new financial arrangements in connection with the P&L Transaction. P&L states that it does not plan to issue any new securities in connection with the P&L Transaction, but intends to finance the acquisition through its existing line of credit or with cash on hand, depending on the situation at the time of closing. EVWR states that it will finance its purchase of the Improvements through a cash infusion from its initial capitalization, and that continuing operations and the annual lease payments would be financed through a combination of initial capitalization, cash from continuing operations, and borrowing from a third party.

Passenger Service Impacts. The P&L/EVWR Transaction would have no impact on commuter or passenger operations because the Line has no commuter or other passenger service.

Discontinuances/Abandonments. P&L states that EVWR does not anticipate discontinuing service over or abandoning any portion of the Line.

Public Interest Considerations. Applicants assert that, if approved, the P&L/EVWR Transaction would increase inter- and intramodal competition and would not result in any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States. They contend that it would not have any anticompetitive effects because it would simply allow EVWR to replace CSXT as the railroad serving local and overhead customers on the Line. Applicants further assert that significant truck competition provides an alternative to use of the Line for transportation.

P&L asserts that EVWR intends to aggressively market its operation to shippers on the Line and to potential receivers of western coal, as well as the eastern coal that the Line now carries. P&L believes that there are shippers along the Line that currently do not use rail service that could be convinced to use EVWR's service instead of truck service. P&L states that EVWR also plans to explore expansion of rail-water transload opportunities on the Line. P&L adds that EVWR would be headquartered on the Line, would hire qualified existing employees now working on the Line, would have local management and local personnel, and would provide a more personalized, responsive, and more frequent service to customers on the Line than CSXT has been able to provide.

CSXT asserts that the P&L Transaction would improve CSXT's financial viability through system rationalization, including reducing its operating expenses and capital expenditures. CSXT notes, however, that, although CSXT and P&L have agreed to the P&L Transaction in principle and have resolved many specific items, it is difficult to estimate savings until all of the specific terms of the P&L Transaction are resolved.

P&L expects that the P&L/EVWR Transaction would result in operating economies, improved service, and improved financial viability. P&L does not anticipate any changes to routes and rates if EVWR takes over the service. P&L adds: That EVWR expects initially to handle about 63,100 carloads annually, including 42,900 carloads of coal, 6,700 carloads of chemicals, 9,600 carloads of agricultural commodities, 1,400 carloads of phosphate and fertilizer, 1,600 carloads of food and consumer products, and 900 carloads of metals; and that, based on such volumes, EVWR expects to earn gross revenues of about $12,500,000 in its first year of operation.

Time Schedule For Consummation. If the Board approves the P&L/EVWR Transaction, applicants intend to consummate the transaction on the later of December 30, 2005, or the earliest date that P&L can acquire the Line pursuant to the authority sought in the primary application.

Environmental Impacts. Applicants contend that no environmental documentation is required because there would be no operational changes that would exceed the thresholds established in 49 CFR 1105.7(e)(4) or (5) and there would be no action that would normally require environmental documentation. Applicants therefore assert that neither the P&L Transaction nor the EVWR Transaction requires environmental documentation under 49 CFR 1105.6(b)(4) and (c)(2)(i).

Historic Preservation Impacts. Applicants contend that an historic report is not required because EVWR would operate the Line and would require separate Board approval to discontinue service, and because there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Applicants therefore assert that neither the P&L Transaction nor the EVWR Transaction requires an historic report under 49 CFR 1105.8(b)(1).

Labor Impacts. CSXT states that no CSXT employees would be dismissed on account of the P&L Transaction, but that 31 CSXT employees (10 Trainmen, 7 Engineers, 11 MOW workers, 2 Signal & Communications workers, and 1 Clerical worker) would be displaced, and 3 CSXT employees (2 Signal & Communications workers and 1 Clerical worker) would be relocated. CSXT states that it has not yet obtained any implementing agreements with its employees, but that it intends shortly to begin voluntary negotiations with its employees. CSXT adds that the predicted number of affected positions is based on current conditions and may change based upon conditions at the time of consummation.

P&L states that no P&L employee would be adversely impacted by the P&L/EVWR Transaction. P&L states that EVWR intends to hire approximately 10 employees (5 Trainmen and 5 Engineers) for train and engine service, and 9 employees (5 MOW workers, 2 Signal & Communications workers, and 2 Mechanical workers) for maintenance of the Line and equipment, and would consider for employment (based on qualifications to be determined by EVWR) all qualified current and former

CSXT employees whose positions would be abolished as a result of the P&L Transaction and who make proper application for employment. P&L adds that the number of anticipated hires is based on current conditions and may change based upon conditions at the time of consummation.

Protective Conditions. For the P&L Transaction, applicants assert that, to provide the level of labor protection mandated by 49 U.S.C. 11326, the Board should impose the labor protective conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60, 84–90 (1979), as clarified in *Wilmington Term. RR, Inc.—Pur. & Lease—CSX Transp., Inc.*, 6 I.C.C.2d 799, 814–826 (1990), *aff'd sub nom. Railway Labor Executives' Ass'n* v. *I.C.C.*, 930 F.2d 511 (6th Cir. 1991). For the Sub-No. 1 related filing (the transfer of the Line from P&L to EVWR), they assert that no labor protective conditions may be imposed because the transaction is the type that would otherwise be handled under 49 U.S.C. 10901, which precludes such conditions. For the Sub-No. 2 related filing (the continuance in control of EVWR by P&L,[6] and the continuance in control of P&L and EVWR by FRTI; [7]), they contend that, because the proposal involves one Class II carrier (P&L) and one Class III carrier (EVWR), the appropriate level of labor protection is that which is set forth in 49 U.S.C. 11326(b) (limited to 1 year of severance pay).

CSXT's 35% Ownership Interest In FRTI/P&L/EVWR. As noted above, EVWR is a wholly owned subsidiary of P&L, which is itself a wholly owned subsidiary of FRTI, a noncarrier holding company. Applicants advise that FRTI's common stock is divided into two blocks: a 65% block that is owned by P&L management; and a 35% block that is owned by CSXT. Applicants further advise: That 100% of FRTI's non-voting preferred stock is owned by CSXT; that one of the three members of FRTI's Board of Directors is a CSXT employee; and that three of the seven members of P&L's Board of Directors are CSXT employees. Applicants contend, however, that CSXT does not ''control'' FRTI/P&L/EVWR within the meaning of 49 U.S.C. 11323. Applicants cite *Soo Line Railroad Company—Petition for Declaratory Order*, STB Finance Docket No. 33350 (STB served Feb. 4, 1998), and explain that P&L management, which acquired its 65% interest in FRTI at the same time that CSXT acquired its 35% interest, has the power to appoint four members of the seven-member P&L board, whereas CSXT can appoint only three members. Applicants state that it is the P&L board that has the sole authority to manage, control, and make all decisions affecting the business of P&L and that, because P&L is controlled by its board and because it is the P&L board that has the power to direct P&L's day-to-day operations, P&L is independent in the conduct of its daily operations. According to applicants, P&L's board has exercised exclusive control over P&L's business affairs since P&L was reorganized and CSXT purchased its equity interest in P&L in 1995; CSXT has not been involved in P&L's day-to-day management; and, to avoid even the appearance of control in connection with the P&L Transaction, the CSXT-appointed directors of P&L refrained from participating in any discussions or required votes concerning P&L's proposal to acquire the Evansville-Okawville Line. Applicants state that no P&L or EVWR officers will be appointed by, or affiliated with, CSXT.

Primary Application and Related Filings Accepted. The Board finds that the proposed P&L Transaction would be a ''minor transaction'' under 49 CFR 1180.2(c), and the Board is accepting the primary application for consideration because it is in substantial compliance with the applicable regulations governing minor transactions. *See* 49 U.S.C. 11321–26; 49 CFR part 1180. The Board is also accepting for consideration the two related filings, which are also in compliance with the applicable regulations. The Board reserves the right to require the filing of supplemental information, if necessary to complete the record.

Public Inspection. The primary application and the related filings are available for inspection in the Docket File Reading Room (Room 755) at the offices of the Surface Transportation Board, 1925 K Street, NW., in Washington, DC. In addition, the primary application may be obtained from Mr. Mullins (representing FRTI, P&L, and EVWR) and Mr. Gitomer (representing CSXT) at the addresses indicated above, and the related filings may be obtained from Mr. Mullins (representing FRTI, P&L, and EVWR) at the address indicated above.

Procedural Schedule. The Board has considered applicants' PLRY–3/CSXT–3 request (filed August 3, 2005) for a procedural schedule, under which the Board would issue its final decision on December 10, 2005, and that decision would become effective on December 30, 2005. Applicants have explained that their proposed schedule would allow them to close the P&L/EVWR Transaction on December 30, 2005, and would thus allow the changeover in operations to occur before the end of the year and over a weekend.

The Board is adopting a procedural schedule that is essentially the same as applicants' proposed procedural schedule. However, whereas applicants' schedule provides that an oral argument will be held, if necessary, on November 15, 2005, to allow greater flexibility in the handling of the Board's docket, the Board's schedule provides that any necessary oral argument or public hearing will be held the week of November 14, 2005. Further, although applicants' schedule provides that the final decision will be issued on a Saturday, the Board's schedule provides that the final decision will be issued on December 12, 2005 (a Monday), to make the schedule consistent with the Board's usual operating procedure. This schedule will allow the Board to meet the applicable statutory deadline—which requires a final decision no later than the 45th day after the date on which the evidentiary proceedings are concluded—even if no public hearing or oral argument is found to be necessary.

Under the procedural schedule adopted by the Board: any person who wishes to participate in this proceeding as a POR must file, no later than September 12, 2005, a notice of intent to participate; all comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application or either of the related filings, including filings by DOJ and DOT, must be filed by October 12, 2005; and responses to comments, protests, requests for conditions, and other opposition and rebuttal in support of the primary application or either of the related filings must be filed by October 27, 2005. As in past proceedings, DOJ and DOT will be allowed to file, on the response due date (here, October 27th), their comments in response to the comments of other parties, and applicants will be allowed to file (as quickly as possible thereafter) a response to any such comments of DOJ and/or DOT. Under this schedule, a public hearing or oral argument may be held the week of November 14, 2005. The Board will issue its final decision on December 12, 2005, and, to accommodate the request for a 2005 year-end closing, the Board will make any such approval effective on December 30, 2005. For further information respecting dates, see Appendix A (Procedural Schedule).

Notice of Intent To Participate. Any person who wishes to participate in this proceeding as a POR must file with the

[6] *See* 49 U.S.C. 11323(a)(3).

[7] *See* 49 U.S.C. 11323(a)(5).

Board, no later than September 12, 2005, a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of the United States Department of Transportation, the Attorney General of the United States, Mr. Mullins (as representative of FRTI, P&L, and EVWR), and Mr. Gitomer (as representative of CSXT).

Service List Notice. The Board will serve, as soon after September 12, 2005, as practicable, a notice containing the official service list (the service-list notice). Each POR will be required to serve upon all other PORs, within 10 days of the service date of the service-list notice, copies of all filings previously submitted by that party (to the extent such filings have not previously been served upon such other parties). Each POR also will be required to file with the Board, within 10 days of the service date of the service-list notice, a certificate of service indicating that the service required by the preceding sentence has been accomplished. Every filing made by a POR after the service date of the service-list notice must have its own certificate of service indicating that all PORs on the service list have been served with a copy of the filing. Members of the United States Congress (MOCs) and Governors (GOVs) are not parties of record and need not be served with copies of filings, unless any Member or Governor has requested to be, and is designated as, a POR.

Comments, Protests, Requests for Conditions, and Other Opposition Evidence and Argument, Including Filings by DOJ and DOT. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application or either of the related filings, including filings by DOJ and DOT, must be filed by October 12, 2005.

Because the P&L Transaction proposed in the primary application is a minor transaction, no responsive applications will be permitted. *See* 49 CFR 1180.4(d)(1).

Protesting parties are advised that, if they seek either the denial of the primary application or the imposition of conditions upon any approval thereof, on the theory that approval (or approval without conditions) would harm competition and/or their ability to provide essential services, they must present substantial evidence in support of their positions. *See Lamoille Valley R.R. Co.* v. *ICC*, 711 F.2d 295 (DC Cir. 1983).

Responses to Comments, Protests, Requests for Conditions, and Other Opposition; Rebuttal in Support of the Application. Responses to comments, protests, requests for conditions, and other opposition submissions, and rebuttal in support of the primary application or either of the related filings, must be filed by October 27, 2005.

Public Hearing/Oral Argument. The Board may hold a public hearing or an oral argument in this proceeding the week of November 14, 2005.

Discovery. Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.

Environmental Matters. Under the Council on Environmental Quality (CEQ) regulations, for those types of proposed actions whose environmental effects are ordinarily insignificant, an environmental review need not be conducted under the National Environmental Policy Act of 1969 (NEPA).[8] Rather, such activities are covered by a ''categorical exclusion.'' In its environmental rules, the Board has various categorical exclusions.[9] As pertinent here, under 49 CFR 1105.6(c)(2)(i), no environmental review is normally required for a rail line acquisition proposal that would not result in operational changes that exceed certain thresholds—generally an increase in rail traffic of at least three trains a day or 50 percent in traffic (measured in gross ton miles annually in an air quality ''nonattainment'' area,[10] which is where the easternmost terminus of the Evansville-Okawville Line is located.

Applicants state in their application that EVWR expects initially to handle about 63,100 carloads annually. The traffic would consist of about 42,900 carloads of coal, 6,700 carloads of chemicals, 9,600 carloads of agricultural commodities, 1,400 carloads of phosphate and fertilizer, 1,600 carloads of food and consumer products, and 900 carloads of metal. In supplemental information on traffic movements provided by applicants to the Board's Section of Environmental Analysis (SEA), applicants state that traffic now moving over the Evansville-Okawville Line would continue moving over the Line at the same volume should the Board approve the P&L/EVWR Transaction. According to applicants, EVWR would provide rail service to all customers on the Line seven days per week. Applicants explain that EVWR expects to conduct approximately 60 train movements per week on the Line. Applicants state that of the 60 train movements per week, six train movements (three round-trips per week) would be line-haul movements providing local service on the 104-mile segment from Mt. Vernon, IN, to Okawville, IL. There would be two train movements (one round-trip) providing local service and overhead movements for interchange between Mt. Vernon, IN, and Evansville, IN, which are approximately 17 miles apart. Additionally, on the 2.8-mile Mt. Vernon Branch near Mt. Vernon, IN, approximately 10 switching movements would occur. The remainder of the movements would occur on the segments between Epworth, IL, and Mt. Vernon, IN, and between Mt. Vernon, IN, and Evansville, IN. According to applicants, EVWR does not anticipate any changes to the existing route, and has no plans to immediately increase traffic levels on the Line.

Applicants state that, upon Board approval of the P&L/EVWR Transaction, EVWR intends to aggressively market its rail operations to shippers on the Line that currently ship and receive commodities by truck to provide more frequent and improved service to shippers. In addition, EVWR plans to explore expansion of rail-water transload opportunities on the Line. Presently, there is rail-water transload activity on the Line at Mt. Vernon, IN. Of the 63,100 carloads currently handled on the Line, approximately 17,800 carloads per year of coal, fertilizer, and agricultural products are currently handled by CSXT at this transload facility. EVWR projects traffic levels for this operation to remain the same as CSXT's current transload activities.

Because EVWR projects no immediate increase in traffic levels on the Line, and because the amount of any future increase in traffic as a result of marketing is speculative, the P&L/EVWR Transaction does not meet or exceed the Board's thresholds for environmental documentation established at 49 CFR 1105.7(e)(4) or (5), and there is nothing in either the primary application or the related filings to indicate that the P&L/EVWR Transaction has any potential for significant environmental impacts. The Board's SEA has therefore concluded that this proceeding is ''categorically excluded'' from the environmental review required by NEPA and that formal environmental review is not warranted in this case.

[8] 40 CFR 1500.4(p), 1501.4(a)(2), 1508.4.

[9] 49 CFR 1105.6(c).

[10] Areas of the country where air pollution levels persistently exceed the national ambient air quality standards may be designated ''nonattainment.'' Evansville is located in an area designated as an air quality ''nonattainment'' area by the Environmental Protection Agency.

Finally, SEA agrees with applicants that the proposed action does not require historic review under the National Historic Preservation Act of 1966 because further approval would be required to abandon any service, and because applicants have advised the Board that there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. 49 CFR 1105.8(b)(1).

Filing/Service Requirements. Persons participating in this proceeding may ''file'' with the Board and ''serve'' on other parties: A notice of intent to participate (due by September 12th); a certificate of service indicating service of prior pleadings on persons designated as PORs on the service-list notice (due by the 10th day after the service date of the service-list notice); any comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application or either of the related filings (due by October 12th); and any responses to comments, etc., and any rebuttal in support of the primary application or either of the related filings (due by October 27th).

Filing Requirements. Any document filed in this proceeding must be filed either via the Board's e-filing format or in the traditional paper format. Any person e-filing a document should comply with the instructions found on the Board's Web site at *http://www.stb.dot.gov* at the ''E-FILING'' link. Any person filing a document in the traditional paper format should send an original and 10 paper copies of the document (and also an IBM-compatible floppy disk with any textual submission in any version of either Microsoft Word or WordPerfect) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

Service Requirements. One copy of each document filed in this proceeding must be sent to each of the following (any copy may be sent by e-mail only if service by e-mail is acceptable to the recipient): (1) Secretary of the United States Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) William A. Mullins (representing FRTI, P&L, and EVWR), Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037; (4) Louis E. Gitomer (representing CSXT), Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005; and (5) any other person designated as a POR on the service-list notice.

Service of Decisions, Orders, and Notices. The Board will serve copies of its decisions, orders, and notices only on those persons who are designated on the official service list as either POR, MOC, or GOV. All other interested persons are encouraged either to secure copies of decisions, orders, and notices via the Board's Web site at *http://www.stb.dot.gov* under ''E–LIBRARY/Decisions & Notices'' or to make advance arrangements with the Board's copy contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: *asapdc@verizon.net;* telephone number: 202–306–4004), to receive copies of decisions, orders, and notices served in this proceeding. ASAP Document Solutions will handle the collection of charges and the mailing and/or faxing of decisions, orders, and notices to persons who request this service.

Access to Filings. An interested person does not need to be on the service list to obtain a copy of the primary application or any other filing made in this proceeding. Under the Board's rules, any document filed with the Board (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order. 49 CFR 1180.4(a)(3). The primary application and other filings in this proceeding will also be available on the Board's Web site at *http://www.stb.dot.gov* under ''E–LIBRARY/Filings.''

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The primary application in STB Finance Docket No. 34738 and the related filings in STB Finance Docket No. 34738 (Sub-Nos. 1 and 2) are accepted for consideration.

2. The parties to this proceeding must comply with the Procedural Schedule adopted by the Board in this proceeding as shown in Appendix A.

3. The parties to this proceeding must comply with the procedural requirements described in this decision.

4. This decision is effective on September 2, 2005.

Decided: August 25, 2005.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

Appendix A: Procedural Schedule

August 3, 2005— Primary application, related filings, motion for protective order, and request for issuance of procedural schedule filed.

September 2, 2005—Board notice of acceptance of primary application and related filings published in the **Federal Register**.

September 12, 2005—Notices of intent to participate in this proceeding due.

October 12, 2005—All comments, protests, requests for conditions, and any other evidence and argument in opposition to the primary application and/or either or both of the related filings, including filings of DOJ and DOT, due.

October 27, 2005—Responses to comments, protests, requests for conditions, and other opposition due. Rebuttal in support of the primary application and/or either or both of the related filings due.

Week of November 14, 2005—A public hearing or oral argument may be held the week of November 14, 2005.

December 12, 2005—Date of service of final decision.

December 30, 2005—Effective date of final decision.

[FR Doc. 05–17456 Filed 9–1–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 236X)]

The Cincinnati, New Orleans and Texas Pacific Railway Company—Abandonment Exemption—in Roane County, TN

On August 15, 2005, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company, filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 1.1-mile line of railroad, extending from milepost 156.9-H to milepost 158.0-H in Rockwood, Roane County, TN. The line traverses United States Postal Service Zip Code 37854, and serves the station at Rockwood, where CNOTP will continue to provide rail service.

In addition to an exemption from 49 U.S.C. 10903, CNOTP seeks exemption from 49 U.S.C. 10904 [offer of financial assistance (OFA) procedures] and 49 U.S.C. 10905 [public use conditions]. In support, CNOTP contends that the exemption from these provisions is necessary to permit conveyance of the line to Franklin Industries (Franklin), for continued operation as part of Franklin's private railroad operation.[1]

[1] Franklin previously acquired a 15.4-mile line of railroad (known as the Crab Orchard Line) from CNOTP. *See The Cincinnati, New Orleans and Texas Pacific Railway Company—Abandonment*

These requests will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in CNOTP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).*

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 2, 2005.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption, unless the Board grants the requested exemption from the OFA process. Each OFA must be accompanied by a $1,200 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Unless the Board grants the requested exemption from the public use provisions, any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 22, 2005. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–290 (Sub-No. 236X), and must be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510–2191. Replies to the petition are due on or before September 22, 2005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: August 24, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–17236 Filed 9–1–05; 8:45 am]

BILLING CODE 4915–01–P

Exemption–in Cumberland and Roane Counties, TN, STB Docket No. AB–290 (Sub-No. 208X) (STB served Nov. 15, 2000).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–103 (Sub–No. 18X)]

The Kansas City Southern Railway Company—Abandonment Exemption—in Winn Parish, LA

The Kansas City Southern Railway Company (KCSR) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon a 3.16-mile line of railroad extending from milepost 144.64 to milepost 147.80, located near Winnfield, in Winn Parish, LA. The line traverses United States Postal Service Zip Code 71483.

KCRS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 4, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 12, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 22, 2005, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to KCSR's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

KCSR has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 9, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), KCSR shall file a notice of consummation with the Board to signify that it has exercised the authority

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

granted and fully abandoned the line. If consummation has not been effected by KCSR's filing of a notice of consummation by September 2, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: August 24, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–17235 Filed 9–1–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee September 2005 Public Meeting

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for September 27, 2005, at United States Mint Headquarters in Washington, DC. The purpose of this meeting is to advise the Secretary of the Treasury on themes and designs pertaining to the coinage of the United States and for other purposes.

Date: September 27, 2005.

Time: 1 p.m. to 4 p.m.

Location: The United States Mint; 801 9th Street, NW.; Washington, DC; 2nd floor.

Subject: Review design candidates for the Jamestown 400th Anniversary Commemorative Coin Program, the Dr. Martin Luther King and Coretta Scott King Congressional Gold Medal, and other business.

Interested persons should call 202–354–7502 for the latest update on meeting time and room location.

The CCAC was established to:

- Advise the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advise the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Make recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Madelyn Simmons Marchessault, United States Mint Liaison to the CCAC; 801 9th Street, NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration or addressing the CCAC is invited to submit the request and/or materials by fax to the following number: 202–756–6830.

Authority: 31 U.S.C. 5135(b)(8)(C)

Dated: August 25, 2005.

David Lebryk,

Acting Director, United States Mint.

[FR Doc. 05–17474 Filed 9–1–05; 8:45 am]

BILLING CODE 4810–37–P

Corrections

Federal Register
Vol. 70, No. 170
Friday, September 2, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[OW–2004–0014; FRL–7952–7]

RIN 2040–AE68

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Wastewater and Sewage Sludge; Proposed Rule

Correction

In proposed rule document 05–16195 beginning on page 48256, in the issue of Tuesday, August 16, 2005, make the following corrections:

§136.3 [Corrected]

1. On page 48264, in §136.3(a), in the table, under the heading Method[1], in the eighth line, ''MF[12 16]'' should read ''MF[2 16]''.

2. On page 48267, in the same section, the table is corrected in part to read as follows:

TABLE IG.—LIST OF APPROVED MICROBIOLOGICAL METHODS FOR AMBIENT WATER

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th ed.[4]	Standard methods on-line [4]	AOAC, ASTM, USGS	Other
* *	*	*	*		*	*
7. Enterococci, number per 100 mL	MTF [6 8] multiple tube	.....	9230B	9230B–93	.....	
	multiple tube/multiple well.	.....	.....	.....	D6503–99 [9].	Entero-lert® [12 22]
	MF [2 5 6 7 8] two step,	1106.1 [23]	9230C	9230C–93	D5259–92 [9]	
	single step, or Plate count.	1600 [24], p. 143 [3].	.....	.....	.....	
Protozoa:						
8. Cryptosporidium	Filtration/IMS/FA	1622 [25], 1623 [26].	.....	.....	.....	
9. Giardia	Filtration/IMS/FA	1623 [26]	.....	.....	.....	

[FR Doc. C5–16195 Filed 9–1–05; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
September 2, 2005

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 226

Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 041123329–5202–02; I.D. No.110904F]

RIN 0648–AO04

Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California

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

ACTION: Final rule.

SUMMARY: We, the National Marine Fisheries Service (NMFS), are issuing a final rule designating critical habitat for two Evolutionarily Significant Units (ESUs) of chinook salmon (*Oncorhynchus tshawytscha*) and five ESUs of steelhead (*O. mykiss*) listed as of the date of this designation under the Endangered Species Act of 1973, as amended (ESA). The specific areas designated in the rule text set out below include approximately 8,935 net mi (14,269 km) of riverine habitat and 470 mi^2 (1,212 km^2) of estuarine habitat (primarily in San Francisco-San Pablo-Suisun Bays) in California. Some of the areas designated are occupied by two or more ESUs. The annual net economic impacts of changes to Federal activities as a result of the critical habitat designations (regardless of whether those activities would also change as a result of the ESA's jeopardy requirement) are estimated to be approximately $81,647,439. We solicited information and comments from the public in an Advanced Notice of Proposed Rulemaking and on all aspects of the proposed rule. This rule is being issued to meet the timeline established in litigation between NMFS and Pacific Coast Federation of Fishermen's Associations (*PCFFA et. al* v. *NMFS* (Civ.No. 03–1883)). In the proposed rule, we identified a number of potential exclusions we were considering including exclusions for federal lands subject to the Pacific Northwest Forest Plan, PACFISH and INFISH. We are continuing to analyze whether exclusion of those federal lands is appropriate.

DATES: This rule becomes effective January 2, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment, during normal business hours, at the National Marine Fisheries Service, NMFS, Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. The final rule, maps, and other materials relating to these designations can be found on our Web site at *http://swr.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Craig Wingert at the above address, at 562/980–4021, or Marta Nammack at 301/713–1401 ext. 180.

SUPPLEMENTARY INFORMATION:

Organization of the Final Rule

This **Federal Register** notice describes the final critical habitat designations for seven ESUs of West Coast salmon and steelhead listed under the ESA. The pages that follow summarize the comments and information received in response to proposed designations published on December 10, 2004 (69 FR 71880), describe any changes from the proposed designations, and detail the final designations for seven ESUs. To assist the reader, the content of this notice is organized as follows:

I. Background and Previous Federal Action
II. Summary of Comments and Recommendations
Notification and General Comments
Identification of Critical Habitat Areas
Economics Methodology
Weighing the Benefits of Designation vs. Exclusion
Effects of Designating Critical Habitat
ESU-specific Issues
III. Summary of Revisions
IV. Methods and Criteria Used to Identify Critical Habitat
Salmon Life History
Identifying the Geographical Area Occupied by the Species and Specific Areas within the Geographical Area
Primary Constituent Elements
Special Management Considerations or Protections
Unoccupied Areas
Lateral Extent of Critical Habitat
Military Lands
Critical Habitat Analytical Review Teams
V. Application of ESA Section 4(b)(2)
Exclusions Based on ''Other Relevant Impacts''
Impacts to Tribes
Impacts to Landowners with Contractual Commitments to Conservation
Exclusions Based on National Security Impacts
Exclusions Based on Economic Impacts
VI. Critical Habitat Designation
VII. Effects of Critical Habitat Designation
Section 7 Consultation
Activities Affected by Critical Habitat Designation
VIII. Required Determinations
IX. References Cited

I. Background and Previous Federal Action

We are responsible for determining whether species, subspecies, or distinct population segments of Pacific salmon and steelhead (*Oncorhynchus* spp.) are threatened or endangered, and for designating critical habitat for them under the ESA (16 U.S.C. 1531 *et seq*). To qualify as a distinct population segment, a Pacific salmon or steelhead population must be substantially reproductively isolated from other conspecific populations and represent an important component in the evolutionary legacy of the biological species. According to agency policy, a population meeting these criteria is considered to be an Evolutionarily Significant Unit (ESU) (56 FR 58612, November 20, 1991).

We are also responsible for designating critical habitat for species listed under our jurisdiction. Section 3 of the ESA defines critical habitat as (1) specific areas within the geographical area occupied by the species at the time of listing, on which are found those physical or biological features that are essential to the conservation of the listed species and that may require special management considerations or protection, and (2) specific areas outside the geographical area occupied by the species at the time of listing that are essential for the conservation of a listed species. Our regulations direct us to focus on ''primary constituent elements,'' or PCEs, in identifying these physical or biological features. Section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS, ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened salmon or steelhead ESU or result in the destruction or adverse modification of critical habitat. Section 4 of the ESA requires us to consider the economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as critical habitat.

The timeline for completing the critical habitat designations described in this **Federal Register** notice was established pursuant to litigation between NMFS and the Pacific Coast Federation of Fishermen's Associations, Institute for Fisheries Resources, the Center for Biological Diversity, the Oregon Natural Resources Council, the Pacific Rivers Council, and the Environmental Protection Information Center (PCFFA, *et al.*) and is subject to a Consent Decree and Stipulated Order

of Dismissal (Consent Decree) approved by the D.C. District Court. A complete summary of previous court action regarding these designations can be found in the proposed rule (69 FR 71880; December 10, 2004).

In keeping with the Consent Decree, on December 10, 2004 (69 FR 71880), we published proposed critical habitat designations for two ESUs of Chinook salmon and five ESUs of *O. mykiss.* (For the latter ESUs we used the species' scientific name rather than ''steelhead'' because at the time they were being proposed for revision to include both anadromous (steelhead) and resident (rainbow/redband) forms of the species—*see* 69 FR 33101, June 14, 2004). The seven ESUs addressed in the proposed rule were: (1) California Coastal Chinook salmon; (2) Northern California *O. mykiss;* (3) Central California Coast *O. mykiss;* (4) South-Central Coast *O. mykiss;* (5) Southern California *O. mykiss;* (6) Central Valley spring run Chinook salmon; and (7) Central Valley *O. mykiss.* The comment period for the proposed critical habitat designations was originally opened until February 8, 2005. On February 7, 2005 (70 FR 6394), we announced a court-approved Amendment to the Consent Decree which revised the schedule for completing the designations and extended the comment period until March 14, 2005, and the date to submit final rules to the **Federal Register** as August 15, 2005.

In the critical habitat proposed rule we stated that ''the final critical habitat designations will be based on the final listing decisions for these seven ESUs due by June 2005 and thus will reflect occupancy ''at the time of listing'' as the ESA requires.'' All of these ESUs had been listed as threatened or endangered between 1997–2000, but in 2002 we announced that we would reassess the listing status of these and other ESUs (67 FR 6215; February 11, 2002). We recently published final listing decisions for the two Chinook salmon, but not for the five ESUs of *O. mykiss* (70 FR 37160; June 28, 2005). Final listing determinations for these five ESUs are expected by December 2005 (70 FR 37219; June 28, 2005). However, the Consent Decree governing the schedule for our final critical habitat designations requires that we complete final designations for those of the seven ESUs identified above that are listed as of August 15, 2005. Because anadromous forms (*i.e.*, ''steelhead'') of the five *O. mykiss* ESUs have been listed since 1997–2000 (*see* summary in June 14, 2004 **Federal Register** notice, 69 FR 33103), we are now issuing final critical habitat designations for them in this notice in accordance with the Consent Decree. We are able to do so because in developing critical habitat designations for this species we have focused on the co-occurring range of both the anadromous and resident forms. Therefore, both the proposed and final designations were restricted to the species' anadromous range, although we did consider and propose to designate some areas occupied solely by resident fish in upper Alameda Creek in the San Francisco Bay area. We focused on the co-occurring range due to uncertainties about: (1) The distribution of resident fish outside the range of co-occurrence, (2) the location of natural barriers impassable to steelhead and upstream of habitat areas proposed for designation, and (3) the final listing status of the resident form. Section 4(a)(3)(B) of the ESA provides for the revision of critical habitat designations as appropriate, and we will do so (if necessary) after making final listing determinations for these five *O. mykiss* ESUs. Moreover, we intend to actively revise critical habitat as needed for all seven ESUs to keep them as up-to-date as possible.

In an Advance Notice of Proposed Rulemaking (ANPR) (68 FR 55926; September 29, 2003), we noted that the ESA and its supporting regulations require the agency to address a number of issues before designating critical habitat: ''What areas were occupied by the species at the time of listing? What physical and biological features are essential to the species' conservation? Are those essential features ones that may require special management considerations or protection? Are areas outside those currently occupied 'essential for conservation'? What are the benefits to the species of critical habitat designation? What economic and other relevant impacts would result from a critical habitat designation, even if coextensive with other causes such as listing? What is the appropriate geographic scale for weighing the benefits of exclusion and benefits of designation? What is the best way to determine if the failure to designate an area as critical habitat will result in the extinction of the species concerned?'' We recognized that ''[a]nswering these questions involves a variety of biological and economic considerations'' and therefore were seeking public input before issuing a proposed rule. As we stated in the proposed rule that followed: ''We received numerous comments in response to the ANPR and considered them during development of this proposed rulemaking. Where applicable, we have referenced these comments in this **Federal Register** notice as well as in other documents supporting this proposed rule.'' In the proposed rule, we described the methods and criteria we applied to address these questions, relying upon the unique life history traits and habitat requirements of salmon and steelhead.

In issuing the final rule, we considered the comments we received to determine whether a change in our proposed approach to designating critical habitat for salmon and steelhead was warranted. In some instances, we concluded based on comments received that a change was warranted. For example, in this final rule we have revised our approach to allow us to consider excluding areas covered by habitat conservation plans in those cases where the benefits of exclusion outweigh the benefits of designation.

In other instances, we believe the approach taken is supported by the best available scientific information, and that given the time and additional analyses required, changes to the methods and criteria we applied in the proposed rule were not feasible. We recognize there are other equally valid approaches to designating critical habitat and for answering the myriad questions described above. Nevertheless, issuance of the final rule for designating critical habitat for these ESUs is subject to a Court Order that requires us to submit the final regulation to the **Federal Register** no later than August 15, 2005, less than 5 months after the close of the public comment period. Taking alternative approaches to designating critical habitat would have required a retooling of multiple interrelated analyses and undertaking additional new analyses in support of the final rule, and was not possible given the time available to us. We will continue to study alternative methods and criteria and may apply them in future rulemakings designating critical habitat for these or other species.

II. Summary of Comments and Recommendations

As described in agency regulations at 50 CFR 424.16(c)(1), in the critical habitat proposed rule we requested that all interested parties submit written comments on the proposals. We also contacted the appropriate Federal, state, and local agencies, scientific organizations, and other interested parties and invited them to comment on the proposed rule. To facilitate public participation we made the proposed rule available via the internet as soon as it was signed (approximately 2 weeks prior to actual publication) and accepted comments by standard mail

and fax as well as via e-mail and the internet (*e.g.*, *www.regulations.gov*). In addition, we held four public hearings between January 13, 2005, and February 1, 2005, in the following locations: Arcata, Rohnert Park, Sacramento, and Santa Barbara, CA. We received 3,762 written comments (3,627 of which were form letters or in the form of e-mails with nearly identical verbiage) during the comment period on the proposed rule.

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input (70 FR 2664; January 14, 2005). The OMB Peer Review Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to provide public oversight on the quality of agency information, analyses, and regulatory activities, and applies to information disseminated on or after June 16, 2005. Prior to publishing the proposed rule we submitted the initial biological assessments of our Critical Habitat Analytical Review Teams (hereafter referred to as CHART) to state co-managers and asked them to review those findings. These co-manager reviews resulted in some changes to the CHARTs' preliminary assessments (*e.g.*, revised fish distribution as well as conservation value ratings) and helped to ensure that the CHARTs' revised findings (NMFS, 2004b) incorporated the best available scientific data. We later solicited technical review of the entire critical habitat proposal (biological, economic, and policy bases) from several independent experts selected from the academic and scientific community, Native American tribal groups, Federal and state agencies, and the private sector. We also solicited opinions from three individuals with economics expertise to review the draft economics analysis supporting the proposed rule. All three of the economics reviewers and one of the biological reviewers submitted written opinions on our proposal. We have determined that the independent expert review and comments received regarding the science involved in this rulemaking constitute adequate prior review under section II.2 of the OMB Peer Review Bulletin (NMFS, 2005b).

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding critical habitat for the various ESUs, and we address them in the following summary. Peer reviewer comments were sufficiently similar to public comments that we have responded to them through our general responses below. For readers'convenience we have assigned comments to major issue categories and where possible have combined similar comments into single comments and responses.

Notification and General Comments

Comment 1: Some commenters raised concerns or complained about the adequacy of public notification and time to comment.

Response: We made all reasonable attempts to communicate our rulemaking process and the critical habitat proposal to the affected public. Prior to the proposed rule we published an ANPR in which we identified issues for consideration and evaluation, and solicited comments regarding these issues and information regarding the areas and species under consideration (68 FR 55926; September 29, 2003). We considered comments on the ANPR during our development of the proposed rule. As soon as the proposed rule was signed on November 29, 2004 (2 weeks before actual publication in the **Federal Register**), we posted it and supporting information on the agency's internet site to facilitate public review, and we have provided periodic updates to that site (see **ADDRESSES**). In response to numerous requests—in particular from plaintiffs as well as private citizens, counties, farm bureaus, and state legislators in Washington—the original 60-day public comment period was extended by 30 days (70 FR 6394; February 7, 2005) to allow additional time for the public to submit comments on the critical habitat proposals.

Additionally, we realize that the statute provides a short time frame for designating critical habitat. Congress amended the ESA in 1982 to establish the current time frame for designation. In doing so, Congress struck a balance between the recognition that critical habitat designations are based upon information that may not be determinable at the time of listing and the desire to ensure that designations occur in a timely fashion. Additionally, the ESA and supporting regulations provide that designations may be revised as new data become available to the Secretary. We recognize that where the designation covers a large geographic area, as is the case here, the short statutory time frame requires a short period for the public to consider a great deal of factual information. We also recognize that this designation takes a new approach by considering relative conservation value of different areas and applying a cost-effectiveness framework. In this notice we are announcing our intention to consider revising the designations as new habitat conservation plans and other management plans are developed, and as other new information becomes available. Through that process we anticipate continuing to engage the interested public and affected landowners in an ongoing dialogue regarding critical habitat designations.

Comment 2: Some commenters disagreed with our decision to vacate the February 2000 critical habitat designations for these ESUs.

Response: We believe that the issues identified in a legal challenge to our February 2000 designations warranted withdrawing that rule. Developing a cost-effectiveness approach, designed to achieve the greatest conservation at the least cost, is in keeping with long-standing Executive direction on rulemaking and is a responsible and conservation-oriented approach to implementing section 4(b)(2) of the ESA. In addition, we had new and better information in 2004 than we had in 2000, such as the information of fish distribution and habitat use that was generated by agency fishery biologists. The ESA requires that we use the best available information, and the distribution data is the best information currently available. Finally, the litigation challenging our 2000 designation also challenged the lack of specificity in our designation of the riparian area, leading us to consider whether there was a better approach that was more consistent with our regulations and with the best available information.

Comment 3: Some commenters stated that we should wait to publish final critical habitat designations until after final listing determinations have been made and the final hatchery listing policy is published.

Response: The ESA states that the Secretary *shall* designate critical habitat, defined as areas within or outside the geographical area occupied by the species *at the time of listing* and using the best *available* information (emphasis added). These designations follow that statutory mandate and have been completed on a schedule established under a Consent Decree. Also, the final hatchery listing policy and final listing determinations for several salmon ESUs were published on June 28, 2005 (70 FR 37160 and 37204) in advance of the completion of this final critical habitat designation. For reasons described above in the ''Background and Previous Federal Action'' section, we are now making final designations for those listed salmon and steelhead ESUs in the

Southwest Region that are subject to the Consent Decree and listed as of the date of this designation.

Identification of Critical Habitat Areas

Comment 4: Several commenters contended that we can only designate areas that are essential for species conservation.

Response: Section 3(5)(A) of the ESA has a two-pronged definition of critical habitat: ''(i) 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; and (ii) *specific areas outside the geographical area occupied by the species*, at the time it is listed * * * upon a determination by the Secretary that such areas are essential for the conservation of the species' (emphasis added). As described in this rule and documented in the reports supporting it, we have strictly applied this definition and made the requisite findings. We requested and received comments on various aspects of our identification of areas meeting this definition and address those here. Only those areas meeting the definition were considered in the designation process. Comments regarding the section 4(b)(2) process, in which we considered the impacts of designation and whether areas should be excluded, are addressed in a subsequent section.

Comment 5: In the proposed rule we considered occupied streams within a CALWATER Hydrologic Subarea (HSA) as the ''specific area'' in which the physical or biological features essential to conservation of the ESUs were found. We also used these watershed delineations as the ''particular areas''—the analytical unit—for purposes of the section 4(b)(2) analysis. In the proposed rule we requested public comment on whether considering exclusions on a stream-by-stream approach would be more appropriate. Some commenters believed that the watershed scale was too broad for making critical habitat designations and suggested that a smaller watershed or a stream-by-stream approach was more appropriate. Some commenters believed that we should conduct a reach-by-reach assessment in their watersheds.

Response: Our ESA section 4(b)(2) report (NMFS, 2005c) acknowledges that the delineation of both specific areas and particular areas should be as small as practicable, to ensure our designations are not unnecessarily broad and to carry out congressional intent that we fully consider the impacts of designation. For reasons described in the section below on ''Methods and Criteria Used to Identify Critical Habitat,'' we continue to believe that the specific facts of salmon biology and life history make CALWATER HSA watersheds in California an appropriate scale to use in delineating the ''specific'' areas in which physical or biological features are found. We also believe consideration of the impacts of designation on an HSA watershed scale results in a meaningful section 4(b)(2) balancing process. Moreover, congressional direction requires that designations be completed in a very short time frame by a specified deadline, ''based on such data as may be available at that time.'' Given that short time frame and the geographic extent of salmon critical habitat, the HSA watershed was the smallest practicable area we were able to analyze.

Comment 6: Some commenters believed we applied the definition of ''specific areas within the geographical area occupied by the species at the time it is listed'' too narrowly. In their views, this led to two errors—failure to designate all ''accessible'' stream reaches and failure to designate riparian and upstream areas. Commenters felt that the ''best scientific data available'' support a conclusion that salmon and steelhead will occupy all accessible streams in a watershed during a period of time that can be reasonably construed as ''at the time it is listed.'' One commenter stated that ''[w]hether a particular stream reach is occupied cannot be determined with certainty based on ''occupation'' data alone, especially for fragmented, declining, or depressed populations of fish.'' The commenter pointed to the rationale provided in our 2000 rule for identifying occupied areas as all areas accessible within a subbasin (a 4th field watershed, using U.S. Geological Survey (USGS) terminology): ''NMFS believes that adopting a more inclusive, watershed based description of critical habitat is appropriate because it (1) recognizes the species' use of diverse habitats and underscores the need to account for all of the habitat types supporting the species' freshwater and estuarine life stages, from small headwater streams to migration corridors and estuarine rearing areas; (2) takes into account the natural variability in habitat use that makes precise mapping problematic (*e.g.*, some streams may have fish present only in years with abundant rainfall) (65 FR 7764; February 16, 2000).''

Some commenters believe that in delineating ''specific areas within the geographical area occupied by the species,'' we need not confine ourselves to areas that are literally ''occupiable'' by the species in that we should designate riparian and upstream areas. If there are physical or biological features essential to conservation to be found within a broadly defined ''geographical area occupied by the species,'' we have the duty to delineate specific areas in a way that encompasses them. Some argued that limiting the designation to the stream channel fails to recognize the biological and hydrological connections between streams and riparian areas and would lead to further degradation of the latter. Some commenters suggested that we use a fixed distance (*e.g.*, 300 feet (91.4 m) if a functional description is not used. Some requested that we adopt the ''functional zone'' description for lateral extent used in the 2000 designations (65 FR 7764; February 16, 2000), while other commenters felt that our reference to habitat linkages with upslope and upstream areas was vague and wondered whether we were actually using the old approach anyway. Other commenters believed that using the line of ordinary high water or bankfull width was appropriate and noted that this would remove prior ambiguities about which areas were designated. Other commenters supported the approach taken in this designation, to identify specific areas occupied by the species and not broadly designate ''all areas accessible,'' some commenting that this was a more rigorous assessment and more in keeping with the ESA.

Response: The approach we took in the proposed designation is different from the approach we took in the vacated 2000 designation for a variety of reasons. The ESA directs that we will use the best scientific data available in designating critical habitat. Our regulations also provide direction: ''[e]ach critical habitat will be defined by specific limits using reference points and lines as found on standard topographic maps of the area * * * Ephemeral reference points (*e.g.*, trees, sand bars) shall not be used in defining critical habitat.'' (50 CFR 424.12(c)). With respect to our approach for identifying ''the geographical area occupied by the species,'' we recognize that the available fish and habitat use distribution data are limited to areas that have been surveyed or where professional judgment has been applied to infer distribution, and that large areas of watersheds containing fish may not have been observed or considered. We also recognize there have been many instances in which previously unobserved areas are found to be

occupied once they are surveyed. Nevertheless, we believe the extensive data compiled by agency biologists, which was not available when we completed the 2000 designations, represents the best scientific information currently available regarding the geographical area occupied by the species. Moreover, the CHARTs had an opportunity to interact with the state fish biologists with the California Department of Fish and Game (CDFG) to confirm the accuracy of the data. We also believe the approach we have taken in this designation better conforms to the regulatory direction to use ''specific limits'' for the designation. The approach we used in 2000 used subbasin boundaries to delineate ''specific areas,'' which arguably met the requirement to use ''specific limits,'' but we believe using latitude-longitude endpoints in stream reaches, as we have done here, better adheres to the letter and spirit of our regulations.

With respect to our approach of limiting the designation to the occupied stream itself, not extending the designation into the riparian zone or upstream areas, we acknowledge that our regulations contemplate situations in which areas that are not literally occupiable may nevertheless be designated. Paragraph (d) of 50 CFR 424.12 gives as an example a situation in which areas upland of a pond or lake may be designated if it is determined that ''the upland areas were essential to the conservation of an aquatic species located in the ponds and lakes.'' For this designation, however, given the vast amount of habitat under consideration and the short statutory time frames in which to complete the designation, we could not determine ''specific limits'' that would allow us to map with accuracy what part of the riparian zone or upstream area could be considered to contain PCEs. As an alternative, we considered the approach we used in 2000, which was to designate riparian areas that provide function, but concluded that approach may not have been entirely consistent with the regulatory requirement to use ''specific limits.'' We believe limiting the designation to streams will not compromise the ability of an ESA section 7 consultation to provide for conservation of the species. Section 7 requires Federal agencies to ensure their actions are not likely to destroy or adversely modify critical habitat. Actions occurring in the riparian zone, upstream areas, or upland areas all have the potential to destroy or adversely modify the critical habitat in the stream. Although these areas are not themselves designated, Federal agencies must nevertheless meet their section 7 obligations if they are taking actions in these areas that ''may affect'' the designated critical habitat in the stream. Even though these designations are restricted to the stream itself, we will continue to be concerned about the same activities we have addressed in past consultations.

Comment 7: Several commenters believed we incorrectly applied the definition of ''specific areas outside the geographical area occupied by the species.'' In the view of some, we failed our duty under the ESA by not making a determination that we had identified as critical habitat enough areas (occupied and unoccupied) to support conservation. In the view of others, it was this failure that led to one of the errors described in the previous comment—the failure to designate all ''accessible stream reaches.'' Many commenters expressed concern about statements made in the press that the change from ''all areas accessible'' to areas documented as occupied led to a 90-percent reduction in critical habitat. Other commenters supported the approach taken in this designation, to identify specific areas occupied by the species and not broadly designate ''all areas accessible,'' some commenting that this was a more rigorous assessment and more in keeping with the ESA.

Response: Section 3(5)(A)(I) of the ESA requires us to identify specific areas within the geographical area occupied by the species that contain physical or biological features that may require special management considerations or protection. Section 3(5)(A)(ii) requires that specific areas outside the geographical area occupied by the species only fall within the definition of critical habitat if the Secretary determines that the area is essential for conservation. Our regulations further provide that we will designate unoccupied areas ''only when a designation limited to [the species'] present range would be inadequate to ensure the conservation of the species (50 CFR 424.12(e)).'' The ESA requires the Secretary to designate critical habitat at the time of listing. If critical habitat is not then determinable, the Secretary may extend the period by 1 year, ''but not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.''

At the present time, we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that unoccupied areas are essential for conservation. We anticipate revising our critical habitat designations in the future as additional information becomes available through recovery planning processes.

Comment 8: Some commenters questioned the adequacy of our identification of PCEs, in particular the lack of specificity.

Response: To determine the physical or biological features essential to conservation of these ESUs, we first considered their complex life cycle. As described in the ANPR and proposed rule, ''[t]his complex life cycle gives rise to complex habitat needs, particularly during the freshwater phase (see review by Spence *et al.*, 1996).'' We considered these habitat needs in light of our regulations regarding criteria for designating critical habitat. Those criteria state that the requirements essential to species' conservation include such things as ''space * * * [f]ood, water, air, light, minerals, or other nutritional or physiological requirements * * * cover or shelter.'' They further state that we are to focus on the ''primary constituent elements'' such as ''spawning sites, feeding sites, * * * water quality or quantity,'' etc. In the ANPR and proposed rule we identified the features of the habitat that are essential for the species to complete each life stage and are therefore essential to its conservation. We described the features in terms of sites (spawning, rearing, migration) that contain certain elements.

Comment 9: In the proposed rule we requested comments on the extent to which specific areas may require special management considerations or protection in light of existing management plans. Several commenters stated that lands covered by habitat conservation plans or other management or regulatory schemes do not require special management considerations or protection. Others commented that even where management plans are present, there still may be ''methods or procedures useful'' for protecting the habitat features.

Response: The statutory definition and our regulations (50 CFR 424.02 and 424.12) require that specific areas within the geographical area occupied by the species must contain ''physical or biological features'' that are ''essential to the conservation of the species,'' and that ''may require special management considerations or protection.'' As described in the proposed rule, and documented in the reports supporting it, we first identified the physical or biological features essential to

conservation (described in our regulations at 50 CFR 424.12(b)(5) as ''primary constituent elements'' or PCEs). We next determined the ''specific areas'' in which those PCEs are found based on the occupied stream reaches within a CALWATER HSA watershed. We used this watershed-scale approach to delineating specific areas because it is relevant to the spatial distribution of salmon and steelhead, whose innate homing behavior brings them back to spawn in the watersheds where they were born (Washington Department of Fisheries *et al.*, 1992; Kostow, 1995; McElhany *et al.*, 2000). We then considered whether the PCEs in each specific area (watershed) ''may require special management considerations or protection.''

We recognize there are many ways in which ''specific areas'' may be delineated, depending upon the biology of the species, the features of its habitat and other considerations. In addressing these comments, we considered whether to change the approach described in our proposed rule and instead delineate specific areas based on ownership. The myriad ownerships and state and local regulatory regimes present in any watershed, as well as the timing issues discussed previously, made such an approach impractical for this rulemaking, as noted in section I, ''Background and Previous Federal Action,'' above. While there are other equally valid methods for identifying areas as critical habitat, we believe that the watershed scale is an appropriate scale for identifying specific areas for salmon and steelhead, and for then determining whether the PCEs in these areas may require special management considerations or protections. We will continue to study this issue and alternative approaches in future rulemakings designating critical habitat.

Comment 10: One commenter stated that we could not designate any unoccupied areas if we had excluded any occupied areas, relying on the regulatory provision cited in a previous comment and response.

Response: The comment assumes that all habitat areas are equivalent and exchangeable, which they are not. An area may be essential for conservation because it was historically the most productive spawning area for an ESU and unless access to it is restored, the ESU will not fully recover to the point that the protections of the ESA are no longer necessary. This area will be essential regardless of whether some other specific area has been excluded.

Comment 11: Several commenters supported the designation of unoccupied areas above dams and some believed that by not designating these areas we will make it more difficult to achieve fish passage in the future. They further noted that excluding these presently blocked areas now may promote habitat degradation that will hinder conservation efforts should passage be provided in the future. Several commenters identified areas above specified dams as being essential for conservation.

Response: At the present time, we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation nor that currently unoccupied areas above dams are essential for conservation. The Southwest Region is actively involved in a multi-year, large-scale recovery planning effort in California that involves scientific teams (called technical recovery teams or TRTs) which are in the process of identifying ESU population structure, population viability criteria, and ESU level biological viability or recovery goals. These recovery planning efforts are developing information which will inform our decisions about whether unoccupied habitat will be needed to facilitate conservation beyond what is currently occupied by the ESUs addressed in this rulemaking. Until these efforts are more fully developed, we cannot make the specific determinations required under the ESA to designate critical habitat in ''unoccupied'' areas. We use our authorities under the ESA and other statutes to advocate for salmon passage above impassible dams where there is evidence such passage would promote conservation. This is not the same, however, as making the determinations required by the statute and our regulations to support designation.

Comment 12: In the proposed rule we requested comments regarding the use of professional judgment as a basis for identifying areas occupied by the species. Some commenters indicated that it was appropriate to accept the professional judgment of fish biologists who are most familiar with fish habitat within a watershed. Others believed that limiting the definition of occupied stream reaches to only those where fish presence has been observed and documented is overly narrow and fails to consider a number of conditions that affect species distribution, including natural population fluctuations and habitat alterations that affect accessibility or condition (*e.g.*, de-watering stream reaches). These commenters also argued that defining occupied reaches should be based on a broad time scale that takes into account metapopulation processes such as local extinction and recolonization, adding along with other commenters that many streams have not been adequately surveyed and species may frequent stream reaches but not actually be observed by a biologist at the time that critical habitat is being assessed.

Response: We relied on distribution and habitat use information developed by our agency fishery biologists from a wide range of sources, including the CDFG, to determine which specific stream reaches were occupied by each ESU. The data sets we developed defined occupancy based on field observations from stream surveys, and, in some cases, professional judgment based on the expert opinion of area biologists. In all cases the exercise of professional judgment included the consideration of habitat suitability for the particular species. We received several comments on our proposed rule regarding the accuracy of the distribution data in specific locations, and, where we could confirm that the information provided by the commenter was accurate, we accepted it as the best available information and adjusted our designation. We view designation of critical habitat as an ongoing process and expect to adjust the designations as necessary as new information or improved methods become available.

Comment 13: Some commenters addressed the CHART process although few recommended changes to the CHARTs' ratings of watershed conservation values. Some supported the process used, in particular the recognition that not all habitats have the same conservation value for an ESU and that this in turn allows for a more meaningful exclusion assessment under section 4(b)(2) of the ESA. One commenter contended that the CHART assessments were compromised by restricting them to consider only the stream channel rather than upslope areas as well.

Response: The CHART process was an important part of our analytical framework in that it allowed us to improve our analysis of the best available scientific data and to provide watershed-specific conservation ratings useful for the Secretary's exercise of discretion in balancing whether the benefits of exclusion outweigh the benefits of designation under section 4(b)(2) of the ESA. We do not believe that designating only the stream channel compromised the CHARTs' ability to assess watershed conservation values. As noted in the CHART report, the CHARTs employed a scoring system to assess (among other area characteristics) the quality, quantity, and distribution of

PCEs within a watershed. The PCEs we have defined for these ESUs are found within occupied stream channels, and therefore, it is appropriate to focus our assessment on those areas. The CHART scoring did include a factor related to the potential improvement of existing PCEs and thereby allowed the CHARTs to consider the ability of a watershed to contribute PCEs via natural processes such as recruitment of large wood and substrate, flow regulation, floodplain connectivity, *etc.* We recognize that salmon habitat is dynamic and that our present understanding of areas important for conservation will likely change as recovery planning sheds light on areas that can and should be protected and restored. We intend to actively update these designations as needed so that they reflect the best available scientific data and understanding.

Comment 14: Some commenters questioned whether the CHARTs considered the work of the various Technical Recovery Teams (TRTs) and suggested that the CHART assessments should be reviewed by the TRTs.

Response: Where information had been developed by the TRTs, the CHARTs did consider that information in their assessments. The CHARTs also solicited input and comments from the TRTs on their distribution and habitat use information as well as their watershed conservation assessments. We believe, therefore, that we have been able to integrate much of the TRT findings to date into our final critical habitat designations. Given their priorities (*i.e.,* providing crucial recovery planning criteria and guidance) and the time constraints under which we needed to complete the critical habitat assessments, TRT members could not participate on the CHARTs directly. We recognize that recovery planning is an ongoing process and that new information from the TRTs and recovery planning stakeholders may result in changes to our critical habitat assessments in the future.

Economics Methodology

Comment 15: Several commenters stated that the economic analysis overestimated the actual costs of critical habitat designation by including costs that should be attributed to the baseline. For example, commenters asserted that costs associated with listing and application of the jeopardy requirement should not be included in the analysis. Commenters also asserted that costs that would have occurred under Pacific Fisheries (PACFISH) or the Northwest Forest Plan should be excluded from the analysis. One commenter also stated that costs associated with existing critical habitat designations for salmon or other endangered species should be considered baseline impacts.

Response: Regarding costs associated with listing and application of ESA section 7's jeopardy requirement, the economic analysis follows the direction of the *New Mexico Cattlegrowers* decision, in which the Court of Appeals for the Tenth Circuit called for ''a full analysis of all of the economic impacts of a critical habitat designation, regardless of whether those impacts are attributable coextensively to other causes (*New Mexico Cattle Growers' Association* v. *U.S. Fish and Wildlife Service,* 248 F.3d 1277, 10th Cir. 2001). Consistent with this decision, the economic analysis includes incremental impacts, those that are solely attributable to critical habitat designation and would not occur without the designation, as well as coextensive impacts, or those that are associated with habitat-modifying actions covered by both the jeopardy and adverse modification standards under section 7 of the ESA. We do not think this overestimate of costs creates a bias in our 4(b)(2) balancing, however, for two reasons. On the ''benefit of designation'' side of the balance, we consider the benefit of designation to be the entire benefit that results from application of section 7's requirements regarding adverse modification of critical habitat, regardless of whether application of the jeopardy requirement would result in the same impact. Moreover, the cost-effectiveness approach we have adopted allows us to consider relative benefits of designation or exclusion and prioritize for exclusion areas with a relatively low conservation value and a relatively high economic cost. With such an approach it is most important that we are confident our analysis has accurately captured the relative economic impacts, and we believe it has.

In many cases, the protections afforded by PACFISH, the Northwest Forest Plan and other regulations are intertwined with those of ESA section 7. In cases where the specific regulation or initiative driving the salmon and steelhead conservation efforts is uncertain, we considered it as an ESA section 7 impact and examined the record of consultations with the affected agencies and based our analysis on the habitat protection measures routinely incorporated into the consultations. The economic analysis therefore assumes that the impacts of these types of habitat protection measures are attributable to the implementation of section 7. In these instances, to the extent that conservation burdens on economic activity are not, in fact, resulting from section 7 consultation, the economic analysis may overstate costs of the designation. We took this possibility into account in conducting the 4(b)(2) balancing of benefits. Conservation efforts clearly engendered by other regulations are included in the regulatory baseline. For example, Federal lands management activities in the Northwest Forest Plan planning area are affected by PACFISH. As a result, some projects that would have affected salmon habitat will not be proposed, and therefore will not be subject to section 7 consultation. These changes in projects are considered baseline and are not included as a cost of section 7 in the economic analysis.

Commenters correctly note that there are designations currently in place protecting critical habitat for salmon (*e.g.,* Sacramento River winter run chinook salmon, Central California Coastal coho salmon). We acknowledged this in our proposed rule, but also noted that the presence of those existing designations weighs equally on both sides of the 4(b)(2) balance—that is, the existing designations also could be considered as part of the baseline for determining the benefit of designation for the ESUs addressed in the present rule. This concern is also addressed by the cost-effectiveness approach we have adopted since it relies on relative benefits of designation and exclusion rather than absolute benefits.

Comment 16: One commenter and one peer reviewer noted that the economic analysis assigns costs to all activities within the geographic boundary of the HSA watersheds, though not all activities in this area will lead to an ESA section 7 consultation or are equally likely to have economic impacts. By doing this, the agency assumed that if the stream reaches currently occupied by salmon were designated as critical habitat, then activities throughout the watershed would be affected, whether or not they are adjacent to critical habitat stream reaches.

Response: It is possible for activities not directly adjacent to the proposed stream reaches to affect salmon and steelhead or their habitat (for example, by increasing risk of erosion or decreased water quality), and, therefore, such activities may be subject to consultation and modification. Thus, we believe the HSA watersheds represent a reasonable proxy for the potential boundary of consultation activities. In some cases the revised economic analysis applies costs less broadly by refining the geographic scale for certain

activities. For example, the analysis of pesticide impacts has been refined and are now calculated based on occupied stream mile estimates within a watershed.

Comment 17: One commenter asserted that the draft report inflates its cost estimates by repeatedly choosing the high-end of a range of costs, while a peer reviewer suggested using the mid-range as a representative cost estimate was problematic.

Response: In determining likely costs associated with modifications to activities that would benefit salmon and steelhead, the economic analysis identifies a range of costs using available data from, for example, agency budgets, documented conversations with stakeholders, and published literature. The full range of costs of these activities is presented in the economic analysis, and individual watersheds are generally ranked in terms of cost impact by the midpoint of the cost range, as opposed to the high end. While we recognize that a formal sample of projects costs based on the consultation record or other sources is a better approach in theory, available data did not allow such an approach. In gathering the cost information that was available, we avoided using outliers and sought to construct a typical range of costs.

Comment 18: Some commenters asserted that the economic analysis fails to account for regional economic interactions between watersheds. One commenter stated that this would result in an overstatement of the costs, while other commenters state that this would underestimate the costs. One peer reviewer suggested using regional economic models to address these interactions.

Response: We acknowledge that modifications to economic activities within one watershed may affect economic activities in other watersheds. The economic analysis discusses the potential for regional economic impacts associated with each of the potentially affected activities. Impacts are assigned to particular areas (watersheds) based on where they are generated as opposed to felt. That is, if the designation of a watershed causes impacts in multiple nearby watersheds, and exclusion of the impact-causing watershed would remove those economic impacts from the region, the economic analysis appropriately assigns the total cost impact to the impact-causing watershed. This method of assigning impacts is most useful to us in deciding the relative cost-effectiveness of excluding particular areas from critical habitat designation. As we acknowledge in NMFS (NMFS 2005b), the economic analysis does not explicitly analyze the potential for these regional interactions to introduce cumulative economic impacts. Data are not available to support such an effort, nor would the results necessarily be applicable at the level of a particular watershed. If these impacts in fact exist, our results are likely to be biased downward, in that we have likely underestimated the costs of critical habitat designation at the level of the ESU. At the level of a watershed, however, the potential error is smaller. For this reason, we do not believe the lack of a regional modeling framework introduces a significant bias into the results for particular watersheds.

Comment 19: Several commenters stated that the economic analysis underestimates the actual costs of the rule by excluding several categories of costs from the estimates. One commenter stated that the *New Mexico Cattlegrowers* decision specifically requires a full analysis of all impacts, including those resulting from the species' listing. One comment argued that assessment of impacts stemming from activities occurring outside the designated area should be included, including indirect and regional impacts. Another commenter stated that the analysis should consider direct, indirect, and induced economic impacts including: changes in property values, property takings, water rights impacts, business activity and potential economic growth, commercial values, county and state tax base, public works project impacts, disproportionate economic burdens on society sections, impacts to custom and culture, impacts to other endangered species, environmental impacts to other types of wildlife, and any other relevant impact.

Response: As noted in a previous response, the Court in the *New Mexico Cattlegrowers* decision called for ''a full analysis of all of the economic impacts of a critical habitat designation, regardless of whether those impacts are attributable coextensively to other causes.'' (emphasis added) The economic analysis conducted for this rule evaluated direct costs associated with the designation of critical habitat and includes: (1) Direct coextensive impacts, or those that are associated with habitat-modifying actions covered by both the jeopardy (listing) and adverse modification (critical habitat) standards; and (2) direct incremental impacts, or those that are solely attributable to critical habitat designation.

We acknowledge that designation of critical habitat may also trigger economic impacts outside of the direct effects of ESA section 7 or outside of the watersheds subject to the economic analysis. For example, state or local environmental laws may contain provisions that are triggered if a state- or locally regulated activity occurs in Federally-designated critical habitat. Another possibility is that critical habitat designation could have ''stigma'' effects, or impacts on the economic value of private land not attributable to any direct restrictions on the use of the land. Our economic analysis did not reveal significant economic impacts from stigma effects for the designation of salmon and steelhead. Further, significant impacts of critical habitat on an industry may lead to broader regional economic impacts. All of these types of impacts are considered in the analysis, although it was not possible to estimate quantitative impacts in every case. We took these considerations into account in balancing benefits under section 4(b)(2).

We acknowledge that designation of critical habitat may also trigger impacts on customs, culture, or other wildlife species. We concluded that data were not presently available that would allow us to quantify these impacts, at the scale of this designation, for the economic analysis. Our analysis was further circumscribed by the short time frames available, and our primary focus on conservation benefits to the listed species that are the subject of this designation. We took this limitation into account in the balancing of benefits under section 4(b)(2).

Comment 20: Several commenters indicated that the economic analysis should include a discussion of the impact of changes in flow regimes on water users, specifically in the timing of water flow through dams and water withdrawal or diversion constraints. Among potentially affected water users are crop irrigators and other agricultural water users, regulators and consumers of public water supply in the region, and in particular, water users of the Central Valley Project and State Water Project, among others. Similarly, several commenters stated that the analysis should include an analysis of impacts of changes to operations that result in increased spill at hydropower dams on the cost of power in the region. These commenters are concerned that excluding these costs underestimates total economic impact. One commenter pointed out that low flow years and drought years are not considered in the economic impacts, and consideration of varying water year types is especially relevant to estimating impacts of instream flow augmentation. Another

commenter pointed out that existing, economically feasible alternate sources of water may not be available to water users, and thus economic costs could be large. One commenter estimated the potential loss of agricultural income that would result from a reduction in water availability to a specific region. One commenter stated that if requisite minimum instream flows are developed that correspond to the proposed critical habitat designation, they could be analyzed using the CALVIN model developed by the University of California.

Response: While economic impacts would clearly result from future changes to water supply availability, the amount of water within particular areas that may be diverted from activities such as irrigation, flood control, municipal water supply, and hydropower, for the purposes of Pacific salmon and steelhead conservation, and thus the requisite timing and volume of minimum instream flows, has not been determined for most facilities. Many biological and hydrologic factors are considered in determining flow requirements through dams for Pacific salmon and steelhead, and the impacts of altering flow regimes to meet these requirements are highly site-specific. For example, the impact of increasing spill at a hydropower project depends on the level and timing of the spill, and on the method by which any lost power generation is replaced. Similarly, at a water supply facility, the impact of increasing spill depends on the size and timing of the spill, but also depends on the specific water rights held at the facility and by downstream users, including the priority, volume, timing, and particular use of those water rights.

The extent to which any future changes in flow may be attributable to the designation of critical habitat, as opposed to the listing or other wildlife-related regulations, is also unclear. The interrelated nature of dam and diversion projects with hydrology across river systems makes it very difficult to attribute flow-related impacts for salmon and steelhead conservation to specific watersheds. As a result, a comprehensive prospective analysis of the economic impacts of potential restrictions on water use by these activities would be highly speculative. We acknowledge this limitation of the economic analysis. However, the revised economic analysis does include an expanded discussion of what is known about the potential impacts of changes in flow regimes on hydropower production and prices and water diversions on irrigation based on historical examples.

Comment 21: Some commenters expressed concern that the economic analysis does not address cumulative costs of multiple layers of regulation on economic activities.

Response: Our economic analysis estimates costs associated with conducting ESA section 7 consultation to ensure Federal agency actions are not likely to destroy or adversely modify critical habitat. We did not have information available at the scale of this designation to determine the marginal cost or benefit of such a consultation, in addition to any state or local review that may occur, nor did the commenters provide data that would allow us to make such a determination.

Comment 22: One commenter stated that the economic analysis fails to factor in subsidies given to industries such as livestock grazing, hydropower operations, and irrigation activities, which minimizes true costs to the public. Another commenter further stated that the analysis does not distinguish between several countervailing cost elements, including ''socialized costs'' (costs Congress has decided that the public should bear, such as costs to Federal activities), actual costs to private entities, incentive costs, subsidies, and offsetting costs. As a result, for Federal programs, the analysis miscategorizes activities that benefit a small but favored sector of society, but that cause costs to the larger society. The analysis assumes that costs to these activities are costs to society in general.

Response: The analysis attempts to measure true social costs associated with implementing the final critical habitat rule. To accomplish this, the analysis uses the measurement of the direct costs associated with meeting the regulatory burden imposed by the rule as the best available proxy for the measurement of true social costs. We agree that it is relevant to consider appropriate countervailing or net cost impacts, where possible, in determining the benefit of exclusion. Where data are available, our analysis attempts to capture the net economic impact (*i.e.*, the increased regulatory burden less any discernable offsetting market gains), of ESA section 7 efforts imposed on regulated entities and the regional economy. For example, in the economic analysis, the revised impact estimates for pesticide use restrictions explicitly net out agriculture subsidy payments in the estimation of lost agricultural profits.

Comment 23: Several commenters indicated that the designation of critical habitat will impose an administrative burden on affected parties, including private, Federal, state and local entities. One commenter stated that the increase in paperwork as a result of re-initiating consultation on potential impacts to critical habitat for projects that have already been through ESA section 7 consultation is a major concern.

Response: We do consider that all activities may be subject to future consultation, regardless of whether past consultation occurred on these activities. Designation of critical habitat may result in reinitiating consultation on activities that were subject to previous consultation to ensure that the adverse modification requirement is addressed in addition to the jeopardy requirement. The economic analysis estimates the level of administrative effort associated with ESA section 7 consultations, whether those consultations concern a new activity or readdress the impacts of a previously reviewed activity. The revised economic analysis includes a refined estimate of administrative costs associated with consultations on West Coast salmon and steelhead.

Comment 24: Some commenters stated that the economic analysis estimates impacts using a constant per-capita income basis and that doing so is likely to underestimate the impacts on rural communities.

Response: Per-capita income is not explicitly factored into the watershed specific quantitative impact estimates in the economic analysis. The commenter is highlighting that equal costs in any given watersheds will not likely result in the same relative economic burden to residents of those watersheds. This is because the ratio of costs of the designation to income may vary across watersheds. In lower income areas, the cost of implementing modifications to projects for the benefit of salmon and steelhead may be more burdensome relative to higher income areas. We did consider the extent to which costs of designation within a watershed are likely to be borne locally. In addition, information on distribution of wealth across the designation is provided contextually in the economic analysis and this information is weighed in considering the benefits of exclusion of particular areas.

Comment 25: One commenter stated that the analysis does not attempt to explain or quantify with any level of precision what additional costs are required by ESA section 7 consultation for design and/or operational modifications or mitigation measures.

Response: The economic analysis focused on the impacts of section 7 consultation on economic activities by first identifying the types of activities

occurring that may be subject to section 7 consultation. The analysis then estimated the regulatory burden placed upon these activities as a result of section 7 consultation. The burden estimate is based upon a review of past modifications to those activities undertaken for the benefit of salmon and steelhead, interviews with NMFS' consulting biologists, affected parties, and available documents and literature. This research on the potential costs of these modifications then determined a typical range of costs for potential project modifications that may be associated with section 7 consultation in the future.

Comment 26: One commenter stated that the economic analysis relied extensively on the agency's consultation history for economic impact estimates. Similarly, another commenter asserted that past costs are not good indicators of future costs due to streamlining of the consultation process (for example, for fire management) on Federal lands. One commenter stated that the economic analysis assumes that the population growth and economy of the impact areas are stagnant. The analysis should evaluate population and economic growth on a regional, State, and county basis, and evaluate the degree to which the listing of salmon and steelhead may have contributed to any population and economic decline.

Response: The economic analysis does not solely rely on the consultation history to estimate economic impacts. The analysis includes estimated costs associated with compliance with salmon conservation activities produced by regulated entities, including private, state, and Federal agencies, as well as published literature, where information was available. The economic analysis does not uniformly assume that all activities and associated consultations will occur at the same rate in future years as in past years. Instead, the economic analysis projects the most likely level of future activity using a broad spectrum of planning documents, geographical data, and interviews with planners and other stakeholders. Further, the economic analysis does not quantify retrospective impacts of salmon and steelhead conservation because the focus of the analysis is on future impacts associated with the critical habitat areas identified in this rulemaking. It should also be noted that consultations conducted by NMFS do not include cost estimates of implementing recommended actions. The analysis also presents detailed information on the current estimated population and population density within each of the particular areas in the proposed critical habitat designation.

Comment 27: One comment letter questioned whether there exists an acceptable or unacceptable level of negative economic impact to communities, landowners, or local governments and whether the government must consider the impacts that their decisions will have on local economies.

Response: The economic analysis provides information regarding the impact to potentially affected economic activities of the proposed critical habitat designation. This information was used to identify the particular areas according to their relative cost burden. We then weighed this information against the relative conservation value of the particular areas considering the economic and any other relevant impact of designating critical habitat. Further, concurrent with the economic analysis, we prepared an analysis of potential impacts to small entities, including small businesses and government. This analysis identified the number of small businesses and governments likely impacted by the proposed critical habitat using county-specific data on the ratio of small businesses to total businesses in each potentially affected economic sector.

Comment 28: Some commenters stated that the economic analysis used data that are overly broad or made assumptions across geographic areas that are too far reaching. For example, one commenter stated that the economic analysis assumes that the necessity and scope of modifications will be constant across ESUs for most activities, when in reality, these are likely to vary substantially.

Response: For each activity, the economic analysis examines the probability of consultation and the likelihood of modification. A variety of activity-specific information sources were used to forecast the frequency and geographic distribution of potentially affected activities. That is, frequency of consultation was not always assumed to be uniform across ESUs. The economic analysis does not, however, assume that costs increase in areas of overlapping ESUs. In other words, the presence of critical habitat for multiple ESUs is not expected to generate a greater impact than if the particular area is critical habitat for only a single ESU. Examination of the consultation history did not reveal differences in requests for modification to projects (reasonable and prudent alternatives) among the ESUs. We recognize, however, that the broad scope and scale of the analysis required us to make simplifying assumptions in order to complete the designations in a timely fashion.

Comment 29: Several commenters and a peer reviewer expressed concern that the economic analysis failed to consider the full range of economic benefits of salmon habitat conservation, and therefore, provided a distorted picture of the economic consequences of designating versus excluding habitat areas. Similarly, commenters expressed concerns that the economic impact of not designating particular areas to fishers and investors in recovery efforts should be considered in the economic analysis. Commenters specifically cited the lack of consideration in the economic analysis of the potential benefits of critical habitat designation on: (1) Decreased risk of extinction; (2) benefits to other aquatic and riparian species; (3) water quality; (4) flood control values; (5) recreation; (6) commercial fishing; (7) fish harvest for tribal uses; and (8) increased public education.

Response: As described in the economic analysis and ESA section 4(b)(2) report, we did not have information available at the scale of this designation that would allow us to quantify the benefits of designation in terms of increased fisheries. Such an estimate would have required us to determine the additional number of fish likely to be produced as a result of the designation, and would have required us to determine how to allocate the economic benefit from those additional fish to a particular watershed. Instead, we considered the ''benefits of designation'' in terms of conservation value ratings for each particular area (see ''Methods and Criteria Used to Designate Critical Habitat'' section). We also lacked information to quantify and include in the economic analysis the economic benefit that might result from such things as improved water quality or flood control, or improved condition of other species.

Moreover, we did not have information at the scale of this designation that would allow us to consider the relative ranking of these types of benefits on the ''benefits of designation'' side of the 4(b)(2) balance. Our primary focus was to determine, consider, and balance the benefits of designating these areas to conservation of the listed species. Given the uncertainties involved in quantifying or even ranking these ancillary types of benefits, we were concerned that their consideration would interject an element of uncertainty into our primary task.

Comment 30: One commenter asserted that the economic analysis did

not consider the importance of agriculture in California and how many communities rely upon the agriculture industry to survive. A number of commenters further stated that the analysis should address impacts on agriculture of a judicially imposed moratorium on pesticide use near salmon-bearing streams. The inability to use pesticides on farmland could result directly in decreases in crop yields. More specifically, the commenters believed that the economic analysis underestimates the impacts of the Washington Toxics litigation (*Washington Toxics Coalition, et al.* v. *EPA*, No. 04–35138) limiting pesticide use around salmon-supporting waters and suggests that the economic analysis should analyze the impact of this injunction.

Response: Regarding impacts to agricultural communities, we considered impacts to small businesses in our Regulatory Flexibility Act analysis. We did not otherwise separately consider economic impacts to various economically or culturally defined communities in the economic analysis or in the ESA section 4(b)(2) balancing process. For example, we also did not separately consider impacts of designation or exclusion on coastal fishing communities. As with the consideration of ancillary unquantifiable benefits of designation described above, we were concerned that including a consideration of these ancillary benefits of exclusion would inject an unacceptable level of uncertainty into our analysis.

We agree that the draft economic analysis did not adequately consider the impact of pesticide restrictions on the agricultural industry. The revised economic analysis therefore includes refined estimates of potential lost profits associated with reduced crop yields as a result of implementing pesticide restrictions across the critical habitat designation. The analysis assumes that the agricultural net revenue generated by land within certain distances of salmon-supporting waters would be completely lost. That is, the analysis assumes that no changes in behavior are undertaken to mitigate the impact of pesticide restrictions. This assumption may lead to overestimated impacts of restricting pesticide use. On the other hand, the analysis may underestimate the impact of pesticide restrictions by assuming that farmers outside the designated areas (*e.g.*, upstream) will not be restricted in their activities.

Comment 31: Several commenters stated that impacts associated with changes in the operations of the hydropower projects should be included, including impacts from projects such as Englebright Dam, Oroville Dam, and Santa Felicia Dam.

Response: The historical record shows evidence that modifications to hydropower projects in consideration of listed salmon and steelhead can affect the level of hydropower generation and generating capacity, thus affecting power prices. Flow regimes for purposes of salmon and steelhead conservation have been implemented at various projects associated with a number of regulations, including the listing of salmon and steelhead. As mentioned previously, however, the level of increased flow or spill over the dams within particular areas that may be requested associated with critical habitat for all hydropower projects is uncertain at this time, and a prospective analysis of the impacts of such efforts would be highly speculative. Many biological and hydrologic factors are considered in determining flow requirements through dams for salmon and steelhead, and the impacts of altering flow regimes to meet these requirements are highly site-specific. For example, the impact of increasing spill at a hydropower project depends on the level and timing of the spill, and on the method by which any lost power generation is replaced.

The extent to which any future changes in flow may be attributable to the designation of critical habitat, as opposed to the listing or other wildlife-related regulations, is also unclear. The interrelated nature of dam and diversion projects with hydrology across river systems makes it very difficult to attribute flow-related impacts from salmon and steelhead conservation to specific watersheds. We acknowledge this limitation of the economic analysis. The revised economic analysis includes an expanded discussion of the potential impacts of changes in flow regimes on hydropower operations.

Comment 32: One commenter stated that the Initial Regulatory Flexibility Analysis needs more citations regarding the applied sources of information.

Response: We have provided appropriate citations in the Final Regulatory Flexibility Analysis.

Comment 33: One commenter stated that the Small Business Regulatory Enforcement Fairness Act (SBREFA) analysis assumes that most compliance costs would be borne by third parties when, in fact, a significant portion of all ESA section 7 related costs are not borne by those entities, but rather are borne by the Bureau of Reclamation (BOR).

Response: In many cases it is uncertain who will bear the costs of modification. The potentially burdened parties associated with modifications to activities are identified in the economic analysis. The BOR may, in fact, bear the cost of modifications to BOR dams, Federal land management activities, and so forth. Where information is not available on a per-project basis regarding the potentially affected party, the analysis takes a conservative approach, assuming that impacts may be borne by private entities, a portion of which may be small entities.

Weighing the Benefits of Designation Versus Exclusion

Comment 34: Several commenters supported the use of a cost-effectiveness framework, one commenter explicitly objected to it, and some commenters had concerns with the way we applied it. One commenter asserted that the economic analysis ''would have been very different'' if we had evaluated the absolute conservation value of an area ''with or without [section] 7 requirements,'' rather than relative conservation values. One commenter asserted that ''[w]ithout any target level of conservation for designation, the framework does not guarantee that areas necessary for conservation will be designated.'' Another commenter asserted that weighing quantitative economic costs against qualitative habitat ratings prejudiced the ESA section 4(b)(2) analysis in favor of excluding areas lacking a high conservation value. Several commenters suggested that the 4(b)(2) process could benefit from more explanation regarding how the process was applied.

Response: We believe the comparison of benefits provides the Secretary useful information as to the benefits of any particular inclusion or exclusion. The Secretary has discretion in balancing the statutory factors, including what weight to give those factors. The ESA provides the Secretary with the discretion to exclude areas based on the economic impact, or any other relevant impact, so long as a determination is made that the benefits of exclusion outweigh the benefits of designation, and so long as the exclusion will not result in extinction of the species concerned.

Subsequent to publication of this rule, we will undertake a review of the methods and criteria applied in this rule. If the Secretary determines the critical habitat designations should be modified as a result of that review, we will propose a revised designation with appropriate opportunity for notice and comment.

Comment 35: In the proposed rule we identified a number of potential exclusions that we were considering but

were not at that time proposing, including Federal lands subject to the Northwest Forest Plan and PACFISH. Many commenters opposed these potential exclusions. Some disagreed that designation of critical habitat is unnecessary or of diminished importance in light of existing management constraints, contending that such a position is contrary to the ESA's conservation purpose and our implementing regulations and citing recent court decisions bearing on this issue. Several commenters indicated that because these ESUs are still listed, existing regulatory and voluntary mechanisms are inadequate and also noted that we concluded as such in our 2000 designations. Some commenters believed that the assumptions underlying such exclusions were unjustifiable and potentially disastrous for salmon recovery. Some commenters noted that the lack of specificity regarding which areas might be excluded as well as the lack of clear exclusion standards seriously hindered the public's ability to comment on the proposed exclusions. In contrast, several commenters supported the potential exclusions mentioned in the proposed rule. Some commenters contended that designating critical habitat on these Federal lands was duplicative with existing ESA section 7 consultation processes, inefficient (*e.g.*, citing costs of re-initiating consultation), and offers no additional conservation benefit to the listed ESUs. One commenter believed that excluding Federal lands would be consistent with our exclusion of lands subject to Integrated Natural Resource Management Plans (INRMPs) since existing land management plans provide similar protections. This commenter also cited the USFWS'' exclusion of Federal lands for bull trout (69 FR 59996; October 6, 2004) and provided information supporting the belief that we should make the same determination for salmon and steelhead ESUs.

Response: Section 4(b)(2) provides the Secretary with discretion to exclude areas from the designation of critical habitat if the Secretary determines that the benefits of exclusion outweigh the benefits of designation, and the Secretary finds that exclusion of the area will not result in extinction of the species. In the proposed rule, and the reports supporting it, we explained the policies that guided us and provided supporting analysis for a number of proposed exclusions. We also noted a number of additional potential exclusions, explaining that we were considering them because the Secretary of the Interior had recently made similar exclusions in designating critical habitat for the bull trout: ''On October 6, 2004, the FWS issued a final rule designating critical habitat for the bull trout * * *. The Secretary of the Interior found that a number of conservation measures designed to protect salmon and steelhead on Federal, state, tribal and private lands would also have significant beneficial impacts to bull trout. Therefore, the Secretary of the Interior determined that the benefits of excluding those areas exceeded the benefits of including those areas as critical habitat. The Secretary of Commerce has reviewed the bull trout rule and has recognized the merits of the approach taken by the Secretary of the Interior to these emerging issues.'' We acknowledged, in the proposed rule, however, that we lacked the analysis to propose these potential exclusions for West Coast salmon and steelhead: At this time, the Secretary of Commerce still ''has not had an opportunity to fully evaluate all of the potential exclusions, the geographical extent of such exclusions, or compare the benefits of these exclusions to the benefits of inclusion.'' Our regulations require that our proposed and final rules provide the data upon which the rule is based (50 CFR 424.16; 50 CFR 424.18).

Recently, in response to the Department of Interior's request, a District Court has remanded the bull trout rule to the Department of Interior for further rulemaking. *Alliance for the Wild Rockies and Friends of the Wild Swan* v. *David Allen and United States Fish and Wildlife* (CV 04–1812). In seeking the remand the Department of Interior noted that it intends to reconsider the 4(b)(2) exclusions in the proposed rule and that it recently issued a **Federal Register** notice seeking comment on those exclusions (70 FR 29998; May 25, 2005). In response, we received extensive comment from those supporting and opposing these potential exclusions. Based on our review of the information received and the short time between the close of the comment period and the court-ordered deadline for completing this rulemaking, we are unable to conclude at this time that the benefits of excluding these areas outweigh the benefits of designation, with the exception of areas covered by two habitat conservation plans, discussed below.

Nevertheless, we will continue to study this issue and alternative approaches in future rulemakings designating critical habitat. In particular, we intend to analyze the planning and management framework for each of the ownership categories proposed for consideration for exclusion. In each case, we envision that the planning and management framework would be evaluated against a set of criteria, which could include at least some or all of the following:

1. Whether the land manager has specific written policies that create a commitment to protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.
2. Whether the land manager has geographically specific goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.
3. Whether the land manager has guidance for land management activities designed to achieve goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.
4. Whether the land manager has an effective monitoring system to evaluate progress toward goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.
5. Whether the land manager has a management framework that will adjust ongoing management to respond to monitoring results and/or external review and validation of progress toward goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.
6. Whether the land manager has effective arrangements in place for periodic and timely communications with NOAA on the effectiveness of the planning and management framework in reaching mutually agreed goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

Comment 36: In the proposed rule we requested comments on the potential exclusion of lands subject to conservation commitments by state and private landowners reflected in habitat conservation plans (HCPs) approved by NMFS. Some commenters (none however with NMFS-approved HCPs) concurred with the potential exclusion of lands covered by an HCP, believing that we would not likely secure additional conservation benefits by designating these areas as critical habitat. Some commenters acknowledged the potential educational benefits of designation but asserted that designating HCP lands could have an

unintended consequence of damaging existing and future cooperative relationships. These commenters additionally noted that HCPs have already undergone extensive environmental review and ESA section 7 consultation and been found to not likely jeopardize the species.

Several commenters disagreed with the potential exclusion of lands covered by HCPs, believing it would be contrary to the ESA, and some cited recent litigation bearing on this issue (*e.g.*, *Center for Biological Diversity* v. *Norton*, 240 F. Supp. 2d 1090 (D. Ariz. 2003); *Gifford Pinchot Task Force* v. *FWS*, 378 F. 3d 1059 (9th Cir. 2004). One commenter did not support such exclusions because of the belief that there are no guarantees the plans will remain in place when, for example, ownership changes or landowners change their minds. Some commenters believed that we failed to adequately describe the benefits of designation as they pertain to these potential exclusions.

Response: The analysis required for these types of exclusions, as with all others, first requires careful consideration of the benefits of designation versus the benefits of exclusion to determine whether benefits of exclusion outweigh benefits of designation. The benefit of designating critical habitat on non-Federal areas covered by an approved HCP or another type of conservation agreement depends upon the type and extent of Federal activities expected to occur in that area in the future. Activities may be initiated by the landowner, such as when the landowner seeks a permit for bank stabilization, water withdrawal, or dredging. Where the area is covered by an HCP, the activity for which a permit is sought may or may not be covered by the HCP. For example, an HCP covering forestry activities may include provisions governing construction of roads, but may not include provisions governing bank stabilization or pesticide application. The activity may be initiated by the Federal agency without any landowner involvement, such as when a Federal agency is involved in building a road or bridge, dredging a navigation channel, or applying a pesticide on Federal land upstream of the HCP-covered area. In analyzing the benefits of designation for these HCP-covered areas, we must consider which Federal activities are covered by the HCP and which are not. Where activities are covered by the HCP, we must consider whether an ESA section 7 consultation on that particular activity would result in beneficial changes to the proposed action over and above what is achieved under the HCP. Designation may also benefit the species by notifying the landowner and the public of the importance of an area to species' conservation.

On the other side of the balance are the benefits of exclusion. We believe the primary benefits of exclusion are related to the conservation benefits to the species that come from conservation agreements on non-Federal land. If a landowner considers exclusion from critical habitat as a benefit, exclusion may enhance the partnership between NMFS and the landowner and thus enhance the implementation of the HCP or other agreement. If other landowners also consider exclusion from critical habitat as a benefit, our willingness to exclude such areas may provide an incentive for them to seek conservation agreements with us. Improved implementation of existing partnerships, and the creation of new conservation partnerships, would ultimately benefit conservation of the species.

Conservation agreements with non-Federal landowners enhance species conservation by extending species' protections beyond those available through other ESA provisions. ESA section 7 applies only to Federal agency actions. Section 7 consultation requirements protect listed salmon and steelhead on Federal lands and whenever a Federal permit or funding is involved in non-Federal actions, but its reach is limited. The vast majority of activities occurring in riparian and upland areas on non-Federal lands do not require a Federal permit or funding and are not addressed by section 7. In contrast, instream activities generally do require a Federal permit, and therefore, are subject to the requirements of section 7. The ability of the ESA to induce landowners to adopt conservation measures lies instead in the take prohibitions of sections 9(a) and 4(d). Many landowners have chosen to put conservation plans in place to avoid any uncertainty regarding whether their actions constitute 'take'.

Beginning in 1994, when we released our draft HCP Handbook for public review and comment, we have pursued policies that provide incentives for non-Federal landowners to enter into cooperative partnerships, based on a view that we can achieve greater species' conservation on non-Federal land through HCPs than we can through coercive methods (61 FR 63854; December 2, 1996). Before we approve an HCP and grant an incidental take permit, we must conduct a rigorous analysis under ESA section 10. The HCP must specify the impact likely to result from take, what steps the applicant will take to minimize and mitigate such impacts, and the funding available to implement such steps. The applicant must have considered alternative actions and explained why other alternatives are not being pursued, and we may require additional actions necessary or appropriate for the purposes of the plan. Before an HCP can be finalized, we must conclude that any take associated with implementing the plan will be incidental, that the impact of such take will be minimized and mitigated, that the plan is adequately funded, and that the take will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. The HCP undergoes environmental analysis under the National Environmental Policy Act (NEPA), and we conduct a section 7 consultation with ourselves to ensure granting the permit is not likely to jeopardize the continued existence of the species or destroy or adversely modify designated critical habitat.

Based on comments received, we could not conclude that all landowners view designation of critical habitat as imposing a burden on the land, and exclusion from designation as removing that burden and thereby strengthening the ongoing relationship. Where an HCP partner affirmatively requests designation, exclusion is likely to harm rather than benefit the relationship. We anticipate further rulemaking in the near future to refine these designations, for example, in response to developments in recovery planning. In order to aide in future revisions, we will affirmatively request information from those with approved HCPs regarding the effect of designation on our ongoing partnership. We did not consider pending HCPs for exclusion, both because we do not want to prejudge the outcome of the ongoing HCP process, and because we expect to have future opportunities to refine the designation and consider whether exclusion will outweigh the benefit of designation in a particular case.

Comment 37: We received a request from the Sonoma County Grape Growers Association and the United Winegrowers for Sonoma County to consider a determination to exclude all occupied areas in Sonoma County from critical habitat for California coastal chinook and central California coast *O. mykiss* based on the conservation value of a suite of cooperative and voluntary conservation efforts being implemented and developed by local government and the private sector, primarily the viticultural industry, in Sonoma County.

Response: These efforts may currently provide a significant conservation benefit to the listed species, and offer the promise of even greater benefits in the future. The measures include the Vineyard Erosion and Sedimentation Control Ordinance adopted by the Sonoma County Board of Supervisors; the Fish Friendly Farming Program; the North Sonoma County Agricultural Reuse Project; the planned Russian River Property Owners Association Fisheries Management Plan; the Integrated Pest Management/Organic Grape Production initiatives; and the Code of Sustainable Winegrowing Practices. The submission can be found electronically at *http://swr.nmfs.noaa.gov/.*

The request suggests the benefits of excluding the area covered by these measures from critical habitat may outweigh the benefits of including it as critical habitat because it provides conservation measures on private land in an area dominated by private ownership, which is generally beyond the reach of ESA section 7, and may therefore provide a greater benefit for the species than a critical habitat designation. Private landowners would be encouraged to participate in these voluntary programs if their lands were excluded from critical habitat.

We received this request on July 21, 2005, so we did not have time to evaluate this request as part of this rulemaking process, and could not defer the rule to accommodate a review because we are under court order to submit this final rule to the **Federal Register** by August 15, 2005. However, we are committed to working with local governments and private landowners in cooperative conservation efforts under Executive Order (E.O.) 13352 (August 26, 2004). As stated above, we anticipate further rulemaking in the near future to refine these designations. Accordingly, we expect to complete an evaluation of the conservation benefits of the measures described by the Sonoma County Grape Growers Association and the United Wine growers for Sonoma County by the end of 2005. If we find that in light of the conservation value of these measures, the benefit of excluding these private lands outweighs the benefits of including them as critical habitat, we will act promptly to propose a revision to this designation.

Comment 38: Some commenters addressed the exclusion of Indian Lands. All of the commenting Tribes and the Bureau of Indian Affairs (BIA) reiterated their support for the exclusions.

Response: This final rule maintains the exclusion of Indian lands for the reasons described in the ''*Exclusions Based on Impacts to Tribes*'' section below.

Comment 39: A few commenters addressed our assessment of INRMPs and the exclusion of Department of Defense (DOD) areas due to impacts on national security. DOD agencies supported the exclusion of military lands based on both the development of INRMPs as well as national security impacts, while other commenters did not support such exclusions. One commenter argued that we should not use the general ''national security'' language in ESA section 4(b)(2) to remove our obligation to comply with the demand for adequate INRMPs.

Response: Pursuant to section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)), we contacted the DOD, and, after evaluating the relevant INRMPs, we concluded that, as implemented, they provide conservation benefits greater than or equal to what would be expected to result from an ESA section 7 consultation. We also determined that two of these INRMP sites (Camp Pendleton and Vandenberg Air Force Base) should be excluded from designation due to potential impacts on national security. See the ''Military Lands'' and the ''Exclusions Based on National Security Impacts'' sections below.

Effects of Designating Critical Habitat

Comment 40: Some commenters noted that the success of watershed management and restoration efforts is dependent on critical habitat protections, noting that designations assist local recovery planning efforts and provide leverage in obtaining funding and cooperation. Several commenters expressed concern that excluding areas from designation, particularly areas identified in existing recovery efforts as important for salmon, would undermine ongoing regional and local recovery planning efforts by signaling that these areas are not important for recovery.

Response: We acknowledge that critical habitat designations can serve an important educational role and that they can assist local recovery planning and implementation efforts. The ESA requires that we use the best available scientific data to evaluate which areas warrant designation and that we balance the benefits of designation against the benefits of excluding particular areas. In so doing, it is possible that some areas subject to ongoing restoration activities may have been excluded from designation. However, such exclusions do not indicate that the areas are unimportant to salmon or steelhead, but instead reflects the practical result of following the ESA's balancing of benefits as required under section 4(b)(2). We are hopeful that the information gathered and the analyses conducted to support these final designations (such as species distribution, watershed conservation value, and economic impacts from section 7 consultations) will be viewed as valuable resources for local recovery planners. As recovery planning proceeds and we determine that additional or different areas warrant designation or exclusion, we can and will make needed revisions using the same rulemaking process.

Comment 41: Several commenters asked for clarification regarding how we will make adverse modification determinations in ESA consultations. One commenter also suggested that a finding of adverse modification would need to be contingent on the habitat conditions existing at the time of designation. They noted that, where such conditions are the result of past and present management actions, and where those existing conditions would not be altered through proposed future actions, it is their belief that consultation on such future actions would result in a ''no adverse modification'' determination.

Response: In *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004), the Court of Appeals for the Ninth Circuit Court ruled that the USFWS' regulatory definition of ''destruction or adverse modification'' of critical habitat, which is also NMFS' regulatory definition (50 CFR 402.02), is contrary to law. Pending issuance of a new regulatory definition, we are relying on the statutory standard, which relates critical habitat to conservation of the species. The related point raised by one commenter regarding the relevance of habitat conditions at the time of listing when making an adverse modification determination cannot be answered in a generic way and would depend on the facts associated with a specific consultation.

Comment 42: Some commenters objected to the potential land use regulations that critical habitat designation would prompt, citing specific cases where local agencies have imposed buffers and/or other restrictions to protect ESA-listed fish.

Response: The ESA requires that we designate critical habitat and these designations follow that statutory mandate and have been completed on a schedule established under a Consent Decree. Whether and if local jurisdictions will implement their

authorities to issue land use regulations is a separate matter and is not under our control.

Comment 43: Several commenters believed that we fail to (or inadequately) address required determinations related to a number of laws, regulations, and executive orders, including the NEPA, Regulatory Flexibility Act, and Data Quality Act.

Response: Our response to each of these issues are described below, and we also direct the reader to the ''Required Determinations'' section to review our response to each of the determinations relevant to this rulemaking.

(a) *NEPA*—We believe that in *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S. Ct. 698 (1996) the court correctly interpreted the relationship between NEPA and critical habitat designation under the ESA. The Court of Appeals for the Ninth Circuit rejected the suggestion that irreconcilable statutory conflict or duplicative statutory procedures are the only exceptions to application of NEPA to Federal actions. The court held that the legislative history of the ESA demonstrated that Congress intended to displace NEPA procedures with carefully crafted procedures specific to critical habitat designation. Further, the Douglas County Court held that the critical habitat mandate of the ESA conflicts with NEPA in that, although the Secretary may exclude areas from critical habitat designation if such exclusion would be more beneficial than harmful, the Secretary has no discretion to exclude areas from designation if such exclusion would result in extinction. The court noted that the ESA also conflicts with NEPA's demand for impact analysis, in that the ESA dictates that the Secretary ''shall'' designate critical habitat for listed species based upon an evaluation of economic and other ''relevant'' impacts, which the court interpreted as narrower than NEPA's directive. Finally, the court, based upon a review of precedent from several circuits including the Fifth Circuit, held that an environmental impact statement is not required for actions that do not change the physical environment.

(b) *Regulatory Flexibility Act*—We have prepared a final regulatory flexibility analysis that estimates the number of regulated small entities potentially affected by this rulemaking and the estimated coextensive costs of section 7 consultation incurred by small entities. As described in the analysis, we considered various alternatives for designating critical habitat for these seven ESUs. After considering these alternatives in the context of the ESA section 4(b)(2) process of weighing the benefits of exclusion against the benefits of designation, we determined that our current approach to designation provides an appropriate balance of conservation and economic mitigation and that excluding the areas identified in this rulemaking would not result in extinction of the ESUs. Our final regulatory flexibility analysis estimates how much small entities will save in compliance costs due to the exclusions made in these final designations.

(c) *Data Quality Act*—One commenter asked if we had complied with the Data Quality Act. We have reviewed this rule for compliance with that Act and found that it complies with NOAA and OMB guidance.

(d) *Negotiated Rulemaking Act (5 U.S.C. 561 et seq.)*—One commenter asserted that we should have engaged in negotiated rulemaking to issue this final critical habitat designation. This is an interesting idea and could be pursued in future critical habitat rulemaking. However, because a court approved consent decree governs the time frame for completion of this final rule, we do not feel that there was ample time to comply with the numerous processes defined in the Negotiated Rulemaking Act for this rulemaking. For example, the Negotiated Rulemaking Act provides that if the agency decides to use this tool it must follow Federal Advisory Committee Act procedures for selection of a committee, conduct of committee activities, as well as specific documentation processes (See *Negotiated Rulemaking Source Book,* 1990).

(e) *Intergovernmental Cooperation Act*—One commenter asserted that we did not properly and fully coordinate with local governments and did not comply with the Intergovernmental Cooperation Act. First, the commenter did not provide a statutory citation for the Intergovernmental Cooperation Act. Although we are reluctant to speculate on that Act, we believe the comment is in reference to the Intergovernmental Cooperative Act, Public Law 90–577, 82 Stat. 1098 (1968) as amended by Public Law 97–258 (1982) (codified at 31 U.S.C. 6501–08 and 40 U.S.C. 531–35 (1988)). This Act addresses Federal grants and development assistance. Accordingly, we do not find it relevant to the mandatory designation of critical habitat under the ESA. To the extent that the commenter's concern is assuring that state, local and regional viewpoints be solicited during the designation process, the ESA and our implementing regulations provides for public outreach (16 U.S.C. 1533 (b)(3)(A); 50 CFR 424.16). As noted in response to Comment 1, we actively sought input from all sectors beginning with an ANPR (68 FR 55926; September 29, 2003) and culminating in four public hearings to facilitate comment from the interested public in response to the proposed rule. In addition we met with several local governments and made ourselves available to meet with others.

(f) *National Historic Preservation Act (NHPA)*—One commenter asserted that we failed to comply with the NHPA (16 U.S.C. 470–470x–6). The NHPA does not apply to this designation. The NHPA applies to ''undertakings.'' ''Undertakings'' are defined under the implementing regulations as ''a *project, activity* or *program* funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.'' (emphasis added) (36 CFR 800.16). The mandatory designation of specific areas pursuant to the criteria defined in the ESA does not constitute an ''undertaking'' under the NHPA.

(g) *Farmland Protection Policy Act (FPPA)*—One commenter asserted that we failed to comply with FPPA (7 U.S.C. 4201). The FFPA does not apply to this designation. The FPPA applies to Federal programs. Federal programs under the Act are defined as ''those activities or responsibilities of a department, agency, independent commission, or other unit of the Federal Government that involve: (A) Undertaking, financing, or assisting construction or improvement projects; or (B) acquiring, managing or disposing of Federal lands and facilities. The designation of critical habitat does not constitute a ''Federal program'' under the FFPA.

(h) *Unfunded Mandates Reform Act*—One commenter asserted that we failed to properly conduct and provide an unfunded mandates analysis because, the commenter contended, we based our decision solely on public awareness of the salmon listings. This is not the case. In the proposed rule, we found that the designation of critical habitat is not subject to the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) and explained in detail why this is the case.

(i) *Federalism*—One commenter asserted that we failed to properly comply with E.O. 13132. In the proposed rule, we found that the designation of critical habitat does not

have significant Federalism effects as defined under that order, and, therefore, a Federalism assessment is not required. We find nothing in the commenter's assertions to warrant changing our original determination.

(j) *Takings*—One commenter disputed our conclusion in the proposed rule that the designations would not result in a taking. The commenter offered no information or analysis that would provide a basis for a different conclusion.

(k) *Civil Justice Reform*—One commenter asserted that we failed to properly conduct and provide a Civil Justice Reform analysis pursuant to E.O. 12988, the Department of Commerce has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the E.O. We are designating critical habitat in accordance with the provisions of the ESA. This final rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of the 12 salmon and steelhead ESUs.

ESU-Specific Issues

ESU Specific Comments—California Coastal Chinook Salmon

Comment 44: One private timberland owner commented that the freshwater distribution of Chinook salmon that we developed and used for their land ownership had errors in occupancy and/or upstream distribution limits. The landowner provided us with distribution information they had developed for their ownership so that the distribution information and resulting final critical habitat designation for this ESU would be more accurate.

Response: Following a review of this new information by the CHART, we incorporated it into our database and made changes in the mapped distribution of this ESU for the commenter's land ownership. The new information changed the distribution of Chinook in the following streams and Calwater HSAs: Maple Creek (110810), Little River (110820), and the Mad River (110920 and 110930). Overall, these changes in distribution were minor and increased the total occupied stream miles for this ESU by only 0.6 mi (1.0 km). Based on a reassessment by the CHART, these changes in distribution did not change the occupancy status (i.e. occupied to unoccupied or vice versa) or conservation value of any of the affected HSAs, and therefore, the economic analysis did not require revision.

Comment 45: A few commenters questioned why there was no proposed critical habitat connecting those portions of the mainstem Eel River in HSA 111142 with the high value habitat areas in the upper tributaries of the middle Fork Eel River in HSA 111172.

Response: In the proposed rule, HSA watershed 111171 was proposed for exclusion based on high economic cost (high benefit of exclusion) and relatively low benefit of designation. However, because the upper tributaries of the middle Fork Eel in HSA 111172 were rated as having high conservation value, the mainstem middle Fork Eel in HSA 111171 should have been designated as a migratory corridor to provide connectivity between critical habitat farther downstream in the mainstem Eel River and the high value tributaries that were proposed for designation. This was an error that has been corrected in the final rule. The final designation excludes HSA 111171 as was the case in the proposed rule, but designates the mainstem of the middle Fork Eel River, which serves as a migratory corridor for the high value upstream tributaries, as critical habitat.

Comment 46: A commenter questioned the conservation ratings and proposed designations for five of the seven occupied HSAs comprising the Mendocino Coast Subbasin (HU 1113). The commenter specifically questioned the historic and current presence of Chinook in these watersheds and thought any Chinook that did occur in these watersheds were likely strays from other watersheds.

Response: The CHART considered these comments and reviewed its original assessments. It concluded that its original conservation value ratings were appropriate based on the ranking criteria that were used and the information that was available, and that these areas met the definition of critical habitat under the ESA. Accordingly, the conservation value ratings for these HSA watersheds were not changed. Based on the ESA section 4(b)(2) analysis conducted for the final rule, however, HSA watershed 111350 (Navarro River) in this Subbasin was excluded from the final designation for this ESU.

Comment 47: One commenter questioned the proposed designation of critical habitat for this ESU in the Austin Creek HSA (111412) and Mark West HSA (111423), based on the view that neither watershed supported a historically self sustaining run and that Chinook in both streams were most likely strays from other watersheds.

Response: The CHART considered this comment and reviewed its original assessments. It concluded that its original conservation value ratings were appropriate based on the ranking criteria that were used and the information that was available, and that these areas met the definition of critical habitat under the ESA. Accordingly, the conservation value ratings for these HSA watersheds were not changed. Based on the ESA section 4(b)(2) analysis conducted for the final rule, however, HSA 111423 (Mark West Creek) in this Subbasin was excluded from the final designation for this ESU.

Comment 48: A property owners' association on the Russian River that controls land adjacent to portions of the Russian River in HSAs 111425 and 111424 requested that its lands be excluded from the final designations for California Coastal Chinook (and Central California Coast steelhead) because it has developed a Watershed Management Plan to manage its lands and because the benefits of excluding its lands outweigh the benefits of including them in the designation.

Response: We are very supportive of the development and implementation of this plan and have in fact participated in its development. However, we do not think this plan qualifies as the basis for excluding these lands from the final designation for either ESU at present, since it is not completed. Once the plan is completed, we will evaluate it to determine whether the benefits of excluding the habitat areas in question will outweigh the benefits of designation. In making this assessment we will evaluate the plan in the same manner as we would evaluate an approved habitat conservation plan (see *Impacts to Landowners with Contractual Commitments to Conservation* section). If we determine that the benefits of exclusion outweigh the benefits of designation, then we will initiate the appropriate rulemaking to refine the critical habitat designations.

ESU Specific Comments—Northern California Steelhead

Comment 49: Two private timberland owners commented that the freshwater distribution of steelhead that we developed and used for their land ownership had errors in occupancy and/or upstream distribution limits. Both landowners provided us with distribution information they had developed for their ownership so that the fish distribution information we used for the final critical habitat designation for this ESU would be more accurate.

Response: Following a review of this new information by the CHART, we incorporated it into our database and made changes in the mapped distribution of this ESU for the commenters' land ownership. The new information from one of the landowners changed the distribution of steelhead in the following streams and Calwater HSAs: Maple Creek (110810), Redwood Creek (110720), Little River (110820), Mad River (110920 and 110930), and several small streams including Rocky Gulch, Washington Gulch, Jacoby Creek, Freshwater Creek, and Salmon Creek (111000). Overall, these changes in distribution were minor and increased the total occupied stream miles for this ESU by only 1.1 mi (1.8 km). The changes in distribution did not affect the occupancy or conservation value rating for any of these HSAs. The new information from the other landowner changed the distribution of steelhead in the following streams and HSAs: SF Eel (111132, 111133), Usal Creek (111311), Wages Creek (111312), Ten Mile River (111313), Mill Creek, Pudding Creek and the Noyo River (111320), Big River (111330) and Salmon Creek (111340). Overall, this new information decreased the occupied stream miles for the ESU by approximately 17 miles and affected 8 HSAs. Based on a re-assessment by the CHART, these changes in distribution did not change the occupancy status (i.e. occupied to unoccupied or vice versa) or conservation value of any of the affected HSAs, and therefore, the economic analysis did not require revision.

ESU Specific Comments—Central California Coast Steelhead

Comment 50: One commenter requested that San Francisquito Creek and Los Trancos Creek in HSA 220550 be excluded from the critical habitat designation for this ESU because of the economic impact of designation and because neither creek requires special management considerations. A second commenter requested that San Francisquito Creek not be designated because of the regulatory burden and because the economic impacts on water supply were not included in the economic analysis. The second commenter also identified a labeling error concerning West Union Creek.

Response: We disagree with the first commenter and believe that these streams do require special management considerations. Both streams have extensive zones of healthy riparian vegetation and habitat and support significant steelhead populations in the San Francisco Bay area. These relatively healthy habitats and populations are unique to the San Francisco Bay area, and therefore, the CHART believes they require special management considerations. The commenter has many programs in place that benefit both creeks, but there are also many unresolved habitat issues that remain to be addressed. For example, on Los Trancos Creek a poorly designed fish ladder needs to be replaced, and several other fish passage issues remain. In addition, NMFS and CDFG have discussed the inadequate bypass flows on Los Trancos Creek below the commenter's water diversion for the past several years, but have yet to resolve the issue. Special management considerations are also necessary to address ongoing and expanding impacts of urbanization on the San Francisco Peninsula. We considered the impacts of designating the HSA watershed containing these creeks in the proposed rule and again using a revised procedure for the final rule. Based on the ESA section 4(b)(2) analysis used for the final rule, we concluded that the benefits of including this HSA watershed in the designation (medium conservation value to the ESU) outweighed the benefits of excluding it from the designation. On the basis of this analysis, therefore, we do not think there will be an unwarranted regulatory burden placed on these commenters or any other entities that may need to obtain Federal permits and consult with NMFS in this HSA watershed. We acknowledge the comment that water supply impacts were not considered in the proposed rule or in the revised 4(b)(2) process for the final rule, but we have addressed water supply impacts as a general issue in greater detail in the final economic analysis for this rule.

Comment 51: One commenter argued that Suisun and Wooden Valley Creeks in HSA 220722 do not provide suitable habitat for steelhead and that designation is not justified because surrounding HSAs were not proposed for designation.

Response: We disagree with the commenter and believe that Suisun and Wooden Valley Creeks currently support a population of steelhead and do provide suitable habitat for rearing, spawning and migration (and thus, the PCEs that support these habitat uses). The reports cited by the commenter include a discussion of limiting factors in Suisun Creek, but also include several favorable findings regarding steelhead habitat conditions in the watershed. These findings suggest that there is suitable habitat for steelhead in the watershed and that steelhead spawned in Suisun Creek in 2000–2001. Based on the information available, therefore, we believe that the medium conservation rating originally made by the CHART for this HSA watershed is appropriate. The revised ESA section 4(b)(2) exclusion analysis conducted for the final rule, however, considered section 7 opportunities within HSA watersheds and adjusted the benefits of inclusion in critical habitat accordingly. In the case of this HSA, this re-consideration resulted in a reduced assessment of the benefits of designating this watershed. Based on this revised benefit of designation in the final 4(b)(2) analysis, we have concluded that the benefits of excluding this HSA from the designation outweigh the benefits of designating it. Accordingly, this HSA watershed and the streams in question have been excluded from the final critical habitat designation.

Comment 52: Several commenters raised issues concerning our proposal to include the upper Alameda Creek watershed (which supports resident *O. mykiss* considered to be part of this ESU; see 69 FR 33101; June 14, 2004) in the critical habitat designation for this ESU. Comments ranged from support for designation of this watershed to requests that it not be designated. Issues were raised about the adequacy of the economic analysis supporting the ESA section 4(b)(2) analysis, the mapped distribution of proposed critical habitat in the watershed, the suitability of the habitat in upper Alameda Creek for steelhead, and the lack of access for steelhead.

Response: We recognize that the upper Alameda Creek watershed (HSA 220430) is not accessible to anadromous steelhead; however, the CHART treated this watershed as occupied in the analysis supporting the proposed rule because there are resident *O. mykiss* populations in the upper watershed that we had previously proposed for inclusion in this ESU (69 FR 33101). In its original analysis, the CHART concluded that this watershed had high conservation value to the ESU, contained the requisite PCEs to support the ESU, and that special management considerations were required to protect these PCEs. Based on this assessment and the original 4(b)(2) analysis which considered the benefits of including this watershed against the benefits of excluding it, we proposed to include it in the designation, as well as a migratory corridor to San Francisco Bay through a portion of the adjacent watershed (HSA 220420) that was proposed for exclusion. We recently invoked a statutory 6-month extension on our final listing determination for this ESU (70 FR 37219) based on concerns raised by the USFWS, and,

therefore, at the time of publication of this final critical habitat rule, these resident populations of *O. mykiss* will not be included in this ESU and listed. Because our original proposal was premised on the upper Alameda Creek watershed being occupied by resident fish that were part of this ESU and a final listing determination concerning these populations will not be made before December 2005, we have not included this watershed in the final critical habitat designation for this ESU. A decision about whether to designate this watershed as critical habitat for this ESU will be made concurrently with the final listing determination for this ESU in December 2005.

Comment 53: One commenter opposed inclusion of the Guadelupe River/Los Gatos Creek watershed in the proposed critical habitat designation for this ESU.

Response: The watershed (HSA 220540) containing the upper portion of Guadelupe River and Los Gatos Creek was not included in the proposed designation. Occupied habitat in this watershed was excluded from the proposed rule based on the ESA section 4(b)(2) analysis which concluded that the economic benefits of exclusion outweighed the biological benefits of inclusion. The watershed unit (HSA 220550) which contains the lower portion of the Guadelupe River, however, was included in the proposed designation. It is also included in the final critical habitat designation for this ESU because the biological benefits of including the occupied stream habitat in this watershed outweigh the economic benefits of its exclusion.

Comment 54: One commenter argued that Arroyo Corte Madera del Presidio Stream in HSA watershed 220320 should be designated as critical habitat for this ESU because it is occupied by this ESU. The same commenter also questioned the exclusion of HSA 220330 from the proposed designation.

Response: Exclusion of this stream from proposed critical habitat in HSA 220320 was the result of a technical mapping error in the proposed rule. The CHART evaluated this stream for the proposed rule and concluded it was occupied and met the definition of critical habitat. Accordingly, it has been included in the final designation for this ESU. Occupied habitat in HSA 220330 was excluded from the proposed rule and in this final rule based on the results of the 4(b)(2) analysis, which indicated the economic benefits of exclusion outweighed the biological benefits of including these stream reaches in the designation for this ESU.

Comment 55: One commenter argued that occupied habitat in HSA 220330 in the east Bay of San Francisco should be designated as critical habitat for this ESU.

Response: Occupied habitat (Codornices Creek) in this HSA was excluded from the proposed designation because the conservation value of this habitat was judged by the CHART to be low (low habitat quantity and quality, low restoration potential, no unique attributes, and small population size), and the economic benefits of excluding this habitat outweighed the biological benefits of designation. The CHART did not receive any new information to change its previous determination, and, therefore, reaffirmed that it has low conservation value and that its exclusion would not impede the conservation of this ESU.

Comment 56: One commenter recommended that several additional, but small, stream reaches in the San Francisquito watershed, as well as an unoccupied habitat above an impassable dam (Searsville Dam), be designated as critical habitat for this ESU.

Response: Based on a review of the information provided by the commenter, the CHART concluded that some additional stream reaches in this watershed should be considered occupied, meet the definition of critical habitat, and should be designated as critical habitat. Because this watershed was not excluded from the designation as a result of the final ESA 4(b)(2) analysis, additional stream reaches qualifying as critical habitat have been added to the final designation. These include: a short reach of Corte Madera Creek to the base of Searsville Dam, approximately 2.5 mi (4 km) of West Union Creek above the confluence with Bear Creek, a short reach of Bear Gulch Creek up to the California Water Service Upper Diversion Dam, a small portion of Squealer Gulch above the confluence with West Union Creek, and a small portion of McGarvey Gulch above the confluence with West Union Creek.

Comment 57: One commenter requested the exclusion of several streams in Hydrologic Unit 3304 from the critical habitat designation, including Laguna Creek, Liddell Creek, Majors Creek, Arana Gulch, San Lorenzo River, Branciforte Creek, Newell Creek, and Zayante Creek because the commenter believes the benefits of excluding these areas outweigh the benefits of designating them. The rationale is that: (1) The commenter is developing an HCP that will address these streams and a designation could hinder its completion; and (2) a designation would increase the regulatory costs and burdens on the city beyond those already in place. The commenter also raised concerns about the regulatory uncertainty associated with critical habitat because of the 2004 Gifford Pinchot case.

Response: We disagree with the commenter and continue to believe that the benefits of including these streams in the critical habitat designation outweigh the benefits of excluding them. For the proposed critical habitat designation, the CHART evaluated the HSA watersheds containing the streams identified by the commenter (HSAs 330411 and 330412) and concluded that the occupied streams in both HSAs had high conservation value for this ESU and that there was a need for special management consideration or protections. Based on this assessment and the results of the ESA section 4(b)(2) analysis conducted for the proposed designation, including the consideration of potential economic impacts, we concluded that the benefits of designating the occupied streams in both watersheds were higher than the benefits of excluding them. The commenter did not provide any new scientific information to change our assessment of the benefits of designating these streams, and thus we continue to believe they have a high biological value to the ESU. As part of the 4(b)(2) analysis conducted for the final rule, however, we did reduce our assessment of the benefit of designating occupied habitat in these two HSA watersheds because they both met a ''low section 7 leverage'' profile, which we believed reduced the benefits of section 7 consultation (see discussion in *Critical Habitat Analytical Review Teams* section).

We continue to be supportive of the commenter's efforts to develop an HCP and believe completion of an HCP that meets the requirements of section 10 of the ESA will provide substantial benefits to steelhead and its habitat in these streams. However, negotiations are still ongoing, and an HCP has not been completed. Until an HCP is completed and an incidental take permit is issued, the potential conservation benefits to steelhead and its habitat are uncertain. For this reason, we believe it is premature to consider the potential benefits of such a conservation plan in the 4(b)(2) analysis for this final designation. Whether or not the commenter would experience an increased regulatory burden or higher costs with a critical habitat designation in place is uncertain. Even without critical habitat in place, the commenter is likely to incur costs associated with ESA section 7 consultations,

development of an HCP, and/or efforts to avoid take. We did consider the economic impacts of critical habitat designation in both the proposed and final rules and in doing so analyzed the full costs of section 7 implementation, not just the costs associated with critical habitat implementation. In approaching the economic analysis this way, we believe that we have likely overstated the economic impacts of critical habitat designation. The final 4(b)(2) analysis for this designation considered both the reduced benefit of including HSA watersheds 330411 and 330412 and the final economic impacts for these watersheds. Based on our consideration of this information, we concluded that the benefits of designating the occupied stream reaches in HSAs 330411 and 330412, including the streams of concern to the commenter, outweighed the benefits of excluding them from the final designation.

ESU Specific Comments—South-Central Coast Steelhead

Comment 58: One commenter questioned the conservation value of the San Benito watershed (HSA 330550) and also argued that unoccupied habitat areas above Uvas Creek Dam were not essential for the conservation of this ESU.

Response: The San Benito watershed unit (HSA 330550) was rated as having medium conservation value to this ESU by the CHART based on factors used to conduct the conservation value rating and ranking effort. For the proposed critical habitat ESA section 4(b)(2) analysis, therefore, we attributed a medium benefit of designation to this watershed unit. For the final designation, we conducted a revised 4(b)2 analysis that modified the biologically based conservation value scores if they met a ''low section 7 leverage'' profile which we believe reduce the benefits of section 7 consultation (see discussion in *Critical Habitat Analytical Review Teams* section). In the case of HSA 330550, we determined that there was relatively low section 7 leverage which reduced the benefits of section 7 consultation, and therefore, reduced the benefit of inclusion from medium to low. Based on this low benefit level and comparatively high economic costs associated with section 7 consultations in this watershed unit, this watershed was considered for possible exclusion. However, the CHART reviewed the available biological and other information for this watershed unit and concluded that its exclusion would impede the conservation of this ESU. This determination was based on the size of the San Benito River and its contribution of habitat to the Pajaro River Basin, the level of section 7 activity occurring in the watershed, and the San Benito River's potential contribution to the recovery of this ESU. Accordingly, we have included the San Benito watershed unit HSA 330550 in the final critical habitat designation.

In the proposed critical habitat designation, the CHART did conclude that the unoccupied habitat above the Uvas Creek Dam ''may'' be essential for conservation of this ESU. We recognize, however, that there are several issues related to providing fish passage over this dam and also believe it is premature to include this unoccupied habitat area in the critical habitat designation until ongoing recovery planning efforts have progressed to the point where they support a determination that these areas are essential to the conservation of this ESU.

Comment 59: One commenter questioned whether the apparent exclusion of a portion of the drainage into Morro Bay was based on a consideration of land ownership.

Response: The identification and conservation rating of occupied habitat that was eligible for designation used only biological and ecological criteria, including information regarding presence of steelhead and habitat condition. Land ownership was not a consideration in the conservation rating process nor in the section 4(b)(2) analysis that identified areas for exclusion based on a balancing of the benefits of designation against the economic costs of designation. In reviewing the proposed critical habitat designation maps in response to this comment, however, we discovered a technical mapping error in Los Osos Creek. An upstream portion of Los Osos Creek was proposed for designation in HSA 331023, but the lower portion of the creek which enters into Morro Bay was inadvertently excluded from the designation. We have corrected this error in the final designation.

Comment 60: One commenter recommended exclusion of San Luis Obispo Creek from the designation for this ESU based on the management plans and existing agreements already in place which provide protection for the creek and steelhead. The commenter also raised questions about the validity of the economic impact analysis used for the proposed critical habitat designation process in light of costs incurred as a result of ESA section 7 consultation on a water reuse project.

Response: The commenter and other local agencies have undertaken numerous efforts to conserve and improve existing habitats within the San Luis Obispo Creek watershed, though some efforts were a result of regulatory requirements to compensate for the adverse effects of proposed actions. However, these conservation efforts have been confined to localized areas and provide no reliable ability to effectively protect existing suitable habitat for steelhead and improve currently degraded habitats. We have not conducted a review to determine whether the existing local conservation and management efforts (e.g., conservation easements, creek set-back ordinance, sewer ordinance) contain measures that would be expected to protect existing suitable habitat for steelhead, and, therefore, the possible benefits that existing management plans may have for the conservation of steelhead and their habitat is unknown. We have, however, reviewed the draft Creeks and Waterway Management Plan (i.e., the Environmental Impact Statement), which describes management and protection of streams within the San Luis Obispo Creek watershed, and concluded that many of the ''management'' activities (e.g., use of rock riprap, removal of woody debris, creation or modification of channels, and in-channel detention enhancements) in the plan would create conditions unfavorable for long-term survival and reproduction of steelhead within the San Luis Obispo Creek watershed and, in turn, the entire ESU. Based on these considerations and other information regarding activities potentially affecting steelhead habitat in the San Luis Obispo Creek watershed, we disagree with the commenter and continue to believe there is a need for special management considerations or protections of occupied stream habitat in the San Luis Obispo Creek watershed. Accordingly, the final designation for this ESU includes all occupied stream reaches in HSA 331024, including San Luis Obispo Creek.

We acknowledge that the economic analysis used in the ESA section 4(b)(2) analysis for the proposed designation did not address water supply and flow modification related projects adequately. The final economic analysis prepared for this designation addresses these issues more completely, though it does not specifically address the water reuse project. Rather than understate the costs of critical habitat designation, we believe that the economic analyses prepared for the proposed and final designations actually overestimate the incremental economic costs associated with critical habitat designation. In our economic analyses, we estimated the

total cost of ESA section 7 consultation for specific project types anticipated to occur in the foreseeable future based on information from Federal agencies and other sources. We believe that much of the estimated costs can be attributable to the presence of listed fish and the jeopardy analysis in section 7 consultation. Indeed, the costs cited by the commenter for its water reuse project were associated with a section 7 consultation that addressed the presence of listed steelhead in the watershed, not critical habitat. Although consideration of critical habitat adverse modification in the consultation on the water reuse project may have resulted in additional project changes, we do not think they are likely to be significant.

Comment 61: Several commenters were confused about whether West Corral de Piedra Creek, an upstream tributary to Pismo Creek (HSA 331026), was included in the proposed designation, and whether areas above a local dam (the Righetti Dam) on this creek were included in the designation. Some commenters also argued that habitat above the Righetti Dam was of high quality for steelhead and should be included in the critical habitat designation. One commenter also requested that an unnamed tributary of West Corral de Piedra Creek be designated, while a second commenter requested that it not be designated.

Response: West Corral de Piedra Creek was included in the proposed designation and has also been included in the final designation for this ESU. The maps used to depict occupied stream habitat and the proposed critical habitat, however, did not properly label West Corral de Piedra Creek, hence the confusion of the commenters. We have corrected this problem in the maps depicting the final designation. The designated critical habitat in West Corral de Piedra Creek, however, does not include habitat above the Righetti Dam. Although the habitat appears to be of high quality and would likely support steelhead spawning, we are uncertain whether adult fish can pass over the dam. Accordingly, we treated the area above the Rhighetti Dam as unoccupied habitat and, since a determination that it is essential to the conservation of the ESU had not been made, we have not included it in the final designation for this ESU. In evaluating the areas of occupancy, habitat conditions, and conservation value of this HSA watershed, the CHART reviewed the available information about the unnamed tributary to West Corral de Piedra Creek. The CHART concluded it was unoccupied and had poor habitat conditions, and, since, a determination that it is essential to the conservation of the ESU has not been made, it has likewise not been included in the final designation.

Comment 62: Another commenter argued that West Corral de Piedra Creek is likely unoccupied by steelhead because of an impassable barrier on Pismo Creek downstream of West Corral de Piedra Creek (and the Righetti Dam), and, therefore, should not be designated as critical habitat. The commenter also criticized the economic analysis for not addressing impacts on irrigation and instream flow resulting from critical habitat designation. Lastly, the commenter argued that habitat area above the Righetti Dam should not be designated.

Response: The potential barrier in question is an existing fish ladder on Pismo Creek downstream of West Corral de Piedra Creek. The extent to which the ladder precludes adult steelhead is unclear, but we do not think it is a complete barrier. There is existing information indicating the presence of juvenile steelhead in West Corral de Piedra Creek downstream of Righetti Dam and above the Pismo Creek ladder which suggests steelhead can pass the existing fish ladder. In addition, direct observations of the fish ladder suggest it is capable of passing adult steelhead even though the design is not ideal and ladder operation may become impaired by inorganic and organic debris. Based on the available information, therefore, the CHART considered West Corral de Piedra to be occupied habitat for steelhead up to, but not above, the Rhigetti Dam. Accordingly, this reach of West Corral de Piedra is included in the final critical habitat designation for this ESU. We acknowledge that the economic analysis prepared for the proposed critical habitat designation did not adequately address economic impacts related to changes in instream flow or agricultural flows. The final economic analysis made additional efforts to address this issue, though potential flow changes at the Righetti Dam was not a part of that analysis. As noted in the previous response, the habitat area above the Righetti Dam is not considered occupied by steelhead though habitat conditions are considered favorable for steelhead spawning. For this reason, the habitat area above Righetti Dam is not included in the final designation of this ESU.

Comment 63: One commenter argued that Arroyo Grande Creek should not be included in the designation because it is not essential for conservation, numerous dams on the creek have altered habitat conditions for steelhead, existing protections are in place and thus there is no need for special management considerations, and previous determinations by Federal and State agencies have concluded that activities at Oceano SVRA do not adversely impact steelhead or their habitat. The commenter cited the final draft HCP for Arroyo Grande Creek as an existing mechanism for managing the creek, and suggested designation of critical habitat was unnecessary because it would cause confusion among stakeholders and agencies regarding the management of the area for steelhead. Another commenter argued that designation of the mouth of Arroyo Grande Creek may impact recreational uses in that area, and thereby result in significant economic impacts to local governments and businesses.

Response: The CHART determined that Arroyo Grande Creek met the definition of critical habitat, and was therefore eligible for designation, based on an extensive review of information, including observations and information obtained from site visits and field studies. This information allowed the CHART to identify the geographic areas occupied by steelhead and confirm that the creek contains physical and biological features essential to conservation. A draft HCP prepared by the San Luis Obispo County Flood Control and Water Conservation District Zone 3 (District) provides information regarding the quality and quantity of habitats in Arroyo Grande Creek for steelhead and discusses the abundance of steelhead. Although this ESU has a broad geographic distribution, there are relatively few representative streams in the southern portion of the ESU where steelhead actively spawn and rear. Arroyo Grande Creek is one of the few streams at the southern portion of the subject ESU where age-0 and older juvenile steelhead occur during summer and fall, and sexually ripe adults occur in winter and early spring. There are numerous streams in San Luis Obispo County, but a disproportionate number in the southern portion of the subject ESU currently do not appear suitable for steelhead owing in part to improper land-use activities. Arroyo Grande Creek is one of the notable exceptions. On the basis of this information, the CHART determined that the HSA watershed containing Arroyo Grande Creek had medium conservation value and that it was essential for the conservation of the ESU.

Based on information available to us, the only dam which is a full barrier to steelhead in Arroyo Grande Creek is Lopez Dam. Its presence and operation have certainly contributed to declines in the quality and quantity of habitat for

steelhead, but evidence indicates that steelhead still use Arroyo Grande Creek for spawning and rearing. More importantly, the effects of Lopez Dam on steelhead and its habitat in Arroyo Grande Creek underscore the need for special management considerations or protections in this watershed.

The purpose of the HCP in question is essentially to address the ''take'' of steelhead and other federally listed species associated with operation of Lopez Dam, not to manage the Arroyo Grande Creek as a whole. More importantly, the current draft HCP does not ensure that essential habitat functions necessary for long-term species survival would be attained through the proposed conservation program. For instance, the flow regime proposed in the draft HCP is conditioned upon reservoir-operation constraints, and, therefore, is not ecologically meaningful. The HCP requires considerable revision before being suitable for adoption in the application phase, and years may pass before it is ultimately approved and an incidental take permit issued.

The commenter is correct that we have determined through informal ESA section 7 consultations with the U.S. Army Corps of Engineers (COE) that off-road vehicle crossings of the creek at the mouth (a sandy tidally influenced area) are not likely to adversely affect steelhead. However, the decision to include Arroyo Grande Creek in the designation was not predicated on whether previous activities, such as off-road vehicle use, did or did not adversely affect the species. Rather, NMFS performed an extensive review and analysis to identify those habitats that are essential for conservation of the species and determined that Arroyo Grande Creek (including the creek mouth) is one such habitat area for this ESU. Inclusion of the creek mouth in the critical habitat designation is necessary because the mouth is an essential migratory habitat linking upstream spawning and rearing areas with the ocean.

Based on our past consultation experience in this area, we do not think that designation of the Arroyo Grande Creek, including the creek mouth, is likely to result in restricted recreational crossings of the creek mouth or cause significant economic impacts to local governments and businesses. Although not definitive on the outcome of future consultations, previous consultations involving such crossings have determined that steelhead were not likely to be adversely affected and that the value of the creek mouth as a migration corridor for steelhead was not likely to be diminished.

Comment 64: One commenter (CDFG) recommended that the conservation value of the HSA watersheds containing Arroyo de la Cruz (HSA 331012) and San Carpoforo (HSA 331011) creeks should be high because of the quality and quantity of steelhead habitat and the potential risks to these resources in the future.

Response: We agree with CDFG that the quality of steelhead habitat is high for both of these streams. However, the CHART considered a range of factors in assessing the conservation value of the HSA watersheds containing these streams, and on the basis of that analysis, concluded that a medium conservation value was appropriate for both watersheds. Based on the available information, we continue to believe that these two HSA watersheds have a medium conservation value to this ESU relative to other HSA occupied watersheds in the range of the ESU. Both HSA watersheds had a relatively low economic benefit of exclusion, and therefore, all occupied habitat in both watersheds, including the two streams in question, are included in the final critical habitat designation for this ESU.

ESU Specific Comments—Southern California Steelhead

Comment 65: Several commenters raised questions about whether or not the Sisquoc River and some of its tributaries are occupied by steelhead, and whether there are PCEs to support steelhead in this watershed. At least one commenter argued that any *O. mykiss* in this watershed were hatchery plants. One commenter criticized the economic analysis for the HSA containing the Sisquoc River watershed, and another was concerned that recreational fishing in one tributary would be adversely affected by a critical habitat designation.

Response: The CHART reconsidered whether the Sisquoc River and its tributaries should be considered occupied based on the issues raised by these commenters. Based on a reassessment of the available information (primarily the Stoecker and Stoecker 2003 barrier assessment for the Sisquoc River), the CHART concluded that the Sisquoc River and its tributaries (HSA 331220) should be considered occupied, and that this watershed contains PCEs supporting migration, spawning and rearing habitat. We recognize that flows in the Santa Maria River watershed are constrained by the operation of Twitchell Dam and that migration opportunities into the Sisquoc River are limited. For this reason, steelhead access to this watershed is not available in all years, and occupancy of the watershed will be on a more infrequent, rather than annual, basis. Nevertheless, migration opportunities do occur in wet years when high flows breach the sand bar at the mouth of the Santa Maria River, and steelhead can and do migrate into the middle and upper reaches of the Sisquoc River watershed where over-summering/rearing habitat and spawning habitat occurs. Although rainbow trout may well have been planted in some areas historically, we are not aware of any current planting of fish except in Manzana Creek. Accordingly, we do not believe the vast majority of steelhead in the watershed are of hatchery origin. A revised economic impact analysis was prepared for the final critical habitat designation. Although it may not address all site specific potential economic impacts within each HSA watershed, we believe this analysis does consider the vast majority of projected activities which are subject to ESA section 7 consultation in each watershed and that it provides a reasonable basis for conducting an ESA section 4(b)(2) analysis. More detailed responses to comments on the economic analysis were presented earlier in this final rule. Lastly, the designation of critical habitat for this ESU is not expected to affect recreational fishing activities in this watershed because such activities are not subject to section 7 of the ESA and are unlikely to affect critical habitat. Nevertheless, such activities do need to ensure that they do not result in the ''take'' of listed steelhead.

Comment 66: One commenter questioned whether specific streams (Santa Agueda and Alamo Pintado, both tributaries to the lower Santa Ynez River in HSA 331440, and Santa Monica Creek in HSA 331534) should be designated as critical habitat.

Response: We have re-examined the available information supporting the inclusion of these tributaries in the proposed designation and concluded that although these streams may occasionally support steelhead, there is not sufficient information to consider them occupied for the purposes of this designation process. Accordingly, these tributaries were not considered occupied in the final critical habitat designation and a determination that they were essential to the conservation of the ESU was not made, so they have been removed from the final critical habitat designation and associated maps.

Comment 67: Many commenters responded to our request for comments regarding the designation of unoccupied

habitat above Bradbury, Matilija, Casitas, Santa Felicia and Rindge Dams. Several commenters recommended that these areas be designated because they are essential for the conservation of this ESU, while several other commenters were opposed to designating these unoccupied habitats. Some commenters were confused or misunderstood that we were only requesting information and thought we had proposed to designate these areas as critical habitat.

Response: As part of the proposed rule development process, the CHART was asked to identify unoccupied areas above dams within the range of this ESU that ''may'' be essential for its conservation. Based on its assessment, the CHART identified the unoccupied habitat found above the five dams listed above. The proposed rule did not include these unoccupied areas in the proposed designation for this ESU, but rather solicited public comment on our determination that these unoccupied areas ''may'' be essential for conservation of this ESU. As stated elsewhere in this rule, we believe that it is premature to designate such areas at this time, and that any designation of unoccupied areas above dams or in other areas must await the completion of technical recovery planning efforts that are currently underway. Our expectation is that the technical recovery planning process will provide the scientific foundation to support the inclusion of unoccupied habitat areas in any critical habitat designation. Once the technical recovery planning is completed, we intend to revisit the designation of unoccupied habitat and will use information provided by commenters to inform any subsequent proposal.

Comment 68: A large number of commenters were opposed to the inclusion of any portion of Rincon Creek in the critical habitat designation. They argued that steelhead did not occupy the stream, the habitat was unsuitable, and the economic impacts of designation would be significant. Some commenters were confused and thought that Rincon Creek upstream from the Highway 101 culvert had been proposed.

Response: The proposed designation of Rincon Creek only included that portion of the creek that is seaward of the Highway 101 culvert. The culvert is considered a complete barrier to steelhead migration, and therefore, areas upstream of the culvert are considered unoccupied. We continue to believe that the lagoon and that portion of Rincon Creek seaward of the culvert is periodically occupied and meets the definition of critical habitat. Accordingly, this habitat reach was considered in the final ESA section 4(b)(2) analysis and has been retained in the final critical habitat designation for this ESU. Efforts are underway to improve fish passage at this culvert, and the designation of critical habitat downstream may support those efforts. If fish passage is successfully implemented at this location and steelhead reoccupy Rincon Creek upstream from the Highway 101 culvert, we will reconsider the possibility of designating critical habitat in the newly occupied habitat area.

Comment 69: Camp Pendleton Marine Corps Base and Vandenberg Air Force Base both provided supplementary comments and information to support the exclusion of their facilities from the final critical habitat designation for this ESU, based on the conservation benefits provided by their respective INRMPs. Both DOD facilities also provided information supporting the national security related impacts of a critical habitat designation on their activities and operations.

Response: As discussed elsewhere in this final rule, we have concluded that the INRMPs for both of these facilities provide conservation benefits to this steelhead ESU, and, therefore, the areas subject to these INRMPs are not eligible for designation pusuant to section 4(a)(3)(B)(i) of the ESA. Information provided by both DOD facilities concerning the impacts of critical habitat designation on their activities and operations support the view that designation of habitat will likely reduce the readiness capability of both the Marine Corps and Air Force, both of which are actively engaged in training, maintaining, and deploying forces in the current war on terrorism. On this basis, we also concluded that the benefits of excluding these facilities from the critical habitat designation for this ESU outweighed the benefits of designation.

Comment 70: Several commenters raised questions about steelhead access to, and occupancy in, upper San Antonio Creek (a tributary to the Ventura River) and its tributaries (*e.g.*, Reeves, Thatcher, Gridley, Ladera, and Senior Canyon Creeks). These commenters argued that a migration impediment at the Soule Park golf course blocks steelhead access upstream and that the only occupied habitat in the San Antonio Creek watershed is downstream from that location.

Response: We agree with the commenters that steelhead access to some portions of upper San Antonio Creek watershed are in fact blocked and should not be considered occupied habitat for the purposes of this critical habitat designation. For example, most of Thatcher Creek and Reeves Creek are presently inaccessible because of a passage impediment at Boardman Road on Thatcher Creek, and, therefore, these habitat reaches are clearly unoccupied by steelhead at present. Similarly, steelhead access into Gridley Canyon Creek, Senior Canyon Creek, and the lower portion of Thatcher Creek was blocked until this past winter when storms washed out a passage impediment at the Soule Park golf course. Although the passage impediment at the Soule Park golf course is no longer present, we have no information at present indicating that steelhead occur in the habitat reaches upstream of the former impediment to migration. Based on this information, we concluded it is appropriate to consider all stream reaches in the upper San Antonio Creek watershed above the Soule Park golf course to be unoccupied for the purposes of this critical habitat designation. We have revised our fish distribution maps accordingly and also removed these areas from the final critical habitat designation. It should be noted, however, that steelhead may now begin to occupy areas above the Soule Park golf course, and that efforts are underway to provide fish passage for steelhead at the Boardman Road location. If steelhead do access these currently unoccupied habitat areas, we will reconsider the exclusion of these areas from critical habitat for this ESU.

Comment 71: Some commenters questioned the distribution of occupied habitat and the proposed designation of occupied habitat in Hydrologic Unit 4901, particularly with regard to the upstream endpoints in San Juan Creek, Trabuco Creek (a tributary of San Juan Creek), and Devil's Canyon (a tributary of San Mateo Creek). Other commenters supported the proposed designation of habitat in the San Juan Creek and Trabuco Creek watersheds.

Response: We have reviewed the information provided by the commenters, re-evaluated the information used in developing the proposed designation, and also consulted with CDFG regarding the upstream limit of the distribution of steelhead in San Juan Creek and Trabuco Creek. After considering this information, we have substantially modified the upstream distribution limits of steelhead occupancy in Trabuco and San Juan Creeks. According to CDFG, the Trabuco Creek crossing under I–5 in San Juan Capistrano is a complete barrier to steelhead. Therefore, the occupied habitat reach in Trabuco Creek is now considered to end at the I–5 crossing

which is in HSA 490127. As a result of this distributional change, three HSA watershed units in upper Trabuco Creek that were previously considered occupied and proposed for designation (HSAs 490121, 490123, and 490122) are no longer considered occupied. Because these watersheds are not occupied and a determination that they are essential to the conservation of the species had not been made, they are not included in the final critical habitat designation. The I–5 does not serve as a barrier to steelhead migration in San Juan Creek. However, the upstream distributional limit of steelhead according to CDFG is basically at the I–5 bridge based on the available anecdotal information. As a result of this distributional change, three HSA watersheds upstream from this location that were previously considered occupied and proposed for designation (HSAs 491028, 490126, and 490125) are no longer considered occupied; and, because a determination that they are essential to the conservation of the ESU has not been made, they are not included in the final designation for this ESU. Those portions of Trabuco and San Juan Creeks that are occupied and occur in HSA 490127 as described above were considered eligible for designation and were considered in the final ESA section 4(b)(2) analysis. Based on this analysis, we concluded that the benefits of including the occupied habitat reaches in HSA 490127 outweighed the benefits of their exclusion, and, therefore, we have included these habitat areas in the final designation.

Comment 72: One commenter questioned why Pole Creek, a tributary to the Santa Clara River, was included in the proposed critical habitat designation when the habitat conditions were poor and there was little information indicating it was occupied.

Response: Based on information from the commenter and observations by agency biologists, we have reassessed the appropriateness of including Pole Creek in the final designation. We recognize that habitat conditions in Pole Creek are poor and upstream passage through the existing concrete channel in the lower portion of the creek is highly unlikely. Accordingly, we have concluded that Pole Creek should be considered unoccupied. Because it is considered unoccupied and we have not made a determination that it is essential for conservation, it is not included in the final critical habitat designation.

Comment 73: One commenter questioned why critical habitat was not proposed in the Santa Clara River upstream from its confluence with Piru Creek.

Response: The CHART did not consider that portion of the Santa Clara to be occupied, and we did not make a determination that it was essential for the conservation of the ESU; thus it was not considered further in the critical habitat analysis.

ESU Specific Comments—Central Valley Spring Run Chinook

Comment 74: Two commenters provided information regarding the distribution of occupied spring run Chinook habitat and habitat use, and recommended that additional critical habitat be designated in the upper Sacramento River Basin for this ESU. One commenter indicated that we should designate several west-side tributaries to the upper Sacramento River in the vicinity of Redding (HSA 550810) as critical habitat because these streams provide significant non-natal rearing and refugia habitat, especially since Shasta and Keswick Dams block access to hundreds of miles of historic rearing and refugia habitat. Another commenter recommended that small intermittent tributaries used for natal rearing in the Sacramento River, as well as lower Butte Creek, should be designated as critical habitat.

Response: The CHART reviewed the information provided by these commenters for the upper Sacramento River tributaries and concluded that it did not change the previously determined distribution of occupied habitat for this ESU. The CHART reassessed the conservation value of occupied habitat in HSA 550810 based on the new information and concluded that the conservation value of some reach specific tributaries was less than previously thought to be the case, but that the overall conservation value for the HSA remained high. All occupied spring run Chinook habitat in HSA 550810 was proposed for designation, and, as a result of the final ESA section 4(b)(2) analysis, this habitat has been included in the final designation for this ESU. The CHART agreed with the commenter that intermittent tributaries to the Sacramento River are used for non-natal rearing and that lower Butte Creek is important for the conservation of this ESU. In fact, the CHART previously analyzed these occupied habitat areas and rated them as having high conservation value. These areas were proposed for designation and are also included in the final designation for this ESU.

Comment 75: One commenter recommended that the lower American River from the outfall of the Natomas Main Drainage Canal downstream to the confluence with the Sacramento River be designated because it is used for non-natal rearing (HSA 551921). The argument was that this habitat provides spawning, rearing and migration values for spring run Chinook that may require special management considerations.

Response: The HSA watershed (551921) containing the lower American River was originally rated by the CHART as having medium conservation value and was excluded from the proposed designation because of relatively high economic costs. In response to these comments, the CHART reassessed the conservation value of this HSA and determined that it should be rated as having a high conservation value to the ESU. Information provided by the commenter demonstrated the importance of the lower American River for non-natal rearing and the high improvement potential of the habitat conditions from ongoing restoration projects. In addition, the lower American River may be used during high winter flows for rearing and refugia by multiple populations of spring Chinook in the central valley (*e.g.*, Feather and Yuba Rivers). Additionally, the commenter suggested that special management considerations may be required to maintain and improve habitat conditions and the conservation value of this HSA for spring run Chinook. In particular, special management considerations may be necessary to address flood control, residential and commercial development, agricultural management, and habitat restoration. Based on the change in conservation value and the final ESA section 4(b)(2) analysis, we concluded that all occupied habitat in HSA 551921, including the lower American River, should be designated as critical habitat for this ESU.

Comment 76: A commenter also recommended that the lower Bear River (HSA 551510) from the mouth of Dry Creek downstream to its confluence with the Feather River be designated as critical habitat because it is used for non-natal rearing and will require special management to maintain habitat value for this ESU.

Response: The HSA watershed (551510) containing the lower Bear River was originally considered unoccupied by the CHART, and its conservation value was not rated. Based on the information provided by the commenter, the CHART has reclassified the lower Bear River as occupied habitat for spring run Chinook. Information provided by the commenter indicates that the lower Bear River is used for non-natal rearing and that habitat values are likely to increase in the near future

as a result of planned restoration projects that will improve the condition of several PCEs. The CHART applied the PCE factor ranking criteria and rated the lower Bear River as having high conservation value to this ESU, primarily because: (1) the habitat area is likely to be used by at least two populations (*i.e.*, Feather and Yuba River); (2) non-natal rearing represents a unique life-history strategy that is essential for the conservation of the species (contributing to improved growth conditions); (3) the habitat serves as a refugia from high water conditions and catastrophic events; and (4) there is high improvement potential for this habitat from ongoing restoration efforts. Based on information from the commenter, the lower Bear River will require special management efforts to protect and maintain habitat values for this ESU. Special management considerations are likely to include flood control, residential and commercial development, agricultural management, and habitat restoration. Because this HSA is now considered occupied, contains the necessary PCEs, and has a need for special management considerations, it was considered eligible for designation in the final ESA section 4(b)(2) analysis conducted for this designation. Based on the results of the final 4(b)(2) analysis, we concluded that the benefits of including this area in the designation outweighed the benefits of its exclusion. Accordingly, occupied habitat in HSA 551510 is now included in the final critical habitat designation for this ESU.

Comment 77: Several commenters recommended that portions of the San Joaquin River and its major tributaries below impassable mainstem dams be designated as critical habitat for this ESU either because of future efforts to restore habitat or because of unpublished information from CDFG indicating specific habitat areas were occasionally occupied by spring run Chinook. These areas include the San Joaquin River from its confluence with the Merced River upstream to Friant Dam, the Tuolumne River downstream of La Grange Dam, the Merced River downstream of Crocker Huffman Dam, and the Stanislaus River downstream of Goodwin Dam.

Response: The recommendation to designate the San Joaquin River above the confluence with the Merced River confluence was primarily based on the historical occupancy of this habitat reach by spring Chinook and the expectation that future efforts will be undertaken to restore habitat in this reach. We recognize that this habitat in the San Joaquin River was historically used by spring Chinook; however, it has been unoccupied for more than half a century. Moreover, plans to restore flows and habitat conditions downstream of Friant Dam are uncertain, and significant passage impediments and flow alterations in the San Joaquin above the Merced River confluence present potentially significant obstacles to future restoration success. Because this habitat is currently unoccupied and no determination has been made that it is essential for the conservation of this ESU, we have not included it in the final critical habitat designation.

The CHART reviewed information provided by the commenters regarding occupancy of the Tuolumne, Merced, and Stanislaus Rivers by spring Chinook and concluded there was insufficient data to consider them occupied. Although the CHART did evaluate these as unoccupied areas for the proposed critical habitat designation and concluded that they ''may'' be essential for the conservation of spring run Chinook ESU, we believe it is premature to include these unoccupied areas in the critical habitat designation for this ESU until ongoing recovery planning efforts provide information sufficient to make a determination that these areas are essential to the conservation of this ESU. Because these tributary rivers to the San Joaquin River are currently unoccupied and recovery planning efforts do not yet support a determination that these areas are essential for the conservation of this ESU, we have not included them in the final critical habitat designation.

Comment 78: One commenter argued that the lower Feather River below Oroville Dam should not be designated because of the introgression of fall run Chinook and spring run Chinook by the Feather River hatchery.

Response: We disagree with the commenter and believe that the lower Feather River below Oroville Dam should be designated as critical habitat. The extant Feather River population of spring-run Chinook salmon represents a legacy population of the fish that historically used the upper Feather River prior to construction of Oroville Dam, and it is an important population to conserve and protect because of its potential contribution to ESU recovery. This habitat area was proposed for critical habitat because the CHART considered it occupied by spring run Chinook, it contains PCEs, and it requires special management considerations for activities such as flood control, flow and temperature management, residential and commercial development, agricultural management, and habitat restoration. HSA 551540, which contains much of the lower Feather River below Oroville Dam, was rated as having high conservation value by the CHART for the proposed designation, and that determination was not changed as a result of these comments. Based on the results the final ESA section 4(b)(2) analysis, occupied habitat in HSA 551540, including the lower Feather River below Oroville Dam, is included in the final critical habitat designation for this ESU.

Comment 79: Some commenters contended that NMFS should not designate any critical habitat for spring run Chinook in the Sacramento River, its major tributaries (*i.e.* Feather River), the Sacramento-San Joaquin Delta, or the Suisun-San Francisco Bay complex because existing protective efforts and mechanisms are sufficient to protect the ESU.

Response: We disagree with these commenters. These habitat areas comprise the entire freshwater and estuarine range of this ESU, contain one or more PCEs that are essential to the conservation of the ESU, including migration, holding, spawning, rearing, and refugia habitat, and require special management considerations or protections beyond those protective efforts that are already in place or available. For these reasons, they were considered for designation through this rulemaking process. In the course of the analysis supporting this rulemaking, we evaluated the quantity, quality and diversity of PCEs within the occupied portions of these waterbodies by watershed unit, assessed the benefits of designating these watershed units, and finally weighed the benefits of designation against the benefits of exclusion by watershed unit. The resultant critical habitat designation in this final rule, therefore, meets the definition of critical habitat and also represents that habitat which contains PCEs that we believe are essential for the conservation of this ESU.

Comment 80: One commenter recommended that several areas proposed for designation in the Sacramento River basin below impassable barriers not be designated in the final rule. These areas include: (1) the South Fork Cow Creek watershed because it is not occupied; (2) specific streams in the Tehama Hydrologic Unit (5504) including HSAs 550410 and 550420 because they do not support populations of spring run Chinook and also lack cool, deep pools for summer holding habitat; (3) specific streams in the Whitmore Hydrologic Unit (5507) including HSAs 550711 and 550722

because they do not support populations of spring run Chinook and also lack cool, deep pools for summer holding habitat; and (4) specific streams in the Redding Hydrologic Unit (5508) and HSA 550810 because they do not support a population of spring run Chinook and lack cool, deep pools for summer holding habitat.

Response: The CHART re-evaluated the South Fork Cow Creek based on these comments and agreed that it is unoccupied and therefore reclassified its occupancy status accordingly. Because the HSA containing South Fork Cow Creek (HSA 550731) is now considered unoccupied and we have not made a determination that it is essential to the conservation of the ESU, it was excluded from further consideration in the analysis and has not been included as critical habitat in the final designation for this ESU.

The CHART, however, disagreed with the commenter's recommendation to exclude the identified streams and HSAs in the Tehama (5504), Whitmore (5507), and Redding (5008) Hydrologic Units. The recommendation was based on the lack of cool, deep pools for summer holding habitat that is essential for adult holding, spawning, and summer rearing. The CHART's previous assessment of the conservation value of these streams and watershed units, however, was based on their use during winter and early-spring months for non-natal rearing by juvenile spring-run Chinook. Though current use is likely low, it is expected to increase in the near future as a result of habitat restoration and range expansion in Battle and Clear Creeks. The CHART concluded these streams provide several PCEs that are important for juvenile non-natal rearing, which represents a unique life-history strategy that is essential for the conservation of this ESU because of its contribution to improved growth conditions and refugia from high water and catastrophic events. In addition, the CHART concluded that these streams will require special management efforts for flood control, residential and commercial development, agricultural management, and habitat restoration to protect and maintain the conservation value of these habitats for spring-run Chinook. Based on these factors, the CHART rated most of the occupied HSAs in these three Hydrologic Units as having high conservation value to the ESU. After consideration of these comments, the CHART concluded there was no reason to change its previous assessment of spring Chinook distribution, habitat use, or conservation value for these streams and Hydrologic Units. Accordingly, the occupied streams in these Hydrologic Units and associated HSAs were considered in the final 4(b)(2) analysis for this final designation.

Comment 81: Two commenters questioned the historical and current habitat use and occupancy of Putah, Alamo, and Ulatis Creeks by spring run Chinook and thus whether they should be designated as critical habitat.

Response: The proposed critical habitat designation for spring run Chinook did not include any of these three creeks, because the CHART considered all of them to be unoccupied in its original assessment and we had not made a determination that they were essential to the conservation of the ESU. The commenters likely were confused because these creeks all occur in the Valley Putah-Cache Hydrologic Unit (HSAs 551100 and 551120), and some portions of this Hydrologic unit were included in the proposed designation because they are occupied, have the requisite PCEs, may need special management considerations, and were not excluded as a result of the original ESA section 4(b)(2) exclusion process that led to the proposed rule. The CHART did not receive any new information indicating these creeks are occupied, so they were not reconsidered and are not included in the final critical habitat designation for this ESU.

Comment 82: Several commenters indicated that habitat above major impassable rim dams on tributaries to the San Joaquin River (Stanislaus, Tuolumne, and Merced Rivers) do not contain habitat that would support spring run Chinook and/or that the feasibility of providing fish passage for spring run Chinook has not been adequately evaluated.

Response: Although the CHART did evaluate these as unoccupied areas for the proposed critical habitat designation and concluded that some of the reaches above the rim dams ''may'' be essential for the conservation of spring run Chinook, we believe it is premature to include these unoccupied areas in the critical habitat designation for this ESU until ongoing recovery planning efforts provide technical information supporting a determination that one or more of these areas are essential to its conservation and recovery. Because these tributary rivers to the San Joaquin River are currently unoccupied and recovery planning efforts do not yet support a determination that these areas are essential for the conservation of this ESU, we have not included them in the final critical habitat designation.

ESU-Specific Comments—Central Valley Steelhead

Comment 83: One commenter recommended that we designate several west-side tributaries to the Sacramento River in the vicinity of Redding (HSA 550810) as critical habitat for this ESU because they are used as spawning and/or rearing habitat.

Response: The CHART reviewed the new information provided by the commenter and concluded that several of these streams are seasonally occupied and most likely used by steelhead as non-natal rearing habitat with occasional use as spawning habitat, and that they contain PCEs supporting non-natal habitat use. The CHART considered these additional occupied habitat areas important for steelhead because they are likely to be used by several populations (e.g., upper Sacramento River, Clear Creek, and Cow Creek), and because non-natal rearing represents a unique life-history strategy that is essential for the conservation since it contributes to improved growth conditions and serves as a refugia from high water and catastrophic events. The CHART concluded that these streams may require special management considerations to address activities such as flood control, residential and commercial development, agricultural management, and habitat restoration, and, therefore, evaluated the conservation value of these occupied habitat stream reaches and the overall HSA. This reassessment concluded that the conservation value of the additional occupied stream reaches ranged from low to high, but that the overall conservation value of HSA watershed 550810 remained high to the ESU. Based on the results of the final ESA section 4(b)(2) analysis, all occupied habitat in HSA 550810, including several stream reaches recommended by the commenter, is designated as critical habitat in the final rule.

Comment 84: One commenter recommended that we should designate upper little Dry Creek, a tributary to Butte Creek, as critical habitat for this ESU.

Response: The CHART originally evaluated the conservation value of upper Dry Creek (HSA 552110) as being low, and it was proposed for exclusion in the proposed rule based on the results of the ESA section 4(b)(2) analysis. In response to these comments, the CHART re-assessed the conservation value of this HSA and concluded it should be changed from low to medium. The original low rating was strongly influenced by the low number of stream miles in the HSA. The remainder of

little Dry Creek is located downstream in HSA 552040, which was rated as having a high conservation value by the CHART because of the number of occupied stream miles, its high restoration potential, and its use by multiple populations of steelhead. In its reassessment of the conservation value of HSA 552110, the CHART placed more emphasis on the restoration potential of this reach of upper little Dry Creek and the potential for the stream reach to support life history stages of high importance (i.e., spawning adults and over summering juveniles) for this ESU. Based on the increased conservation value of this HSA 552110 (increased from low to medium) and the results of the final ESA section 4(b)(2) analysis, the upper little Dry Creek has been included in the final critical habitat designation for this ESU.

Comment 85: One commenter recommended that we designate the lower Bear River as critical habitat for Central Valley steelhead from its confluence with Dry Creek downstream to its confluence with the Feather River because it is used for non-natal rearing and will require special management considerations to maintain habitat value for the ESU.

Response: The CHART originally evaluated the conservation value of HSA 551510, which contains the lower Bear River, as being low, and it was proposed for exclusion in the proposed critical habitat rule based on the results of the ESA section 4(b)(2) analysis conducted for that rulemaking. In response to the information provided by the commenter, the CHART re-assessed the conservation value and concluded that the overall conservation value for this HSA is medium rather than low. As a result of the revised 4(b)(2) analysis conducted for the final rule, however, this HSA watershed was considered to have a medium benefit of designation and a relatively high benefit of exclusion (ie., high cost relative to benefit), making it potentially subject to exclusion from the final designation. However, the CHART felt the lower portion of the Bear River within this HSA was important because the habitat is likely to be used for non-natal rearing by several populations (i.e., Feather and Yuba River populations) and because non-natal rearing represents a unique life-history strategy that is essential for conservation since it contributes to improved growth conditions and serves as a refugia from high water and catastrophic events. Therefore the CHART concluded the benefit of including this area out weighed the benefit of excluding this area and we have included HSA 551510, which includes the lower Bear River, in the final critical habitat designation for this ESU.

Comment 86: One commenter recommended that the Cosumnes River should be designated as critical habitat for this ESU based on unpublished documentation of steelhead presence.

Response: The original analysis conducted by the CHART for the proposed rule considered the Cosumnes River to be occupied, but its assessment concluded that the HSA watersheds (553111, 553221, 553223 and 553224) containing this river system were of low conservation value. Based on this assessment and the results of the ESA section 4(b)(2) analysis conducted for the proposed rule, the Cosumnes River and all other occupied habitat in these four watersheds were excluded from the proposed designation. The commenter did not provide any new information warranting a change in our proposed rule, and, therefore, the Cosumnes River and these four watersheds have been excluded from the final designation for this ESU.

Comment 87: Several commenters recommended that we designate the San Joaquin River from its confluence with the Merced River to Friant Dam as critical habitat for this ESU.

Response: The recommendations to designate the San Joaquin River above the confluence with the Merced River were primarily based on the historical occupancy of this habitat reach by steelhead and the expectation that future efforts will be undertaken to restore habitat in this reach. We recognize that this habitat in the San Joaquin River was historically used by steelhead, but we consider it presently unoccupied. Moreover, plans to restore flows and habitat conditions downstream of Friant Dam are uncertain, and significant passage impediments and flow alterations in the San Joaquin River above the Merced confluence present significant obstacles to future restoration success. Because this habitat is currently unoccupied, and ongoing recovery planning efforts have not identified areas in this reach of the San Joaquin River as being essential for the conservation of this ESU, we have not included it in the final critical habitat designation.

Comment 88: Two commenters recommended that we designate Dry Creek, a tributary to the Yuba River, as critical habitat for Central Valley steelhead.

Response: The commenters incorrectly interpreted the proposed designation. Dry Creek, a tributary to the Yuba River, occurs in two HSA watersheds (551712 and 551713). However, the vast majority of this creek occurs within HSA 551712. The CHART originally concluded that watershed 551712 had a high conservation value and that watershed 551713 had a low conservation value. Based on this assessment and the original ESA section 4(b)(2) analysis, the proposed designation for this ESU included all occupied habitat in HSA 55172, including Dry Creek, but did exclude a small portion of Dry Creek occurring in HSA 551713 because of high economic costs. We did not receive any new information warranting a change in the proposed critical habitat with respect to Dry Creek, and, therefore, the final critical habitat designation for this ESU only includes that portion of Dry Creek contained in HSA 551712.

Comment 89: Some commenters contended that we should not designate any critical habitat for steelhead in the Sacramento River, San Joaquin River or its major tributaries, the Sacramento-San Joaquin Delta, or the Suisun-San Francisco Bay complex because existing protective efforts and mechanisms are sufficient to protect the ESU.

Response: We disagree with these commenters. These waterbodies comprise the entire freshwater and estuarine range of this ESU, contain one or more PCEs that are essential to the conservation of the ESU, including migration, holding, spawning, rearing, and refugia habitat, and may require special management beyond those protective efforts that are already in place or available. For these reasons, they were considered for designation through this rulemaking process. In the course of this rulemaking, we evaluated the quantity, quality, and diversity of PCEs within the occupied portions of these waterbodies by watershed unit, assessed the benefits of designating these watershed units, and finally weighed the benefits of designation against the benefits of exclusion by watershed unit. The resultant critical habitat designation in this final rule, therefore, meets the definition of critical habitat and also contains PCEs that we believe are essential for the conservation of this ESU.

Comment 90: One commenter recommended that we should not designate several streams in the upper Sacramento River (Red Bluff [550420 and Spring Creek [550440] HSAs) as critical habitat for Central Valley steelhead because they are low elevation streams without sufficient flow duration or suitable habitat to support the species.

Response: We disagree with the commenter's recommendation to exclude specific streams in these two

HSAs. The CHART has evaluated these streams and recognizes that they have limited flow duration. However, the team also concluded the streams in question support important winter and early spring non-natal rearing habitat for steelhead and thus contain PCEs that are important for juvenile rearing. The CHART previously rated both HSAs as having an overall high conservation value for this ESU and does not believe the comments warrant a revision in any of its previous conclusions regarding these two HSAs. Based on the CHART's previous conclusions and the results of the final ESA section 4(b)(2) analysis conducted for this rule, all occupied habitat in these two HSAs is included in the final designation for this ESU.

Comment 91: Some commenters argued that there was no basis for proposing to designate critical habitat for Central Valley steelhead in the Calaveras, Stanislaus, Tuolumne, or Merced Rivers.

Response: We disagree with the commenters. The CHART concluded that the HSA watersheds containing these rivers were occupied by steelhead, contained PCEs supporting the species for spawning, rearing and/or migration, and that there may be a need for special management considerations. On this basis, these rivers met the definition of occupied critical habitat, and, therefore, were eligible for designation. We weighed the benefits of including these areas in the designation against the benefits of their exclusion in the original ESA section 4(b)(2) analysis for the proposed rule, and again in a revised analysis for the final rule. In both instances, the benefits of designating the HSA watersheds containing these rivers outweighed the benefits of their exclusion. Accordingly, the HSA watershed containing these rivers were included in the proposed critical habitat designation and are also included in the final designation for this ESU.

Comment 92: One commenter argued that the Old River and Paradise Cut channels in the San Joaquin Delta Subbasin or Hydrologic Unit (5544) do not meet the definition of critical habitat for Central Valley steelhead.

Response: We disagree with the commenter. The CHART concluded that all of the estuarine habitat in this Hydrologic Unit, including the Old River and Paradise Cut channels, is used by steelhead smolts for rearing and migration from upstream freshwater rivers. On this basis the CHART considered the entire Hydrologic Unit to be occupied and to contain PCEs for rearing and migration that are essential to the conservation of this ESU. The CHART also concluded that agricultural water and municipal water withdrawals, entrainment associated with water diversions, invasive/non-invasive species management, and point and non-point source water pollution could affect these PCEs and that there was a need for special management considerations. Based on all of the available information, the CHART rated this Hydrologic Unit as having high conservation value for the ESU. Based on the CHART's assessment and the original ESA section 4(b)(2) analysis conducted for the proposed rule, this Hydrologic Unit was proposed for designation. We have received no new information warranting a change in this proposal, and, therefore, all occupied habitat in this Hydrologic Unit including the Old River and Paradise Cut channels are included in the final critical habitat designation for this ESU.

Comment 93: One commenter recommended designating critical habitat above major dams in the central valley to ensure these habitats were protected and to encourage implementation of fish passage above these dams.

Response: As part of the proposed critical habitat designation process, the CHART did evaluate many unoccupied areas above dams in the central valley as potential critical habitat, and concluded that some of the reaches above the rim dams ''may'' be essential for the conservation of steelhead. Although the CHART believes these areas may be essential for conservation, and we recognize the historical importance of many of these areas to steelhead, we believe it is premature to include these unoccupied areas in the final designation for this ESU until ongoing recovery planning efforts provide technical information to support a determination that any such areas are essential to its conservation and recovery. Because these above-dam habitat areas are currently unoccupied and recovery planning efforts do not yet support a determination that any specific areas are essential for the conservation of this ESU, we have not included them in the final critical habitat designation. As recovery planning efforts mature and sufficient information is available to make a determination about whether any of these areas are essential for conservation of this ESU, we will conduct additional rulemaking as appropriate.

Comment 94: Two commenters addressed the issue of designating critical habitat above the Solano Irrigation District Dam on Putah Creek. One commenter argued that habitat between the Solano Irrigation Dam and Monticello Dam on Putah Creek should be designated as critical habitat for steelhead even though it is unoccupied because: Suitable spawning and rearing habitat exists for steelhead above the dam; providing fish passage is likely to be economically and logistically feasible; and Central Valley steelhead populations are constrained by the lack of accessible habitat. The other commenter argued that this habitat should not be designated because of problems associated with providing passage.

Response: The CHART considered the information provided by these commenters and concluded that the unoccupied area above Solano Irrigation Dam may contain PCEs that would support steelhead and that providing passage would likely be feasible. However, the CHART did not make a determination about whether this above dam area may be essential for the conservation of this ESU. As noted previously, we believe it is premature to include any unoccupied areas above dams in the final critical habitat designation for this ESU until ongoing recovery planning efforts identify those specific unoccupied areas that are essential to its conservation and recovery. Because the habitat above the Solano Irrigation Dam is currently unoccupied and recovery planning efforts do not yet support a determination that this area is essential for the conservation of this ESU, we have not included this area in the final critical habitat designation.

ESU-Specific Comments—Central Valley Spring Run Chinook and Central Valley Steelhead

Comment 95: One commenter argued that west-side tributaries in Glenn County, and in particular Stony Creek, should not be designated as critical habitat for either spring-run Chinook salmon or steelhead because these habitats are unoccupied and water temperatures are too warm to support salmonids.

Response: We disagree with the commenter. The CHART has evaluated the available information, particularly with regard to Stony Creek (HSA 550410), and concluded that this stream is occupied by both spring run Chinook and steelhead. Juvenile spring run Chinook have been consistently documented using Stony Creek as rearing habitat since 2001 (Corwin and Grant, 2004), as well as in previous years (Maslin and McKinney, 1994). Similarly, juvenile steelhead have been periodically documented rearing in Stony Creek (Corwin and Grant, 2004; Maslin and McKinney, 1994). The

CHART also concluded that Stony Creek has PCEs that support both species. Water temperature monitoring from 2001 through 2004 has shown that temperatures in Stony Creek under current operations are generally suitable for adult and juvenile salmonids (below 65 °F) from mid-October through late May. Water temperatures have been found to be suitable for salmonid spawning and incubation (below 56 °F) from mid-November through early May (Corwin and Grant, 2004). Though successful steelhead spawning has not been documented recently in Stony Creek, habitat conditions under current operations are considered marginally suitable to support steelhead reproduction. Because of ongoing restoration actions and ESA section 7 consultations, progress is being made toward improving these habitat conditions, and we expect conditions to continue to improve into the future.

Comment 96: Numerous commenters raised issues concerning the designation of unoccupied and inaccessible habitat in the Yuba River. Several commenters recommended we designate unoccupied stream reaches above major impassable barriers in the Middle, North, and South Fork Yuba Rivers as critical habitat for both ESUs. In contrast, several other commenters recommended we delay any decision to designate unoccupied and inaccessible habitat for both ESUs in the Yuba River above Englebright Dam until the Upper Yuba River Studies Program is completed.

Response: The CHART reviewed information regarding unoccupied habitat above Englebright Dam for the proposed rule and concluded that unoccupied and inaccessible areas above the dam ''may'' be essential for the conservation of these ESUs. However, we have not made a final determination that these areas are essential to conservation. As noted previously for other unoccupied and inaccessible areas, we believe that it is premature to designate unoccupied areas in the Yuba River above Englebright Dam as critical habitat until ongoing recovery planning efforts identify those specific unoccupied habitat areas in the central valley that are essential to the conservation and recovery of these ESUs. The Upper Yuba River Studies Program is expected to provide relevant information for the recovery planning process of both ESUs, and we intend to await the findings of this program as well as recovery planning efforts before making a determination about whether or not the unoccupied habitat areas in question are essential to the conservation of either ESU. If such a determination is made, we will undertake the appropriate rulemaking to propose the designation of these areas as critical habitat.

Comment 97: One commenter recommended designating the entire Butte Creek watershed, upstream from the Centerville Diversion Dam, as critical habitat for both the spring run Chinook and steelhead ESUs. Conversely, another commenter argued that we should not designate this unoccuped habitat in Butte Creek because there is no historical information that suggests this habitat was historically occupied by anadromous salmonids, and recent CDFG barrier assessments have concluded that barrier modifications are not desirable because of the high stream gradient and the presence of multiple natural barriers immediately above the Dam.

Response: The CHART reviewed information regarding unoccupied habitat above the Centerville Diversion Dam on Butte Creek for the proposed rule and concluded that this unoccupied and inaccessible habitat ''may'' be essential for the conservation of both the spring run Chinook and steelhead ESUs. As noted previously for other unoccupied and inaccessible areas above dams, however, we believe that it is premature to designate unoccupied areas in Butte Creek above the Centerville Diversion Dam as critical habitat until ongoing recovery planning efforts identify those specific unoccupied habitat areas in the central valley that are essential to the conservation and recovery of these ESUs. Because the habitat areas above the Centerville Diversion Dam are unoccupied and no final determination has been made that they are essential for conservation of the ESU, they are not included in the final critical habitat designation for these ESUs. If the agency makes such a determination in the future, we will undertake the appropriate rulemaking to designate these areas as critical habitat.

Comment 98: One commenter (CDFG) argued that it is premature to designate unoccupied habitat above Oroville Dam in the upper Feather River as critical habitat for either spring run Chinook or steelhead.

Response: As discussed in other responses, we agree with CDFG. Although the CHART concluded as part of the proposed critical habitat rule that specific unoccupied areas above Oroville Dam ''may'' be essential for the conservation of spring run Chinook and steelhead, we believe it is premature to make such a determination until ongoing recovery planning efforts in the central valley identify above-dam unoccupied areas that are essential for conservation of these ESUs. For this reason, unoccupied areas above Oroville Dam are not included in the final designation.

Comment 99: Some commenters indicated that habitat above rim dams on tributaries (Tuolumne, Stanislaus, and Merced) to the San Joaquin River did not contain suitable habitat for either ESU and that the feasibility of passage had not been adequately studied.

Response: The CHART evaluated specific unoccupied and inaccessible stream reaches above rim dams on these San Joaquin River tributaries and concluded that they ''may'' be essential for the conservation of spring run Chinook and steelhead. However, as discussed previously, we believe it is premature to make such a determination until ongoing recovery planning efforts in the central valley identify above-dam unoccupied areas that are essential for conservation of these ESUs. For this reason, unoccupied areas above these rim dams on the San Joaquin River tributaries are not included in the final designation.

III. Summary of Revisions

We evaluated the comments and new information received on the proposed rule to ensure that they represented the best scientific data available and made a number of general types of changes to the critical habitat designations, including:

(1) We revised distribution maps and related biological assessments based on a final CHART assessment (NMFS, 2005a) of information provided by commenters, peer reviewers, and agency biologists. We also evaluated watersheds that may be low leverage (*i.e.*, unlikely to have an ESA section 7 consultation or where a section 7 consultation, if it did occur, would yield few conservation benefits) and identified several for possible exclusion in the final ESA section 4(b)(2) analysis.

(2) We revised our economic analysis based on information provided by commenters and peer reviewers as well as our own efforts as referenced in the proposed rule. Major changes included assessing new impacts associated with pesticide consultations, revising Federal land consultation costs to take into account wilderness areas, and modifying grazing impacts to more accurately reflect likely project modifications.

(3) We conducted a new ESA section 4(b)(2) analysis based on economic impacts to take into account the above revisions. This resulted in the final exclusion of many of the same

watersheds proposed for exclusion. It also resulted in some areas originally proposed for exclusion not being excluded and some areas proposed for designation now being excluded. The analysis is described further in the 4(b)(2) report (NMFS, 2005c).

(4) We did not conduct an ESA section 4(b)(2) analysis of lands covered by approved HCPs because existing HCP holders did not request exclusion from the critical habitat designation. We did not have sufficient information to conduct this analysis for the vast areas covered by Federal land management plans, but may do so in the future.

The following sections summarize the ESU-specific changes to the proposed critical habitat rule. These changes are also reflected in final agency reports pertaining to the biological, economic, and policy assessments supporting these designations (NMFS, 2005a; NMFS, 2005b; NMFS, 2005c). We conclude that these changes are warranted based on new information and analyses that constitute the best scientific data available.

ESU Specific Changes—California Coastal Chinook Salmon

The CHART did not change conservation value ratings for any watershed within the geographical area occupied by this ESU. However, based on public comments and new information reviewed by the CHART, we have identified minor changes to the extent of occupied habitat areas in some watersheds. Also, based on public comments we have added a migratory corridor in one watershed (HSA 111171) that was proposed to be fully excluded in order to provide connectivity between the ocean and an upstream watershed of high conservation value. Additionally, as a result of revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we are excluding all occupied habitat in two watersheds that were previously proposed for designation (HSAs 111350 and 111423). Table 1 summarizes the specific changes made for this ESU.

TABLE 1.—ESU SPECIFIC CHANGES—CALIFORNIA COASTAL CHINOOK SALMON

Hydrologic unit	HSA watershed code	HSA watershed name	Changes from proposed rule
Trinidad	110810	Big Lagoon	Removed 0.7 mi (1.1 km) of occupied habitat area.
Trinidad	110820	Little River—Albion—Big Salmon	Added 1.2 miles (1.9 km) of occupied habitat area.
Mad River	110920	NF Mad River	Removed 0.8 miles (1.3 km) of occupied habitat area.
Mad River	110930	Butler Valley	Added 1.0 mile (1.6 km) of occupied habitat area.
Eel River	111171	Eden Valley	Excluded tributaries from final designation and retained migratory corridor.
Mendocino Coast	111350	Navarro River	Excluded all occupied habitat from final designation
Russian River	111423	Mark West	Excluded all occupied habitat from final designation.

ESU Specific Changes—Northern California Steelhead

The CHART did not change conservation value ratings for any watershed within the geographical area occupied by this ESU. However, based on public comments and new information reviewed by the CHART, we have identified changes to the extent of occupied habitat areas in 13 watersheds. As a result of revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we did not make any changes to the areas that were previously proposed for designation or identify any new areas for exclusion in the final designation. Table 2 summarizes the specific changes made for this ESU.

TABLE 2.—ESU SPECIFIC CHANGES—NORTHERN CALIFORNIA STEELHEAD

Hydrologic unit	HSA watershed code	HSA watershed name	Changes from proposed rule
Redwood Creek	110720	Beaver	Removed 0.7 mi (1.1 km) of occupied habitat area.
Trinidad	110810	Big Lagoon	Added 0.3 mi (0.5 km) of occupied habitat area.
Trinidad	110820	Little River	Added 2.9 mi (4.7 km) of occupied habitat areas.
Mad River	110930	Butler Valley	Removed 0.4 mi (0.6 km) of occupied habitat area.
Eureka Plain	111000	Eureka Plain	Removed 0.8 mi (1.3 km) of occupied habitat area.
Eel River	111132	Benbow	Removed 0.7 mi (1.1 km) of occupied habitat area.
Eel River	111133	Laytonville	Removed 0.8 mi (1.3 km) of occupied habitat area.
Mendocino Coast	111311	Usal Creek	Removed 5.6 mi (9.0 km) of Coast occupied habitat areas.
Mendocino Coast	111312	Wages Creek	Removed 0.5 mi (0.8 km) of occupied habitat area.
Mendocino Coast	111313	Ten Mile Creek	Removed 7.6 mi (12.2 km) of occupied habitat area.
Mendocino Coast	111320	Noyo River	Removed 0.9 mi (1.4 km) of occupied habitat area
Mendocino Coast	111330	Big River	Removed 0.3 mi (0.5 km) of occupied habitat area.
Mendocino Coast	111340	Albion River	Removed 1.2 mi (1.9 km) of occupied habitat area.

ESU Specific Changes—Central California Coast Steelhead

The CHART did not change the conservation value of any occupied watersheds within the geographical area occupied by this ESU. Occupied habitat was added to one watershed (220320) because of a mapping error in the proposed rule and to another watershed (220550) based on public comments and new information received by the CHART. The Upper Alameda Creek watershed (220430) was removed from the final designation because it is occupied only by resident *O. mykiss*, and a final listing determination for this life form will not be made until December 2005 (70 FR 37219; June 28,

2005). As a result of this change, portions of the migratory corridor to upper Alameda Creek were also removed from two watersheds (220420 and 220520) in the final designation. As a result of revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we are excluding all occupied habitat areas in two watersheds that were not previously proposed for designation (111421 and 220722). Table 3 summarizes the specific changes made for this ESU.

TABLE 3.—ESU SPECIFIC CHANGES—CENTRAL CALIFORNIA COAST STEELHEAD

Hydrologic unit	HSA watershed code	HSA watershed name	Changes from proposed rule
Russian River	111421	Laguna De Santa Rosa	Excluded all occupied habitat from final designation.
Bay Bridges	220320	San Rafael	Added 6.4 mi (10.3 km) of occupied habitat area (Arroyo Core Madera del Presidio).
South Bay	220420	Eastbay Cities	Removed 8.6 mi (13.8 km) migratory corridor to Upper Alameda Creek watershed (220430).
South Bay	220430	Upper Alameda Creek	Removed all occupied habitat (99.0 mi, or 159 km) from final designation.
Santa Clara	220520	Fremont Bayside	Removed portion of migratory corridor (1.0 mi, or 1.6 km) to Upper Alameda Creek watershed (220430).
Santa Clara	220550	Palo Alto	Added 1.9 mi (3.0 km) of occupied habitat area (San Francisquito Creek tributaries).
Suisun	220722	Suisun Creek	Excluded all occupied habitat area from final designation.

ESU Specific Changes—South-Central California Steelhead

The CHART did not change the conservation value rating for any watershed within the geographical area occupied by this ESU, nor were there any changes to the extent of occupied habitat areas. As a result of revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we did not make any changes to the areas that were previously proposed for designation or identify any new areas for exclusion.

ESU Specific Changes—Southern California Steelhead

The CHART did not change the conservation value ratings for any of the occupied watersheds within the geographical area occupied by this ESU. However, based on information from the public comments and agency biologists and reviewed by the CHART, several watershed units (490121, 490122, 490125, 490126, and 490128) were determined to be unoccupied and, because we had not made a determination that they were essential to the conservation of the ESU, were not considered eligible for designation or considered in the final ESA section 4(b)(2) analysis for this final designation. These watershed units were located in the San Juan Creek/Trabuco Creek watershed in the southern portion of the range of the ESU. Also, based on public comments and other information reviewed by the CHART, we have identified several changes to the extent of occupied habitat in a number of watersheds. Based on the revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we did not make any changes to the watershed areas that were previously proposed for designation. Table 4 summarizes the specific changes made for this ESU.

TABLE 4.—ESU SPECIFIC CHANGES—SOUTHERN CALIFORNIA STEELHEAD

Hydrologic unit	HSA watershed code	HSA watershed/area name	Changes from proposed rule
Santa Ynez	331440	Santa Ynez to Bradbury	Removed 24.0 mi (38.6 km) of occupied tributary habitat area to the Santa Ynez River (Alamo Pintado and Santa Aguedo Creeks).
South Coast	331534	Carpenteria	Removed 0.8 mi (1.3 km) of occupied habitat (Santa Monica estuary).
Ventura River	440232	Thatcher	Removed 20.9 mi (33.6 km) of occupied tributary habitat area (San Antonio Creek and tributaries).
Santa Clara—Calleguas	440331	Sespe—Santa Clara	Removed 5.4 mi (8.7 km) of occupied habitat area (Pole Creek).
San Juan	490121	Trabuco	Changed to unoccupied. Removed small amount of occupied habitat area (Trabuco Creek).
San Juan	490122	Upper Trabuco	Changed to unoccupied. Removed 7.7 mi (12.4 km) of occupied habitat area (Trabuco Creek).
San Juan	490123	Middle Trabuco	Removed 12.4 mi (20.0 km) of occupied habitat area (Trabuco Creek).
San Juan	490125	Upper San Juan	Changed to unoccupied. Removed 12.5 mi (20.1 km) of occupied habitat area (San Juan Creek).
San Juan	490126	Mid upper San Juan	Changed to unoccupied. Removed 3.8 mi (6.1 km) of occupied habitat area (San Juan Creek).
San Juan	490128	Middle San Juan	Changed to unoccupied. Removed 3.4 mi (5.5 km) of occupied habitat area (San Juan Creek).

TABLE 4.—ESU SPECIFIC CHANGES—SOUTHERN CALIFORNIA STEELHEAD—Continued

Hydrologic unit	HSA watershed code	HSA watershed/area name	Changes from proposed rule
San Juan	490140	San Mateo	Removed 4.9 mi (7.9 km) of occupied habitat (Devil Creek).

ESU Specific Changes—Central Valley Spring Run Chinook Salmon

Based on information provided in the public comments and new information reviewed by the CHART, one watershed was changed from occupied to unoccupied (550731), one was changed from unoccupied to occupied and rated as having a high conservation value to the ESU (551510), and one watershed was changed from a medium to a high conservation value (551921). Also, based on public comments and new information reviewed by the CHART, we have identified relatively minor changes to the extent of occupied habitat in some watersheds. Based on the results of the revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we are excluding all occupied habitat areas in one watershed (551720) that were previously proposed for designation, and designating all occupied habitat areas in a second watershed (551921) that were previously proposed for exclusion. Table 5 summarizes the specific changes made for this ESU.

TABLE 5.—ESU SPECIFIC CHANGES—CENTRAL VALLEY SPRING RUN CHINOOK

Hydrologic unit	HSA watershed code	HSA Watershed name	Changes from proposed rule
Whitmore	550731	South Cow Creek	Changed from occupied to unoccupied. Removed 10.3 mi (16.6 km) of occupied habitat area.
Redding	550810	Enterprise Flat	Minor changes in distribution. No net change in occupied mi of habitat area.
Marysville	551510	Lower Bear River	Changed from unoccupied to occupied. Added 5.1 mi (8.2 km) of occupied habitat area. Rated as high in conservation value and included all occupied habitat in the final designation.
Yuba River	551720	Nevada City	Excluded all occupied habitat from final designation.
Valley-American	551921	Lower American	Changed conservation value from medium to high and included all occupied habitat in the final designation.

ESU Specific Changes—Central Valley Steelhead

Based on information provided in the public comments and new information reviewed by the CHART, the conservation value of two watersheds (551510 and 552110) within the geographical range of this ESU was changed from low to medium. Additionally, based on public comments and new information reviewed by the CHART, we have identified changes to the extent of occupied habitat areas in two watersheds. As a result of the revised economic data for this ESU and our final ESA section 4(b)(2) analysis, we are excluding all occupied habitat areas in two watersheds (550964 and 552435) proposed for designation and designating all occupied areas in two other watersheds (551510 and 552110) that were previously proposed for exclusion. Table 6 summarizes the specific changes made for this ESU.

TABLE 6.—ESU SPECIFIC CHANGES—CENTRAL VALLEY STEELHEAD

Hydrologic unit	HSA watershed code	HSA Watershed name	Changes from proposed rule
Redding	550810	Enterprise Flat	Added 5.7 mi (9.2 km) of occupied habitat area (several tributaries).
Eastern Tehama	550964	Paynes Creek	Excluded all occupied habitat Tehama from the final designation.
Marysville	551510	Lower Bear River	Changed conservation value from low to medium. Included all occupied habitat in the final designation.
Butte Creek	552110	Upper Dry Creek	Changed conservation value from low to medium. Included all occupied habitat in the final designation.
Shasta Bally	552435	Ono	Excluded all occupied habitat from the final designation.
Shasta Bally	552440	Spring Creek	Removed 3.1 mi (5.0 km) of occupied habitat area.

IV. Methods and Criteria Used To Designate Critical Habitat

The following sections describe the relevant definitions and guidance found in the ESA and our implementing regulations, and the key methods and criteria we used to make these final critical habitat designations after incorporating, as appropriate, comments and information received on the proposed rule. Section 4 of the ESA (16 U.S.C. 1533(b)(2)) and our regulations at 50 CFR 424.12(a) require that we designate critical habitat, and make revisions thereto, ''on the basis of the best scientific data available.''

Section 3 of the ESA (16 U.S.C. 1532(5)) defines critical habitat as ''(i) 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; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.'' Section 3 of the ESA (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean ''to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.''

Pursuant to our regulations, when designating critical habitat we consider the following requirements of the species: (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 of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of the species (see 50 CFR 424.12(b)). In addition to these factors, we also focus on the known physical and biological features (primary constituent elements or PCEs) within the occupied areas that are essential to the conservation of the species and that may require special management considerations or protection. Both the ESA and our regulations, in recognition of the divergent biological needs of species, establish criteria that are fact specific rather than ''one size fits all.''

Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species'' (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Section 4 of the ESA requires that before designating critical habitat we must consider the economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as critical habitat, and the Secretary may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, unless excluding an area from critical habitat will result in the extinction of the species concerned. Once critical habitat for a salmon or steelhead ESU is designated, section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS, ensure that any action authorized, funded or carried out by such agency is not likely to result in the destruction or adverse modification of critical habitat.

Salmon Life History

Pacific salmon are anadromous fish, meaning adults migrate from the ocean to spawn in freshwater lakes and streams where their offspring hatch and rear prior to migrating back to the ocean to forage until maturity. The migration and spawning times vary considerably across and within species and populations (Groot and Margolis, 1991). At spawning, adults pair to lay and fertilize thousands of eggs in freshwater gravel nests or ''redds'' excavated by females. Depending on lake/stream temperatures, eggs incubate for several weeks to months before hatching as ''alevins'' (a larval life stage dependent on food stored in a yolk sac). Following yolk sac absorption, alevins emerge from the gravel as young juveniles called ''fry'' and begin actively feeding. Depending on the species and location, juveniles may spend from a few hours to several years in freshwater areas before migrating to the ocean. The physiological and behavioral changes required for the transition to salt water result in a distinct ''smolt'' stage in most species. On their journey juveniles must migrate downstream through every riverine and estuarine corridor between their natal lake or stream and the ocean. For example, smolts from Idaho will travel as far as 900 miles (1,448 km) from the inland spawning grounds. En route to the ocean the juveniles may spend from a few days to several weeks in the estuary, depending on the species. The highly productive estuarine environment is an important feeding and acclimation area for juveniles preparing to enter marine waters.

Juveniles and subadults typically spend from 1 to 5 years foraging over thousands of miles in the North Pacific Ocean before returning to spawn. Some species, such as coho and Chinook salmon, have precocious life history types (primarily male fish known as ''jacks'') that mature and spawn after only several months in the ocean. Spawning migrations known as ''runs'' occur throughout the year, varying by species and location. Most adult fish return or ''home'' with great fidelity to spawn in their natal stream, although some do stray to non-natal streams. Salmon species die after spawning, except anadromous *O. mykiss* (steelhead), which may return to the ocean and make one or more repeat spawning migrations. This complex life cycle gives rise to complex habitat needs, particularly during the freshwater phase (see review by Spence *et al.*, 1996). Spawning gravels must be of a certain size and free of sediment to allow successful incubation of the eggs. Eggs also require cool, clean, and well-oxygenated waters for proper development. Juveniles need abundant food sources, including insects, crustaceans, and other small fish. They need places to hide from predators (mostly birds and bigger fish), such as under logs, root wads and boulders in the stream, and beneath overhanging vegetation. They also need places to seek refuge from periodic high flows (side channels and off channel areas) and from warm summer water temperatures (coldwater springs and deep pools). Returning adults generally do not feed in fresh water but instead rely on limited energy stores to migrate, mature, and spawn. Like juveniles, they also require cool water and places to rest and hide from predators. During all life stages salmon require cool water that is free of contaminants. They also require rearing and migration corridors with adequate passage conditions (water quality and quantity available at specific times) to allow access to the various habitats required to complete their life cycle.

The homing fidelity of salmon has created a metapopulation structure with distinct populations distributed among watersheds (McElhany *et al.*, 2000). Low levels of straying result in regular genetic exchange among populations,

creating genetic similarities among populations in adjacent watersheds. Maintenance of the metapopulation structure requires a distribution of populations among watersheds where environmental risks (*e.g.*, from landslides or floods) are likely to vary. It also requires migratory connections among the watersheds to allow for periodic genetic exchange and alternate spawning sites in the case that natal streams are inaccessible due to natural events such as a drought or landslide. More detailed information describing habitat and life history characteristics of the ESUs is contained in the proposed rule (69 FR 71880; December 10, 2004), agency status reviews for each ESU, technical recovery team products, and in a biological report supporting these designations (NMFS, 2005a).

Identifying the Geographical Area Occupied by the Species and Specific Areas Within the Geographical Area

In past critical habitat designations, we had concluded that the limited availability of species distribution data prevented mapping salmonid critical habitat at a scale finer than occupied river basins (65 FR 7764; February 16, 2000). Therefore, the 2000 designations defined the ''geographical area occupied by the species, at the time of listing'' as all accessible river reaches within the current range of the listed species.

In the proposed rule we described in greater detail that since the previous designations in 2000, we can now be somewhat more precise about the ''geographical area occupied by the species'' because of efforts by agency biologists, in coordination with Federal and state co-managers, to compile information and map actual species distribution at the level of stream reaches. Moreover, much of the available data can now be accessed and analyzed using geographic information systems (GIS) to produce consistent and fine-scale maps. The current mapping effort for these ESUs documents fish presence and identifies occupied stream reaches where the species has been observed. It also identifies stream reaches where the species is presumed to occur based on the professional judgment of biologists familiar with the watershed. We made use of these finer-scale data for the current critical habitat designations, and we now believe that they enable a more accurate delineation of the ''geographical area occupied by the species'' referred to in the ESA definition of critical habitat.

We are now also able to identify ''specific areas'' (ESA section 3(5)(a)) and ''particular areas'' (ESA section 4(b)(2)) at a finer scale than in 2000. As described in the proposed rule, we have used the State of California's CALWATER watershed classification system, which is similar to the USGS watershed classification system that was used for salmonid critical habitat designations in the Northwest. This information is now generally available via the internet, and we have expanded our GIS resources to use these data. We used the CALWATER Hydrologic Subarea (HSA) unit (which is generally similar in size to USGS HUC5s) to organize critical habitat information systematically and at a scale that, while somewhat broad geographically, is applicable to the spatial distribution of salmon. Organizing information at this scale is especially relevant to salmonids, since their innate homing ability allows them to return to the watersheds where they were born. Such site fidelity results in spatial aggregations of salmonid populations that generally correspond to the area encompassed by HSA watersheds or aggregations of these watersheds.

The CALWATER system maps watershed units as polygons, bounding a drainage area from ridge-top to ridge-top, encompassing streams, riparian areas and uplands. Within the boundaries of any HSA watershed, there are stream reaches not occupied by the species. Land areas within the CALWATER HSA boundaries are also generally not ''occupied'' by the species (though certain areas such as flood plains or side channels may be occupied at some times of some years). We used the watershed boundaries as a basis for aggregating occupied stream reaches, for purposes of delineating ''specific'' areas at a scale that often corresponds well to salmonid population structure and ecological processes. This designation refers to the occupied stream reaches within the watershed boundary as the ''habitat area'' to distinguish it from the entire area encompassed by the watershed boundary. Each habitat area was reviewed by the CHARTs to verify occupation, PCEs, and special management considerations (see ''Critical Habitat Analytical Review Teams'' section below).

The watershed-scale aggregation of stream reaches also allowed us to analyze the impacts of designating a ''particular area,'' as required by ESA section 4(b)(2). As a result of watershed processes, many activities occurring in riparian or upland areas and in non-fish-bearing streams may affect the physical or biological features essential to conservation in the occupied stream reaches. The watershed boundary thus describes an area in which Federal activities have the potential to affect critical habitat (Spence *et al.*, 1996). Using watershed boundaries for the economic analysis ensured that all potential economic impacts were considered. Section 3(5) defines critical habitat in terms of ''specific areas,'' and section 4(b)(2) requires the agency to consider certain factors before designating ''particular areas.'' In the case of Pacific salmonids, the biology of the species, the characteristics of its habitat, the nature of the impacts and the limited information currently available at finer geographic scales made it appropriate to consider ''specific areas'' and ''particular areas'' as the same unit.

Occupied estuarine areas were also considered in the context of defining ''specific areas.'' In our proposed rule we noted that estuarine areas are crucial for juvenile salmonids, given their multiple functions as areas for rearing/feeding, freshwater-saltwater acclimation, and migration (Simenstad *et al.*, 1982; Marriott *et al.*, 2002). The San Francisco Bay estuary complex consists of five CALWATER HSA watershed units that are separate from upstream freshwater habitats that drain into the estuarine complex, and these units were analyzed separately. Some other small estuaries did not correspond to HSA watershed units nor were they part of defined HSA watershed units, and so we defined specific polygons which were analyzed separately. In all occupied estuarine areas we were able to identify physical or biological features essential to the conservation of the species, and that may require special management considerations or protection. For those estuarine areas designated as critical habitat we are again delineating them in similar terms to our past designations, as being defined by a line connecting the furthest land points at the estuary mouth.

In previous designations of salmonid critical habitat we did not designate offshore marine areas. In the Pacific Ocean, we concluded that there may be essential habitat features, but we could not identify any special management considerations or protection associated with them as required under section 3(5)(A)(i) of the ESA (65 FR 7776; February 16, 2000). Since that time we have carefully considered the best available scientific information, and related agency actions, such as the designation of Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act. In contrast to estuarine areas, we conclude that it is not possible to identify ''specific areas'' in the Pacific Ocean that contain essential features for salmonids. Also, links between human

activity, habitat conditions and impacts to listed salmonids are less direct in offshore marine areas. Perhaps the closest linkage exists for salmon prey species that are harvested commercially (*e.g.*, Pacific herring) and, therefore, may require special management considerations or protection. However, because salmonids are opportunistic feeders we could not identify ''specific areas'' where these or other essential features are found within this vast geographic area occupied by salmon and steelhead. Moreover, prey species move or drift great distances throughout the ocean and would be difficult to link to any ''specific'' areas. Therefore, we are not designating critical habitat in offshore marine areas. We requested comment on this issue in our proposed rule but did not receive comments or information that would change our conclusion.

Primary Constituent Elements

In determining what areas are critical habitat, agency regulations at 50 CFR 424.12(b) require that we must ''consider those physical or biological features that are essential to the conservation of a given species * * *, including space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.'' The regulations further direct us to ''focus on the principal biological or physical constituent elements * * * that are essential to the conservation of the species,'' and specify that the ''known primary constituent elements shall be listed with the critical habitat description.'' The regulations identify primary constituent elements (PCEs) as including, but not limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.''

NMFS biologists developed a list of PCEs that are essential to the species' conservation and based on the unique life history of salmon and steelhead and their biological needs (Hart, 1973; Beauchamp *et al.*, 1983; Laufle *et al.*, 1986; Pauley *et al.*, 1986, 1988, and 1989; Groot and Margolis, 1991; Spence *et al.*, 1996). Guiding the identification of PCEs was a decision matrix we developed for use in ESA section 7 consultations (NMFS, 1996) which describes general parameters and characteristics of most of the essential features under consideration in this critical habitat designation. We identified these PCEs and requested comment on them in the ANPR (68 FR 55931; September 29, 2003) and proposed rule (69 FR 74636; December 14, 2005) but did not receive information to support changing them. The ESUs addressed in this final rule share many of the same rivers and estuaries and have similar life history characteristics and, therefore, many of the same PCEs. These PCEs include sites essential to support one or more life stages of the ESU (sites for spawning, rearing, migration and foraging). These sites in turn contain physical or biological features essential to the conservation of the ESU (for example, spawning gravels, water quality and quantity, side channels, forage species). The specific PCEs include:

1. Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development. These features are essential to conservation because without them the species cannot successfully spawn and produce offspring.

2. Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility; water quality and forage supporting juvenile development; and natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks. These features are essential to conservation because without them juveniles cannot access and use the areas needed to forage, grow, and develop behaviors (*e.g.*, predator avoidance, competition) that help ensure their survival.

3. Freshwater migration corridors free of obstruction with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival. These features are essential to conservation because without them juveniles cannot use the variety of habitats that allow them to avoid high flows, avoid predators, successfully compete, begin the behavioral and physiological changes needed for life in the ocean, and reach the ocean in a timely manner. Similarly, these features are essential for adults because they allow fish in a non-feeding condition to successfully swim upstream, avoid predators, and reach spawning areas on limited energy stores.

4. Estuarine areas free of obstruction with water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater; natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels; and juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation. These features are essential to conservation because without them juveniles cannot reach the ocean in a timely manner and use the variety of habitats that allow them to avoid predators, compete successfully, and complete the behavioral and physiological changes needed for life in the ocean. Similarly, these features are essential to the conservation of adults because they provide a final source of abundant forage that will provide the energy stores needed to make the physiological transition to fresh water, migrate upstream, avoid predators, and develop to maturity upon reaching spawning areas.

5. Nearshore marine areas free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels. As in the case with freshwater migration corridors and estuarine areas, nearshore marine features are essential to conservation because without them juveniles cannot successfully transition from natal streams to offshore marine areas.

6. Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation. These features are essential for conservation because without them juveniles cannot forage and grow to adulthood. However, for the reasons stated previously in this document, it is difficult to identify specific areas containing this PCE as well as human activities that may affect the PCE condition in those areas. Therefore, we have not designated any specific areas based on this PCE but instead have identified it because it is essential to the species' conservation and specific offshore areas may be identified in the future (in which case any designation would be subject to separate rulemaking).

The occupied habitat areas designated in this final rule contain PCEs required to support the biological processes for

which the species use the habitat. The CHARTs verified this for each watershed/nearshore zone by relying on the best available scientific data (including species distribution maps, watershed analyses, and habitat surveys) during their review of occupied areas and resultant assessment of area conservation values (NMFS, 2005a). The contribution of the PCEs varies by site and biological function such that the quality of the elements may vary within a range of acceptable conditions. The CHARTs took this variation into account when they assessed the conservation value of an area.

Special Management Considerations or Protections

An occupied area cannot be designated as critical habitat unless it contains physical and biological features that ''may require special management considerations or protection.'' Agency regulations at 424.02(j) define ''special management considerations or protection'' to mean ''any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.''

As part of the biological assessment described below under ''Critical Habitat Analytical Review Teams,'' teams of biologists examined each habitat area to determine whether the physical or biological features may require special management consideration. These determinations are identified for each area in the CHART report (NMFS, 2005a). In the case of salmon and steelhead, the CHARTs identified a variety of activities that threaten the physical and biological features essential to listed salmon and steelhead (see review by Spence *et al.*, 1996), including: (1) Forestry; (2) grazing and other associated rangeland activities; (3) agriculture; (4) road building/maintenance; (5) channel modifications/diking/stream bank stabilization; (6) urbanization; (7) sand and gravel mining; (8) mineral mining; (9) dams; (10) irrigation impoundments and withdrawals; (11) wetland loss/removal; (12) exotic/invasive species introductions; and (13) impediments to migration. In addition to these, the harvest of salmonid prey species (*e.g.,* forage fishes such as herring, anchovy, and sardines) may present another potential habitat-related management activity (Pacific Fishery Management Council, 1999).

Unoccupied Areas

ESA section 3(5)(A)(ii) defines critical habitat to include ''specific areas outside the geographical area occupied'' if the areas are determined by the Secretary to be ''essential for the conservation of the species.'' NMFS regulations at 50 CFR 424.12(e) emphasize that we ''shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' The CHARTs did identify several unoccupied areas above dams that may be essential for the conservation of specific ESUs, primarily within the historical range of the Central Valley spring run Chinook, Central Valley steelhead, and Southern California steelhead ESUs (see proposed rule; 69 FR 71880; December 10, 2004); however, we are not designating unoccupied areas at this time. Though it is not possible to conclude at this time that any of these historically occupied areas warrant designation, we believe it is useful to signal to the public that these specific areas may be considered for possible designation in the future. However, any designation of unoccupied areas would be based on the required determination that such area is essential for the conservation of an ESU and would be subject to separate rulemaking with the opportunity for notice and comment.

Lateral Extent of Critical Habitat

In past designations we have described the lateral extent of critical habitat in various ways ranging from fixed distances to ''functional'' zones defined by important riparian functions (65 FR 7764; February 16, 2000). Both approaches presented difficulties, and this was highlighted in several comments (most of which requested that we focus on aquatic areas only) received in response to the ANPR (68 FR 55926; September 29, 2003). Designating a set riparian zone width will (in some places) accurately reflect the distance from the stream on which PCEs might be found, but in other cases may over- or understate the distance. Designating a functional buffer avoids that problem, but makes it difficult for Federal agencies to know in advance what areas are critical habitat. To address these issues we are proposing to define the lateral extent of designated critical habitat as the width of the stream channel defined by the ordinary high-water line as defined by the COE in 33 CFR 329.11. This approach is consistent with the specific mapping requirements described in agency regulations at 50 CFR 424.12(c). In areas for which ordinary high-water has not been defined pursuant to 33 CFR 329.11, the width of the stream channel shall be defined by its bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain (Rosgen, 1996) and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series (Leopold *et al.*, 1992). Such an interval is commensurate with nearly all of the juvenile freshwater life phases of most salmon and steelhead ESUs. Therefore, it is reasonable to assert that for an occupied stream reach this lateral extent is regularly ''occupied''. Moreover, the bankfull elevation can be readily discerned for a variety of stream reaches and stream types using recognizable water lines (*e.g.,* marks on rocks) or vegetation boundaries (Rosgen, 1996).

As underscored in previous critical habitat designations, the quality of aquatic habitat within stream channels is intrinsically related to the adjacent riparian zones and floodplain, to surrounding wetlands and uplands, and to non-fish-bearing streams above occupied stream reaches. Human activities that occur outside the stream can modify or destroy physical and biological features of the stream. In addition, human activities that occur within and adjacent to reaches upstream (*e.g.,* road failures) or downstream (*e.g.,* dams) of designated stream reaches can also have demonstrable effects on physical and biological features of designated reaches.

In estuarine areas we believe that extreme high water is the best descriptor of lateral extent. We are designating the area inundated by extreme high tide because it encompasses habitat areas typically inundated and regularly occupied during the spring and summer when juvenile salmon are migrating in the nearshore zone and relying heavily on forage, cover, and refuge qualities provided by these occupied habitats. As noted above for stream habitat areas, human activities that occur outside the area inundated by extreme or ordinary high water can modify or destroy physical and biological features of the nearshore habitat areas, and Federal agencies must be aware of these important habitat linkages as well.

Military Lands

The Sikes Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an INRMP. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. 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. No. 108–136) amended the ESA to address designation of military lands as critical habitat. Specifically, section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

To address this new provision we contacted the DOD and requested information on all INRMPs that might benefit Pacific salmon. In response to the ANPR (68 FR 55926; September 29, 2003) we had already received a letter from the U.S. Marine Corps regarding this and other issues associated with a possible critical habitat designation on its facilities in the range of the Southern California Steelhead ESU. In response to our request, the military services identified 25 installations in California with INRMPs in place or under development. Based on information provided by the military, as well as GIS analysis of fish distributional information compiled by NMFS'' Southwest Region (NMFS, 2004b; NMFS, 2005a) and land use data, we determined that the following facilities with INRMPs overlap with habitat areas under consideration for critical habitat designation in California: (1) Camp Pendleton Marine Corps Base; (2) Vandenberg Air Force Base; (3) Camp San Luis Obispo; (4) Camp Roberts; and (5) Mare Island Army Reserve Center. Two additional facilities are adjacent to, but do not overlap with, habitat areas under consideration for critical habitat in California: (1) Naval Weapons Station, Seal Beach/Concord Detachment; and (2) Point Mugu Naval Air Station. None of the remaining facilities with INRMPs in place overlapped with or were adjacent to habitat under consideration for critical habitat based on the information available to us. All of these INRMPs are final except for the Vandenberg Air Force Base INRMP, which is expected to be finalized in the near term.

We identified habitat of value to listed salmonids in each INRMP and reviewed these plans, as well as other information available regarding the management of these military lands. Our review indicates that each of these INRMPs addresses habitat for salmonids, and all contain measures that provide benefits to ESA-listed salmon and steelhead. Examples of the types of benefits include actions that control erosion, protect riparian zones, minimize stormwater and construction impacts, reduce contaminants, and monitor listed species and their habitats. As a result of our review, we have determined that the final INRMPs and the draft INRMP for Vandenberg Air Force Base provide a benefit to the species for which critical habitat is proposed for designation, and, therefore, we are not designating critical habitat in those areas. Also, we have received information from the Vandenberg Air Force Base and Camp Pendleton Marine Corps Base identifying national security impacts to their operations from critical habitat designation. Our consideration of such impacts is separate from our assessment of INRMPs, but serves as an independent and sufficient basis for our determination not to designate those areas as critical habitat.

Critical Habitat Analytical Review Teams

To assist in the designation of critical habitat, we convened several CHARTs organized by major geographic domains that roughly correspond to salmon recovery planning domains in California. The CHARTs consisted of NMFS fishery biologists from the Southwest Region with demonstrated expertise regarding salmonid habitat and related protective efforts within the domain. The CHARTs were tasked with compiling and assessing biological information pertaining to areas under consideration for designation as critical habitat. Each CHART worked closely with GIS specialists to develop maps depicting the spatial distribution of habitat occupied by each ESU and the use of occupied habitat on stream hydrography at a scale of 1:100,000. The CHARTs also reconvened to review the public comments and any new information regarding the ESUs and habitat in their domain.

The CHARTs examined each habitat area within the watershed to determine whether the stream reaches or lakes occupied by the species contain the physical or biological features essential to conservation. As noted previously, the CHARTs also relied on their experience conducting ESA section 7 consultations and existing management plans and protective measures to determine whether these features may require special management considerations or protection.

In addition to occupied areas, the definition of critical habitat also includes unoccupied areas if we determine that area is essential for conservation of a species. Accordingly the CHARTs were also asked whether there were any unoccupied areas within the historical range of the ESUs that may be essential for conservation. For the seven ESUs addressed in this rulemaking, the CHARTs did not have sufficient information that would allow them to conclude that specific unoccupied areas were essential for conservation; however, in many cases they were able to identify areas they believed may be determined essential through future recovery planning efforts. These were described in the proposed critical habitat designation rule (69 FR 71880).

The CHARTs were next asked to determine the relative conservation value of each occupied HSA watershed area for each ESU. The CHARTs scored each habitat area based on several factors related to the quantity and quality of the physical and biological features. They next considered each area in relation to other areas and with respect to the population occupying that area. Based on a consideration of the raw scores for each area, and a consideration of that area's contribution in relation to other areas and in relation to the overall population structure of the ESU, the CHARTs rated each habitat area as having a ''high,'' ''medium,'' or ''low'' conservation value. The preliminary CHART ratings were reviewed by several state and tribal co-managers in advance of the proposed rule and the CHARTs made needed changes prior to that rule. State co-managers also evaluated our proposed rule and provided comments and new information which were also reviewed and incorporated as needed by the CHARTs in the preparation of the final designations.

The rating of habitat areas as having a high, medium, or low conservation value provided information useful to inform the Secretary's exercise of discretion in balancing whether the benefits of exclusion outweigh the

benefits of designation in ESA section 4(b)(2). The higher the conservation value for an area, the greater may be the likely benefit of the ESA section 7 protections. We recognized that the ''benefit of designation'' would also depend on the likelihood of a consultation occurring and the improvements in species' conservation that may result from changes to proposed Federal actions. To address this concern, we developed a profile for a ''low leverage'' watershed—that is, a watershed where it was unlikely there would be a section 7 consultation, or where a section 7 consultation, if it did occur, would yield few conservation benefits. For watersheds not meeting the ''low leverage'' profile, we considered their conservation rating to be a fair assessment of the benefit of designation, for purposes of our cost-effectiveness framework (NMFS 2005c). For watersheds meeting the ''low leverage'' profile, we considered the benefit of designation to be an increment lower than the conservation rating. For example, therefore, a watershed with a ''high'' conservation value but ''low leverage'' was considered to have a ''medium'' benefit of designation, and so forth. We then applied the dollar thresholds for exclusion appropriate to the adjusted ''benefit of designation.''

As discussed earlier, the scale chosen for the ''specific area'' referred to in section 3(5)(a) was an HSA watershed as delineated by the CALWATER watershed classification system. This delineation required us to adapt the approach for some areas. For example, a large stream or river might serve as a rearing and migration corridor to and from many watersheds, yet be embedded itself in a watershed. In any given watershed through which it passes, the stream may have a few or several tributaries. For rearing/migration corridors embedded in a watershed, the CHARTs were asked to rate the conservation value of the watershed based on the tributary habitat. We assigned the rearing/migration corridor the rating of the highest-rated watershed for which it served as a rearing/migration corridor. The reason for this treatment of migration corridors is the role they play in the salmon's life cycle. Salmon are anadromous—born in fresh water, migrating to salt water to feed and grow, and returning to fresh water to spawn. Without a rearing/migration corridor to and from the sea, salmon cannot complete their life cycle. It would be illogical to consider a spawning and rearing area as having a particular conservation value and not consider the associated rearing/migration corridor as having a similar conservation value.

V. Application of ESA Section 4(b)(2)

The foregoing discussion describes those areas that are eligible for designation as critical habitat—the specific areas that fall within the ESA section 3(5)(A) definition of critical habitat, minus those lands owned or controlled by the DOD, or designated for its use, that are covered by an INRMP that we have determined provides a benefit to the species.

Specific areas eligible for designation are not automatically designated as critical habitat. Section 4(b)(2) of the ESA requires that the Secretary first considers the economic impact, impact on national security, and any other relevant impact. The Secretary has the discretion to exclude an area from designation if he determines the benefits of exclusion (that is, avoiding the impact that would result from designation) outweigh the benefits of designation. The Secretary may not exclude an area from designation if exclusion will result in the extinction of the species. Because the authority to exclude is discretionary, exclusion is not required for any areas. In this rulemaking, the Secretary has applied his statutory discretion to exclude areas from critical habitat for several different reasons.

In this exercise of discretion, the first issue we must address is the scope of impacts relevant to the 4(b)(2) evaluation. As discussed in the Background and Previous Federal Action section, we are re-designating critical habitat for these seven ESUs because the previous designations were vacated (*National Association of Homebuilders* v. *Evans*, 2002 WL 1205743 No. 00–CV–2799 (D.D.C.) (*NAHB*)). The *NAHB* court had agreed with the reasoning of the Court of Appeals for the Tenth Circuit in *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001). In that decision, the Tenth Circuit stated ''[t]he statutory language is plain in requiring some kind of consideration of economic impact in the critical habitat designation phase.'' The Tenth Circuit concluded that, given the USFWS'' failure to distinguish between ''adverse modification'' and ''jeopardy'' in its 4(b)(2) analysis, the USFWS must analyze the full impacts of critical habitat designation, regardless of whether those impacts are coextensive with other impacts (such as the impact of the jeopardy requirement).

In re-designating critical habitat for these salmon ESUs, we have followed the Tenth Circuit Court's directive regarding the statutory requirement to consider the economic impact of designation. Areas designated as critical habitat are subject to ESA section 7 requirements, which provide that Federal agencies ensure that their actions are not likely to destroy or adversely modify critical habitat. To evaluate the economic impact of critical habitat we first examined our voluminous section 7 consultation record for these as well as other ESUs of salmon. (For thoroughness, we examined the consultation record for other ESUs to see if it shed light on the issues.) That record includes consultations on habitat-modifying Federal actions both where critical habitat has been designated and where it has not. We could not discern a distinction between the impacts of applying the jeopardy provision versus the adverse modification provision in occupied critical habitat. Given our inability to detect a measurable difference between the impacts of applying these two provisions, the only reasonable alternative seemed to be to follow the recommendation of the Tenth Circuit, approved by the *NAHB* court—to measure the coextensive impacts; that is, measure the entire impact of applying the adverse modification provision of section 7, regardless of whether the jeopardy provision alone would result in the identical impact.

The Tenth Circuit's opinion only addressed ESA section 4(b)(2)'s requirement that economic impacts be considered. The court did not address how ''other relevant impacts'' were to be considered, nor did it address the benefits of designation. Because section 4(b)(2) requires a consideration of other relevant impacts of designation, and the benefits of designation, and because our record did not support a distinction between impacts resulting from application of the adverse modification provision versus the jeopardy provision, we are uniformly considering coextensive impacts and coextensive benefits, without attempting to distinguish the benefit of a critical habitat consultation from the benefit that would otherwise result from a jeopardy consultation that would occur even if critical habitat were not designated. To do otherwise would distort the balancing test contemplated by section 4(b)(2).

The principal benefit of designating critical habitat is that Federal activities that may affect such habitat are subject to consultation pursuant to section 7 of the ESA. Such consultation requires every Federal agency to ensure that any action it authorizes, funds or carries out is not likely to result in the destruction

or adverse modification of critical habitat. This complements the section 7 provision that Federal agencies ensure that their actions are not likely to jeopardize the continued existence of a listed species. Another benefit is that the designation of critical habitat can serve to educate the public regarding the potential conservation value of an area and thereby focus and contribute to conservation efforts by clearly delineating areas of high conservation value for certain species. It is unknown to what extent this process actually occurs, and what the actual benefit is, as there are also concerns, noted above, that a critical habitat designation may discourage such conservation efforts.

The balancing test in ESA section 4(b)(2) contemplates weighing benefits that are not directly comparable—the benefit associated with species conservation balanced against the economic benefit, benefit to national security, or other relevant benefit that results if an area is excluded from designation. Section 4(b)(2) does not specify a method for the weighing process. Agencies are frequently required to balance benefits of regulations against impacts; E.O. 12866 established this requirement for Federal agency regulation. Ideally such a balancing would involve first translating the benefits and impacts into a common metric. Executive branch guidance from the OMB suggests that benefits should first be monetized (*i.e.*, converted into dollars). Benefits that cannot be monetized should be quantified (for example, numbers of fish saved). Where benefits can neither be monetized nor quantified, agencies are to describe the expected benefits (OMB, 2003).

It may be possible to monetize benefits of critical habitat designation for a threatened or endangered species in terms of willingness-to-pay (OMB, 2003). However, we are not aware of any available data that would support such an analysis for salmon. In addition, ESA section 4(b)(2) requires analysis of impacts other than economic impacts that are equally difficult to monetize, such as benefits to national security of excluding areas from critical habitat. In the case of salmon designations, impacts to Northwest tribes are an ''other relevant impact'' that also may be difficult to monetize.

An alternative approach, approved by OMB (OMB, 2003), is to conduct a cost-effectiveness analysis. A cost-effectiveness analysis ideally first involves quantifying benefits, for example, percent reduction in extinction risk, percent increase in productivity, or increase in numbers of fish. Given the state of the science, it would be difficult to quantify reliably the benefits of including particular areas in the critical habitat designation. Although it is difficult to monetize or quantify benefits of critical habitat designation, it is possible to differentiate among habitat areas based on their relative contribution to conservation. For example, habitat areas can be rated as having a high, medium, or low conservation value. The qualitative ordinal evaluations can then be combined with estimates of the economic costs of critical habitat designation in a framework that essentially adopts that of cost-effectiveness. Individual habitat areas can then be assessed using both their biological evaluation and economic cost, so that areas with high conservation value and lower economic cost might be considered to have a higher priority for designation, while areas with a low conservation value and higher economic cost might have a higher priority for exclusion. While this approach can provide useful information to the decision-maker, there is no rigid formula through which this information translates into exclusion decisions. Every geographical area containing habitat eligible for designation is different, with a unique set of ''relevant impacts'' that may be considered in the exclusion process. Regardless of the analytical approach, section 4(b)(2) makes clear that what weight the agency gives various impacts and benefits, and whether the agency excludes areas from the designation, is discretionary.

Exclusions Based on Impacts to Tribes

The principal benefit of designating critical habitat is that Federal activities that may affect such habitat are subject to consultation pursuant to section 7 of the ESA. We believe there is very little benefit to designating critical habitat on Indian lands for these seven ESUs. Although there are potentially a number of activities on Indian lands that may trigger section 7 consultation, Indian lands comprise only a very minor portion (substantially less than 1 percent) of the total habitat under consideration for these seven California ESUs. Specifically, occupied stream reaches on Indian lands only occur within the range of the California Coastal Chinook, Northern California steelhead, and Central California Coast steelhead ESUs, and these areas represent less than 0.1 percent of the total occupied habitat under consideration for these three ESUs. Based on our analysis, the remaining four ESUs did not contain any Indian lands that overlapped with occupied stream habitat. These percentages are likely overestimates as they include all habitat area within reservation boundaries.

There are several benefits to excluding Indian lands. The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Pursuant to these authorities lands have been retained by Indian Tribes or have been set aside for tribal use. These lands are managed by Indian Tribes in accordance with tribal goals and objectives within the framework of applicable treaties and laws.

In addition to the distinctive trust relationship for Pacific salmon and steelhead in California and in the Northwest, there is a unique partnership between the Federal government and Indian tribes regarding salmon management. Indian tribes in California and the Northwest are regarded as ''co-managers'' of the salmon resource, along with Federal and State managers. This co-management relationship evolved as a result of numerous court decisions clarifying the tribes' treaty right to take fish in their usual and accustomed places.

The benefits of excluding Indian lands from designation include: (1) The furtherance of established national policies, our Federal trust obligations and our deference to the tribes in management of natural resources on their lands; (2) the maintenance of effective long-term working relationships to promote the conservation of salmonids on an ecosystem-wide basis; (3) the allowance for continued meaningful collaboration and cooperation in scientific work to learn more about the conservation needs of the species on an ecosystem-wide basis; and (4) continued respect for tribal sovereignty over management of natural resources on Indian lands through established tribal natural resource programs.

We believe that the current co-manager process addressing activities on an ecosystem-wide basis across the State is currently beneficial for the conservation of the salmonids. Because

the co-manager process provides for coordinated ongoing focused action through a variety of forums, we find the benefits of this process to be greater than the benefits of applying ESA section 7 to Federal activities on Indian lands, which comprise much less than one percent of the total area under consideration for these ESUs. Additionally, we have determined that the exclusion of tribal lands will not result in the extinction of the species concerned. We also believe that maintenance of our current co-manager relationship consistent with existing policies is an important benefit to continuance of our tribal trust responsibilities and relationship. Based upon our consultation with the Round Valley Indian Tribes and the BIA, we believe that designation of Indian lands as critical habitat would adversely impact our working relationship and the benefits resulting from this relationship.

Based upon these considerations, we have decided to exercise agency discretion under ESA section 4(b)(2) and exclude Indian lands from the critical habitat designation for these ESUs of salmonids. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including: (1) Lands held in trust by the United States for the benefit of any Indian tribe; (2) land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation; (3) fee lands, either within or outside the reservation boundaries, owned by the tribal government; and (4) fee lands within the reservation boundaries owned by individual Indians. The Indian tribes for which these exclusions apply in California include: Big Lagoon Reservation, Blue Lake Rancheria, Round Valley Indian Tribes, Laytonville Rancheria, Redwood Valley Rancheria, Coyote Valley Reservation, and Manchester-Point Arena Rancheria. We have determined that these exclusions, together with the other exclusions described in this rule, will not result in the extinction of any of the seven ESUs in this designation.

Impacts to Landowners With Contractual Commitments to Conservation

Conservation agreements with non-Federal landowners (*e.g.*, HCPs) enhance species conservation by extending species' protections beyond those available through section 7 consultations. In the past decade we have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species' conservation on non-Federal land through such partnerships than we can through coercive methods (61 FR 63854; December 2, 1996).

Section 10(a)(1)(B) of the ESA authorizes us to issue to non-Federal entities a permit for the incidental take of endangered and threatened species. This permit allows a non-Federal landowner to proceed with an activity that is legal in all other respects, but that results in the incidental taking of a listed species (*i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). The ESA specifies that an application for an incidental take permit must be accompanied by a conservation plan, and specifies the content of such a plan. The purpose of such an HCP is to describe and ensure that the effects of the permitted action on covered species are adequately minimized and mitigated, and that the action does not appreciably reduce the survival and recovery of the species.

To date we have not excluded critical habitat on lands covered by an HCP, but we acknowledged in our proposed rule that this was an emerging issue and that the benefits of such exclusions may outweigh the benefits of designation (69 FR 74623; December 14, 2004). As described in greater detail above (see Comment 42) and in our assessment of HCPs associated with this final rulemaking (NMFS, 2005e), the analysis required for these types of exclusions requires careful consideration of the benefits of designation versus the benefits of exclusion to determine whether benefits of exclusion outweigh benefits of designation. The benefits of designation typically arise from additional section 7 protections as well as enhanced public awareness once specific areas are identified as critical habitat. The benefits of exclusion generally relate to relieving regulatory burdens on existing conservation partners, maintaining good working relationships with them, and encouraging the development of new partnerships.

Based on comments received on our proposed rule, we could not conclude that all landowners view designation of critical habitat as imposing a burden, and exclusion from designation as removing that burden and thereby strengthening the ongoing relationship. Where an HCP partner affirmatively requests designation, exclusion is likely to harm rather than benefit the relationship. Where an HCP partner has remained silent on the benefit of exclusion of its land, we do not believe the record supports a presumption that exclusion will enhance the relationship. Similarly, we do not believe it provides an incentive to other landowners to seek an HCP if our exclusions are not in response to an expressed landowner preference. We anticipate further rulemaking in the near future to refine these designations, for example, in response to developments in recovery planning. As part of future revisions, we will consider information we receive from those with approved HCPs regarding the effect of designation on our ongoing partnership. We did not consider pending HCPs for exclusion, both because we do not want to prejudge the outcome of the ongoing HCP process, and because we expect to have future opportunities to refine the designation and consider whether exclusion will outweigh the benefit of designation in a particular case.

Exclusions Based on National Security Impacts

As previously noted (see *Military Lands* section), we evaluated several DOD sites with draft or final INRMPs and determined that each INRMP provides a benefit to the listed salmon or steelhead ESUs under consideration at the site. Therefore, we conclude that those areas subject to final INRMPs are not eligible for designation pursuant to section 4(a)(3)(B)(I) of the ESA (16 U.S.C. 1533(A)(3)). At the request of the DOD (and in the case that an INRMP might not provide a benefit to the species), we also assessed the impacts on national security that may result from designating these and other DOD sites as critical habitat.

The U.S. Marine Corps provided comments in response to the ANPR (68 FR 55926; September 29, 2003) regarding its INRMP for Camp Pendleton Marine Corps Base and potential impacts to national security for this facility, which is within the range of the Southern California *O. mykiss* ESU. By letter, NMFS subsequently provided the DOD with information about the areas we were considering to designate as critical habitat for the seven ESUs in California (as well as the 13 ESUs in the Pacific Northwest), and, in addition to a request for information about DOD's INRMPs, requested information about potential impacts to national security as a result of any critical habitat designation. In response to that request and also in comments on the proposed critical habitat designation (69 FR 71880), the Camp Pendleton Marine Corps Base and Vandenberg Air Force Base provided detailed information on such impacts to their operations. Both military agencies concluded that critical habitat designation at either of these sites

would likely impact national security by diminishing military readiness, with possible impacts including: (1) The prevention, restriction, or delay in training or testing exercises or access to such sites; (2) the restriction or delay in activities associated with space launches; (3) a delay in response times for troop deployments and overall operations; and (4) the creation of uncertainties regarding ESA consultation (*e.g.*, reinitiation requirements) or imposition of compliance conditions that would divert military resources. Also, both military agencies cited their ongoing and positive consultation history with NMFS and underscored cases where they are implementing best management practices to reduce impacts on listed salmonids. The occupied fish habitat occurring on Camp Pendleton and Vandenberg AFB have important conservation value, but they are primarily migratory corridors and represent only a small percentage of the total occupied habitat area for the Southern California steelhead ESU. Designating habitat on these two installations will likely reduce the readiness capability of the Marine Corps and the Air Force, both of which are actively engaged in training, maintaining, and deploying forces in the current war on terrorism. Therefore, we conclude that the benefits of exclusion outweigh the benefits of designation, and we are not proposing to designate these DOD sites as critical habitat.

Exclusions Based on Economic Impacts

Our assessment of economic impact generated considerable interest from commenters on the ANPR (68 FR 55926; September 29, 2003) and the proposed rule (69 FR 71880; December 10, 2004). Based on new information and comments received on the proposed rule, we have updated the economics report wherein we document our conclusions regarding the economic impacts of designating each of the particular areas found to meet the definition of critical habitat (NMFS, 2005b). This report is available from NMFS (see **ADDRESSES**).

The first step in the overall economic analysis was to identify existing legal and regulatory constraints on economic activity that are independent of critical habitat designation, such as Clean Water Act (CWA) requirements. Coextensive impacts of the ESA section 7 requirement to avoid jeopardy were not considered part of the baseline. Also, we have stated our intention to revisit the existing critical habitat designations for Sacramento River winter run Chinook salmon and two California coastal coho salmon ESUs, if appropriate, following completion of related rulemaking (67 FR 6215; February 11, 2002). Given the uncertainty that these designations will remain in place in their current configuration, we decided not to consider them as part of the baseline for the ESA section 4(b)(2) analysis.

From the consultation record, we identified Federal activities that might affect habitat and that might result in an ESA section 7 consultation. (We did not consider Federal actions, such as the approval of a fishery, that might affect the species directly but not affect its habitat.) We identified ten types of activities including: Hydropower dams; non-hydropower dams and other water supply structures; federal lands management, including grazing (considered separately); transportation projects; utility line projects; instream activities, including dredging (considered separately); activities permitted under EPA's National Pollution Discharge Elimination System; sand & gravel mining; residential and commercial development; and agricultural pesticide applications. Based on our consultation record and other available information, we determined the modifications each type of activity was likely to undergo as a result of section 7 consultation (regardless of whether the modification might be required by the jeopardy or the adverse modification provision). We developed an expected direct cost for each type of action and projected the likely occurrence of each type of project in each watershed, using existing spatial databases (*e.g.*, the COE 404(d) permit database). Finally, we aggregated the costs from the various types of actions and estimated an annual impact, taking into account the probability of consultation occurring and the likely rate of occurrence of that project type.

This analysis allowed us to estimate the coextensive economic impact of designating each ''particular area'' (that is, each habitat area, or aggregated occupied stream reaches in an HSA watershed). Expected economic impacts ranged from zero to in excess of 1 million dollars per habitat area. Where a watershed included both tributaries and a migration corridor that served other watersheds, we attempted to estimate the separate impacts of designating the tributaries and the migration corridor. We did this by identifying those categories of activities most likely to affect tributaries and those most likely to affect larger migration corridors.

Because of the methods we selected and the data limitations, portions of our analysis both under- and over-estimate the coextensive economic impact of ESA section 7 requirements. For example, we lacked data on the likely impact on flows at non-Federal hydropower projects, which would increase economic impacts. In addition, we did not have information about potential changes in irrigation flows associated with section 7 consultation which would likely increase the estimate of coextensive costs. On the other hand, we estimated an impact on all activities occurring within the geographic boundaries of a watershed, even though in some cases activities would be far removed from occupied stream reaches and so might not require modification. In addition, we were unable to document significant costs of critical habitat designation that occur outside the section 7 consultation process, including costs resulting from state or local regulatory burdens imposed on developers and landowners as a result of a Federal critical habitat designation.

In determining whether the economic benefit of excluding a habitat area might outweigh the benefit of designation to the species, we took into consideration the many data limitations described above. The ESA requires that we make critical habitat designations within a short time frame ''with such data as may be available'' at the time. Moreover the cost-effectiveness approach we adopted accommodated many of these data limitations by considering the relative benefits of designation and exclusion, giving priority to excluding habitat areas with a relatively lower benefit of designation and a relatively higher economic impact.

The circumstances of most of the listed ESUs can make a cost-effectiveness approach useful. Pacific salmon are wide-ranging species and occupy numerous habitat areas with thousands of stream miles. Not all occupied areas, however, are of equal importance to conserving an ESU. Within the currently occupied range there are areas that support highly productive populations, areas that support less productive populations, and areas that support production in only some years. Some populations within an ESU may be more important to long-term conservation of the ESU than other populations. Therefore, in many cases it may be possible to construct different scenarios for achieving conservation. Scenarios might have more or less certainty of achieving conservation, and more or less economic impact.

Our first step in constructing an exclusion scenario was to identify all watershed areas we would consider for

an economic exclusion based on dollar thresholds. The next step was to examine those areas potentially eligible for exclusion based on dollar thresholds to determine whether or not any of them would make an important contribution to conservation for the ESU. Based on the rating process used by the CHARTs, we judged that all of the high conservation value habitat areas make an important contribution to conservation, and therefore, we did not consider them for exclusion.

In developing criteria for the first step, we chose dollar thresholds that we anticipated would lead most directly to a cost effective scenario. We considered for exclusion, low value habitat areas with an economic impact greater than $70,000–85,000, and medium value areas with an economic impact greater than $300,000.

The criteria we selected for identifying habitat areas eligible for exclusion do not represent an objective judgment that, for example, a low value habitat area is worth a certain dollar amount and no more. The ESA directs us to balance dissimilar values with a limited amount of time and therefore information. It emphasizes the discretionary nature of the balancing task. Moreover, while our approach follows the Tenth Circuit's direction to consider coextensive economic impacts, we nevertheless must acknowledge that not all of the costs will be avoided by exclusion from designation. Finally, the cost estimates developed by our economic analysis do not have obvious break points that would lead to a logical division between high, medium and low costs.

Given these factors, a judgment that any particular dollar threshold is objectively correct would be neither necessary or possible. Rather, what economic impact is high, and therefore, might outweigh the benefit of designating a medium or low value habitat area is a matter of discretion and depends on the policy context. The policy context in which we carry out this task led us to select dollar thresholds that would likely lead to a cost effective designation in a limited amount of time with a relatively simple process.

In the second step of the process, we asked the CHARTs whether any of the habitat areas (*i.e.*, watersheds) eligible for exclusion make an important contribution to conservation of the ESU in question. The CHARTs considered this question in the context of all of the areas eligible for exclusion as well as the information they had developed in providing the initial conservation ratings. The following section describes the results of applying the two-step process to each ESU. The results are discussed in more detail in a separate report that is available for public review (NMFS, 2005c). We have determined that these exclusions, together with the other exclusions described in this rule, will not result in the extinction of any of the seven ESUs.

VI. Critical Habitat Designation

We are designating approximately 8,935 net mi (14,296 km) of riverine habitat and 470 mi² (1,212 km²) of estuarine habitat in California within the geographical areas presently occupied by the seven ESUs. This designation excludes approximately 771 net mi (1,233 km) of occupied riverine habitat as a result of economic considerations, 32 mi (51 km) of occupied riverine habitat on Tribal lands, and 44 mi (70 km) of occupied riverine habitat on DOD lands. Some of these areas in the final designation overlap substantially for two ESUs. The net economic impacts (coextensive with ESA section 7) associated with the areas designated for all ESUs are estimated to be approximately $81,647,439.

TABLE 7.—APPROXIMATE QUANTITY OF HABITAT * AND OWNERSHIP WITHIN WATERSHEDS CONTAINING HABITAT AREAS DESIGNATED AS CRITICAL HABITAT.

ESU	Streams (mi) (km)	Estuary Habitat (Sq mi) (Sq km)	Ownership (percent)			
			Federal	Tribal	State	Private
California Coastal Chinook Salmon	1,475 2,360	25 65	16.4	0.4	3.4	79.8
Northern California Steelhead	3,028 4,844	25 65	18.8	0.5	3.7	77.1
Central California Coast Steelhead	1,465 2,344	386 996	4.5	0.0	7.2	88.3
South-Central California Coast Steelhead	1,249 2,000	3 8	16.3	0.0	2.2	81.6
Southern California Steelhead	708 1,132	....	25.0	1.0	2.4	71.6
Central Valley Spring Run Chinook Salmon	1,158 1,853	254 655	12.1	0.0	3.3	84.5
Central Valley Steelhead	2,308 3,693	254 655	8.6	0.0	3.1	88.3

* These estimates are the total amount for each ESU. They do not account for overlapping areas designated for multiple ESUs.

These areas designated, summarized below by ESU, are considered occupied and contain physical and biological features essential to the conservation of the species and that may require special management considerations or protection.

California Coastal Chinook Salmon

There are 45 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Eight watersheds received a low rating, 10 received a medium rating, and 27 received a high rating of conservation value to the ESU (NMFS, 2005a). Two estuarine habitat areas used for rearing and migration (Humboldt Bay and the Eel River Estuary) also received a high conservation value rating.

HSA watershed habitat areas for this ESU include approximately 1,634 mi (2,614 km) of stream habitat and approximately 25 mi² (65 km²) of estuarine habitat (principally Humboldt Bay). Of these, 10.3 stream miles (16.5 km) are being excluded because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*). No lands controlled by the DOD or covered by HCPs are being excluded from the final designation. As a result of the balancing

process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 8. Of the habitat areas eligible for designation, approximately 158 stream miles (253 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. The total potential estimated economic impact, with no exclusions, would be $10,993,337. The exclusions identified in Table 8 would reduce the total estimated economic impact by 33 percent to $7,333,751.

TABLE 8.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE CALIFORNIA COASTAL CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
111122	Bridgeville	Entire watershed.
111142	Spy Rock	Indian lands.
111150	North Fork Eel River	Indian lands.
111171	Eden Valley	Tributaries only; Indian lands.
111172	Round Valley	Indian lands.
111173	Black Butte River	Entire watershed.
111174	Wilderness	Entire watershed.
111350	Navarro River	Entire watershed.
111422	Santa Rosa	Entire watershed.
111423	Mark West	Entire watershed.

Northern California Steelhead

There are 50 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Nine watersheds received a low rating, 14 received a medium rating, and 27 received a high rating of conservation value to the ESU (NMFS, 2005a). Two estuarine habitat areas used for rearing and migration (Humboldt Bay and the Eel River Estuary) also received a high conservation value rating.

HSA watershed habitat areas for this ESU include approximately 3,148 mi (5,037 km) of stream habitat and approximately 25 mi^2 (65 km^2) of estuarine habitat (principally Humboldt Bay). Of these, approximately 21 stream miles (33.5 km) are being excluded because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*). No lands controlled by the DOD or covered by HCPs are being excluded from the final designation. As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 9. Of the habitat areas eligible for designation, approximately 120 stream miles (192 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $8,773,432. The exclusions identified in Table 9 would reduce the total estimated economic impact by 31 percent to $6,063,568.

TABLE 9.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE NORTHERN CALIFORNIA STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
110940	Ruth	Entire watershed.
111142	Spy Rock	Tribal land.
111150	North Fork Eel	Entire watershed; Indian lands.
111163	Lake Pilsbury	Entire watershed.
111171	Eden Valley	Indian lands.
111172	Round Valley	Indian lands.

Central California Coast Steelhead

There are 46 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Fourteen watersheds received a low rating, 13 received a medium rating, and 19 received a high rating of conservation value to the ESU (NMFS, 2005a). Five of these HSA watersheds comprise portions of the San Francisco-San Pablo-Suisun Bay estuarine complex which provides rearing and migratory habitat for this ESU.

HSA watershed habitat areas for this ESU include approximately 1,832 mi (2,931 km) of stream habitat and approximately 442 mi^2 (1,140 km^2) of estuarine habitat (principally San Francisco Bay-San Pablo Bay). Of these, approximately 0.6 stream miles (1.0 km) are being excluded because they overlap with Indian lands (Coyote Valley and Redwood Valley Rancherias) (see *Government-to-Government Relationship With Tribes*). No lands controlled by the DOD are excluded.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 10. Of the habitat areas eligible for designation, approximately 367 stream miles (587 km) and 56 mi2 of estuarine habitat are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $18,577,246. The exclusions identified in Table 10 would reduce the total estimated economic impact by 31 percent to $12,917,247.

TABLE 10.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE CENTRAL CALIFORNIA COASTAL STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
111421	Laguna de Santa Rosa	Entire watershed.
111422	Santa Rosa	Entire watershed.
111431	Ukiah	Tributaries only.
111433	Forsythe Creek	Indian lands.
220330	Berkeley	Entire watershed.
220440	San Mateo Bayside	Entire watershed.
220420	Eastbay Cities	Entire watershed.
220540	Guadelupe River	Entire watershed.
220620	Novato	Entire watershed.
220660	Pinole	Entire watershed.
220710	Suisun Bay	Entire unit.
220722	Suisun Creek	Entire watershed.
220721	Benecia	Entire watershed.
220731	Pittsburg	Entire watershed.
220733	Martinez	Entire watershed.

South-Central California Coast Steelhead

There are 30 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Six watersheds received a low rating, 11 received a medium rating, and 13 received a high rating of conservation value to the ESU (NMFS, 2005a). One of these occupied watershed units is Morro Bay, which is used as rearing and migratory habitat for steelhead populations that spawn and rear in tributaries to the Bay.

HSA watershed habitat areas for this ESU include approximately 1,251 mi (2,000 km) of stream habitat and approximately 3 mi^2 (8 km^2) of estuarine habitat (*e.g.*, Morro Bay). Approximately 22 stream miles (35 km) are not eligible for designation because they are within lands controlled by the DOD (Camp San Luis Obispo and Camp Roberts) that have qualifying INRMPs (Table 11). The reduction in economic impacts resulting from these exclusions could not be estimated.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 11. Of the habitat eligible for designation, approximately 2 stream miles (3.2 km) are being excluding because the economic benefits of exclusion outweigh the benefits of designation. The total potential estimated economic impact, with no exclusions, would be $16,857,365. It was not possible to estimate the reduced economic impacts associated with the habitat exclusions in Table 11, therefore, the total potential economic impact is the same as if there were no exclusions.

TABLE 11.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE SOUTH-CENTRAL CALIFORNIA COAST STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
330911	Neponset	Tributaries only.
330930	Soledad	Tributaries only.
330940	Upper Salinas Valley	Tributaries only.
330981	Paso Robles	DOD lands.
331022	Chorro	DOD lands.

Southern California Steelhead ESU

There are 32 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Five watersheds received a low rating, 6 received a medium rating, and 21 received a high rating of conservation value to the ESU (NMFS, 2005a).

HSA watershed habitat areas for this ESU include approximately 741 mi (1,186 km) of stream habitat. Of these, approximately 22 mi (35 km) of occupied stream miles are excluded because they are within lands controlled by the DOD (Vandenberg AFB and Camp Pendleton Marine Corps Base) that have qualifying INRMPs and for which the benefits of exclusion outweigh the benefits of designation. The reduction in economic impacts resulting from these exclusions could not be estimated.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 12. Of the habitat areas eligible for designation, approximately 33 stream miles (53 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $19,443,413. The exclusions identified in Table 12 would reduce the total estimated economic impact by 40 percent to $11,586,752.

TABLE 12.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE SOUTHERN CALIFORNIA STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
331210	Guadelupe	Tributaries only.
331230	Cuyama Valley	Entire watershed.
331410	Lompoc	DOD lands.
331430	Buelton	Tributaries only.
331451	Santa Cruz Creek	Entire watershed.
440811	East of Oxnard	Entire watershed.
490140	San Mateo Canyon	DOD lands.

Central Valley Spring Run Chinook Salmon ESU

There are 37 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Seven watersheds received a low rating, 3 received a medium rating, and 27 received a high rating of conservation value to the ESU (NMFS, 2005a). Four of these HSA watersheds comprise portions of the San Francisco-San Pablo-Suisun Bay estuarine complex which provides rearing and migratory habitat for this ESU.

HSA watershed habitat areas for this ESU include approximately 1,373 mi (2,197 km) of occupied stream habitat and approximately 427 mi^2 (1,102 km^2) of estuarine habitat in the San Francisco-San Pablo-Suisun Bay complex. There are no DOD, tribal or HCP managed lands excluded from the designation. As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 13. Of the habitat areas eligible for designation, approximately 215 stream miles (344 km) and 173 mi^2 of estuarine habitat are being excluded because the economic benefits of exclusion outweigh the benefits of designation. The total potential estimated economic impact, with no exclusions, would be $29,223,186. The exclusions identified in Table 13 would reduce the total estimated economic impact by 25 percent to $22,066,974.

TABLE 13.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE CENTRAL VALLEY SPRING RUN CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
551000	Sacramento Delta	Deep Water Ship Channel.
551713	Mildred Lake	Entire watershed.
551720	Nevada City	Entire watershed.
552310	Thomes Creek	Entire watershed.
552433	South Fork	Entire watershed.
554300	No. Diablo Range	Entire watershed.
554400	San Joaquin Delta	Entire watershed.
220410	South SF Bay	Entire unit.

Central Valley Steelhead ESU

There are 67 occupied HSA watersheds within the freshwater and estuarine range of this ESU. Twelve watersheds received a low rating, 18 received a medium rating, and 37 received a high rating of conservation value to the ESU (NMFS, 2005a). Four of these HSA watersheds comprise portions of the San Francisco-San Pablo-Suisun Bay estuarine complex which provides rearing and migratory habitat for this ESU.

HSA watershed habitat areas for this ESU include approximately 2,604 mi (4,168 km) of stream habitat and approximately 427 mi^2 (1,102 km^2) of estuarine habitat. There are no DOD, tribal or HCP managed lands excluded from the designation. As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 14. Of the habitat areas eligible for designation, approximately 296 stream miles (473 km) and 173 mi^2 of estuarine habitat are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $38,235,233. The exclusions identified in Table 14 would reduce the total estimated economic impact by 11 percent to $34,389,278.

TABLE 14.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE CENTRAL VALLEY STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
550964	Paynes Creek	Entire watershed.
551000	Sacramento Delta	Deep Water Ship Channel.
551110	Elmira	Entire watershed.
551713	Mildred Lake	Entire watershed.
551720	Nevada City	Entire watershed.
552435	Ono	Entire watershed.
553111	Herald	Entire watershed.
553120	Lower Mokelumne	Partial watershed.
553221	Big Canyon Creek	Entire watershed.
553223	NF Cosumnes	Entire watershed.

TABLE 14.—HSA WATERSHEDS WITHIN THE GEOGRAPHICAL RANGE OF THE CENTRAL VALLEY STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT—Continued

Watershed code	Watershed name	Area excluded
553224	Omo Ranch	Entire watershed.
553240	Sutter Creek	Entire watershed.
554300	No. Diablo Range	Entire watershed.
220410	So. SF Bay	Entire unit.

VII. Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the ESA requires Federal agencies, including NMFS, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this provision of the ESA are codified at 50 CFR 402. Section 7(a)(4) of the ESA requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species were listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, ESA section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, we would review actions to determine if they would destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we will also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that we believe would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect these ESUs or their critical habitat will require ESA section 7 consultation. Activities on private or state lands requiring a permit from a Federal agency, such as a permit from the COE under section 404 of the CWA, a section 10(a)(1)(B) permit from NMFS, or some other Federal action, including funding (*e.g.,* Federal Highway Administration (FHA) or Federal Emergency Management Agency (FEMA) funding), will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal and private lands that are not Federally funded, authorized, or permitted do not require section 7 consultation.

Activities Affected by Critical Habitat Designation

Section 4(b)(8) of the ESA requires that we evaluate briefly and describe, in any proposed or final regulation that designates critical habitat, those activities (whether public or private) that may adversely modify such habitat or that may be affected by such designation. A wide variety of activities may affect critical habitat and, when carried out, funded, or authorized by a Federal agency, require that an ESA section 7 consultation be conducted. Generally these include water and land management actions of Federal agencies (e.g., USFS, Bureau of Land Management (BLM), COE, BOR, the FHA, NRCS, National Park Service (NPS), BIA, and the Federal Energy Regulatory Commission (FERC)) and related or similar actions of other Federally regulated projects and lands, including livestock grazing allotments by the USFS and BLM; hydropower sites licensed by the FERC; dams built or operated by the COE or BOR; timber sales and other vegetation management activities conducted by the USFS, BLM, and BIA; irrigation diversions authorized by the USFS and BLM; and road building and maintenance activities authorized by the FHA, USFS, BLM, NPS, and BIA. Other actions of concern include dredge and fill, mining, diking, and bank stabilization activities authorized or conducted by the COE, habitat modifications authorized by the FEMA, and approval of water quality standards and pesticide labeling and use restrictions administered by the EPA.

The Federal agencies that will most likely be affected by this critical habitat designation include the USFS, BLM, BOR, COE, FHA, NRCS, NPS, BIA, FEMA, EPA, and the FERC. This designation will provide these agencies, private entities, and the public with clear notification of critical habitat designated for listed salmonids and the boundaries of the habitat. This designation will also assist these agencies and others in evaluating the potential effects of their activities on listed salmon and their critical habitat and in determining if section 7 consultation with NMFS is needed.

As noted above, numerous private entities also may be affected by this critical habitat designation because of the direct and indirect linkages to an array of Federal actions, including Federal projects, permits, and funding. For example, private entities may harvest timber or graze livestock on Federal land or have special use permits to convey water or build access roads across Federal land; they may require Federal permits to armor stream banks, construct irrigation withdrawal facilities, or build or repair docks; they may obtain water from Federally funded and operated irrigation projects; or they may apply pesticides that are only available with Federal agency approval. These activities will need to be analyzed with respect to their potential to destroy or adversely modify critical habitat. In some cases, proposed activities may require modifications that may result in decreases in activities such as timber harvest and livestock and crop production. The transportation and utilities sectors may need to modify the placement of culverts, bridges, and utility conveyances (e.g., water, sewer and power lines) to avoid barriers to fish migration. Developments occurring in or near salmon streams (e.g., marinas, residential, or industrial facilities) that require Federal authorization or funding may need to be altered or built in a manner that ensures that critical habitat is not destroyed or adversely modified as a result of the construction, or subsequent operation, of the facility. These are just a few examples of potential impacts, but it is clear that the effects will encompass numerous sectors of private and public activities. If you have questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat, contact NMFS (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

VIII. Required Determinations

Administrative Procedure Act

This rulemaking covers over 8,900 miles of streams and 470 square miles of estuarine habitat. Unlike the previous critical habitat designations it contains over a thousand geographic points identifying the extent of the designations. The proposed rule generated substantial public interest. In addition to comments received during four public hearings we received a total of 3,762 written comments (3,627 of these in the form of email with nearly identical language). Many commenters expressed concerns about how the rule would be implemented. Additionally, our experience in implementing the 2000 critical habitat designations suggests that the Administrative Procedure Act's (APA) and critical habitat regulations' minimum 30-day delay in effective date nor the 60-day delay required by the Congressional Review Act for a ''major rule'' such as this are sufficient for this rule. In view of the geographic scope of this rule, our prior experience with a rule of this scope, the current level of public interest in this rule, and in order to provide for efficient administration of the rule once effective, we are providing a 120-day delay in effective date. As a result this rule will be effective on January 2, 2006. This will allow us the necessary time to provide for outreach to and interaction with the public, to minimize confusion and educate the public about activities that may be affected by the rule, and to work with Federal agencies and applicants to provide for an orderly transition in implementing the rule.

Regulatory Planning and Review

In accordance with E.O. 12866, this document is a significant rule and has been reviewed by OMB. As noted above, we have prepared several reports to support the exclusion process under section 4(b)(2) of the ESA. The economic costs of the critical habitat designations are described in our economic report (NMFS, 2005b). The benefits of the designations are described in the CHART report (NMFS, 2005a) and the 4(b)(2) report (NMFS, 2005c). The CHART report uses a biologically-based ranking system for gauging the benefits of applying section 7 of the ESA to particular watersheds. Because data are not available to express these benefits in monetary terms, we have adopted a cost-effectiveness framework, as outlined in a 4(b)(2) report (NMFS, 2005c). This approach is in accord with OMB's guidance on regulatory analysis (U.S. Office of Management and Budget. Circular A–4, Regulatory Analysis, September 17, 2003). By taking this approach, we seek to designate sufficient critical habitat to meet the biological goal of the ESA while imposing the least burden on society, as called for by E.O. 12866.

In assessing the overall cost of critical habitat designation for the 7 Pacific salmon and steelhead ESUs addressed in this final rule, the annual total impact figures given in the draft economic analysis (NMFS, 2005b) cannot be added together to obtain an aggregate annual impact. Because some watersheds are included in more than one ESU, a simple summation would entail duplication, resulting in an overestimate. Accounting for this duplication, the aggregate annual economic impact of the 7 critical habitat designations is $81,647,439. These amounts include impacts that are coextensive with the implementation of the jeopardy standard of section 7 (NMFS, 2005b).

Within the State of California, hydropower projects currently provide approximately 15 percent of the total electricity produced. This is small compared to the Pacific Northwest where hydropower generates up to 70 percent of the total electricity produced, with approximately 60 percent of this hydroelectric power generated through the Federal Columbia River Power System. Because hydropower is a more pervasive power source in the Pacific Northwest than in California, the impacts to the energy industry in California from environmental mitigation associated with protecting listed salmon and steelhead and their critical habitat are likely to be much less than in the Northwest. There are approximately 90 hydropower projects within the area covered by the potential critical habitat for the 7 ESUs in California. Based on the economic analysis conducted for this rulemaking (NMFS 2005b), the estimated annualized capital and programmatic costs of section 7 for hydropower projects ranges from $11,000 to $9.8 million per ESU, with the estimated annualized cost for all ESUs totaling $18.8 million. The aggregate economic costs of capital modifications within the range of these 7 ESUs is approximately 10 percent of the total aggregate costs for all categories of activities evaluated in the economic analysis. This cost estimate, however, does not include costs associated with operational modifications of hydropower projects such as changes to the flow regime (level or timing) which can result in foregone power generation, require supplementary power purchases, or have other economic effects. The necessary data to estimate operational modification costs in California are not available, but they are expected to be highly variable and project-specific. The estimated impacts of operational changes at hydropower projects in the Pacific Northwest (unknown for several projects to $31 million in forgone power revenues for Baker River Dam), however, demonstrate the potential magnitude and variability of impacts on a per project basis in California. For these projects in the Northwest, the proportion of costs attributable to section 7 implementation is unknown, but the share of incremental costs associated with critical habitat

designation alone is unlikely to be significant.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). We have prepared a final regulatory flexibility analysis and this document is available upon request (see **ADDRESSES**). This analysis estimates that the number of regulated small entities potentially affected by this rulemaking ranges from 444 to 4,893 depending on the ESU. The estimated coextensive costs of section 7 consultation incurred by small entities is estimated to range from $1.6 million to $26.5 million depending on the ESU. As described in the analysis, we considered various alternatives for designating critical habitat for these seven ESUs. We rejected the alternative of not designating critical habitat for any of the ESUs because such an approach did not meet the legal requirements of the ESA. We also examined and rejected an alternative in which all the potential critical habitat of the seven Pacific salmon and steelhead ESUs is designated (*i.e.*, no areas are excluded) because many of the areas considered to have a low conservation value also had relatively high economic impacts that might be mitigated by excluding those areas from designation. A third alternative we examined and rejected would exclude all habitat areas with a low or medium conservation value. While this alternative furthers the goal of reducing economic impacts, we could not make a determination that the benefits of excluding all habitat areas with low and medium conservation value outweighed the benefits of designation. Moreover, for some habitat areas the incremental economic benefit from excluding that area is relatively small. Therefore, after considering these alternatives in the context of the section 4(b)(2) process of weighing benefits of exclusion against benefits of designation, we determined that the current approach to designation (*i.e.*, designating some but not all areas with low or medium conservation value) provides an appropriate balance of conservation and economic mitigation and that excluding the areas identified in this rulemaking would not result in extinction of the ESUs. It is estimated that small entities will save from $39.9 thousand to $5.5 million in compliance costs, depending on the ESU, due to the exclusions made in these final designations.

As noted above, we will continue to study alternative approaches in future rulemakings designating critical habitat. As part of that assessment, we will examine alternative methods for analyzing the economic impacts of designation on small business entities, which will inform our Regulatory Flexibility Analysis as well as our analysis under section 4(b)(2) of the ESA.

E.O. 13211

On May 18, 2001, the President issued an Executive Order on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule may be a significant regulatory action under E.O. 12866. We have determined, however, that the energy effects of the regulatory action are unlikely to exceed the energy impact thresholds identified in E.O.13211.

As discussed elsewhere in this final rule, there are approximately 90 hydropower projects within the range of the potential critical habitat for these 7 ESUs. The annualized capital and programmatic costs of section 7 for these projects ranges from $11,000 to $9.8 million per ESU, with the estimated annualized cost for all ESUs totaling $18.8 million. Despite these costs and operational costs which we do not have the data available to estimate, we believe the proper focus under E.O. 13211 is on the incremental impacts of critical habitat designation. The available data do not allow us to separate precisely these incremental impacts from the impacts of all conservation measures on energy production and costs. There is evidence from the California Energy Commission (California Energy Commission 2003), however, that the implementation of environmental mitigation measures associated with relicensing and selective decommissioning of hydropower projects in California has not impacted the ability of the State's electricity system to meet demand. This conclusion was based on a consideration of implementing all mitigation measures, not just those for salmon and steelhead, thus it is likely that the impact of implementing mitigations associated with salmon and steelhead protection directly or even more specifically salmon and steelhead critical habitat protection would be a subset of the impacts determined by the Commission. In addition, there is historical evidence from the Pacific Northwest, that the ESA jeopardy standard alone is capable of imposing all of the costs affecting hydropower projects and energy supply. While this information is indirect, it is sufficient to draw the conclusion that the designation of critical habitat for the 7 salmon and steelhead ESUs in California does not significantly affect energy supply, distribution, or use.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

(a) This final rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.'' The designation of critical habitat does not impose a legally binding duty on non-Federal

government entities or private parties. Under the ESA, 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 to State governments.

(b) Due to current public knowledge of salmon protection and the prohibition against take of these species both within and outside of the designated areas, we do not anticipate that this final rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Takings

In accordance with E.O. 12630, this final rule does not have significant takings implications. A takings implication assessment is not required. The designation of critical habitat affects only Federal agency actions. This final rule will not increase or decrease the current restrictions on private property concerning take of salmon. As noted above, due to widespread public knowledge of salmon protection and the prohibition against take of the species both within and outside of the designated areas, we do not anticipate that property values will be affected by these critical habitat designations. While real estate market values may temporarily decline following designation, due to the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term (NMFS, 2005b). Additionally, critical habitat designation does not preclude development of HCPs and issuance of incidental take permits. Owners of areas that are included in the designated critical habitat will continue to have the opportunity to use their property in ways consistent with the survival of listed salmon.

Federalism

In accordance with E.O. 13132, this final rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of Commerce policies, we requested information from, and coordinated development of, this critical habitat designation with appropriate state resource agencies in California. Theses designations may have some benefit to the states and local resource agencies in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While making this definition and identification does not alter where and what Federally sponsored activities may occur, it may assist local governments in long-range planning rather than waiting for case-by-case section 7 consultations to occur.

Civil Justice Reform

In accordance with E.O. 12988, the Department of the Commerce has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the E.O. We are designating critical habitat in accordance with the provisions of the ESA. 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 seven salmon and steelhead ESUs.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This final rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. This final rule will not impose record keeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that we need not prepare environmental analyses as provided for under the National Environmental Policy Act of 1969 for critical habitat designations made pursuant to the ESA. See *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

Government-to-Government Relationship With Tribes

The longstanding and distinctive relationship between the Federal and tribal Governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Pursuant to these authorities lands have been retained by Indian Tribes or have been set aside for tribal use. These lands are managed by Indian Tribes in accordance with tribal goals and objectives within the framework of applicable treaties and laws.

Administration policy contained in the Secretarial Order: ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997) (''Secretarial Order''); the President's Memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (50 FR 2291); E.O. 13175; and Department of Commerce-American Indian and Alaska Native Policy (March 30, 1995) reflects and defines this unique relationship.

These policies also recognize the unique status of Indian lands. The Presidential Memorandum of April 29, 1994, provides that, to the maximum extent possible, tribes should be the governmental entities to manage their lands and tribal trust resources. The Secretarial Order provides that, ''Indian lands are not Federal public lands or part of the public domain, and are not subject to Federal public lands laws.''

In implementing these policies the Secretarial Order specifically seeks to harmonize this unique working relationship with the Federal Government's duties pursuant to the ESA. The order clarifies our responsibilities when carrying out authorities under the ESA and requires that we consult with and seek participation of, the affected Indian Tribes to the maximum extent practicable in the designation of critical habitat. Accordingly, we recognize that we must carry out our responsibilities under the ESA in a manner that harmonizes these duties with the Federal trust responsibility to the tribes and tribal sovereignty while striving to ensure that Indian Tribes do not bear a

disproportionate burden for the conservation of species. Any decision to designate Indian land as critical habitat must be informed by the Federal laws and policies establishing our responsibility concerning Indian lands, treaties and trust resources, and by Department of Commerce policy establishing our responsibility for dealing with tribes when we implement the ESA.

For West Coast salmon in California, our approach is also guided by the unique partnership between the Federal Government and Indian tribes regarding salmon management. In California, Indian tribes are regarded as ''co-managers'' of the salmon resource, along with Federal and state managers. This co-management relationship evolved as a result of numerous court decisions establishing the tribes' treaty right to take fish in their usual and accustomed places.

Pursuant to the Secretarial Order we consulted with the affected Indian Tribes when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands or the exercise of tribal rights. Additionally some tribes and the BIA provided written comments that are a part of the administrative record for this rulemaking.

We understand from the tribes that there is general agreement that Indian lands should not be designated critical habitat. The Secretarial Order defines Indian lands as ''any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or (2) held by an Indian Tribe or individual subject to restrictions by the United States against alienation.'' In clarifying this definition with the tribes, we agree that (1) fee lands within the reservation boundaries and owned by the Tribe or individual Indian, and (2) fee lands outside the reservation boundaries and owned by the Tribe would be considered Indian lands for the purposes of this rule. (Fee lands outside the reservation owned by individual Indians are not included within the definition of Indian lands for the purposes of this rule.)

In evaluating Indian lands for designation as critical habitat we look to section 4(b)(2) of the ESA. Section 4(b)(2) requires us to base critical habitat designations on the best scientific and commercial data available, after taking into consideration the economic impact, the impact on national security and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude areas from a critical habitat designation when the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We find that a relevant impact for consideration is the degree to which the Federal designation of Indian lands would impact the longstanding unique relationship between the tribes and the Federal Government and the corresponding effect on West Coast salmon protection and management. This is consistent with recent case law addressing the designation of critical habitat on tribal lands. ''It is certainly reasonable to consider a positive working relationship relevant, particularly when the relationship results in the implementation of beneficial natural resource programs, including species preservation.'' *Center for Biological Diversity et al.* v. *Norton,* 240 F. Supp. 2d 1090, 1105); *Douglas County* v. *Babbitt,* 48 F.3d 1495, 1507 (1995) (defining ''relevant'' as impacts consistent with the purposes of the ESA).

As noted above, NMFS and the tribal governments in California currently have cooperative working relationships that have enabled us to implement natural resource programs of mutual interest for the benefit of threatened and endangered salmonids. The tribes have existing natural resource programs that assist us on a regular basis in providing information relevant to salmonid protection. The tribes indicate that they view the designation of Indian lands as an unwanted intrusion into tribal self-governance, compromising the government-to-government relationship that is essential to achieving our mutual goal of conserving threatened and endangered salmonids. At this time, for the general reasons described above, we conclude that the ESA 4(b)(2) analysis leads us to exclude all Indian lands containing occupied habitat otherwise eligible for designation in our final designation for these 7 ESUs of salmon and steelhead.

IX. References Cited

A complete list of all references cited in this rulemaking can be found on our Web site at *http://swr.nmfs.noaa.gov* and is available upon request from the NMFS office in Long Beach, CA (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: August 12, 2005.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, we amend part 226, title 50 of the Code of Regulations as set forth below:

PART 226—[AMENDED]

■ 1. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 2. Add § 226.211 to read as follows:

§ 226.211 Critical habitat for Seven Evolutionarily Significant Units (ESUs) of Salmon (*Oncorhynchus spp.*) in California.

Critical habitat is designated in the following California counties for the following ESUs as described in paragraph (a) of this section, and as further described in paragraphs (b) through (e) of this section. The textual descriptions of critical habitat for each ESU are included in paragraphs (f) through (l) of this section, and these descriptions are the definitive source for determining the critical habitat boundaries. General location maps are provided at the end of each ESU description (paragraphs (f) through (l) of this section) and are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) Critical habitat is designated for the following ESUs in the following California counties:

ESU	State—counties
(1) California Coastal Chinook	*CA*—Humboldt, Trinity, Mendocino, Sonoma, Lake, Napa, Glenn, Colusa, and Tehama.
(2) Northern California Steelhead	*CA*—Humboldt, Trinity, Mendocino, Sonoma, Lake, Glenn, Colusa, and Tehama.
(3) Central California Coast Steelhead	*CA*—Lake, Mendocino, Sonoma, Napa, Marin, San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, and San Joaquin.
(4) South-Central Coast Steelhead	*CA*—Monterey, San Benito, Santa Clara, Santa Cruz, San Luis Obispo.

ESU	State—counties
(5) Southern California Steelhead	*CA*—San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego.
(6) Central Valley spring-run Chinook	*CA*—Tehama, Butte, Glenn, Shasta, Yolo, Sacramento, Solano, Colusa, Yuba, Sutter, Trinity, Alameda, San Joaquin, and Contra Costa.
(7) Central Valley Steelhead	*CA*—Tehama, Butte, Glenn, Shasta, Yolo, Sacramento, Solona, Yuba, Sutter, Placer, Calaveras, San Joaquin, Stanislaus, Tuolumne, Merced, Alameda, Contra Costa.

(b) *Critical habitat boundaries.* Critical habitat includes the stream channels within the designated stream reaches, and includes a lateral extent as defined by the ordinary high-water line (33 CFR 329.11). In areas where the ordinary high-water line has not been defined, the lateral extent will be defined by the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series. Critical habitat in estuaries (*e.g.* San Francisco-San Pablo-Suisun Bay, Humboldt Bay, and Morro Bay) is defined by the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of extreme high water, whichever is greater.

(c) *Primary constituent elements.* Within these areas, the primary constituent elements essential for the conservation of these ESUs are those sites and habitat components that support one or more life stages, including:

(1) Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development;

(2) Freshwater rearing sites with:

(i) Water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility;

(ii) Water quality and forage supporting juvenile development; and

(iii) Natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks.

(3) Freshwater migration corridors free of obstruction and excessive predation with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival.

(4) Estuarine areas free of obstruction and excessive predation with:

(i) Water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater;

(ii) Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels; and

(iii) Juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.

(d) *Exclusion of Indian lands.* Critical habitat does not include occupied habitat areas on Indian lands. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including:

(1) Lands held in trust by the United States for the benefit of any Indian tribe;

(2) Land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation;

(3) Fee lands, either within or outside the reservation boundaries, owned by the tribal government; and

(4) Fee lands within the reservation boundaries owned by individual Indians.

(e) *Land owned or controlled by the Department of Defense.* Additionally, critical habitat does not include the following areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a):

(1) Camp Pendleton Marine Corps Base;

(2) Vandenberg Air Force Base;

(3) Camp San Luis Obispo;

(4) Camp Roberts; and

(5) Mare Island Army Reserve Center.

(f) *California Coastal Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic units:

(1) Redwood Creek Hydrologic Unit 1107—(i) *Orick Hydrologic Sub-area 110710.* Outlet(s) = Redwood Creek (Lat –41.2923, Long –124.0917) upstream to endpoint(s) in: Boyes Creek (41.3639, –123.9845); Bridge Creek (41.137, –124.0012); Brown Creek (41.3986, –124.0012); Emerald (Harry Weir) (41.2142, –123.9812); Godwood Creek (41.3889, –124.0312); Larry Dam Creek (41.3359, –124.003); Little Lost Man Creek (41.2944, –124.0014); Lost Man Creek (41.3133, –123.9854); May Creek (41.3547, –123.999); McArthur Creek (41.2705, –124.041); North Fork Lost Man Creek (41.3374, –123.9935); Prairie Creek (41.4239, –124.0367); Tom McDonald (41.1628, –124.0419).

(ii) *Beaver Hydrologic Sub-area 110720.* Outlet(s) = Redwood Creek (Lat 41.1367, Long –123.9309) upstream to endpoint(s): Lacks Creek (41.0334, –123.8124); Minor Creek (40.9706, –123.7899).

(iii) *Lake Prairie Hydrologic Sub-area 110730.* Outlet(s) = Redwood Creek (Lat 40.9070, Long –123.8170) upstream to endpoint(s) in: Redwood Creek (40.7432, –123.7206).

(2) Trinidad Hydrologic Unit 1108—(i) *Big Lagoon Hydrologic Sub-area 110810.* Outlet(s) = Maple Creek (Lat 41.1555, Long –124.1380) upstream to endpoint(s) in: North Fork Maple Creek (41.1317, –124.0824); Maple Creek (41.1239, –124.1041).

(ii) *Little River Hydrologic Sub-area 110820.* Outlet(s) = Little River (41.0277, –124.1112) upstream to endpoint(s) in: South Fork Little River (40.9908, –124.0412); Little River (41.0529, –123.9727); Railroad Creek (41.0464, –124.0475); Lower South Fork Little River (41.0077, –124.0078); Upper South Fork Little River (41.0131, –123.9853).

(3) Mad River Hydrologic Unit 1109—(i) *Blue Lake Hydrologic Sub-area 110910.* Outlet(s) = Mad River (Lat 40.9139, Long –124.0642) upstream to endpoint(s) in: Lindsay Creek (40.983, –124.0326); Mill Creek (40.9008, –124.0086); North Fork Mad River (40.8687, –123.9649); Squaw Creek (40.9426, –124.0202); Warren Creek (40.8901, –124.0402).

(ii) *North Fork Mad River 110920.* Outlet(s) = North Fork Mad River (Lat 40.8687, Long –123.9649) upstream to endpoint(s) in: Sullivan Gulch (40.8646, –123.9553); North Fork Mad River (40.8837, –123.9436).

(iii) *Butler Valley 110930.* Outlet(s) = Mad River (Lat 40.8449, Long –123.9807) upstream to endpoint(s) in: Black Creek (40.7547, –123.9016); Black Dog Creek (40.8334, –123.9805); Canon Creek (40.8362, –123.9028); Dry Creek (40.8218, –123.9751); Mad River (40.7007, –123.8642); Maple Creek (40.7928, –123.8742); Unnamed (40.8186, –123.9769).

(4) Eureka Plain Hydrologic Unit 1110—(i) *Eureka Plain Hydrologic Sub-area 111000.* Outlet(s) = Mad River (Lat 40.9560, Long –124.1278); Jacoby Creek (40.8436, –124.0834); Freshwater Creek (40.8088, –124.1442); Elk River (40.7568, –124.1948); Salmon Creek (40.6868, –124.2194) upstream to endpoint(s) in: Bridge Creek (40.6958, –124.0795); Dunlap Gulch (40.7101, –124.1155); Freshwater Creek (40.7389, –123.9944); Gannon Slough (40.8628, –124.0818); Jacoby Creek (40.7944, –124.0093); Little Freshwater Creek (40.7485, –124.0652); North Branch of the North Fork Elk River (40.6878, –124.0131); North Fork Elk River (40.6756, –124.0153); Ryan Creek (40.7835, –124.1198); Salmon Creek (40.6438, –124.1319); South Branch of the North Fork Elk River (40.6691, –124.0244); South Fork Elk River (40.6626, –124.061); South Fork Freshwater Creek (40.7097, –124.0277).

(ii) [Reserved]

(5) Eel River Hydrologic Unit 1111—(i) *Ferndale Hydrologic Sub-area 111111.* Outlet(s) = Eel River (Lat 40.6282, Long –124.2838) upstream to endpoint(s) in: Atwell Creek (40.472, –124.1449); Howe Creek (40.4748, –124.1827); Price Creek (40.5028, –124.2035); Strongs Creek (40.5986, –124.1222); Van Duzen River (40.5337, –124.1262).

(ii) *Scotia Hydrologic Sub-area 111112.* Outlet(s) = Eel River (Lat 40.4918, Long –124.0998) upstream to endpoint(s) in: Bear Creek (40.391, –124.0156); Chadd Creek (40.3921, –123.9542); Jordan Creek (40.4324, –124.0428); Monument Creek (40.4676, –124.1133).

(iii) *Larabee Creek Hydrologic Sub-area 111113.* Outlet(s) = Larabee Creek (40.4090, Long –123.9334) upstream to endpoint(s) in: Carson Creek (40.4189, –123.8881); Larabee Creek (40.3950, –123.8138).

(iv) *Hydesville Hydrologic Sub-area 111121.* Outlet(s) = Van Duzen River (Lat 40.5337, Long –124.1262) upstream to endpoint(s) in: Cummings Creek (40.5258, –123.9896); Fielder Creek (40.5289, –124.0201); Hely Creek (40.5042, –123.9703); Yager Creek (40.5583, –124.0577).

(v) *Yager Creek Hydrologic Sub-area 111123.* Outlet(s) = Yager Creek (Lat 40.5583, Long –124.0577) upstream to endpoint(s) in: Corner Creek (40.6189, –123.9994); Fish Creek (40.6392, –124.0032); Lawrence Creek (40.6394, –123.9935); Middle Fork Yager Creek (40.5799, –123.9015); North Fork Yager Creek (40.6044, –123.9084); Owl Creek (40.5557, –123.9362); Shaw Creek (40.6245, –123.9518); Yager Creek (40.5673, –123.9403).

(vi) *Weott Hydrologic Sub-area 111131.* Outlet(s) = South Fork Eel River (Lat 40.3500, Long –213.9305) upstream to endpoint(s) in: Bridge Creek (40.2929, –123.8569); Bull Creek (40.3148, –124.0343); Canoe Creek (40.2909, –123.922); Cow Creek (40.3583, –123.9626); Cuneo Creek (40.3377, –124.0385); Elk Creek (40.2837, –123.8365); Fish Creek (40.2316, –123.7915); Harper Creek (40.354, –123.9895); Mill Creek (40.3509, –124.0236); Salmon Creek (40.2214, –123.9059); South Fork Salmon River (40.1769, –123.8929); Squaw Creek (40.3401, –123.9997); Tostin Creek (40.1722, –123.8796).

(vii) *Benbow Hydrologic Sub-area 111132.* Outlet(s) = South Fork Eel River (Lat 40.1932, Long –123.7692) upstream to endpoint(s) in: Anderson Creek (39.9337, –123.8933); Bear Pen Creek (39.9125, –123.8108); Bear Wallow Creek (39.7296, –123.7172); Bond Creek (39.7856, –123.6937); Butler Creek (39.7439, –123.692); China Creek (40.1035, –123.9493); Connick Creek (40.0911, –123.8187); Cox Creek (40.0288, –123.8542); Cummings Creek (39.8431, –123.5752); Dean Creek (40.1383, –123.7625); Dinner Creek (40.0915, –123.937); East Branch South Fork Eel River (39.9433, –123.6278); Elk Creek (39.7986, –123.5981); Fish Creek (40.0565, –123.7768); Foster Creek (39.8455, –123.6185); Grapewine Creek (39.7991, –123.5186); Hartsook Creek (40.012, –123.7888); Hollow Tree Creek (39.7316, –123.6918); Huckleberry Creek (39.7315, –123.7253); Indian Creek (39.9464, –123.8993); Jones Creek (39.9977, –123.8378); Leggett Creek (40.1374, –123.8312); Little Sproul Creel (40.0897, –123.8585); Low Gap Creek (39.993, –123.767); McCoy Creek (39.9598, –123.7542); Michael's Creek (39.7642, –123.7175); Miller Creek (40.1215, –123.916); Moody Creek (39.9531, –123.8819); Mud Creek (39.8232, –123.6107); Piercy Creek (39.9706, –123.8189); Pollock Creek (40.0822, –123.9184); Rattlesnake Creek (39.7974, –123.5426); Redwood Creek (39.7721, –123.7651); Redwood Creek (40.0974, –123.9104); Seely Creek (40.1494, –123.8825); Somerville Creek (40.0896, –123.8913); South Fork Redwood Creek (39.7663, –123.7579); Spoul Creek (40.0125, –123.8585); Standley Creek (39.9479, –123.8083); Tom Long Creek (40.0315, –123.6891); Twin Rocks Creek (39.8269, –123.5543); Warden Creek (40.0625, –123.8546); West Fork Sproul Creek (40.0386, –123.9015); Wildcat Creek (39.9049, –123.7739); Wilson Creek (39.841, –123.6452); Unnamed Tributary (40.1136, –123.9359).

(viii) *Laytonville Hydrologic Sub-area 111133.* Outlet(s) = South Fork Eel River (Lat 39.7665, Long –123.6484)) upstream to endpoint(s) in: Bear Creek (39.6413, –123.5797); Cahto Creek (39.6624, –123.5453); Dutch Charlie Creek (39.6892, –123.6818); Grub Creek (39.7777, –123.5809); Jack of Hearts Creek (39.7244, –123.6802); Kenny Creek (39.6733, –123.6082); Mud Creek (39.6561, –123.592); Redwood Creek (39.6738, –123.6631); Rock Creek (39.6931, –123.6204); South Fork Eel River (39.6271, –123.5389); Streeter Creek (39.7328, –123.5542); Ten Mile Creek (39.6651, –123.451).

(ix) *Sequoia Hydrologic Sub-area 111141.* Outlet(s) = Eel River (Lat 40.3557, Long –123.9191); South Fork Eel River (40.3558, –123.9194) upstream to endpoint(s) in: Brock Creek (40.2411, –123.7248); Dobbyn Creek (40.2216, –123.6029); Hoover Creek (40.2312, –123.5792); Line Gulch (40.1655, –123.4831); North Fork Dobbyn Creek (40.2669, –123.5467); South Fork Dobbyn Creek (40.1723, –123.5112); South Fork Eel River (40.35, –123.9305); Unnamed Tributary (40.3137, –123.8333); Unnamed Tributary (40.2715, –123.549).

(x) *Spy Rock Hydrologic Sub-area 111142.* Outlet(s) = Eel River (Lat 40.1736, Long –123.6043) upstream to endpoint(s) in: Bell Springs Creek (39.9399, –123.5144); Burger Creek (39.6943, –123.413); Chamise Creek (40.0563, –123.5479); Jewett Creek (40.1195, –123.6027); Kekawaka Creek (40.0686, –123.4087); Woodman Creek (39.7639, –123.4338).

(xi) *North Fork Eel River Hydrologic Sub-area 111150.* Outlet(s) = North Fork Eel River (Lat 39.9567, Long –123.4375) upstream to endpoint(s) in: North Fork Eel River (39.9370, –123.3758).

(xii) *Outlet Creek Hydrologic Sub-area 111161.* Outlet(s) = Outlet Creek (Lat 39.6263, Long –123.3453) upstream to endpoint(s) in: Baechtel Creek (39.3688, –123.4028); Berry Creek (39.4272, –123.2951); Bloody Run (39.5864, –123.3545); Broaddus Creek (39.3907, –123.4163); Davis Creek (39.3701, –123.3007); Dutch Henry Creek (39.5788, –123.4543); Haehl Creek (39.3795, –123.3393); Long Valley Creek (39.6091, –123.4577); Ryan Creek (39.4803, –123.3642); Upp Creek (39.4276, –123.3578); Upp Creek

(39.4276, –123.3578); Willits Creek (39.4315, –123.3794).

(xiii) *Tomki Creek Hydrologic Sub-area 111162.* Outlet(s) = Eel River (Lat 39.7138, Long –123.3531) upstream to endpoint(s) in: Cave Creek (39.3925, –123.2318); Long Branch Creek (39.4074, –123.1897); Rocktree Creek (39.4533, –123.3079); Salmon Creek (39.4461, –123.2104); Scott Creek (39.456, –123.2297); String Creek (39.4855, –123.2891); Tomki Creek (39.549, –123.3613); Wheelbarrow Creek (39.5029, –123.3287).

(xiv) *Lake Pillsbury Hydrologic Sub-area 111163.* Outlet(s) = Eel River (Lat 39.3860, Long –123.1163) upstream to endpoint(s) in: Eel River (39.4078, –122.958).

(xv) *Eden Valley Hydrologic Sub-area 111171.* Outlet(s) = Middle Fork Eel River (Lat 39.8146, Long –123.1332) upstream to endpoint(s) in: Middle Fork Eel River (39.8145, –123.1333).

(xvi) *Round Valley Hydrologic Sub-area 111172.* Outlet(s) = Mill Creek (Lat 39.7396, Long –123.1420); Williams Creek (39.8145, –123.1333) upstream to endpoint(s) in: Mill Creek (39.8456, –123.2822); Murphy Creek (39.8804, –123.1636); Poor Mans Creek (39.8179, –123.1833); Short Creek (39.8645, –123.2242); Turner Creek (39.7238, –123.2191); Williams Creek (39.8596, –123.1341).

(6) *Cape Mendocino Hydrologic Unit 1112—(i) Capetown Hydrologic Sub-area 111220.* Outlet(s) = Bear River (Lat 40.4744, Long –124.3881) upstream to endpoint(s) in: Bear River (40.3591, –124.0536); South Fork Bear River (40.4271, –124.2873).

(ii) *Mattole River Hydrologic Sub-area 111230.* Outlet(s) = Mattole River (Lat 40.2942, Long –124.3536) upstream to endpoint(s) in: Bear Creek (40.1262, –124.0631); Blue Slide Creek (40.1286, –123.9579); Bridge Creek (40.0503, –123.9885); Conklin Creek (40.3169, –124.229); Dry Creek (40.2389, –124.0621); East Fork Honeydew Creek (40.1633, –124.0916); East Fork of the North Fork Mattole River (40.3489, –124.2244); Eubanks Creek (40.0893, –123.9743); Gilham Creek (40.2162, –124.0309); Grindstone Creek (40.1875, –124.0041); Honeydew Creek (40.1942, –124.1363); Mattole Canyon (40.1833, –123.9666); Mattole River (39.9735, –123.9548); McGinnis Creek (40.3013, –124.2146); McKee Creek (40.0674, –123.9608); Mill Creek (40.0169, –123.9656); North Fork Mattole River (40.3729, –124.2461); North Fork Bear Creek (40.1422, –124.0945); Oil Creek (40.3008, –124.1253); Rattlesnake Creek (40.2919, –124.1051); South Fork Bear Creek (40.0334, –124.0232); Squaw Creek (40.219, –124.1921); Thompson Creek (39.9969, –123.9638); Unnamed (40.1522, –124.0989); Upper North Fork Mattole River (40.2907, –124.1115); Westlund Creek (40.2333, –124.0336); Woods creek (40.2235, –124.1574); Yew Creek (40.0019, –123.9743).

(7) Mendocino Coast Hydrologic Unit 1113—(i) *Wages Creek Hydrologic Sub-area 111312.* Outlet(s) = Wages Creek (Lat 39.6513, Long –123.7851) upstream to endpoint(s) in: Wages Creek (39.6393, –123.7146).

(ii) *Ten Mile River Hydrologic Sub-area 111313.* Outlet(s) = Ten Mile River (Lat 39.5529, Long –123.7658) upstream to endpoint(s) in: Middle Fork Ten Mile River (39.5397, –123.5523); Little North Fork Ten Mile River (39.6188, –123.7258); Ten Mile River (39.5721, –123.7098); South Fork Ten Mile River (39.4927, –123.6067); North Fork Ten Mile River (39.5804, –123.5735).

(iii) Noyo River Hydrologic Sub-area 111320. Outlet(s) = Noyo River (Lat 39.4274, Long –123.8096) upstream to endpoint(s) in: North Fork Noyo River (39.4541, –123.5331); Noyo River (39.431, 123.494); South Fork Noyo River (39.3549, –123.6136).

(iv) *Big River Hydrologic Sub-area 111330.* Outlet(s) = Big River (Lat 39.3030, Long –123.7957) upstream to endpoint(s) in: Big River (39.3095, –123.4454).

(v) *Albion River Hydrologic Sub-area 111340.* Outlet(s) = Albion River (Lat 39.2253, Long –123.7679) upstream to endpoint(s) in: Albion River (39.2644, –123.6072).

(vi) *Garcia River Hydrologic Sub-area 111370.* Outlet(s) = Garcia River (Lat 38.9455, Long –123.7257) upstream to endpoint(s) in: Garcia River (38.9160, –123.4900).

(8) Russian River Hydrologic Unit 1114—(i) *Guerneville Hydrologic Sub-area 111411.* Outlet(s) = Russian River (Lat 38.4507, Long –123.1289) upstream to endpoint(s) in: Austin Creek (38.5099, –123.0681); Mark West Creek (38.4961, –122.8489).

(ii) *Austin Creek Hydrologic Sub-area 111412.* Outlet(s) = Austin Creek (Lat 38.5099, Long –123.0681) upstream to endpoint(s) in: Austin Creek (38.5326, –123.0844).

(iii) *Warm Springs Hydrologic Sub-area 111424.* Outlet(s) = Dry Creek (Lat 38.5861, Long –122.8573) upstream to endpoint(s) in: Dry Creek (38.7179, –123.0075).

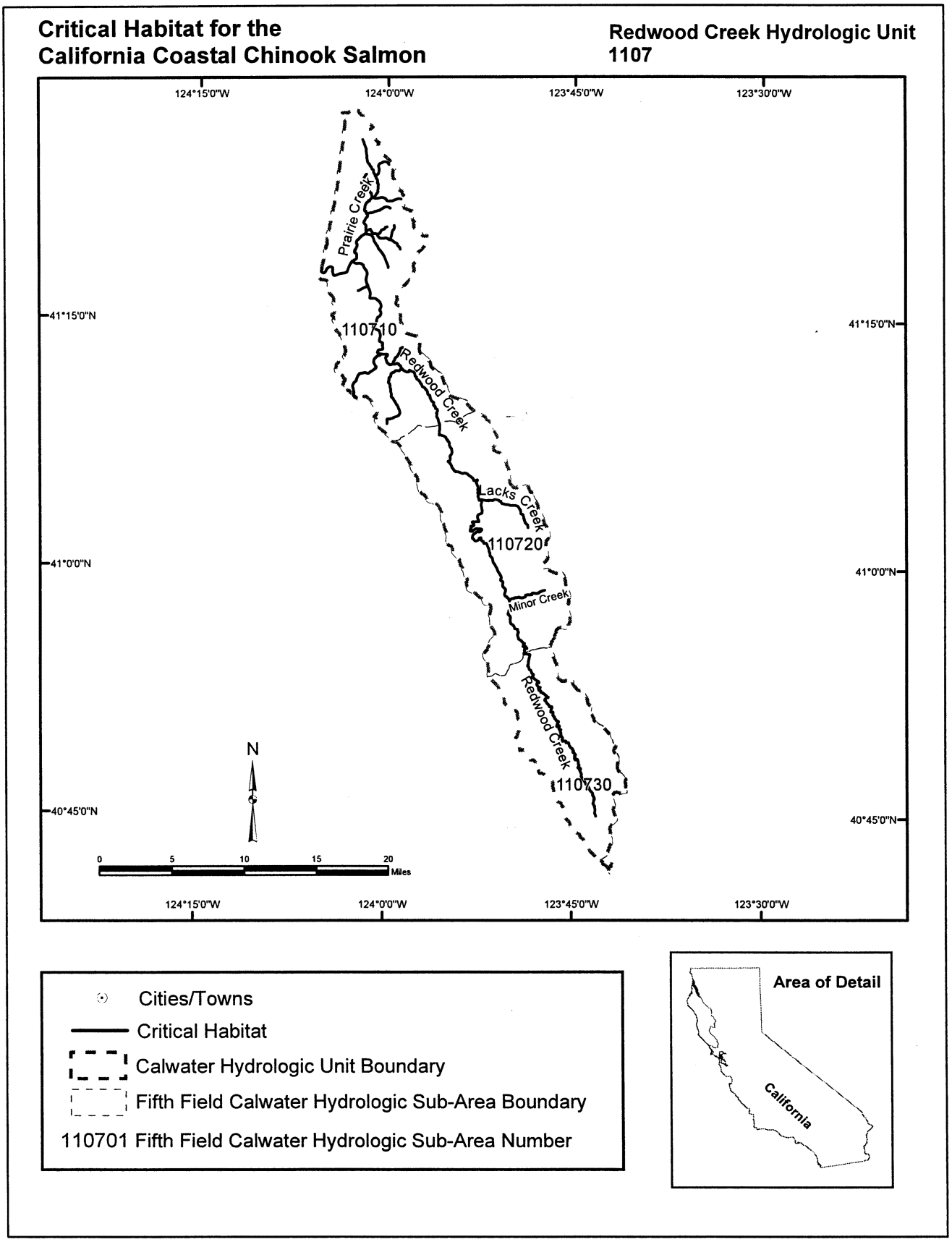
(iv) *Geyserville Hydrologic Sub-area 111425.* Outlet(s) = Russian River (Lat 38.6132, Long –122.8321) upstream.

(v) *Ukiah Hydrologic Sub-area 111431.* Outlet(s) = Russian River (Lat 38.8828, Long –123.0557) upstream to endpoint(s) in: Feliz Creek (38.9941, –123.1779).

(vi) *Forsythe Creek Hydrologic Sub-area 111433.* Outlet(s) = Russian River (Lat 39.2257, Long –123.2012) upstream to endpoint(s) in: Forsythe Creek (39.2780, –123.2608); Russian River (39.3599, –123.2326).

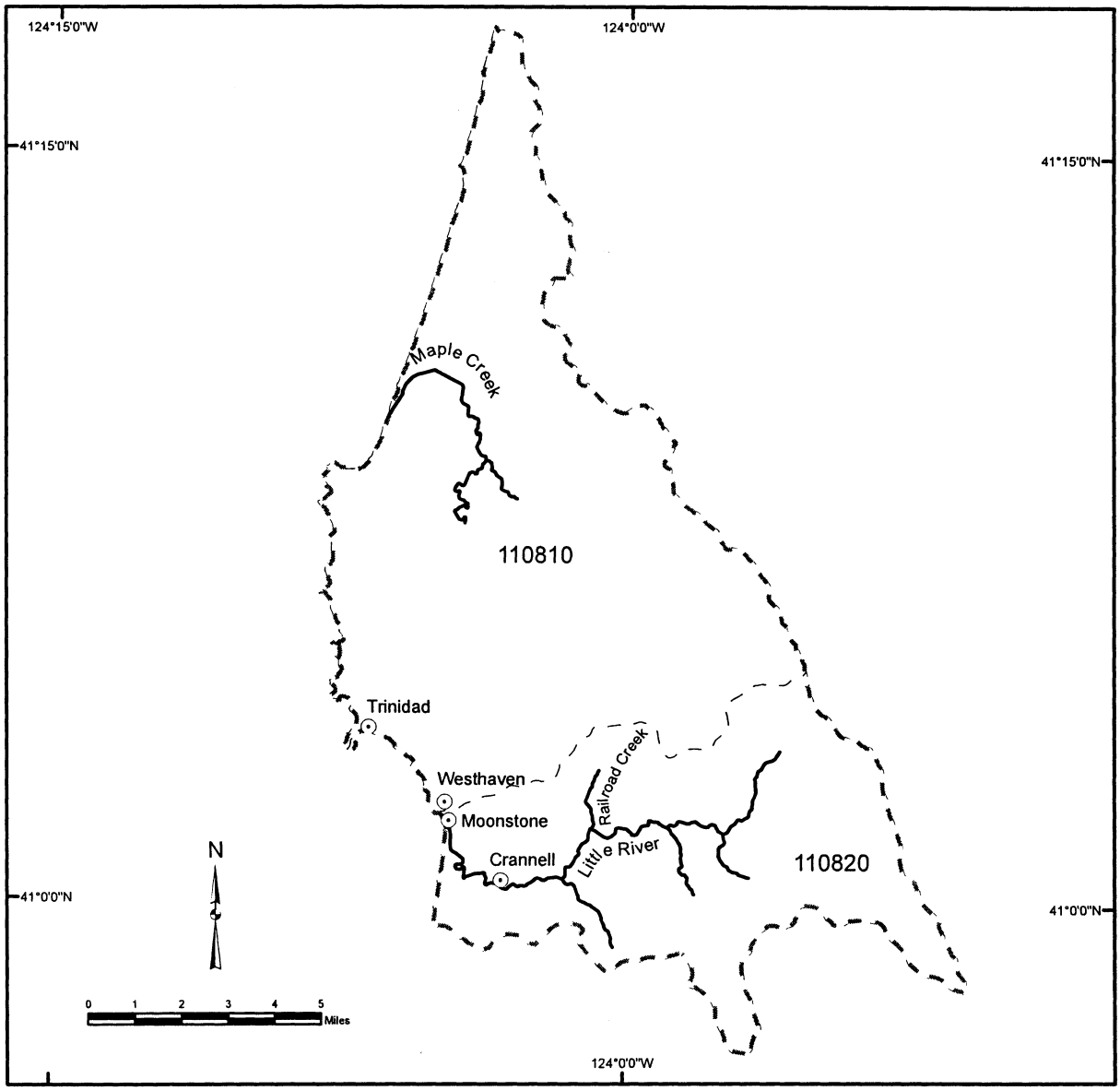
(9) Maps of critical habitat for the California Coast chinook salmon ESU follow:

BILLING CODE 3510–22–P


Critical Habitat for the
California Coastal Chinook Salmon
Redwood Creek Hydrologic Unit
1107
124°15'0"W
124°0'0"W
123°45'0"W
123°30'0"W
41°15'0"N
41°0'0"N
40°45'0"N
Prairie Creek
110710
Redwood Creek
Lacks Creek
110720
Minor Creek
Redwood Creek
110730
N
0
5
10
15
20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

Critical Habitat for the California Coastal Chinook Salmon

Trinidad Hydrologic Unit 1108



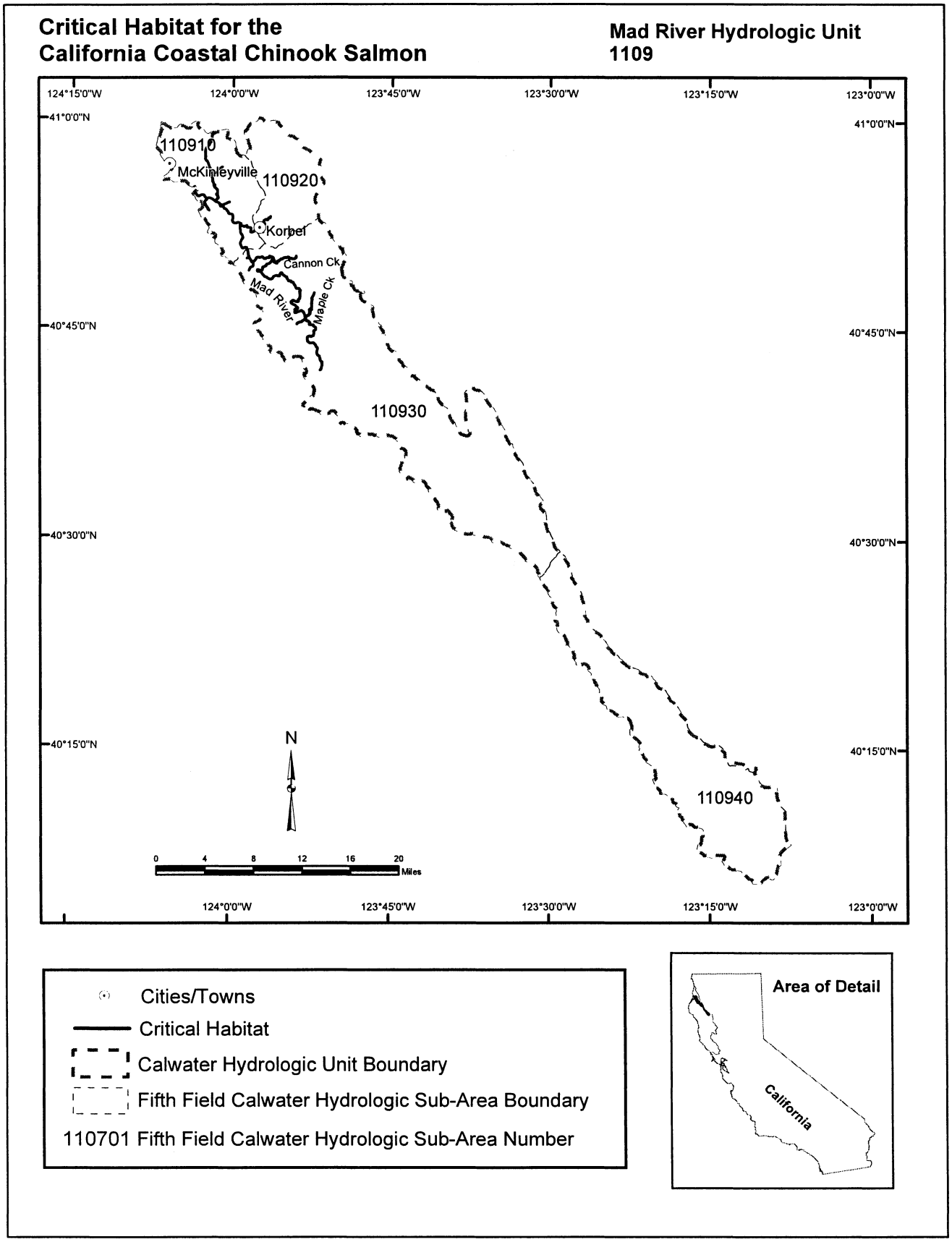
Cities/Towns

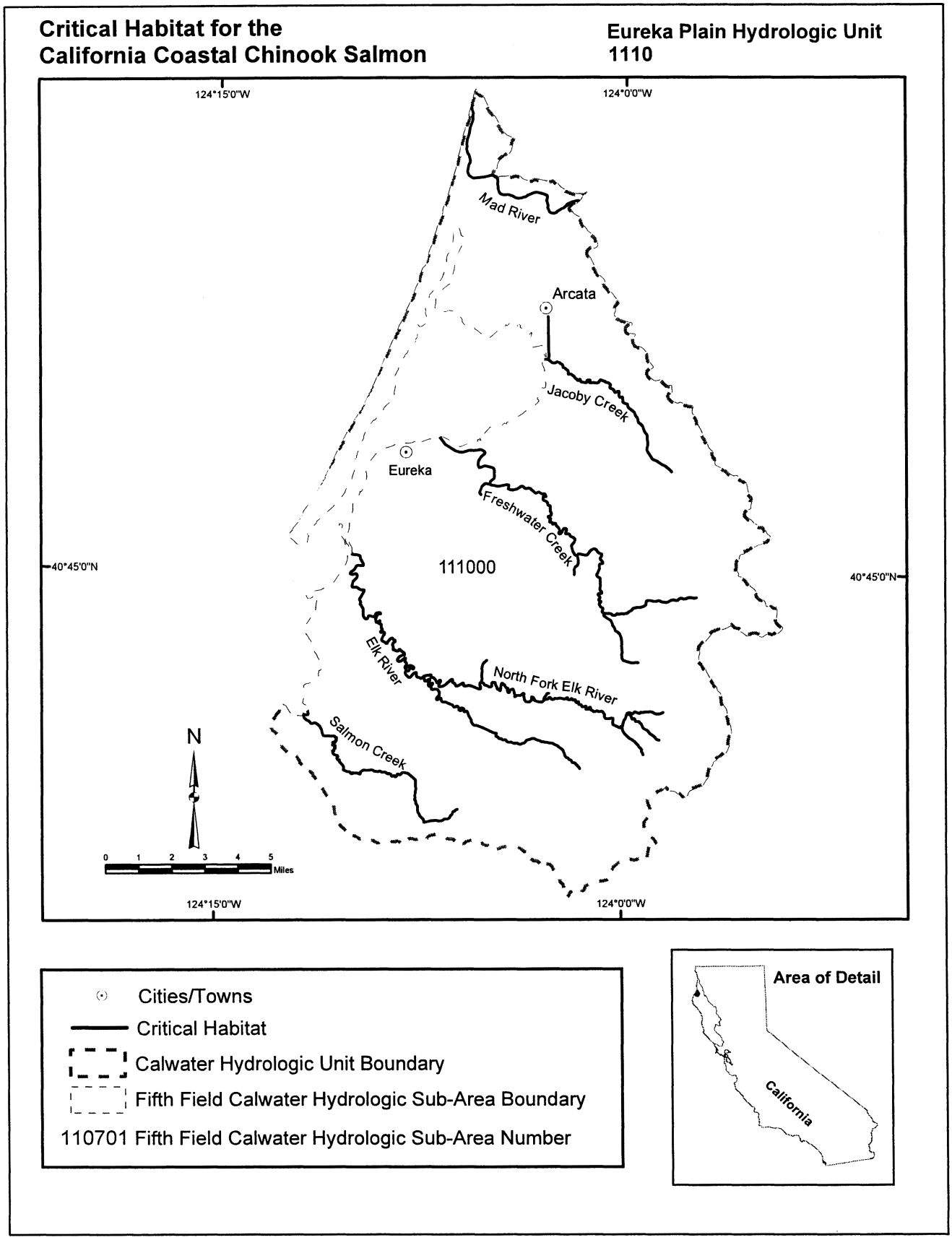
Critical Habitat

Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

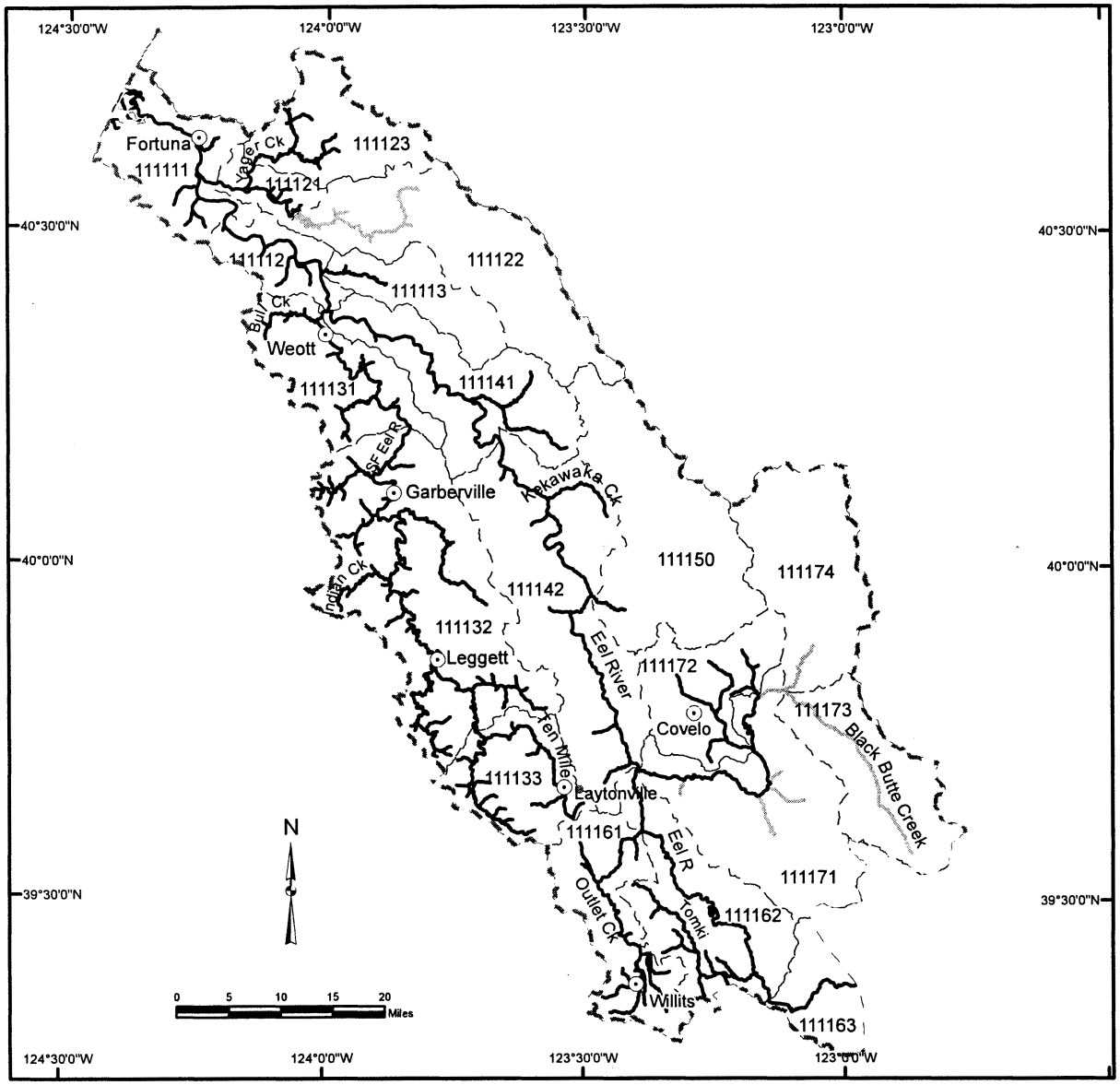
110701 Fifth Field Calwater Hydrologic Sub-Area Number


Critical Habitat for the
California Coastal Chinook Salmon
Mad River Hydrologic Unit
1109
124°15'0"W
124°0'0"W
123°45'0"W
123°30'0"W
123°15'0"W
123°0'0"W
41°0'0"N
40°45'0"N
40°30'0"N
40°15'0"N
110910
McKinleyville
110920
Korbel
Cannon Ck
Mad River
Maple Ck
110930
110940
N
0 4 8 12 16 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Coastal Chinook Salmon
Eureka Plain Hydrologic Unit
1110
124°15'0"W
124°0'0"W
40°45'0"N
Mad River
Arcata
Jacoby Creek
Eureka
Freshwater Creek
111000
Elk River
North Fork Elk River
Salmon Creek
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

Critical Habitat for the California Coastal Chinook Salmon

Eel River Hydrologic Unit 1111



Cities/Towns

Critical Habitat

Occupied but excluded streams / areas

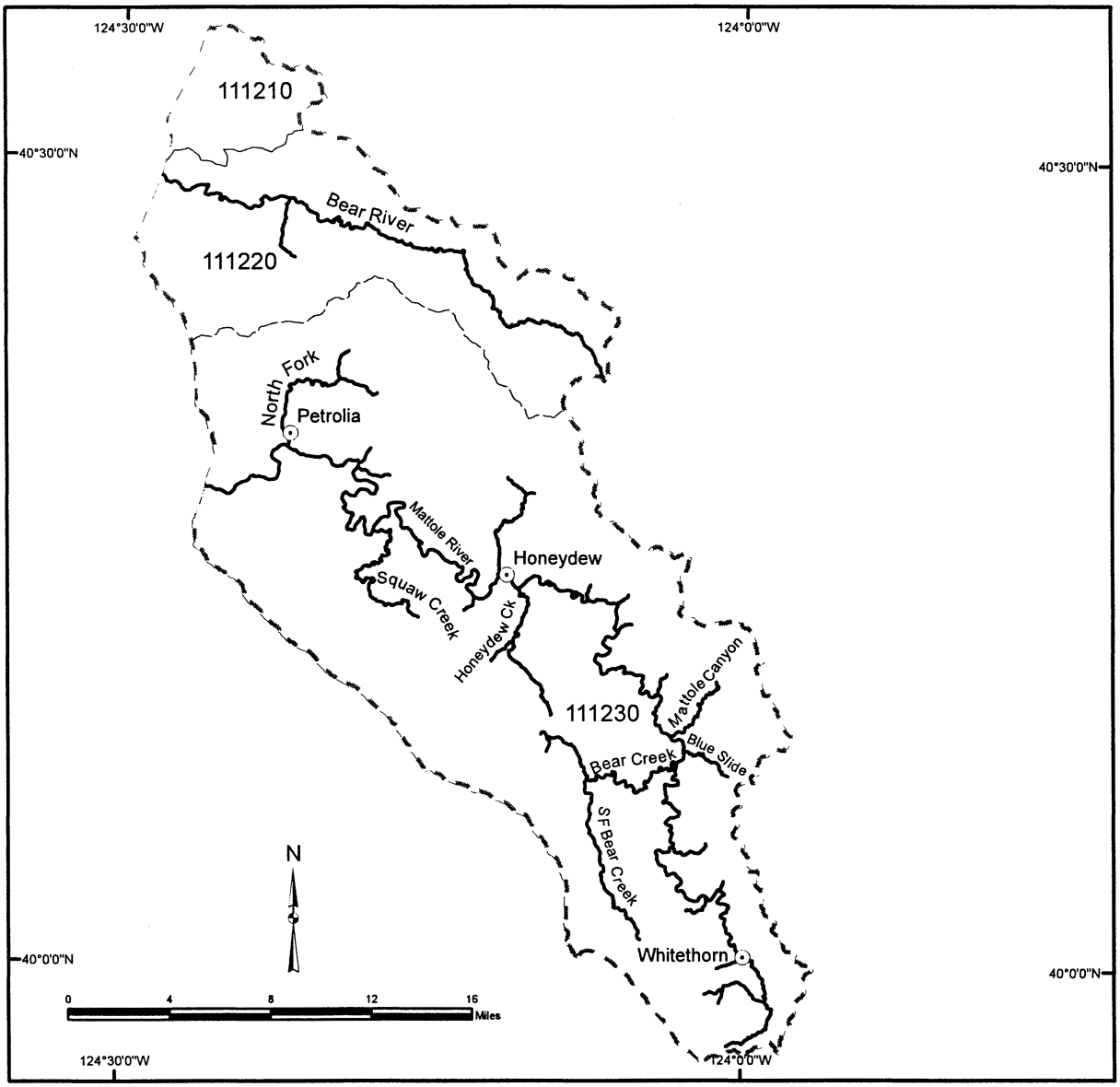
Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

110701 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the California Coastal Chinook Salmon

Cape Mendocino Hydrologic Unit 1112



Cities/Towns

Critical Habitat

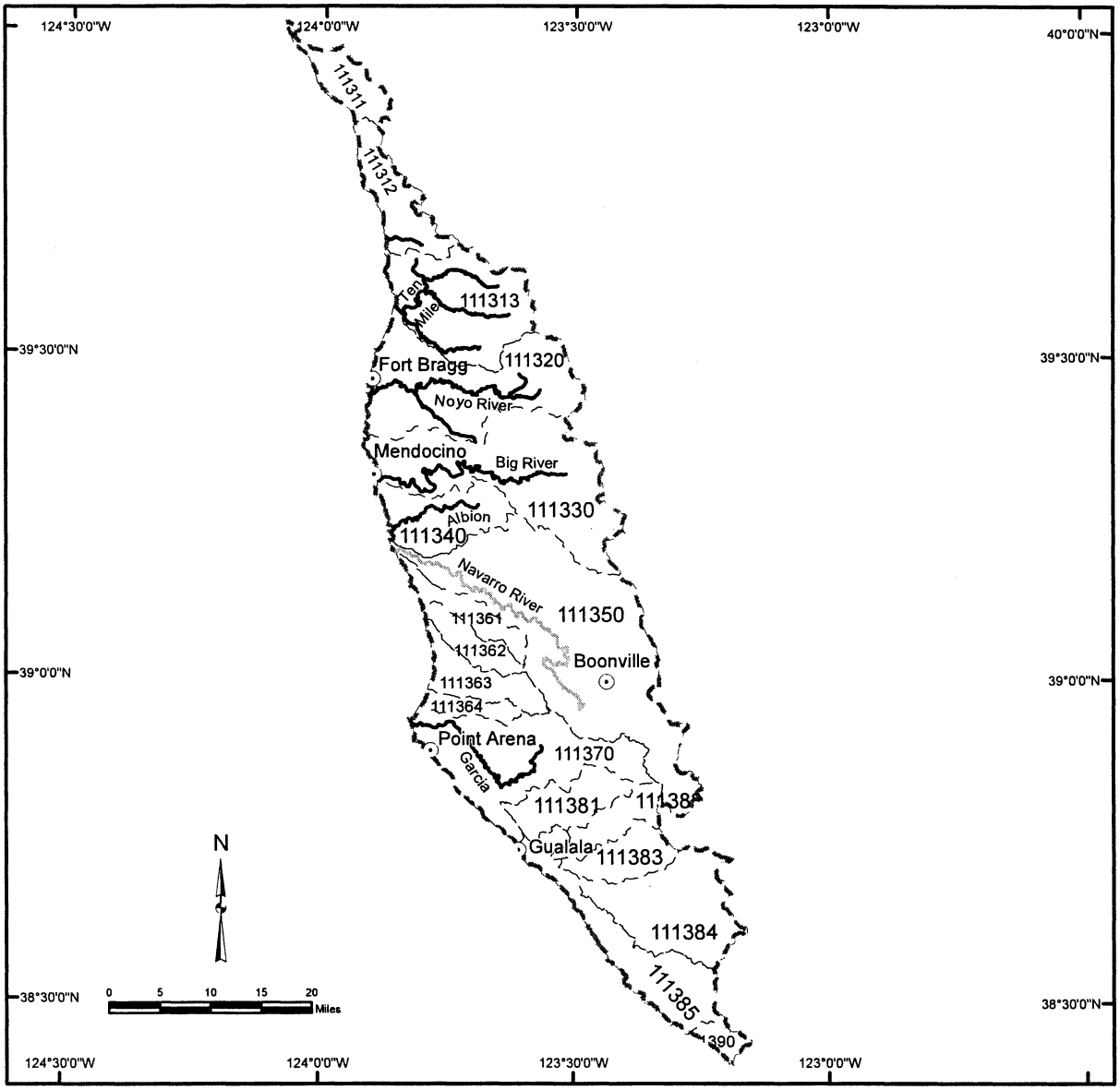
Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

110701 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the California Coastal Chinook Salmon

Mendocino Coast Hydrologic Unit 1113



Cities/Towns

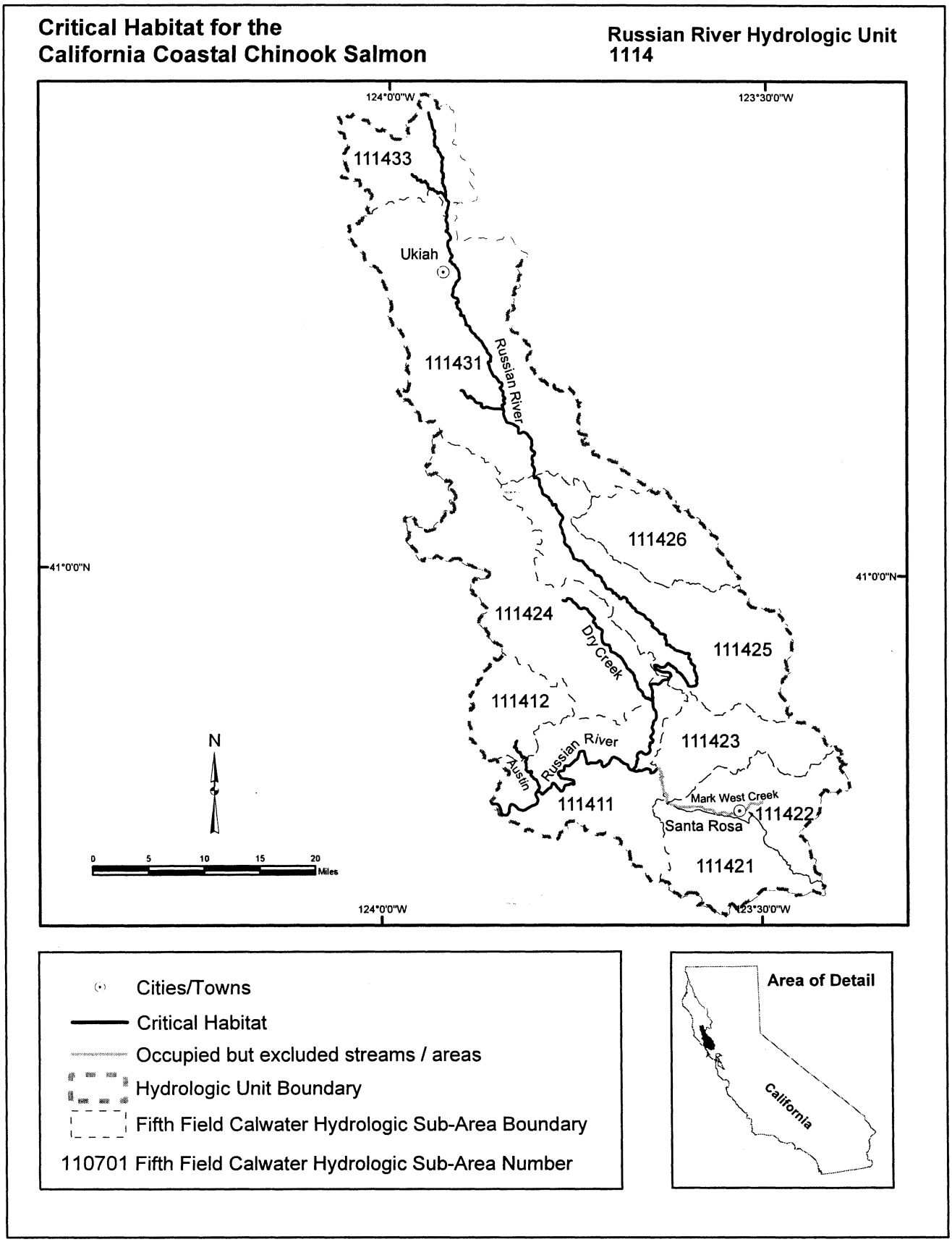
Critical Habitat

Occupied but excluded streams / areas

Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

110701 Fifth Field Calwater Hydrologic Sub-Area Number



BILLING CODE 3510–22–C

(g) *Northern California Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic units:

(1) Redwood Creek Hydrologic Unit 1107—(i) *Orick Hydrologic Sub-area 110710.* Outlet(s) = Boat Creek (Lat 41.4059, Long –124.0675); Home Creek (41.4027, –124.0683); Redwood Creek (41.2923, –124.0917); Squashan Creek (41.3889, –124.0703) upstream to endpoint(s) in: Boat Creek (41.4110, –124.0583); Bond Creek (41.2326, –124.0262); Boyes Creek (41.3701, –124.9891); Bridge Creek (41.1694, –123.9964); Brown Creek (41.3986, –124.0012); Cloquet Creek (41.2466, –123.9884); Cole Creek (41.2209, –123.9931); Copper Creek (41.1516, –123.9258); Dolason Creek (41.1969, –123.9667); Elam Creek (41.2613, –124.0321); Emerald Creek (41.2164, –123.9808); Forty Four Creek (41.2187, –124.0195); Gans South Creek (41.2678, –124.0071); Godwood Creek (41.3787, –124.0354); Hayes Creek (41.2890, –124.0164); Home Creek (41.3951, –124.0386); Larry Dam Creek (41.3441, –123.9966); Little Lost Man Creek (41.3078, –124.0084); Lost Man Creek (41.3187, –123.9892); May Creek (41.3521, –124.0164); McArthur Creek (41.2702, –124.0427); Miller Creek (41.2305, –124.0046); North Fork Lost Man Creek (41.3405, –123.9859); Oscar Larson Creek (41.2559, –123.9943); Prairie Creek (41.4440, –124.0411); Skunk Cabbage Creek (41.3211, –124.0802); Slide Creek (41.1736, –123.9450); Squashan Creek (41.3739, –124.0440); Streelow Creek (41.3622, –124.0472); Tom McDonald Creek (41.1933, –124.0164); Unnamed Tributary (41.3619, –123.9967); Unnamed Tributary (41.3424, –124.0572).

(ii) *Beaver Hydrologic Sub-area 110720.* Outlet(s) = Redwood Creek (Lat 41.1367, Long –123.9309) upstream to endpoint(s) in: Beaver Creek (41.0208, –123.8608); Captain Creek (40.9199, –123.7944); Cashmere Creek (41.0132, –123.8862); Coyote Creek (41.1251, –123.8926); Devils Creek (41.1224, –123.9384); Garcia Creek (41.0180, –123.8923); Garrett Creek (41.0904, –123.8712); Karen Court Creek (41.0368, –123.8953); Lacks Creek (41.0306, –123.8096); Loin Creek (40.9465, –123.8454); Lupton Creek (40.9058, –123.8286); Mill Creek (41.0045, –123.8525); Minor Creek (40.9706, –123.7899); Molasses Creek (40.9986, –123.8490); Moon Creek (40.9807, –123.8368); Panther Creek (41.0732, –123.9275); Pilchuck Creek (41.9986, –123.8710); Roaring Gulch (41.0319, –123.8674); Santa Fe Creek (40.9368, –123.8397); Sweathouse Creek (40.9332, –123.8131); Toss–Up Creek (40.9845, –123.8656); Unnamed Tributary (41.1270, –123.8967); Wiregrass Creek (40.9652, –123.8553).

(iii) *Lake Prairie Hydrologic Sub-area 110730.* Outlet(s) = Redwood Creek (Lat 40.9070, Long –123.8170) upstream to endpoint(s) in: Bradford Creek (40.7812, –123.7215); Cut–Off Meander (40.8507, –123.7729); Emmy Lou Creek (40.8655, –123.7771); Gunrack Creek (40.8391, –123.7650); High Prairie Creek (40.8191, –123.7723); Jena Creek (40.8742, –123.8065); Lake Prairie Creek (40.7984, –123.7558); Lupton Creek (40.9058, –123.8286); Minon Creek (40.8140, –123.7372); Noisy Creek (40.8613, –123.8044); Pardee Creek (40.7779, –123.7416); Redwood Creek (40.7432, –123.7206); Simion Creek (40.8241, –123.7560); Six Rivers Creek (40.8352, –123.7842); Smokehouse Creek (40.7405, –123.7278); Snowcamp Creek (40.7415, –123.7296); Squirrel Trail Creek (40.8692, –123.7844); Twin Lakes Creek (40.7369, –123.7214); Panther Creek (40.8019, –123.7094); Windy Creek (40.8866, –123.7956).

(2) Trinidad Hydrologic Unit 1108—(i) *Big Lagoon Hydrologic Sub-area 110810.* Outlet(s) = Maple Creek (Lat 41.1555, Long –124.1380); McDonald Creek (41.2521, –124.0919) upstream to endpoint(s) in: Beach Creek (41.0716, –124.0239); Clear Creek (41.1031, –124.0030); Diamond Creek (41.1571, –124.0926); Maple Creek (41.0836, –123.9790); McDonald Creek (41.1850, –124.0773); M-Line Creek (41.0752, –124.0787); North Fork Maple Creek (41.1254, –124.0539); North Fork McDonald Creek (41.2107, –124.0664); Pitcher Creek (41.1518, –124.0874); South Fork Maple Creek (41.1003, –124.1119); Tom Creek (41.1773, –124.0966); Unnamed Tributary (41.1004, –124.0155); Unnamed Tributary (41.0780, –124.0676); Unnamed Tributary (41.1168, –124.0886); Unnamed Tributary (41.0864, –124.0899); Unnamed Tributary (41.1132, –124.0827); Unnamed Tributary (41.0749, –124.0889); Unnamed Tributary (41.1052, –124.0675); Unnamed Tributary (41.0714, –124.0611); Unnamed Tributary (41.0948, –124.0016).

(ii) *Little River Hydrologic Sub-area 110820.* Outlet(s) = Little River (Lat 41.0277, Long –124.1112) upstream to endpoint(s) in: Freeman Creek (41.0242, –124.0582); Little River (40.9999, –123.9232); Lower South Fork Little River (41.0077, –124.0079); Railroad Creek (41.0468, –124.0466); South Fork Little River (40.9899, –124.0394); Unnamed Tributary (41.0356, –123.9958); Unnamed Tributary (41.0407, –124.0598); Unnamed Tributary (41.0068, –123.9830); Unnamed Tributary (41.0402, –124.0111); Unnamed Tributary (41.0402, –124.0189); Unnamed Tributary (41.0303, –124.0366); Unnamed Tributary (41.0575, –123.9710); Unnamed Tributary (41.0068, –123.9830); Upper South Fork Little River (41.0146, –123.9826).

(3) Mad River Hydrologic Unit 1109—(i) *Blue Lake Hydrologic Sub-area 110910.* Outlet(s) = Mad River (Lat 40.9139, Long –124.0642); Strawberry Creek (40.9964, –124.1155); Widow White Creek (40.9635, –124.1253) upstream to endpoint(s) in: Boundary Creek (40.8395, –123.9920); Grassy Creek (40.9314, –124.0188); Hall Creek (40.9162, –124.0141); Kelly Creek (40.8656, –124.0260); Leggit Creek (40.8808, –124.0269); Lindsay Creek (40.9838, –124.0283); Mather Creek (40.9796, –124.0526); Mill Creek (40.9296, –124.1037); Mill Creek (40.9162, –124.0141); Mill Creek (40.8521, –123.9617); North Fork Mad River (40.8687, –123.9649); Norton Creek (40.9572, –124.1003); Palmer Creek (40.8633, –124.0193); Puter Creek (40.8474, –123.9966); Quarry Creek (40.8526, –124.0098); Squaw Creek (40.9426, –124.0202); Strawberry Creek (40.9761, –124.0630); Unnamed Tributary (40.9624, –124.0179); Unnamed Tributary (40.9549, –124.0554); Unnamed Tributary (40.9672, –124.0218); Warren Creek (40.8860, –124.0351); Widow White Creek (40.9522, –124.0784).

(ii) *North Fork Mad River Hydrologic Sub-area 110920.* Outlet(s) = North Fork Mad River (Lat 40.8687, Long –123.9649) upstream to endpoint(s) in: Bald Mountain Creek (40.8922, –123.9097); Canyon Creek (40.9598, –123.9269); Denman Creek (40.9293, –123.9429); East Fork North Fork (40.9702, –123.9449); Gosinta Creek (40.9169, –123.9420); Hutchery Creek (40.8730, –123.9503); Jackson Creek (40.9388, –123.9462); Krueger Creek (40.9487, –123.9571); Long Prairie Creek (40.9294, –123.8842); Mule Creek (40.9416, –123.9309); North Fork Mad River (40.9918, –123.9610); Pine Creek (40.9274, –123.9096); Pollock Creek (40.9081, –123.9071); Sullivan Gulch (40.8646, –123.9553); Tyson Creek (40.9559, –123.9738); Unnamed Tributary (40.9645, –123.9338); Unnamed Tributary (40.9879, –123.9511); Unnamed Tributary (40.9906, –123.9540); Unnamed Tributary (40.9866, –123.9788); Unnamed Tributary (40.9927, –123.9736).

(iii) *Butler Valley Hydrologic Sub-area 110930.* Outlet(s) = Mad River (Lat 40.8449, Long –123.9807) upstream to endpoint(s) in: Bear Creek (40.5468, –123.6728); Black Creek (40.7521, –123.9080); Black Dog Creek (40.8334, –123.9805); Blue Slide Creek (40.7333, –123.9225); Boulder Creek (40.7634, –123.8667); Bug Creek (40.6587, –123.7356); Cannon Creek (40.8535, –123.8850); Coyote Creek (40.6147, –123.6488); Devil Creek (40.8032, –123.9175); Dry Creek (40.8218, –123.9751); East Creek (40.5403, –123.5579); Maple Creek (40.7933, –123.8353); Pilot Creek (40.5950, –123.5888); Simpson Creek (40.8138, –123.9156); Unnamed Tributary (40.7306, –123.9019); Unnamed Tributary (40.7739, –123.9255); Unnamed Tributary (40.7744, –123.9137); Unnamed Tributary (40.8029, –123.8716); Unnamed Tributary (40.8038, –123.8691); Unnamed Tributary (40.8363, –123.9025).

(4) Eureka Plain Hydrologic Unit 1110—(i) *Eureka Plain Hydrologic Sub-area 111000.*

Outlet(s) = Elk River (Lat 40.7568, Long –124.1948); Freshwater Creek (40.8088, –124.1442); Jacoby Creek (40.8436, –124.0834); Mad River (40.9560, –124.1278); Rocky Gulch (40.8309, –124.0813); Salmon Creek (40.6868, –124.2194); Washington Gulch (40.8317, –124.0805) upstream to endpoint(s) in: Bridge Creek (40.6958, –124.0805); Browns Gulch (40.7038, –124.1074); Clapp Gulch (40.6967, –124.1684); Cloney Gulch (40.7826, –124.0347); Doe Creek (40.6964, –124.0201); Dunlap Gulch (40.7076, –124.1182); Falls Gulch (40.7655, –124.0261); Fay Slough (40.8033, –124.0574); Freshwater Creek (40.7385, –124.0035); Golf Course Creek (40.8406, –124.0402); Graham Gulch (40.7540, –124.0228); Guptil Gulch (40.7530, –124.1202); Henderson Gulch (40.7357, –124.1394); Jacoby Creek (40.7949, –124.0096); Lake Creek (40.6848, –124.0831); Line Creek (40.6578, –124.0460); Little Freshwater Creek (40.7371, –124.0649); Little North Fork Elk River (40.6972, –124.0100); Little South Fork Elk River (40.6555, –124.0877); Martin Slough (40.7679, –124.1578); McCready Gulch (40.7824, –124.0441); McWinney Creek (40.6968, –124.0616); Morrison Gulch (40.8169, –124.0430); North Branch of the North Fork Elk River (40.6879, –124.0130); North Fork Elk River (40.6794–123.9834); Railroad Gulch (40.6955, –124.1545); Rocky Gulch (40.8170, –124.0613); Ryan Creek (40.7352, –124.0996); Salmon Creek (40.6399, –124.1128); South Branch of the North Fork Elk River (40.6700, –124.0251); South Fork Elk River (40.6437, –124.0388); South Fork Freshwater Creek (40.7110, –124.0367); Swain Slough (40.7524, –124.1825); Tom Gulch (40.6794, –124.1452); Unnamed Tributary (40.7850, –124.0561); Unnamed Tributary (40.7496, –124.1651); Unnamed Tributary (40.7785,—124.1081); Unnamed Tributary (40.7667, –124.1054); Unnamed Tributary (40.7559, –124.0870); Unnamed Tributary (40.7952, –124.0568); Unnamed Tributary (40.7408, –124.1118); Unnamed Tributary (40.7186, –124.1385); Unnamed Tributary (40.7224, –124.1038); Unnamed Tributary (40.8210, –124.0111); Unnamed Tributary (40.8106, –124.0083); Unnamed Tributary (40.7554, –124.1379); Unnamed Tributary (40.7457, –124.1138); Washington Gulch (40.8205, –124.0549).

(ii) [Reserved]

(5) Eel River Hydrologic Unit 1111—(i) *Ferndale Hydrologic Sub-area 111111.* Outlet(s) = Eel River (Lat 40.6275, Long –124.2520) upstream to endpoint(s) in: Atwell Creek (40.4824, –124.1498); Dean Creek (40.4847, –124.1217); Horse Creek (40.5198, –124.1702); Howe Creek (40.4654, –124.1916); Nanning Creek (40.4914, –124.0652); North Fork Strongs Creek (40.6077, –124.1047); Price Creek (40.5101, –124.2731); Rohner Creek (40.6151, –124.1408); Strongs Creek (40.5999, –124.0985); Sweet Creek (40.4900, –124.2007); Van Duzen River (40.5337, –124.1262).

(ii) *Scotia Hydrologic Sub-area 111112.* Outlet(s) = Eel River (Lat 40.4918, Long –124.0988) upstream to endpoint(s) in: Bear Creek (40.3942, –124.0262); Bridge Creek (40.4278, –123.9317); Chadd Creek (40.3919, –123.9540); Darnell Creek (40.4533, –123.9808); Dinner Creek (40.4406, –124.0855); Greenlow Creek (40.4315, –124.0231); Jordan Creek (40.4171, –124.0517); Kiler Creek (40.4465, –124.0952); Monument Creek (40.4371, –124.1165); Shively Creek (40.4454, –123.9539); South Fork Bear Creek (40.3856, –124.0182); Stitz Creek (40.4649, –124.0531); Twin Creek (40.4419, –124.0714); Unnamed Tributary (40.3933, –123.9984); Weber Creek (40.3767, –123.9094).

(iii) *Larabee Creek Hydrologic Sub-area 111113.* Outlet(s) = Larabee Creek (Lat 40.4090, Long –123.9334) upstream to endpoint(s) in: Arnold Creek (40.4006, –123.8583); Balcom Creek (40.4030, –123.8986); Bosworth Creek (40.3584, –123.7089); Boulder Flat Creek (40.3530, –123.6381); Burr Creek (40.4250, –123.7767); Carson Creek (40.4181, –123.8879); Chris Creek (40.4146, –123.9235); Cooper Creek (40.3123, –123.6463); Dauphiny Creek (40.4049, –123.8893); Frost Creek (40.3765, –123.7357); Hayfield Creek (40.3350, –123.6535); Knack Creek (40.3788, –123.7385); Larabee Creek (40.2807, –123.6445); Martin Creek (40.3730, –123.7060); Maxwell Creek (40.3959, –123.8049); McMahon Creek (40.3269, –123.6363); Mill Creek (40.3849, –123.7440); Mountain Creek (40.2955, –123.6378); Scott Creek (40.4020, –123.8738); Smith Creek (40.4194, –123.8568); Thurman Creek (40.3506, –123.6669); Unnamed Tributary (40.3842, –123.8062); Unnamed Tributary (40.3982, –123.7862); Unnamed Tributary (40.3806, –123.7564); Unnamed Tributary (40.3661, –123.7398); Unnamed Tributary (40.3524, –123.7330).

(iv) *Hydesville Hydrologic Sub-area 111121.* Outlet(s) = Van Duzen River (Lat 40.5337, Long –124.1262) upstream to endpoint(s) in: Cuddeback Creek (40.5421, –124.0263); Cummings Creek (40.5282, –123.9770); Fiedler Creek (40.5351, –124.0106); Hely Creek (40.5165, –123.9531); Yager Creek (40.5583, –124.0577); Unnamed Tributary (40.5718, –124.0946).

(v) *Bridgeville Hydrologic Sub-area 111122.* Outlet(s) = Van Duzen River (Lat 40.4942, Long –123.9720) upstream to endpoint(s) in: Bear Creek (40.3455, –123.5763); Blanket Creek (40.3635, –123.5710); Browns Creek (40.4958, –123.8103); Butte Creek (40.4119, –123.7047); Dairy Creek (40.4174, –123.5981); Fish Creek (40.4525, –123.8434); Grizzly Creek (40.5193, –123.8470); Little Larabee Creek (40.4708, –123.7395); Little Van Duzen River (40.3021, –123.5540); North Fork Van Duzen (40.4881, –123.6411); Panther Creek (40.3921, –123.5866); Root Creek (40.4490, –123.9018); Stevens Creek (40.5062, –123.9073); Thompson Creek (40.4222, –123.6084); Van Duzen River (40.4820, –123.6629); Unnamed Tributary (40.3074, –123.5834).

(vi) *Yager Creek Hydrologic Sub-area 111123.* Outlet(s) = Yager Creek (Lat 40.5583, Long –124.0577) upstream to endpoint(s) in: Bell Creek (40.6809, –123.9685); Blanten Creek (40.5839, –124.0165); Booths Run (40.6584, –123.9428); Corner Creek (40.6179, –124.0010); Fish Creek (40.6390, –124.0024); Lawrence Creek (40.6986, –123.9314); Middle Fork Yager Creek (40.5782, –123.9243); North Fork Yager Creek (40.6056, –123.9080); Shaw Creek (40.6231, –123.9509); South Fork Yager Creek (40.5451, –123.9409); Unnamed

Tributary (40.5892, –123.9663); Yager Creek (40.5673, –123.9403).

(vii) *Weott Hydrologic Sub-area 111131.* Outlet(s) = South Fork Eel River (Lat 40.3500, Long –123.9305) upstream to endpoint(s) in: Albee Creek (40.3592, –124.0088); Bull Creek (40.3587, –123.9624); Burns Creek (40.3194, –124.0420); Butte Creek (40.1982, –123.8387); Canoe Creek (40.2669, –123.9556); Coon Creek (40.2702, –123.9013); Cow Creek (40.2664, –123.9838); Cuneo Creek (40.3401, –124.0494); Decker Creek (40.3312, –123.9501); Elk Creek (40.2609, –123.7957); Fish Creek (40.2459, –123.7729); Harper Creek (40.3591, –123.9930); Mill Creek (40.3568, –124.0333); Mowry Creek (40.2937, –123.8895); North Fork Cuneo Creek (40.3443, –124.0488); Ohman Creek (40.1924, –123.7648); Panther Creek (40.2775, –124.0289); Preacher Gulch (40.2944, –124.0047); Salmon Creek (40.2145, –123.8926); Slide Creek (40.3011, –124.0390); South Fork Salmon Creek (40.1769, –123.8929); Squaw Creek (40.3167, –123.9988); Unnamed Tributary (40.3065, –124.0074); Unnamed Tributary (40.2831, –124.0359).

(viii) *Benbow Hydrologic Sub-area 111132.* Outlet(s) = South Fork Eel River (Lat 40.1929, Long –123.7692) upstream to endpoint(s) in: Anderson Creek (39.9325, –123.8928); Bear Creek (39.7885, –123.7620); Bear Pen Creek (39.9201, –123.7986); Bear Wallow Creek (39.7270, –123.7140); Big Dan Creek (39.8430, –123.6992); Bond Creek (39.7778, –123.7060); Bridges Creek (39.9087, –123.7142); Buck Mountain Creek (40.0944, –123.7423); Butler Creek (39.7423, –123.6987); Cedar Creek (39.8834, –123.6216); China Creek (40.1035, –123.9493); Connick Creek (40.0912, –123.8154); Cox Creek (40.0310, –123.8398); Cruso Cabin Creek (39.9281, –123.5842); Durphy Creek (40.0205, –123.8271); East Branch South Fork Eel River (39.9359, –123.6204); Elkhorn Creek (39.9272, –123.6279); Fish Creek (40.0390, –123.7630); Hartsook Creek (40.0081, –123.8113); Hollow Tree Creek (39.7250, –123.6924); Huckleberry Creek (39.7292, –123.7275); Indian Creek (39.9556, –123.9172); Islam John Creek (39.8062, –123.7363); Jones Creek (39.9958, –123.8374); Leggett Creek (40.1470, –123.8375); Little Sproul Creek (40.0890, –123.8577); Lost Man Creek (39.7983, –123.7287); Low Gap Creek (39.8029, –123.6803); Low Gap Creek (39.9933, –123.7601); McCoy Creek (39.9572, –123.7369); Michael's Creek (39.7665, –123.7035); Middle Creek (39.8052, –123.7691); Milk Ranch Creek (40.0102, –123.7514); Mill Creek (39.8673, –123.7605); Miller Creek (40.1319, –123.9302); Moody Creek (39.9471, –123.8827); Mule Creek (39.8169, –123.7745); North Fork Cedar Creek (39.8864, –123.6363); North Fork McCoy Creek (39.9723, –123.7496); Piercy Creek (39.9597, –123.8442); Pollock Creek (40.0802, –123.9341); Red Mountain Creek (39.9363, –123.7203); Redwood Creek (39.7723, –123.7648); Redwood Creek (40.0974, –123.9104); Rock Creek (39.8962, –123.7065); Sebbas Creek (39.9934, –123.8903); Somerville Creek (40.1006, –123.8884); South Fork Mule Creek (39.8174, –123.7788); South Fork Redwood Creek (39.7662, –123.7579); Sproul Creek (40.0226, –123.8649); Squaw Creek (40.0760, –123.7257); Standly Creek (39.9327, –123.8309); Tom Long Creek (40.0175, –123.6551); Waldron Creek (39.7469, –123.7465); Walter's Creek (39.7921, –123.7250); Warden Creek (40.0629, –123.8551); West Fork Sproul Creek (40.0587, –123.9170); Wildcat Creek (39.8956, –123.7820); Unnamed Tributary (39.9927, –123.8807).

(ix) *Laytonville Hydrologic Sub-area 111133.* Outlet(s) = South Fork Eel River (Lat 39.7665, Long –123.6484) upstream to endpoint(s) in: Bear Creek (39.6418, –123.5853); Big Rick Creek (39.7117, –123.5512); Cahto Creek (39.6527, –123.5579); Dark Canyon Creek (39.7333, –123.6614); Dutch Charlie Creek (39.6843, –123.7023); Elder Creek (39.7234, –123.6192); Fox Creek (39.7441, –123.6142); Grub Creek (39.7777, –123.5809); Jack of Hearts Creek (39.7136, –123.6896); Kenny Creek (39.6838, –123.5929); Little Case Creek (39.6892, –123.5441); Mill Creek (39.6839, –123.5118); Mud Creek (39.6713, –123.5741); Mud Springs Creek (39.6929, –123.5629); Redwood Creek (39.6545, –123.6753); Rock Creek (39.6922, –123.6090); Section Four Creek (39.6137, –123.5297); South Fork Eel River (39.6242, –123.5468); Streeter Creek (39.7340, –123.5606); Ten Mile Creek (39.6652, –123.4486); Unnamed Tributary (39.7004, –123.5678).

(x) *Sequoia Hydrologic Sub-area 111141.* Outlet(s) = Eel River (Lat 40.3557, Long –123.9191) upstream to endpoint(s) in: Beatty Creek (40.3198, –123.7500); Brock Creek (40.2410, –123.7246); Cameron Creek (40.3313, –123.7707); Dobbyn Creek (40.2216, –123.6029); Kapple Creek (40.3531, –123.8585); Line Gulch Creek (40.1640, –123.4783); Mud Creek (40.2078, –123.5143); North Fork Dobbyn Creek (40.2669, –123.5467); Sonoma Creek (40.2974, –123.7953); South Fork Dobbyn Creek (40.1723, –123.5112); South Fork Eel River (40.3500, –123.9305); South Fork Thompson Creek (40.3447, –123.8334); Thompson Creek (40.3552, –123.8417); Unnamed Tributary (40.2745, –123.5487).

(xi) *Spy Rock Hydrologic Sub-area 111142.* Outlet(s) = Eel River (Lat 40.1736, Long –123.6043) upstream to endpoint(s) in: Bear Pen Canyon (39.6943, –123.4359); Bell Springs Creek (39.9457, –123.5313); Blue Rock Creek (39.8937, –123.5018); Burger Creek (39.6693, –123.4034); Chamise Creek (40.0035, –123.5945); Gill Creek (39.7879, –123.3465); Iron Creek (39.7993, –123.4747); Jewett Creek (40.1122, –123.6171); Kekawaka Creek (40.0686, –123.4087); Rock Creek (39.9347, –123.5187); Shell Rock Creek (39.8414, –123.4614); Unnamed Tributary (39.7579, –123.4709); White Rock Creek (39.7646, –123.4684); Woodman Creek (39.7612, –123.4364).

(xii) *Outlet Creek Hydrologic Sub-area 111161.* Outlet(s) = Outlet Creek (Lat 39.6265, Long –123.3449) upstream to endpoint(s) in: Baechtel Creek (39.3623, –123.4143); Berry Creek (39.4271, –123.2777); Bloody Run Creek (39.5864, –123.3545); Broaddus Creek (39.3869, –123.4282); Cherry Creek (39.6043, –123.4073); Conklin Creek (39.3756, –123.2570); Davis Creek (39.3354, –123.2945); Haehl Creek (39.3735, –123.3172); Long Valley Creek (39.6246, –123.4651); Mill Creek (39.4196, –123.3919); Outlet Creek (39.4526, –123.3338); Ryan Creek (39.4804, –123.3644); Unnamed Tributary (39.4956, –123.3591); Unnamed Tributary (39.4322, –123.3848); Unnamed Tributary (39.5793, –123.4546); Unnamed Tributary (39.3703, –123.3419); Upp Creek (39.4479, –123.3825); Willts Creek (39.4686, –123.4299).

(xiii) *Tomki Creek Hydrologic Sub-area 111162.* Outlet(s) = Eel River (Lat 39.7138, Long –123.3532) upstream to endpoint(s) in: Cave Creek (39.3842, –123.2148); Dean Creek (39.6924, –123.3727); Garcia Creek (39.5153, –123.1512); Little Cave Creek (39.3915, –123.2462); Little Creek (39.4146, –123.2595); Long Branch Creek (39.4074, –123.1897); Rocktree Creek (39.4534, –123.3053); Salmon Creek (39.4367, –123.1939); Scott Creek (39.4492, –123.2286); String Creek (39.4658, –123.3206); Tarter Creek (39.4715, –123.2976); Thomas Creek (39.4768, –123.1230); Tomki Creek (39.5483, –123.3687); Whitney Creek (39.4399, –123.1084); Wheelbarrow Creek (39.5012, –123.3304).

(xiv) *Eden Valley Hydrologic Sub-area 111171.* Outlet(s) = Middle Fork Eel River (Lat 39.7138, Long –123.3532) upstream to endpoint(s) in: Crocker Creek (39.5559, –123.0409); Eden Creek (39.5992, –123.1746); Elk Creek (39.5371, –123.0101); Hayshed Creek

(39.7082, –123.0967); Salt Creek (39.6765, –123.2740); Sportsmans Creek (39.5373, –123.0247); Sulper Springs (39.5536, –123.0365); Thatcher Creek (39.6686, –123.0639).

(xv) *Round Valley Hydrologic Sub-area 111172.* Outlet(s) = Mill Creek (Lat 39.7396, Long –123.1420); Williams Creek (39.8145, –123.1333) upstream to endpoint(s) in: Cold Creek (39.8714, –123.2991); Grist Creek (39.7640, –123.2883); Mill Creek (39.8481, –123.2896); Murphy Creek (39.8885, –123.1612); Short Creek (39.8703, –123.2352); Town Creek (39.7991, –123.2889); Turner Creek (39.7218, –123.2175); Williams Creek (39.8903, –123.1212); Unnamed Tributary (39.7428, –123.2757); Unnamed Tributary (39.7493, –123.2584).

(xvi) *Black Butte River Hydrologic Sub-area 111173.* Outlet(s) = Black Butte River (Lat 39.8239, Long –123.0880) upstream to endpoint(s) in: Black Butte River (39.5946, –122.8579); Buckhorn Creek (39.6563, –122.9225); Cold Creek (39.6960, –122.9063); Estell Creek (39.5966, –122.8224); Spanish Creek (39.6287, –122.8331).

(xvii) *Wilderness Hydrologic Sub-area 111174.* Outlet(s) = Middle Fork Eel River (Lat 39.8240, Long –123.0877) upstream to endpoint(s) in: Beaver Creek (39.9352, –122.9943); Fossil Creek (39.9447, –123.0403); Middle Fork Eel River (40.0780, –123.0442); North Fork Middle Fork Eel River (40.0727, –123.1364); Palm of Gileade Creek (40.0229, –123.0647); Pothole Creek (39.9347, –123.0440).

(6) Cape Mendocino Hydrologic Unit 1112—(i) *Oil Creek Hydrologic Sub-area 111210.* Outlet(s) = Guthrie Creek (Lat 40.5407, Long –124.3626); Oil Creek (40.5195, –124.3767) upstream to endpoint(s) in: Guthrie Creek (40.5320, –124.3128); Oil Creek (40.5061, –124.2875); Unnamed Tributary (40.4946, –124.3091); Unnamed Tributary (40.4982, –124.3549); Unnamed Tributary (40.5141, –124.3573); Unnamed Tributary (40.4992, –124.3070).

(ii) *Capetown Hydrologic Sub-area 111220.* Outlet(s) = Bear River (Lat 40.4744, Long –124.3881); Davis Creek (40.3850, –124.3691); Singley Creek (40.4311, –124.4034) upstream to endpoint(s) in: Antone Creek (40.4281, –124.2114); Bear River (40.3591, –124.0536); Beer Bottle Gulch (40.3949, –124.1410); Bonanza Gulch (40.4777, –124.2966); Brushy Creek (40.4102, –124.1050); Davis Creek (40.3945, –124.2912); Harmonica Creek (40.3775, –124.0735); Hollister Creek (40.4109, –124.2891); Nelson Creek (40.3536, –124.1154); Peaked Creek (40.4123, –124.1897); Pullen Creek (40.4057, –124.0814); Singley Creek (40.4177, –124.3305); South Fork Bear River (40.4047, –124.2631); Unnamed Tributary (40.4271, –124.3107); Unnamed Tributary (40.4814, –124.2741); Unnamed Tributary (40.3633, –124.0651); Unnamed Tributary (40.3785, –124.0599); Unnamed Tributary (40.4179, –124.2391); Unnamed Tributary (40.4040, –124.0923); Unnamed Tributary (40.3996, –124.3175); Unnamed Tributary (40.4045, –124.0745); Unnamed Tributary (40.4668, –124.2364); Unnamed Tributary (40.4389, –124.2350); Unnamed Tributary (40.4516, –124.2238); Unnamed Tributary (40.4136, –124.1594); Unnamed Tributary (40.4350, –124.1504); Unnamed Tributary (40.4394, –124.3745); West Side Creek (40.4751, –124.2432).

(iii) *Mattole River Hydrologic Sub-area 111230.* Outlet(s) = Big Creek (Lat 40.1567, Long –124.2114); Big Flat Creek (40.1275, –124.1764); Buck Creek (40.1086, –124.1218); Cooskie Creek (40.2192, –124.3105); Fourmile Creek (40.2561, –124.3578); Gitchell Creek (40.0938, –124.1023); Horse Mountain Creek (40.0685, –124.0822); Kinsey Creek (40.1717, –124.2310); Mattole River (40.2942, –124.3536); McNutt Gulch (40.3541, –124.3619); Oat Creek (40.1785, –124.2445); Randall Creek (40.2004, –124.2831); Shipman Creek (40.1175, –124.1449); Spanish Creek (40.1835, –124.2569); Telegraph Creek (40.0473, –124.0798); Whale Gulch (39.9623, –123.9785) upstream to endpoint(s) in: Anderson Creek (40.0329, –123.9674); Baker Creek (40.0143, –123.9048); Bear Creek (40.1262, –124.0631); Bear Creek (40.2819, –124.3336); Bear Trap Creek (40.2157, –124.1422); Big Creek (40.1742, –124.1924); Big Finley Creek (40.0910, –124.0179); Big Flat Creek (40.1444, –124.1636); Blue Slide Creek (40.1562, –123.9283); Box Canyon Creek (40.1078, –123.9854); Bridge Creek (40.0447, –124.0118); Buck Creek (40.1166, –124.1142); Conklin Creek (40.3197, –124.2055); Cooskie Creek (40.2286, –124.2986); Devils Creek (40.3432, –124.1365); Dry Creek (40.2646, –124.0660); East Branch North Fork Mattole River (40.3333, –124.1490); East Fork Honeydew Creek (40.1625, –124.0929); Eubank Creek (40.0997, –123.9661); Fire Creek (40.1533, –123.9509); Fourmile Creek (40.2604, –124.3079); Fourmile Creek (40.1767, –124.0759); French Creek (40.1384, –124.0072); Gibson Creek (40.0304, –123.9279); Gilham Creek (40.2078, –124.0085); Gitchell Creek (40.1086, –124.0947); Green Ridge Creek (40.3254, –124.1258); Grindstone Creek (40.2019, –123.9890); Harris Creek (40.0381, –123.9304); Harrow Creek (40.1612, –124.0292); Helen Barnum Creek (40.0036, –123.9101); Honeydew Creek (40.1747, –124.1410); Horse Mountain Creek (40.0769, –124.0729); Indian Creek (40.2772, –124.2759); Jewett Creek (40.1465, –124.0414); Kinsey Creek (40.1765, –124.2220); Lost Man Creek (39.9754, –123.9179); Mattole Canyon (40.2021, –123.9570); Mattole River (39.9714, –123.9623); McGinnis Creek (40.3186, –124.1801); McKee Creek (40.0864, –123.9480); McNutt Gulch (40.3458, –124.3418); Middle Creek (40.2591, –124.0366); Mill Creek (40.0158, –123.9693); Mill Creek (40.3305, –124.2598); Mill Creek (40.2839, –124.2946); Nooning Creek (40.0616, –124.0050); North Fork Mattole River (40.3866, –124.1867); North Fork Bear Creek (40.1494, –124.1060); North Fork Fourmile Creek (40.2019, –124.0722); Oat Creek (40.1884, –124.2296); Oil Creek (40.3214, –124.1601); Painter Creek (40.0844, –123.9639); Prichett Creek (40.2892, –124.1704); Randall Creek (40.2092, –124.2668); Rattlesnake Creek (40.3250, –124.0981); Shipman Creek (40.1250, –124.1384); Sholes Creek (40.1603, –124.0619); South Branch West Fork Bridge Creek (40.0326, –123.9853); South Fork Bear Creek (40.0176, –124.0016); Spanish Creek (40.1965, –124.2429); Squaw Creek (40.1934, –124.2002); Stanley Creek (40.0273, –123.9166); Sulphur Creek (40.3647, –124.1586); Telegraph Creek (40.0439, –124.0640); Thompson Creek (39.9913, –123.9707); Unnamed Tributary (40.3475, –124.1606); Unnamed Tributary (40.3522, –124.1533); Unnamed Tributary (40.0891, –123.9839); Unnamed Tributary (40.2223, –124.0172); Unnamed Tributary (40.1733, –123.9515); Unnamed Tributary (40.2899, –124.0955); Unnamed Tributary (40.2853, –124.3227); Unnamed Tributary (39.9969, –123.9071); Upper East Fork Honeydew Creek (40.1759, –124.1182); Upper North Fork Mattole River (40.2907, –124.1115); Vanauken Creek (40.0674, –123.9422); West Fork Bridge Creek (40.0343, –123.9990); West Fork Honeydew Creek (40.1870, –124.1614); Westlund Creek (40.2440, –124.0036); Whale Gulch (39.9747, –123.9812); Woods Creek (40.2119, –124.1611); Yew Creek (40.0018, –123.9762).

(7) Mendocino Coast Hydrologic Unit 1113—(i) *Usal Creek Hydrologic Sub-area 111311.* Outlet(s) = Jackass Creek (Lat 39.8806, Long –123.9155); Usal

Creek (39.8316, –123.8507) upstream to endpoint(s) in: Bear Creek (39.8898, –123.8344); Jackass Creek (39.8901, –123.8928); Julias Creek (39.8542, –123.7937); Little Bear Creek (39.8629, –123.8400); North Fork Jackass Creek (39.9095, –123.9101); North Fork Julias Creek (39.8581, –123.8045); Soldier Creek (39.8679, –123.8162); South Fork Usal Creek (39.8356, –123.7865); Unnamed Tributary (39.8890, –123.8480); Usal Creek (39.8957, –123.8797); Waterfall Gulch (39.8787, –123.8680).

(ii) *Wages Creek Hydrologic Sub-area 111312*. Outlet(s) = Cottaneva Creek (Lat 39.7360, Long –123.8293); DeHaven Creek (39.6592, –123.7863); Hardy Creek (39.7107, –123.8082); Howard Creek (39.6778, –123.7915); Juan Creek (39.7028, –123.8042); Wages Creek (39.6513, –123.7851) upstream to endpoint(s) in: Cottaneva Creek (39.7825, –123.8210); DeHaven Creek (39.6687, –123.7060); Dunn Creek (39.8103, –123.8320); Hardy Creek (39.7221, –123.7822); Howard Creek (39.6808, –123.7463); Juan Creek (39.7107, –123.7472); Kimball Gulch (39.7559, –123.7828); Little Juan Creek (39.7003, –123.7609); Middle Fork Cottaneva Creek (39.7738, –123.8058); North Fork Cottaneva Creek (39.8011, –123.8047); North Fork Dehaven Creek (39.6660, –123.7382); North Fork Wages Creek (39.6457, –123.7066); Rider Gulch (39.6348, –123.7621); Rockport Creek (39.7346, –123.8021); Slaughterhouse Gulch (39.7594, –123.7914); South Fork Cottaneva Creek (39.7447, –123.7773); South Fork Wages Creek (39.6297, –123.6862); Wages Creek (39.6297, –123.6862).

(iii) *Ten Mile River Hydrologic Sub-area 111313*. Outlet(s) = Abalobadiah Creek (Lat 39.5654, Long –123.7672); Chadbourne Gulch (39.6133, –123.7822); Ten Mile River (39.5529, –123.7658); Seaside Creek (39.5592, –123.7655) upstream to endpoint(s) in: Abalobadiah Creek (39.5878, –123.7503); Bald Hill Creek (39.6278, –123.6461); Barlow Gulch (39.6046, –123.7384); Bear Pen Creek (39.5824, –123.6402); Booth Gulch (39.5567, –123.5918); Buckhorn Creek (39.6093, –123.6980); Campbell Creek (39.5053, –123.6610); Cavanough Gulch (39.6107, –123.6776); Chadbourne Gulch (39.6190, –123.7682); Clark Fork (39.5280, –123.5134); Curchman Creek (39.4789, –123.6398); Gulch 11 (39.4687, –123.5816); Gulch 19 (39.5939, –123.5781); Little Bear Haven Creek (39.5655, –123.6147); Little North Fork (39.6264, –123.7350); Mill Creek (39.5392, –123.7068); North Fork Ten Mile River (39.5870, –123.5480); O'Conner Gulch (39.6042, –123.6632); Patsy Creek (39.5714, –123.5669); Redwood Creek (39.5142, –123.5620); Seaside Creek (39.5612, –123.7501); Smith Creek (39.5251, –123.6499); South Fork Bear Haven Creek (39.5688, –123.6527); South Fork Ten Mile River (39.5083, –123.5395); Ten Mile River (39.5721, –123.7098); Unnamed Tributary (39.5180, –123.5948); Unnamed Tributary (39.5146, –123.6183); Unnamed Tributary (39.5898, –123.7657); Unnamed Tributary (39.5813, –123.7526); Unnamed Tributary (39.5936, –123.6034).

(iv) *Noyo River Hydrologic Sub-area 111320*. Outlet(s) = Digger Creek (Lat 39.4088, Long –123.8164); Hare Creek (39.4171, –123.8128); Jug Handle Creek (39.3767, –123.8176); Mill Creek (39.4894, –123.7967); Mitchell Creek (39.3923, –123.8165); Noyo River (39.4274, –123.8096); Pudding Creek (39.4588, –123.8089); Virgin Creek (39.4714, –123.8045) upstream to endpoint(s) in: Bear Gulch (39.3881, –123.6614); Brandon Gulch (39.4191, –123.6645); Bunker Gulch (39.3969, –123.7153); Burbeck Creek (39.4354, –123.4235); Covington Gulch (39.4099, –123.7546); Dewarren Creek (39.4974, –123.5535); Digger Creek (39.3932, –123.7820); Duffy Gulch (39.4469, –123.6023); Gulch Creek (39.4441, –123.4684); Gulch Seven (39.4523, –123.5183); Hare Creek (39.3781, –123.6922); Hayworth Creek (39.4857, –123.4769); Hayshed Creek (39.4200, –123.7391); Jug Handle Creek (39.3647, –123.7523); Kass Creek (39.4262, –123.6807); Little North Fork (39.4532, –123.6636); Little Valley Creek (39.5026, –123.7277); Marble Gulch (39.4423, –123.5479); McMullen Creek (39.4383, –123.4488); Middle Fork North Fork (39.4924, –123.5231); Mill Creek (39.4813, –123.7600); Mitchell Creek (39.3813, –123.7734); North Fork Hayworth Creek (39.4891, –123.5026); North Fork Noyo River (39.4765, –123.5535); North Fork Noyo (39.4765, –123.5535); North Fork South Fork Noyo River (39.3971, –123.6108); Noyo River (39.4242, –123.4356); Olds Creek (39.3964, –123.4448); Parlin Creek (39.3700, –123.6111); Pudding Creek (39.4591, –123.6516); Redwood Creek (39.4660, –123.4571); South Fork Hare Creek (39.3785, –123.7384); South Fork Noyo River (39.3620, –123.6188); Unnamed Tributary (39.4113, –123.5621); Unnamed Tributary (39.3918, –123.6425); Unnamed Tributary (39.4168, –123.4578); Unnamed Tributary (39.4656, –123.7467); Unnamed Tributary (39.4931, –123.7371); Unnamed Tributary (39.4922, –123.7381); Unnamed Tributary (39.4939, –123.7184); Unnamed Tributary (39.4158, –123.6428); Unnamed Tributary (39.4002, –123.7347); Unnamed Tributary (39.3831, –123.6177); Unnamed Tributary (39.4926, –123.4764); Virgin Creek (39.4621, –123.7855); Unnamed Tributary (39.4650, –123.7463).

(v) *Big River Hydrologic Sub-area 111330*. Outlet(s) = Big River (Lat 39.3030, Long –123.7957); Casper Creek (39.3617, –123.8169); Doyle Creek (39.3603, –123.8187); Jack Peters Creek (39.3193, –123.8006); Russian Gulch (39.3288, –123.8050) upstream to endpoint(s) in: Berry Gulch (39.3585, –123.6930); Big River (39.3166, –123.3733); Casper Creek (39.3462, –123.7556); Chamberlain Creek (39.4007, –123.5317); Daugherty Creek (39.1700, –123.3699); Doyle Creek (39.3517, –123.8007); East Branch Little North Fork Big River (39.3372, –123.6410); East Branch North Fork Big River (39.3354, –123.4652); Gates Creek (39.2083, –123.3944); Jack Peters Gulch (39.3225, –123.7850); James Creek (39.3922, –123.4747); Johnson Creek (39.1963, –123.3927); Johnson Creek (39.2556, –123.4485); Laguna Creek (39.2910, –123.6334); Little North Fork Big River (39.3497, –123.6242); Marten Creek (39.3290, –123.4279); Mettick Creek (39.2591, –123.5193); Middle Fork North Fork Casper Creek (39.3575, –123.7170); North Fork Big River (39.3762, –123.4591); North Fork Casper Creek (39.3610, –123.7356); North Fork James Creek (39.3980, –123.4939); North Fork Ramone Creek (39.2760, –123.4846); Pig Pen Gulch (39.3226, –123.4609); Pruitt Creek (39.2592, –123.3812); Ramone Creek (39.2714, –123.4415); Rice Creek (39.2809, –123.3963); Russell Brook (39.2863, –123.4461); Russian Gulch (39.3237, –123.7650); Snuffins Creek (39.1836, –123.3854); Soda Creek (39.2230, –123.4239); South Fork Big River (39.2317, –123.3687); South Fork Casper Creek (39.3493, –123.7216); Two Log Creek (39.3484, –123.5781); Unnamed Tributary (39.3897, –123.5556); Unnamed Tributary (39.3637, –123.5464); Unnamed Tributary (39.3776, –123.5274); Unnamed Tributary (39.4029, –123.5771); Valentine Creek (39.2694, –123.3957); Water Gulch (39.3607, –123.5891).

(vi) *Albion River Hydrologic Sub-area 111340*. Outlet(s) = Albion River (Lat 39.2253, Long –123.7679); Big Salmon Creek (39.2150, –123.7660); Buckhorn Creek (39.2593, –123.7839); Dark Gulch (39.2397, –123.7740); Little Salmon Creek (39.2150, –123.7660); Little River (39.2734, –123.7914) upstream to endpoint(s) in: Albion River (39.2613,

–123.5766); Big Salmon Creek (39.2070, –123.6514); Buckhorn Creek (39.2513, –123.7595); Dark Gulch (39.2379, –123.7592); Duck Pond Gulch (39.2456, –123.6960); East Railroad Gulch (39.2604, –123.6381); Hazel Gulch (39.2141, –123.6418); Kaison Gulch (39.2733, –123.6803); Little North Fork South Fork Albion River (39.2350, –123.6431); Little River (39.2683, –123.7190); Little Salmon Creek (39.2168, –123.7515); Marsh Creek (39.2325, –123.5596); Nordon Gulch (39.2489, –123.6503); North Fork Albion River (39.2854, –123.5752); Pleasant Valley Gulch (39.2379, –123.6965); Railroad Gulch (39.2182, –123.6932); Soda Springs Creek (39.2943, –123.5944); South Fork Albion River (39.2474, –123.6107); Tom Bell Creek (39.2805, –123.6519); Unnamed Tributary (39.2279, –123.6972); Unnamed Tributary (39.2194, –123.7100); Unnamed Tributary (39.2744, –123.5889); Unnamed Tributary (39.2254, –123.6733).

(vii) *Navarro River Hydrologic Sub-area 111350*. Outlet(s) = Navarro River (Lat 39.1921, Long –123.7611) upstream to endpoint(s) in: Alder Creek (38.9830, –123.3946); Anderson Creek (38.9644, –123.2907); Bailey Creek (39.1733, –123.4804); Barton Gulch (39.1804, –123.6783); Bear Creek (39.1425, –123.4326); Bear Wallow Creek (39.0053, –123.4075); Beasley Creek (38.9366, –123.3265); Bottom Creek (39.2117, –123.4607); Camp 16 Gulch (39.1937, –123.6095); Camp Creek (38.9310, –123.3527); Cold Spring Creek (39.0376, –123.5027); Con Creek (39.0374, –123.3816); Cook Creek (39.1879, –123.5109); Cune Creek (39.1622, –123.6014); Dago Creek (39.0731, –123.5068); Dead Horse Gulch (39.1576, –123.6124); Dutch Henry Creek (39.2112, –123.5794); Floodgate Creek (39.1291, –123.5365); Fluem Gulch (39.1615, –123.6695); Flynn Creek (39.2099, –123.6032); German Creek (38.9452, –123.4269); Gut Creek (39.0803, –123.3312); Ham Canyon (39.0164, –123.4265); Horse Creek (39.0144, –123.4960); Hungry Hollow Creek (39.1327, –123.4488); Indian Creek (39.0708, –123.3301); Jimmy Creek (39.0117, –123.2888); John Smith Creek (39.2275, –123.5366); Little North Fork Navarro River (39.1941, –123.4553); Low Gap Creek (39.1590, –123.3783); Navarro River (39.0537, –123.4409); Marsh Gulch (39.1692, –123.7049); McCarvey Creek (39.1589, –123.4048); Mill Creek (39.1270, –123.4315); Minnie Creek (38.9751, –123.4529); Murray Gulch (39.1755, –123.6966); Mustard Gulch (39.1673, –123.6393); North Branch (39.2069, –123.5361); North Fork Indian Creek (39.1213, –123.3345); North Fork Navarro River (39.1708, –123.5606); Parkinson Gulch (39.0768, –123.4070); Perry Gulch (39.1342, –123.5707); Rancheria Creek (38.8626, –123.2417); Ray Gulch (39.1792, –123.6494); Robinson Creek (38.9845, –123.3513); Rose Creek (39.1358, –123.3672); Shingle Mill Creek (39.1671, –123.4223); Soda Creek (39.0238, –123.3149); Soda Creek (39.1531, –123.3734); South Branch (39.1409, –123.3196); Spooner Creek (39.2221, –123.4811); Tramway Gulch (39.1481, –123.5958); Yale Creek (38.8882, –123.2785).

(viii) *Greenwood Creek Hydrologic Sub-area 111361*. Outlet(s) = Greenwood Creek (Lat 39.1262, Long –123.7181) upstream to endpoint(s) in: Greenwood Creek (39.0894, –123.5924).

(ix) *Elk Creek Hydrologic Sub-area 111362*. Outlet(s) = Elk Creek (Lat 39.1024, Long –123.7080) upstream to endpoint(s) in: Elk Creek (39.0657, –123.6245).

(x) *Alder Creek Hydrologic Sub-area 111363*. Outlet(s) = Alder Creek (Lat 39.0044, Long –123.6969); Mallo Pass Creek (39.0341, –123.6896) upstream to endpoint(s) in: Alder Creek (38.9961, –123.6471); Mallo Pass Creek (39.0287, –123.6373).

(xi) *Brush Creek Hydrologic Sub-area 111364*. Outlet(s) = Brush Creek (Lat 38.9760, Long –123.7120) upstream to endpoint(s) in: Brush Creek (38.9730, –123.5563); Mill Creek (38.9678, –123.6515); Unnamed Tributary (38.9724, –123.6571).

(xii) *Garcia River Hydrologic Sub-area 111370*. Outlet(s) = Garcia River (Lat 38.9550, Long –123.7338); Point Arena Creek (38.9141, –123.7103); Schooner Gulch (38.8667, –123.6550) upstream to endpoint(s) in: Blue Water Hole Creek (38.9378, –123.5023); Flemming Creek (38.8384, –123.5361); Garcia River (38.8965, –123.3681); Hathaway Creek (38.9287, –123.7011); Inman Creek (38.8804, –123.4370); Larmour Creek (38.9419, –123.4469); Mill Creek (38.9078, –123.3143); North Fork Garcia River (38.9233, –123.5339); North Fork Schooner Gulch (38.8758, –123.6281); Pardaloe Creek (38.8895, –123.3423); Point Arena Creek (38.9069, –123.6838); Redwood Creek (38.9241, –123.3343); Rolling Brook (38.8965, –123.5716); Schooner Gulch (38.8677, –123.6198); South Fork Garcia River (38.8450, –123.5420); Stansburry Creek (38.9422, –123.4720); Signal Creek (38.8639, –123.4414); Unnamed Tributary (38.8758, –123.5692); Unnamed Tributary (38.8818, –123.5723); Whitlow Creek (38.9141, –123.4624).

(xiii) *North Fork Gualala River Hydrologic Sub-area 111381*. Outlet(s) = North Fork Gualala River (Lat 38.7784, Long –123.4992) upstream to endpoint(s) in: Bear Creek (38.8347, –123.3842); Billings Creek (38.8652, –123.3496); Doty Creek (38.8495, –123.5131); Dry Creek (38.8416, –123.4455); Little North Fork Gualala River (38.8295, –123.5570); McGann Gulch (38.8026, –123.4458); North Fork Gualala River (38.8479, –123.4113); Robinson Creek (38.8416, –123.3725); Robinson Creek (38.8386, –123.4991); Stewart Creek (38.8109, –123.4157); Unnamed Tributary (38.8487, –123.3820).

(xiv) *Rockpile Creek Hydrologic Sub-area 111382*. Outlet(s) = Rockpile Creek (Lat 38.7507, Long –123.4706) upstream to endpoint(s) in: Rockpile Creek (38.7966, –123.3872).

(xv) *Buckeye Creek Hydrologic Sub-area 111383*. Outlet(s) = Buckeye Creek (Lat 38.7403, Long –123.4580) upstream to endpoint(s) in: Buckeye Creek (38.7400, –123.2697); Flat Ridge Creek (38.7616, –123.2400); Franchini Creek (38.7500, –123.3708); North Fork Buckeye (38.7991, –123.3166).

(xvi) *Wheatfield Fork Hydrologic Sub-area 111384*. Outlet(s) = Wheatfield Fork Gualala River (Lat 38.7018, Long –123.4168) upstream to endpoint(s) in: Danfield Creek (38.6369, –123.1431); Fuller Creek (38.7109, –123.3256); Haupt Creek (38.6220, –123.2551); House Creek (38.6545, –123.1184); North Fork Fuller Creek (38.7252, –123.2968); Pepperwood Creek (38.6205, –123.1665); South Fork Fuller Creek (38.6973, –123.2860); Tombs Creek (38.6989, –123.1616); Unnamed Tributary (38.7175, –123.2744); Wheatfield Fork Gualala River (38.7497, –123.2215).

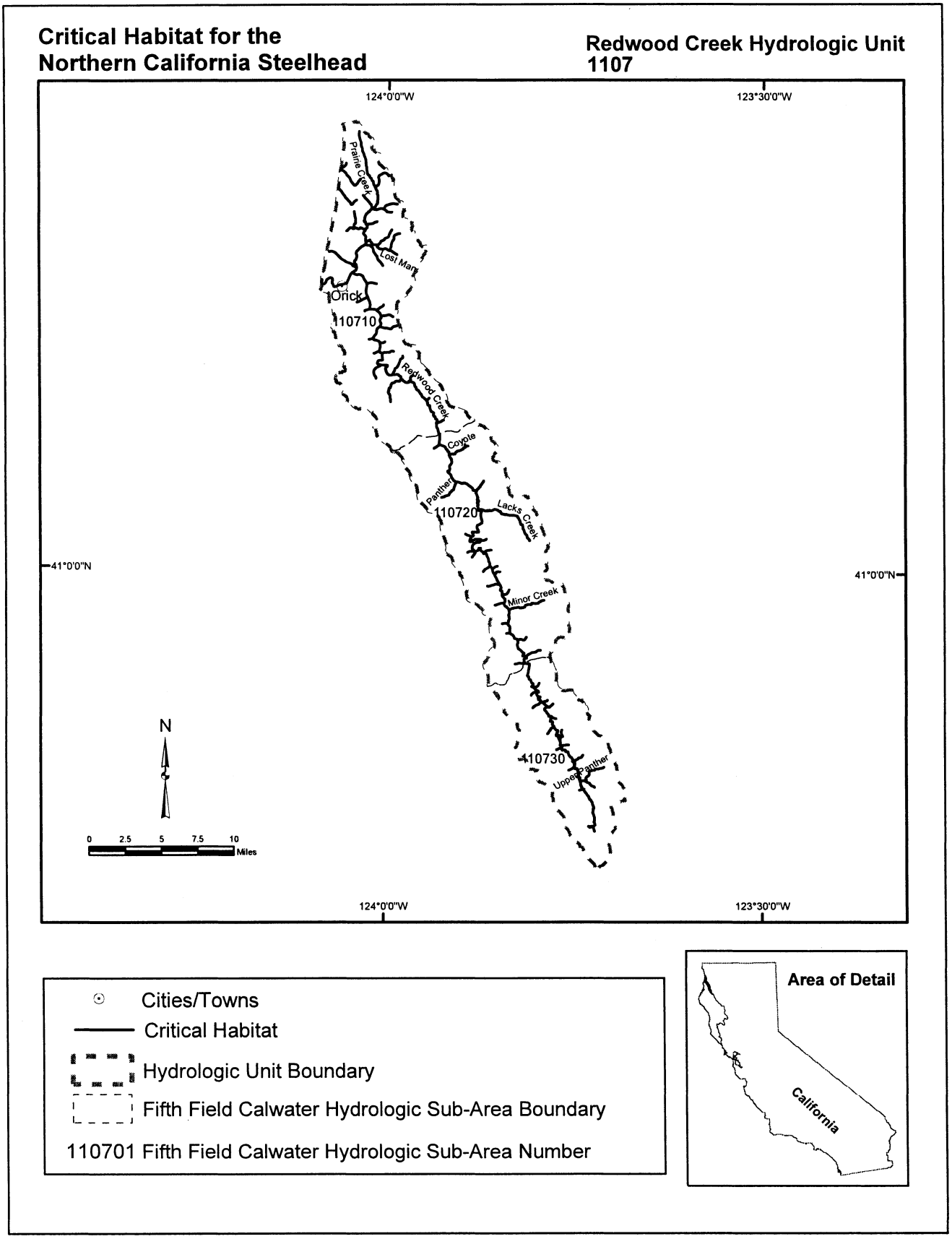
(xvii) *Gualala Hydrologic Sub-area 111385*. Outlet(s) = Fort Ross Creek (Lat 38.5119, Long –123.2436); Gualala River (38.7687, –123.5334); Kolmer Gulch (38.5238, –123.2646) upstream to endpoint(s) in: Big Pepperwood Creek (38.7951, –123.4638); Carson Creek (38.5653, –123.1906); Fort Ross Creek (38.5174, –123.2363); Groshong Gulch (38.7814, –123.4904); Gualala River (38.7780, –123.4991); Kolmer Gulch (38.5369, –123.2247); Little Pepperwood (38.7738, –123.4427); Marshall Creek (38.5647, –123.2058); McKenzie Creek (38.5895, –123.1730); Palmer Canyon Creek (38.6002, –123.2167); South Fork Gualala River (38.5646, –123.1689); Sproule Creek (38.6122, –123.2739); Turner Canyon (38.5294, –123.1672); Unknown Tributary (38.5634, –123.2003).

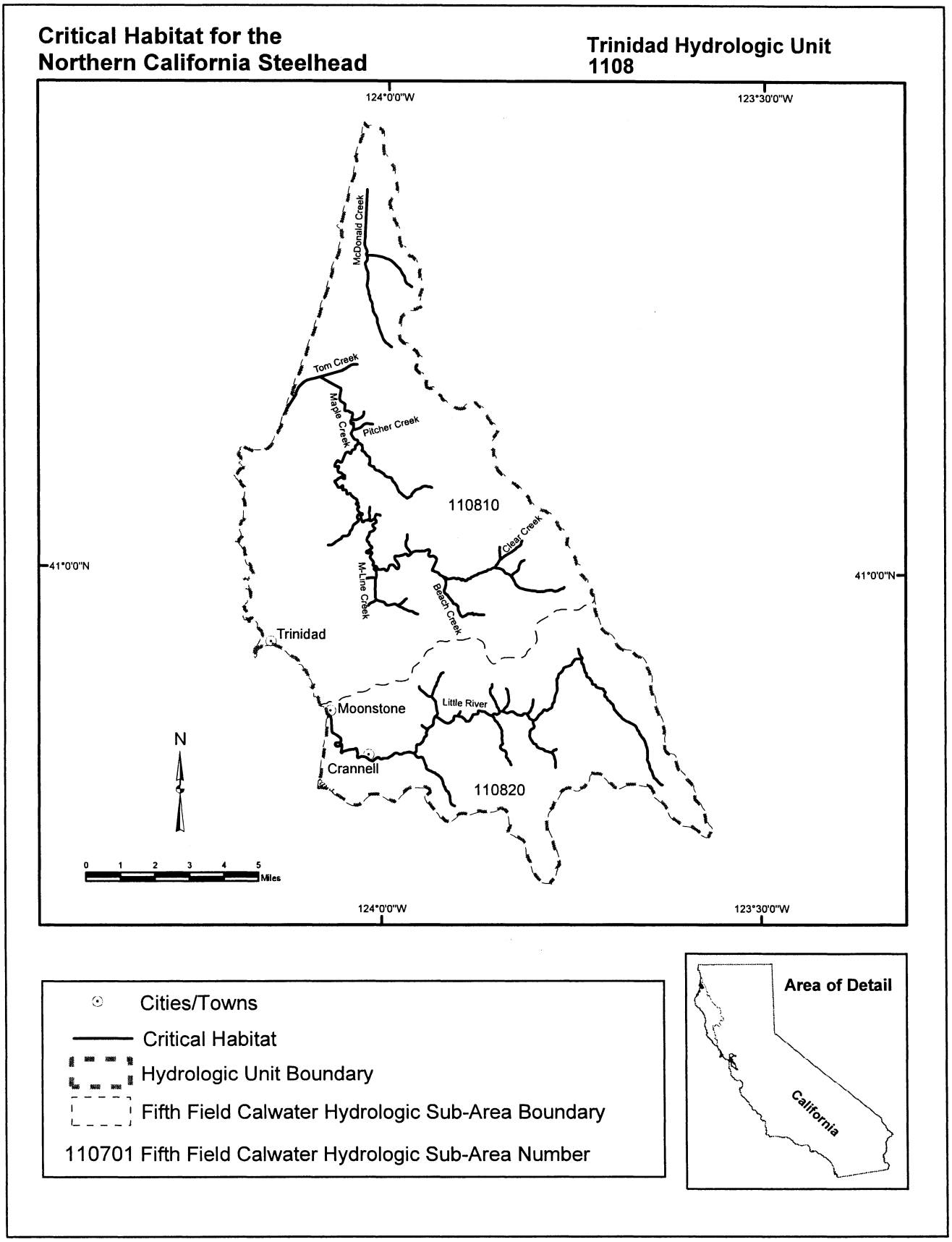
(xviii) *Russian Gulch Hydrologic Sub-area 111390*. Outlet(s) = Russian Gulch

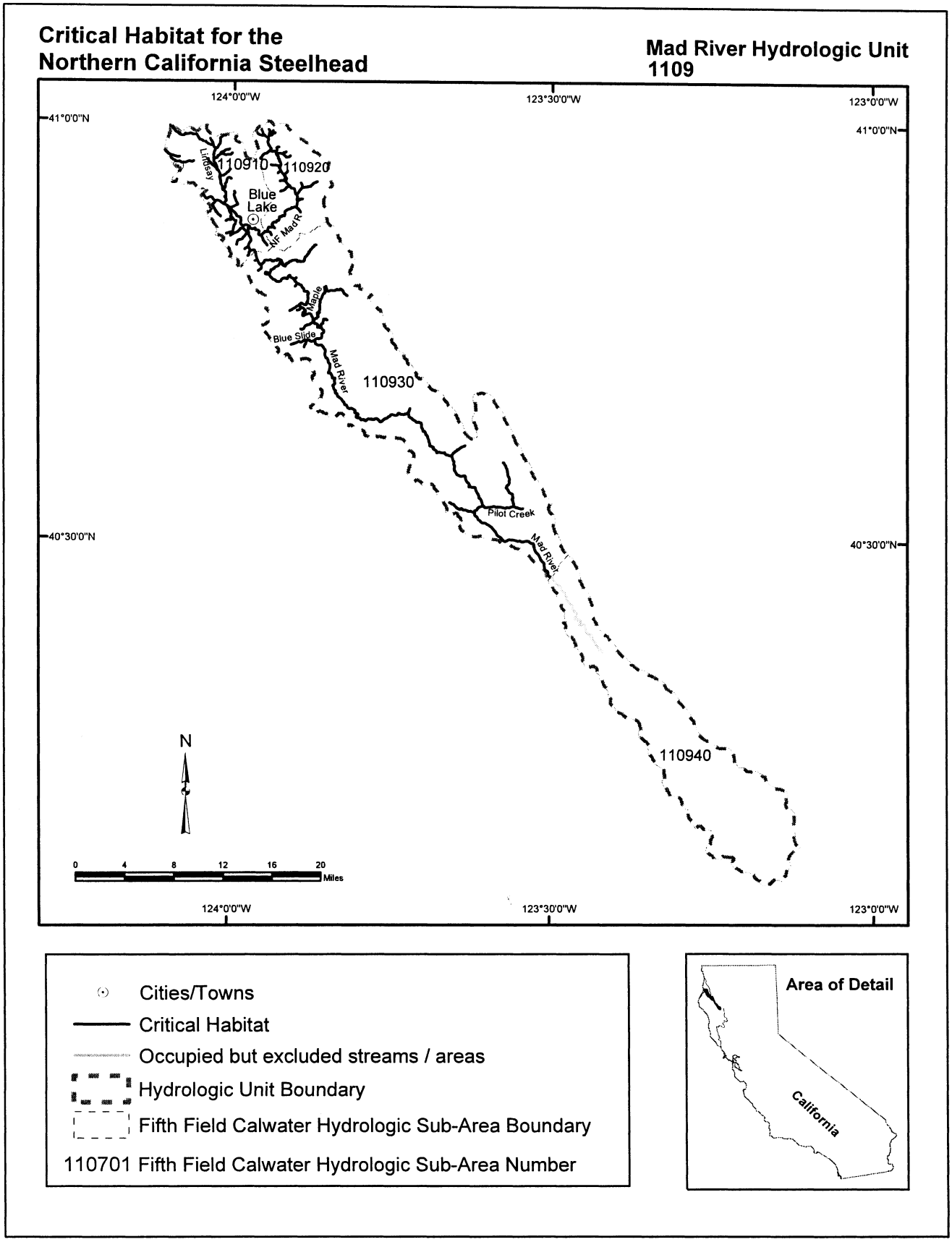
Creek (Lat 38.4669, Long –123.1569) upstream to endpoint(s) in: Russian Gulch Creek (38.4956, –123.1535); West Branch Russian Gulch Creek (38.4968, –123.1631).

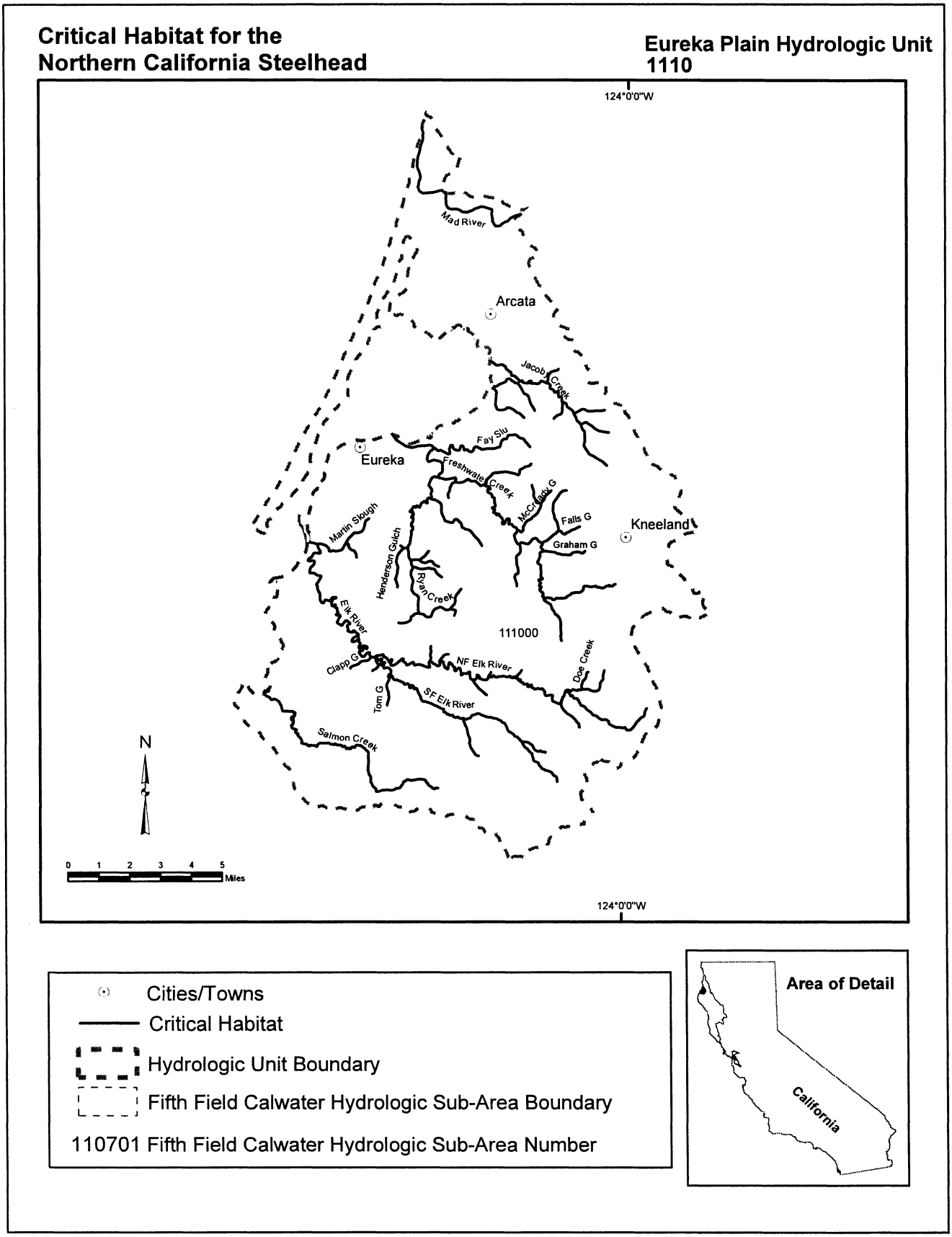
(8) Maps of critical habitat for the Northern California Steelhead ESU follow:

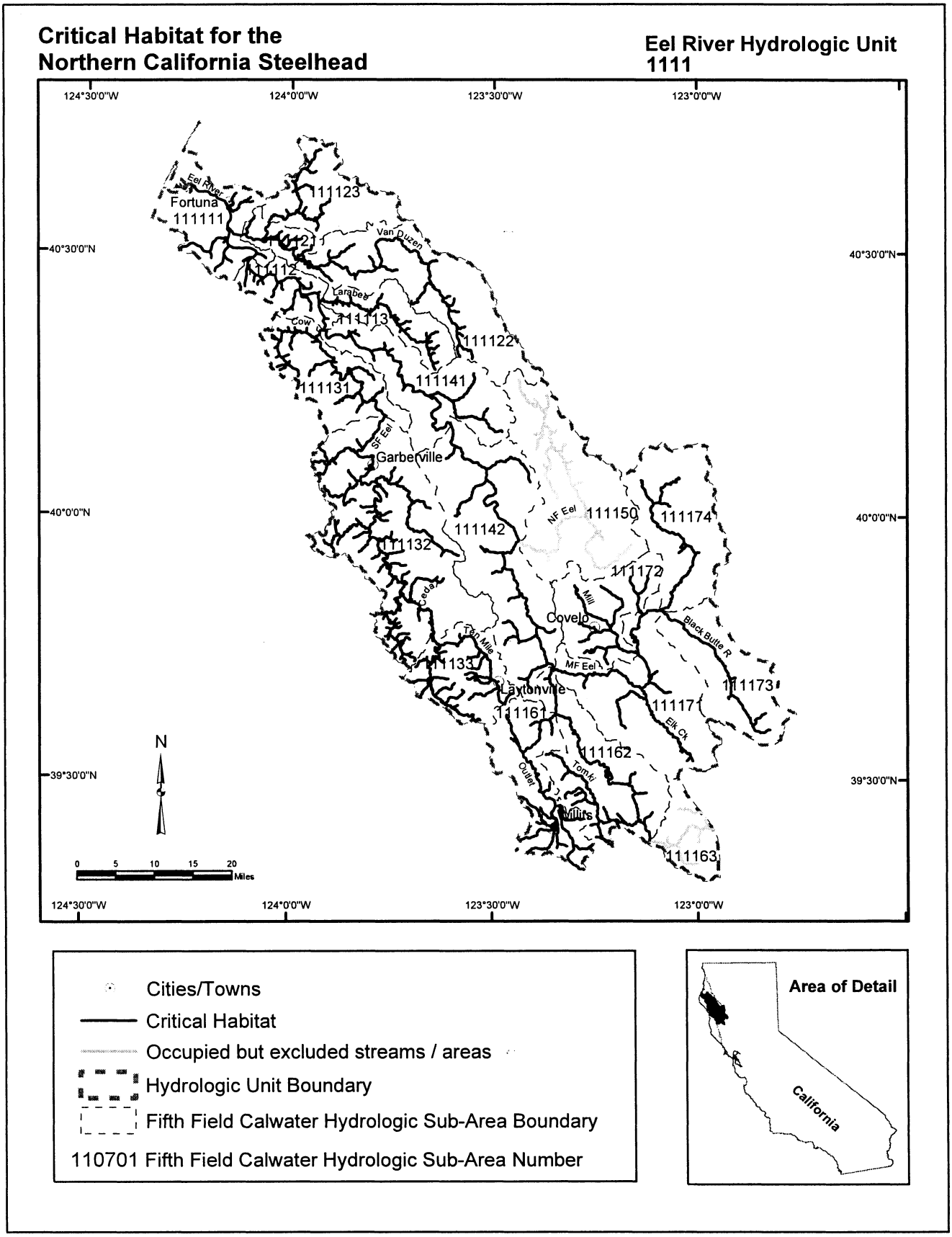
BILLING CODE 3510–22–P

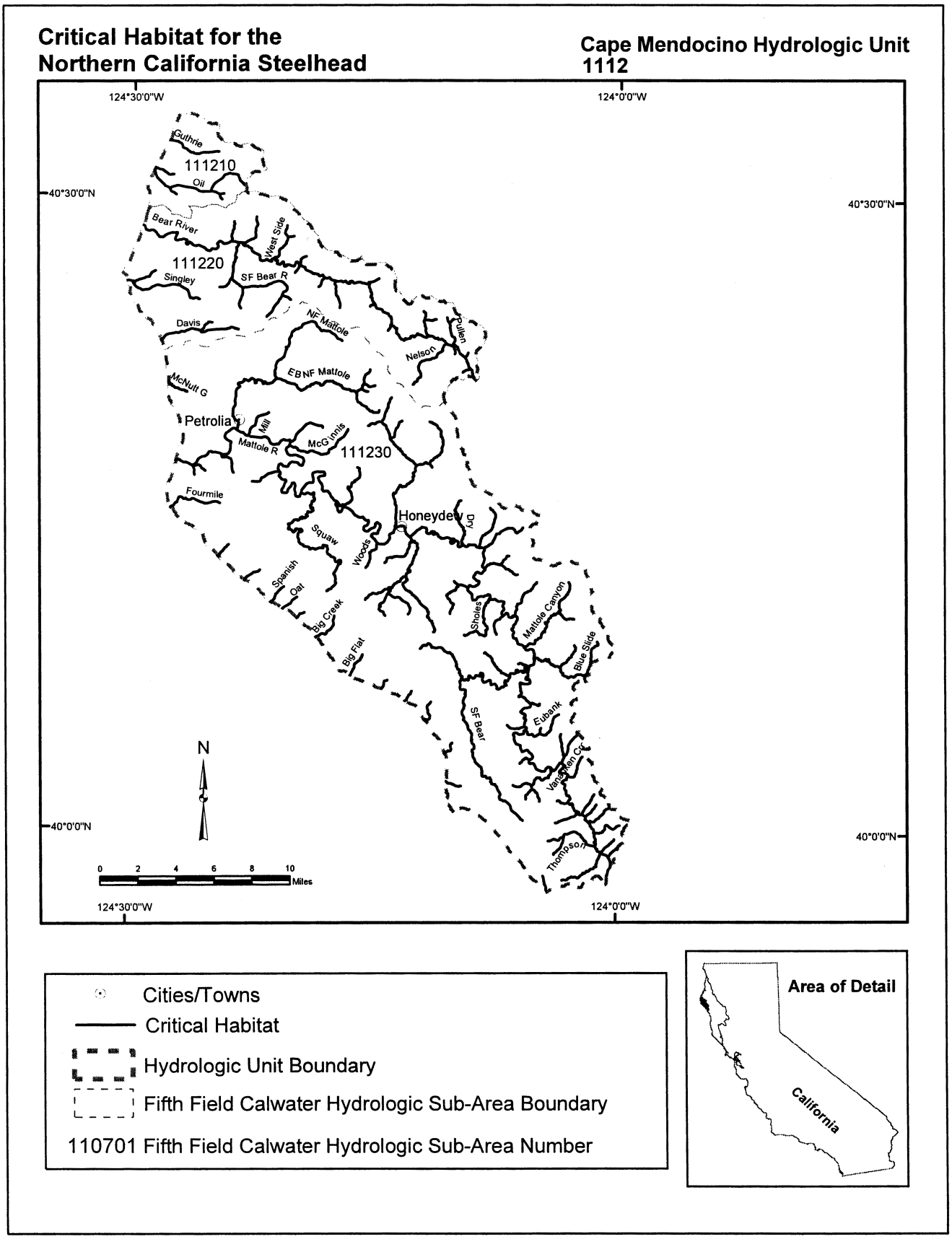

Critical Habitat for the
Northern California Steelhead
Redwood Creek Hydrologic Unit
1107
124°0'0"W
123°30'0"W
41°0'0"N
Prairie Creek
Lost Man
Orick
110710
Redwood Creek
Coyote
Panther
110720
Lacks Creek
Minor Creek
110730
Upper Panther
N
0 2.5 5 7.5 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

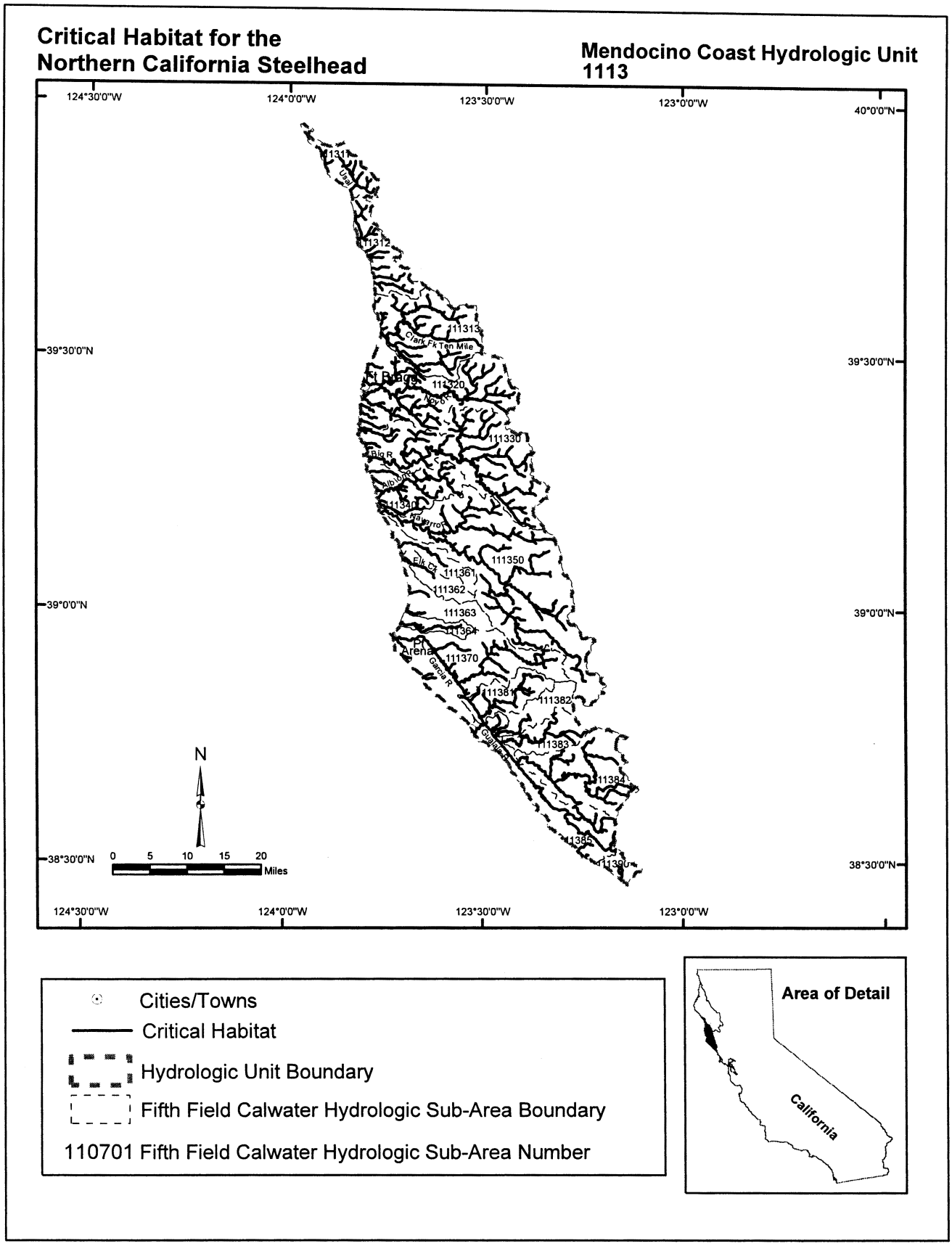

Critical Habitat for the
Northern California Steelhead
Trinidad Hydrologic Unit
1108
124°0'0"W
123°30'0"W
41°0'0"N
McDonald Creek
Tom Creek
Maple Creek
Pitcher Creek
110810
Clear Creek
M-Line Creek
Beach Creek
Trinidad
Moonstone
Little River
Crannell
110820
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Mad River Hydrologic Unit
1109
124°0'0"W
123°30'0"W
123°0'0"W
41°0'0"N
40°30'0"N
Lindsey
110910
110920
Blue
Lake
NF Mad R
Maple
Blue Slide
Mad River
110930
Pilot Creek
Mad River
110940
N
0 4 8 12 16 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Eureka Plain Hydrologic Unit
1110
124°0'0"W
Mad River
Arcata
Jacob Creek
Fay Slu
Eureka
Freshwater Creek
McCreddy G
Falls G
Kneeland
Graham G
Martin Slough
Henderson Gulch
Ryan Creek
Elk River
111000
Clapp G
NF Elk River
Doe Creek
Tom G
SF Elk River
Salmon Creek
N
0 1 2 3 4 5
Miles
124°0'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Eel River Hydrologic Unit
1111
124°30'0"W
124°0'0"W
123°30'0"W
123°0'0"W
40°30'0"N
40°0'0"N
39°30'0"N
Fortuna
111111
111123
111121
111112
111113
111122
111141
111131
Garberville
111142
111132
111150
111174
111172
Covelo
111133
Laytonville
111161
111173
111171
111162
111163
Willits
Eel River
Van Duzen
Larabee
Cow
SF Eel
NF Eel
Mill
Black Butte R
Cedar
Ten Mile
MF Eel
Elk Ck
Outlet
Tomki
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Cape Mendocino Hydrologic Unit
1112
124°30'0"W
124°0'0"W
40°30'0"N
40°0'0"N
111210
111220
111230
Guthrie
Oil
Bear River
West Side
Singley
SF Bear R
Davis
NF Mattole
Nelson
Fullen
EB NF Mattole
McNutt G
Petrolia
Mill
Mattole R
McGinnis
Fourmile
Honeydew
Dry
Squaw
Woods
Spanish
Oat
Big Creek
Big Flat
Sholes
Mattole Canyon
Blue Slide
SF Bear
Eubank
Vanderburgh Cr
Thompson
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



BILLING CODE 3510–22–C

(h) *Central California Coast Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Russian River Hydrologic Unit 1114—(i) *Guerneville Hydrologic Sub-area 111411.* Outlet(s) = Russian River (Lat 38.4507, Long –123.1289) upstream to endpoint(s) in: Atascadero Creek (38.3473, –122.8626); Austin Creek (38.5098, –123.0680); Baumert Springs (38.4195, –122.9658); Dutch Bill Creek (38.4132, –122.9508); Duvoul Creek (38.4527, –122.9525); Fife Creek (38.5584, –122.9922); Freezeout Creek (38.4405, –123.0360); Green Valley Creek, (38.4445, –122.9185); Grub Creek (38.4411, –122.9636); Hobson Creek (38.5334, –122.9401); Hulbert Creek (38.5548, –123.0362); Jenner Gulch (38.4869, –123.0996); Kidd Creek (38.5029, –123.0935); Lancel Creek (38.4247, –122.9322); Mark West Creek (38.4961, –122.8489); Mays Canyon (38.4800, –122.9715); North Fork Lancel Creek (38.4447, –122.9444); Pocket Canyon (38.4650, –122.9267); Porter Creek (38.5435, –122.9332); Purrington Creek (38.4083, –122.9307); Sheep House Creek (38.4820, –123.0921); Smith Creek (38.4622, –122.9585); Unnamed Tributary (38.4560, –123.0246); Unnamed Tributary (38.3976, –122.8994); Unnamed Tributary (38.3772, –122.8938); Willow Creek (38.4249, –123.0022).

(ii) *Austin Creek Hydrologic Sub-area 111412.* Outlet(s) = Austin Creek (Lat 38.5098, Long –123.0680) upstream to endpoint(s) in: Austin Creek (38.6262, –123.1347); Bear Pen Creek (38.5939, –123.1644); Big Oat Creek (38.5615, –123.1299); Black Rock Creek (38.5586, –123.0730); Blue Jay Creek (38.5618, –123.1399); Conshea Creek (38.5830, –123.0824); Devil Creek (38.6163, –123.0425); East Austin Creek (38.6349, –123.1238); Gilliam Creek (38.5803, –123.0152); Gray Creek (38.6132, –123.0107); Thompson Creek (38.5747, –123.0300); Pole Mountain Creek (38.5122, –123.1168); Red Slide Creek (38.6039, –123.1141); Saint Elmo Creek (38.5130, –123.1125); Schoolhouse Creek (38.5595, –123.0175); Spring Creek (38.5041, –123.1364); Sulphur Creek (38.6187, –123.0553); Ward Creek (38.5720, –123.1547).

(iii) *Mark West Hydrologic Sub-area 111423.* Outlet(s) = Mark West Creek (Lat 38.4962, Long –122.8492) upstream to endpoint(s) in: Humbug Creek (38.5412, –122.6249); Laguna de Santa Rosa (38.4526, –122.8347); Mark West Creek (38.5187, –122.5995); Pool Creek (38.5486, –122.7641); Pruit Creek (38.5313, –122.7615); Windsor Creek (38.5484, –122.8101).

(iv) *Warm Springs Hydrologic Sub-area 111424.* Outlet(s) = Dry Creek (Lat 38.5862, Long –122.8577) upstream to endpoint(s) in: Angel Creek (38.6101, –122.9833); Crane Creek (38.6434, –122.9451); Dry Creek (38.7181, –123.0091); Dutcher Creek (38.7223, –122.9770); Felta Creek (38.5679, –122.9379); Foss Creek (38.6244, –122.8754); Grape Creek (38.6593, –122.9707); Mill Creek (38.5976, –122.9914); North Slough Creek (38.6392, –122.8888); Palmer Creek (38.5770, –122.9904); Pena Creek (38.6384, –123.0743); Redwood Log Creek (38.6705, –123.0725); Salt Creek (38.5543, –122.9133); Wallace Creek (38.6260, –122.9651); Wine Creek (38.6662, –122.9682); Woods Creek (38.6069, –123.0272).

(v) *Geyserville Hydrologic Sub-area 111425.* Outlet(s) = Russian River (Lat 38.6132, Long –122.8321) upstream to endpoint(s) in: Ash Creek (38.8556, –123.0082); Bear Creek (38.7253, –122.7038); Bidwell Creek (38.6229, –122.6320); Big Sulphur Creek (38.8279, –122.9914); Bluegum Creek (38.6988, –122.7596); Briggs Creek (38.6845, –122.6811); Coon Creek (38.7105, –122.6957); Crocker Creek (38.7771, –122.9595); Edwards Creek (38.8592, –123.0758); Foote Creek (38.6433, –122.6797); Foss Creek (38.6373, –122.8753); Franz Creek (38.5726, –122.6343); Gill Creek (38.7552, –122.8840); Gird Creek (38.7055, –122.8311); Ingalls Creek (38.7344, –122.7192); Kellog Creek (38.6753, –122.6422); Little Briggs Creek (38.7082, –122.7014); Maacama Creek (38.6743, –122.7431); McDonnell Creek (38.7354, –122.7338); Mill Creek (38.7009, –122.6490); Miller Creek (38.7211, –122.8608); Oat Valley Creek (38.8461, –123.0712); Redwood Creek (38.6342, –122.6720); Sausal Creek (38.6924, –122.7930); South Fork Gill Creek (38.7420, –122.8760); Unnamed Tributary (38.7329, –122.8601); Yellowjacket Creek (38.6666, –122.6308).

(vi) *Sulphur Creek Hydrologic Sub-area 111426.* Outlet(s) = Big Sulphur Creek (Lat 38.8279, Long –122.9914) upstream to endpoint(s) in: Alder Creek (38.8503, –122.8953); Anna Belcher Creek (38.7537, –122.7586); Big Sulphur Creek (38.8243, –122.8774); Frasier Creek (38.8439, –122.9341); Humming Bird Creek (38.8460, –122.8596); Little Sulphur Creek (38.7469, –122.7425); Lovers Gulch (38.7396, –122.8275); North Branch Little Sulphur Creek (38.7783, –122.8119); Squaw Creek (38.8199, –122.7945).

(vii) *Ukiah Hydrologic Sub-area 111431.* Outlet(s) = Russian River (Lat 38.8828, Long –123.0557) upstream to endpoint(s) in: Pieta Creek (38.8622, –122.9329).

(viii) *Forsythe Creek Hydrologic Sub-area 111433.* Outlet(s) = West Branch Russian River (Lat 39.2257, Long –123.2012) upstream to endpoint(s) in: Bakers Creek (39.2859, –123.2432); Eldridge Creek (39.2250, –123.3309); Forsythe Creek (39.2976, –123.2963); Jack Smith Creek (39.2754, –123.3421); Mariposa Creek (39.3472, –123.2625); Mill Creek (39.2969, –123.3360); Salt Hollow Creek (39.2585, –123.1881); Seward Creek (39.2606, –123.2646); West Branch Russian River (39.3642, –123.2334).

(2) Bodega Hydrologic Unit 1115—(i) *Salmon Creek Hydrologic Sub-area 111510.* Outlet(s) = Salmon Creek (Lat 38.3554, Long –123.0675) upstream to endpoint(s) in: Coleman Valley Creek (38.3956, –123.0097); Faye Creek (38.3749, –123.0000); Finley Creek (38.3707, –123.0258); Salmon Creek (38.3877, –122.9318); Tannery Creek (38.3660, –122.9808).

(ii) *Estero Americano Hydrologic Sub-area 111530.* Outlet(s) = Estero Americano (Lat 38.2939, Long –123.0011) upstream to endpoint(s) in: Estero Americano (38.3117, –122.9748); Ebabias Creek (38.3345, –122.9759).

(3) Marin Coastal Hydrologic Unit 2201—(i) *Walker Creek Hydrologic Sub-area 220112.* Outlet(s) = Walker Creek (Lat 38.2213, Long –122.9228); Millerton Gulch (38.1055, –122.8416) upstream to endpoint(s) in: Chileno Creek (38.2145, –122.8579); Frink Canyon (38.1761, –122.8405); Millerton Gulch (38.1376, –122.8052); Verde Canyon (38.1630, –122.8116); Unnamed Tributary (38.1224, –122.8095); Walker Creek (38.1617, –122.7815).

(ii) *Lagunitas Creek Hydrologic Sub-area 220113.* Outlet(s) = Lagunitas Creek (Lat 38.0827, Long –122.8274) upstream to endpoint(s) in: Cheda Creek (38.0483, –122.7329); Devil's Gulch (38.0393, –122.7128); Giacomini Creek (38.0075, –122.7386); Horse Camp Gulch (38.0078, –122.7624); Lagunitas Creek (37.9974, –122.7045); Olema Creek (37.9719, –122.7125); Quarry Gulch (38.0345, –122.7639); San Geronimo Creek (38.0131, –122.6499); Unnamed Tributary (37.9893, –122.7328); Unnamed Tributary (37.9976, –122.7553).

(iii) *Point Reyes Hydrologic Sub-area 220120.* Outlet(s) = Creamery Bay Creek (Lat 38.0779, Long –122.9572); East Schooner Creek (38.0913, –122.9293); Home Ranch (38.0705, –122.9119); Laguna Creek (38.0235, –122.8732); Muddy Hollow Creek (38.0329, –122.8842) upstream to endpoint(s) in: Creamery Bay Creek (38.0809, –122.9561); East Schooner Creek

(38.0928, –122.9159); Home Ranch Creek (38.0784, –122.9038); Laguna Creek (38.0436, –122.8559); Muddy Hollow Creek (38.0549, –122.8666).

(iv) *Bolinas Hydrologic Sub-area 220130.* Outlet(s) = Easkoot Creek (Lat 37.9026, Long –122.6474); McKinnon Gulch (37.9126, –122.6639); Morse Gulch (37.9189, –122.6710); Pine Gulch Creek (37.9218, –122.6882); Redwood Creek (37.8595, –122.5787); Stinson Gulch (37.9068, –122.6517); Wilkins Creek (37.9343, –122.6967) upstream to endpoint(s) in: Easkoot Creek (37.8987, –122.6370); Kent Canyon (37.8866, –122.5800); McKinnon Gulch (37.9197, –122.6564); Morse Gulch (37.9240, –122.6618); Pine Gulch Creek (37.9557, –122.7197); Redwood Creek (37.9006, –122.5787); Stinson Gulch (37.9141, –122.6426); Wilkins Creek (37.9450, –122.6910).

(4) San Mateo Hydrologic Unit 2202—(i) *San Mateo Coastal Hydrologic Sub-area 220221.* Outlet(s) = Denniston Creek (37.5033, –122.4869); Frenchmans Creek (37.4804, –122.4518); San Pedro Creek (37.5964, –122.5057) upstream to endpoint(s) in: Denniston Creek (37.5184, –122.4896); Frenchmans Creek (37.5170, –122.4332); Middle Fork San Pedro Creek (37.5758, –122.4591); North Fork San Pedro Creek (37.5996, –122.4635).

(ii) *Half Moon Bay Hydrologic Sub-area 220222.* Outlet(s) = Pilarcitos Creek (Lat 37.4758, Long –122.4493) upstream to endpoint(s) in: Apanolio Creek (37.5202, –122.4158); Arroyo Leon Creek (37.4560, –122.3442); Mills Creek (37.4629, –122.3721); Pilarcitos Creek (37.5259, –122.3980); Unnamed Tributary (37.4705, –122.3616).

(iii) *Tunitas Creek Hydrologic Sub-area 220223.* Outlet(s) = Lobitos Creek (Lat 37.3762, Long –122.4093); Tunitas Creek (37.3567, –122.3999) upstream to endpoint(s) in: East Fork Tunitas Creek (37.3981, –122.3404); Lobitos Creek (37.4246, –122.3586); Tunitas Creek (37.4086, –122.3502).

(iv) *San Gregorio Creek Hydrologic Sub-area 220230.* Outlet(s) = San Gregorio Creek (Lat 37.3215, Long –122.4030) upstream to endpoint(s) in: Alpine Creek (37.3062, –122.2003); Bogess Creek (37.3740, –122.3010); El Corte Madera Creek (37.3650, –122.3307); Harrington Creek (37.3811, –122.2936); La Honda Creek (37.3680, –122.2655); Langley Creek (37.3302, –122.2420); Mindego Creek (37.3204, –122.2239); San Gregorio Creek (37.3099, –122.2779); Woodruff Creek (37.3415, –122.2495).

(v) *Pescadero Creek Hydrologic Sub-area 220240.* Outlet(s) = Pescadero Creek (Lat 37.2669, Long –122.4122); Pomponio Creek (37.2979, –122.4061) upstream to endpoint(s) in: Bradley Creek (37.2819, –122.3802); Butano Creek (37.2419, –122.3165); Evans Creek (37.2659, –122.2163); Honsinger Creek (37.2828, –122.3316); Little Boulder Creek (37.2145, –122.1964); Little Butano Creek (37.2040, –122.3492); Oil Creek (37.2572, –122.1325); Pescadero Creek (37.2320, –122.1553); Lambert Creek (37.3014, –122.1789); Peters Creek (37.2883, –122.1694); Pomponio Creek (37.3030, –122.3805); Slate Creek (37.2530, –122.1935); Tarwater Creek (37.2731, –122.2387); Waterman Creek (37.2455, –122.1568).

(5) Bay Bridge Hydrologic UnitT 2203—(i) *San Rafael Hydrologic Sub-area 220320.* Outlet(s) = Arroyo Corte Madera del Presidio (Lat 37.8917, Long –122.5254); Corte Madera Creek (37.9425, –122.5059) upstream to endpoint(s) in: Arroyo Corte Madera del Presidio (37.9298, –122.5723); Cascade Creek (37.9867, –122.6287); Cascade Creek (37.9157, –122.5655); Larkspur Creek (37.9305, –122.5514); Old Mill Creek (37.9176, –122.5746); Ross Creek (37.9558, –122.5752); San Anselmo Creek (37.9825, –122.6420); Sleepy Hollow Creek (38.0074, –122.5794); Tamalpais Creek (37.9481, –122.5674).

(ii) [Reserved]

(6) Santa Clara Hydrologic Unit 2205—(i) *Coyote Creek Hydrologic Sub-area 220530.* Outlet(s) = Coyote Creek (Lat 37.4629, Long –121.9894; 37.2275, –121.7514) upstream to endpoint(s) in: Arroyo Aguague (37.3907, –121.7836); Coyote Creek (37.2778, –121.8033; 37.1677, –121.6301); Upper Penitencia Creek (37.3969, –121.7577).

(ii) *Guadalupe River—San Jose Hydrologic Sub-area 220540.* Outlet(s) = Coyote Creek (Lat 37.2778, Long –121.8033) upstream to endpoint(s) in: Coyote Creek (37.2275, –121.7514).

(iii) *Palo Alto Hydrologic Sub-area 220550.* Outlet(s) = Guadalupe River (Lat 37.4614, Long –122.0240); San Francisquito Creek (37.4658, –122.1152); Stevens Creek (37.4456, –122.0641) upstream to endpoint(s) in: Bear Creek (37.4164, –122.2690); Corte Madera Creek (37.4073, –122.2378); Guadalupe River (37.3499, –.121.9094); Los Trancos (37.3293, –122.1786); McGarvey Gulch (37.4416, –122.2955); Squealer Gulch (37.4335, –122.2880); Stevens Creek (37.2990, –122.0778); West Union Creek (37.4528, –122.3020).

(7) San Pablo Hydrologic Unit 2206—(i) *Petaluma River Hydrologic Sub-area 220630.* Outlet(s) = Petaluma River (Lat 38.1111, Long –122.4944) upstream to endpoint(s) in: Adobe Creek (38.2940, –122.5834); Lichau Creek (38.2848, –122.6654); Lynch Creek (38.2748, –122.6194); Petaluma River (38.3010, –122.7149); Schultz Slough (38.1892, –122.5953); San Antonio Creek (38.2049, –122.7408); Unnamed Tributary (38.3105, –122.6146); Willow Brook (38.3165, –122.6113).

(ii) *Sonoma Creek Hydrologic Sub-area 220640.* Outlet(s) = Sonoma Creek (Lat 38.1525, Long –122.4050) upstream to endpoint(s) in: Agua Caliente Creek (38.3368, –122.4518); Asbury Creek (38.3401, –122.5590); Bear Creek (38.4656, –122.5253); Calabazas Creek (38.4033, –122.4803); Carriger Creek (38.3031, –122.5336); Graham Creek (38.3474, –122.5607); Hooker Creek (38.3809, –122.4562); Mill Creek (38.3395, –122.5454); Nathanson Creek (38.3350, –122.4290); Rodgers Creek (38.2924, –122.5543); Schell Creek (38.2554, –122.4510); Sonoma Creek (38.4507, –122.4819); Stuart Creek (38.3936, –122.4708); Yulupa Creek (38.3986, –122.5934).

(iii) *Napa River Hydrologic Sub-area 220650.* Outlet(s) = Napa River (Lat 38.0786, Long –122.2468) upstream to endpoint(s) in: Bale Slough (38.4806, –122.4578); Bear Canyon Creek (38.4512, –122.4415); Bell Canyon Creek (38.5551, –122.4827); Brown's Valley Creek (38.3251, –122.3686); Canon Creek (38.5368, –122.4854); Carneros Creek (38.3108, –122.3914); Conn Creek (38.4843, –122.3824); Cyrus Creek (38.5776, –122.6032); Diamond Mountain Creek (38.5645, –122.5903); Dry Creek (38.4334, –122.4791); Dutch Henery Creek (38.6080, –122.5253); Garnett Creek (38.6236, –122.5860); Huichica Creek (38.2811, –122.3936); Jericho Canyon Creek (38.6219, –122.5933); Miliken Creek (38.3773, –122.2280); Mill Creek (38.5299, –122.5513); Murphy Creek (38.3155, –122.2111); Napa Creek (38.3047, –122.3134); Napa River (38.6638, –122.6201); Pickle Canyon Creek (38.3672, –122.4071); Rector Creek (38.4410, –122.3451); Redwood Creek (38.3765, –122.4466); Ritchie Creek (38.5369, –122.5652); Sarco Creek (38.3567, –122.2071); Soda Creek (38.4156, –122.2953); Spencer Creek (38.2729, –122.1909); Sulphur Creek (38.4895, –122.5088); Suscol Creek (38.2522, –122.2157); Tulucay Creek (38.2929, –122.2389); Unnamed Tributary (38.4248, –122.4935); Unnamed Tributary (38.4839, –122.5161); York Creek (38.5128, –122.5023).

(8) Big Basin Hydrologic Unit 3304—(i) *Davenport Hydrologic Sub-area 330411.* Outlet(s) = Baldwin Creek (Lat 36.9669, –122.1232); Davenport Landing Creek (37.0231, –122.2153); Laguna Creek (36.9824, –122.1560); Liddell Creek (37.0001, –122.1816); Majors Creek (36.9762, –122.1423); Molino Creek (37.0368, –122.2292); San Vicente

Creek (37.0093, –122.1940); Scott Creek (37.0404, –122.2307); Waddell Creek (37.0935, –122.2762); Wilder Creek (36.9535, –122.0775) upstream to endpoint(s) in: Baldwin Creek (37.0126, –122.1006); Bettencourt Creek (37.1081, –122.2386); Big Creek (37.0832, –122.2175); Davenport Landing Creek (37.0475, –122.1920); East Branch Waddell Creek (37.1482, –122.2531); East Fork Liddell Creek (37.0204, –122.1521); Henry Creek (37.1695, –122.2751); Laguna Creek (37.0185, –122.1287); Little Creek (37.0688, –122.2097); Majors Creek (36.9815, –122.1374); Middle Fork East Fork Liddell Creek (37.0194, –122.1608); Mill Creek (37.1034, –122.2218); Mill Creek (37.0235, –122.2218); Molino Creek (37.0384, –122.2125); Peasley Gulch (36.9824, –122.0861); Queseria Creek (37.0521, –122.2042); San Vicente Creek (37.0417, –122.1741); Scott Creek (37.1338, –122.2306); West Branch Waddell Creek (37.1697, –122.2642); West Fork Liddell Creek (37.0117, –122.1763); Unnamed Tributary (37.0103, –122.0701); Wilder Creek (37.0107, –122.0770).

(ii) *San Lorenzo Hydrologic Sub-area 330412.* Outlet(s) = Arana Gulch Creek (Lat 36.9676, Long –122.0028); San Lorenzo River (36.9641, –122.0125) upstream to endpoint(s) in: Arana Gulch Creek (37.0270, –121.9739); Bean Creek (37.0956, –122.0022); Bear Creek (37.1711, –122.0750); Boulder Creek (37.1952, –122.1892); Bracken Brae Creek (37.1441, –122.1459); Branciforte Creek (37.0701, –121.9749); Crystal Creek (37.0333, –121.9825); Carbonera Creek (37.0286, –122.0202); Central Branch Arana Gulch Creek (37.0170, –121.9874); Deer Creek (37.2215, –122.0799); Fall Creek (37.0705, –122.1063); Gold Gulch Creek (37.0427, –122.1018); Granite Creek (37.0490, –121.9979); Hare Creek (37.1544, –122.1690); Jameson Creek (37.1485, –122.1904); Kings Creek (37.2262, –122.1059); Lompico Creek (37.1250, –122.0496); Mackenzie Creek (37.0866, –122.0176); Mountain Charlie Creek (37.1385, –121.9914); Newell Creek (37.1019, –122.0724); San Lorenzo River (37.2276, –122.1384); Two Bar Creek (37.1833, –122.0929); Unnamed Tributary (37.2106, –122.0952); Unnamed Tributary (37.2032, –122.0699); Zayante Creek (37.1062, –122.0224).

(iii) *Aptos-Soquel Hydrologic Sub-area 330413.* Outlet(s) = Aptos Creek (Lat 36.9692, Long –121.9065); Soquel Creek (36.9720, –121.9526) upstream to endpoint(s) in: Amaya Creek (37.0930, –121.9297); Aptos Creek (37.0545, –121.8568); Bates Creek (37.0099, –121.9353); Bridge Creek (37.0464, –121.8969); East Branch Soquel Creek (37.0690, –121.8297); Hester Creek (37.0967, –121.9458); Hinckley Creek (37.0671, –121.9069); Moores Gulch (37.0573, –121.9579); Valencia Creek (37.0323, –121.8493); West Branch Soquel Creek (37.1095, –121.9606).

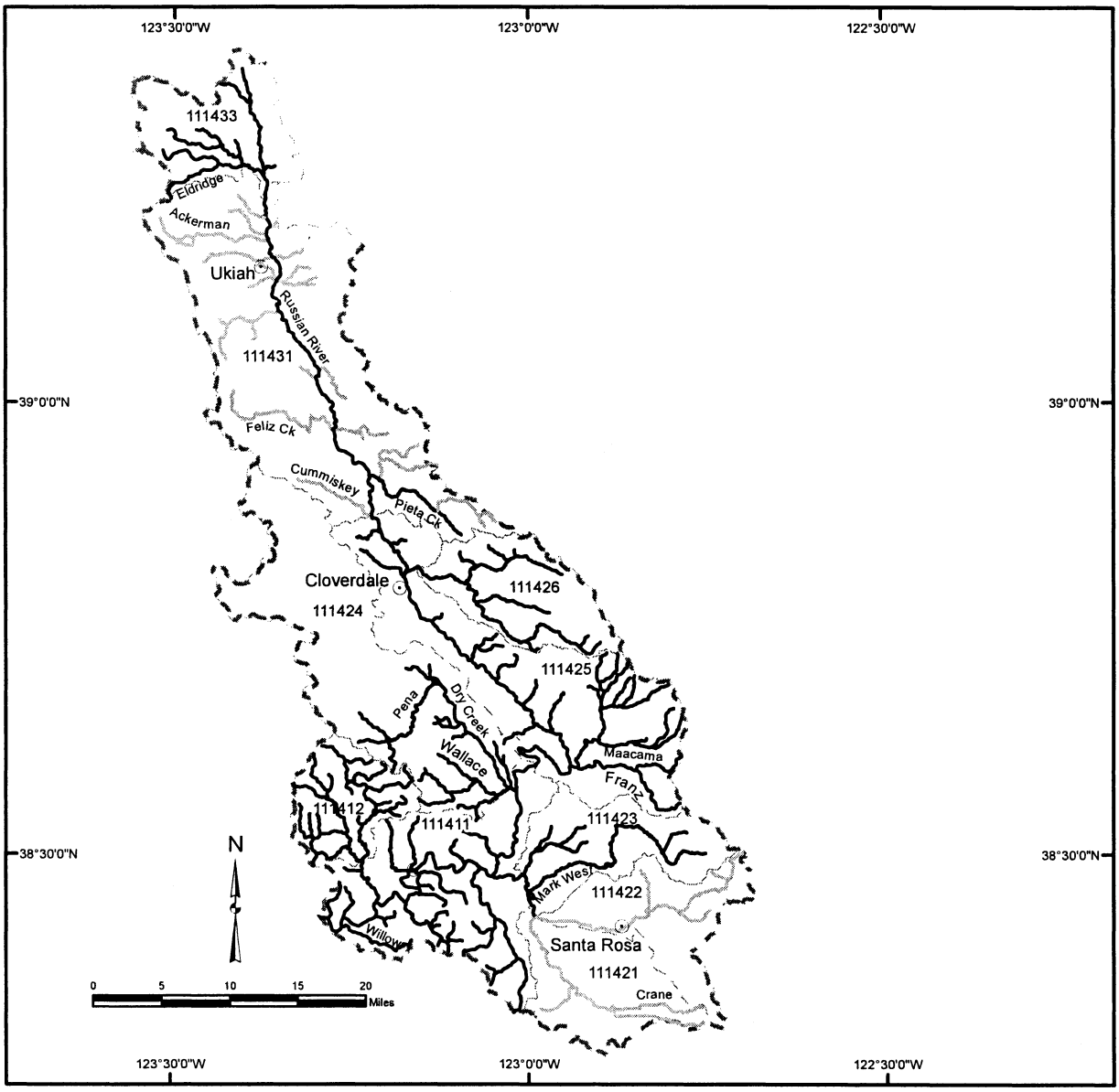
(iv) *Ano Nuevo Hydrologic Sub-area 330420.* Outlet(s) = Ano Nuevo Creek (Lat 37.1163, Long –122.3060); Gazos Creek (37.1646, –122.3625); Whitehouse Creek (37.1457, –122.3469) upstream to endpoint(s) in: Ano Nuevo Creek (37.1269, –122.3039); Bear Gulch (37.1965, –122.2773); Gazos Creek (37.2088, –122.2868); Old Womans Creek (37.1829, –122.3033); Whitehouse Creek (37.1775, –122.2900).

(9) Maps of critical habitat for the Central California Coast Steelhead ESU follow:

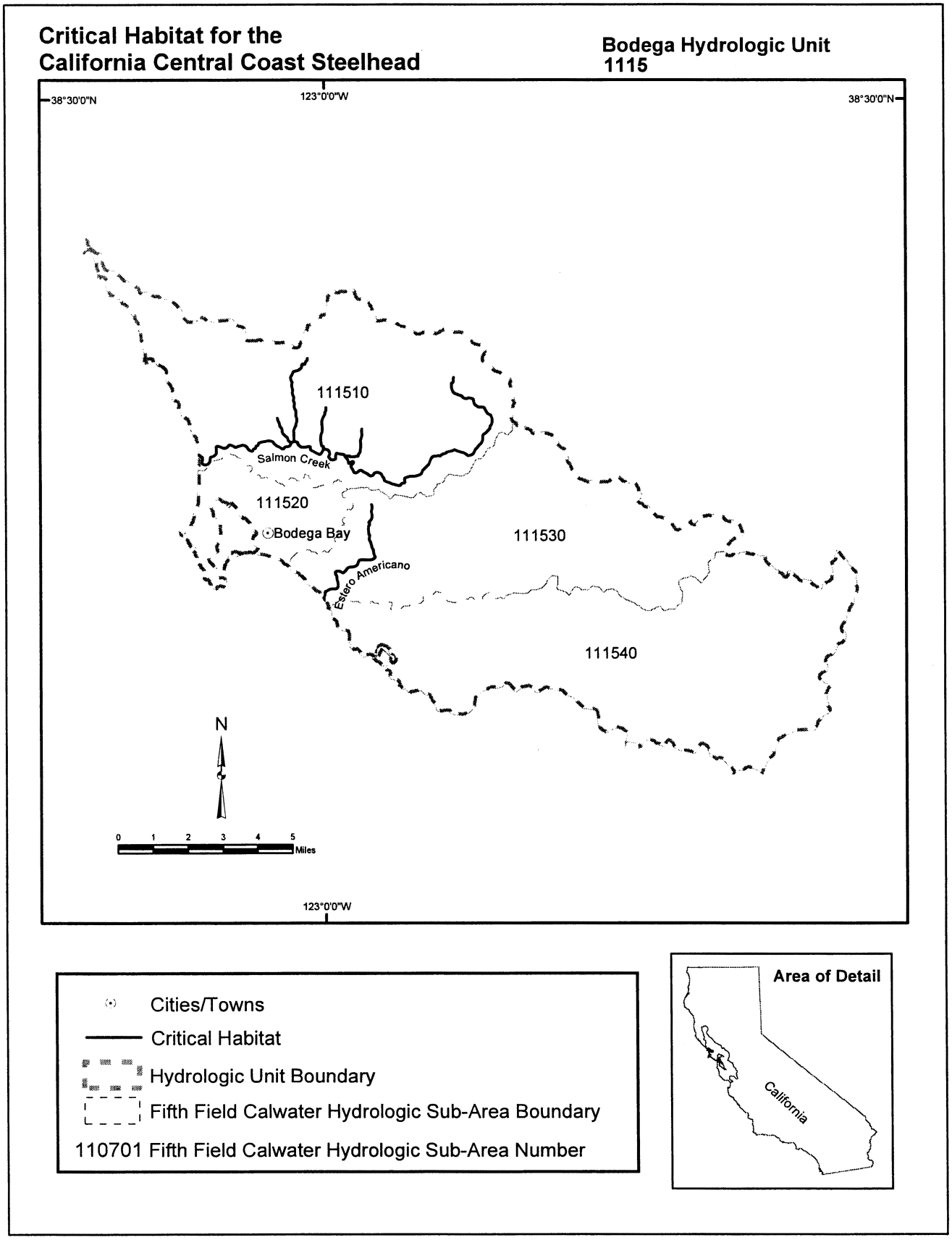
BILLING CODE 3510–22–P

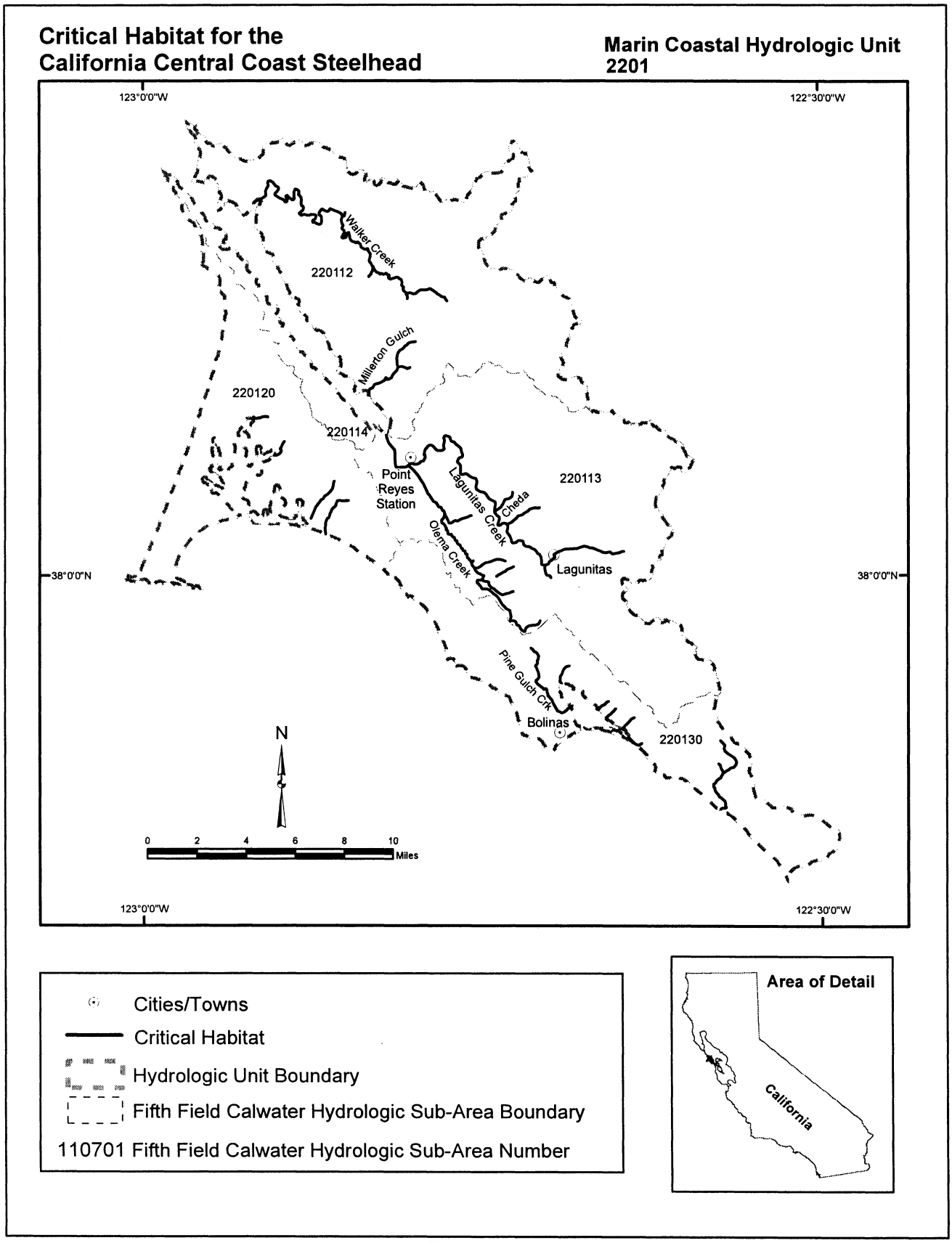
Critical Habitat for the California Central Coast Steelhead

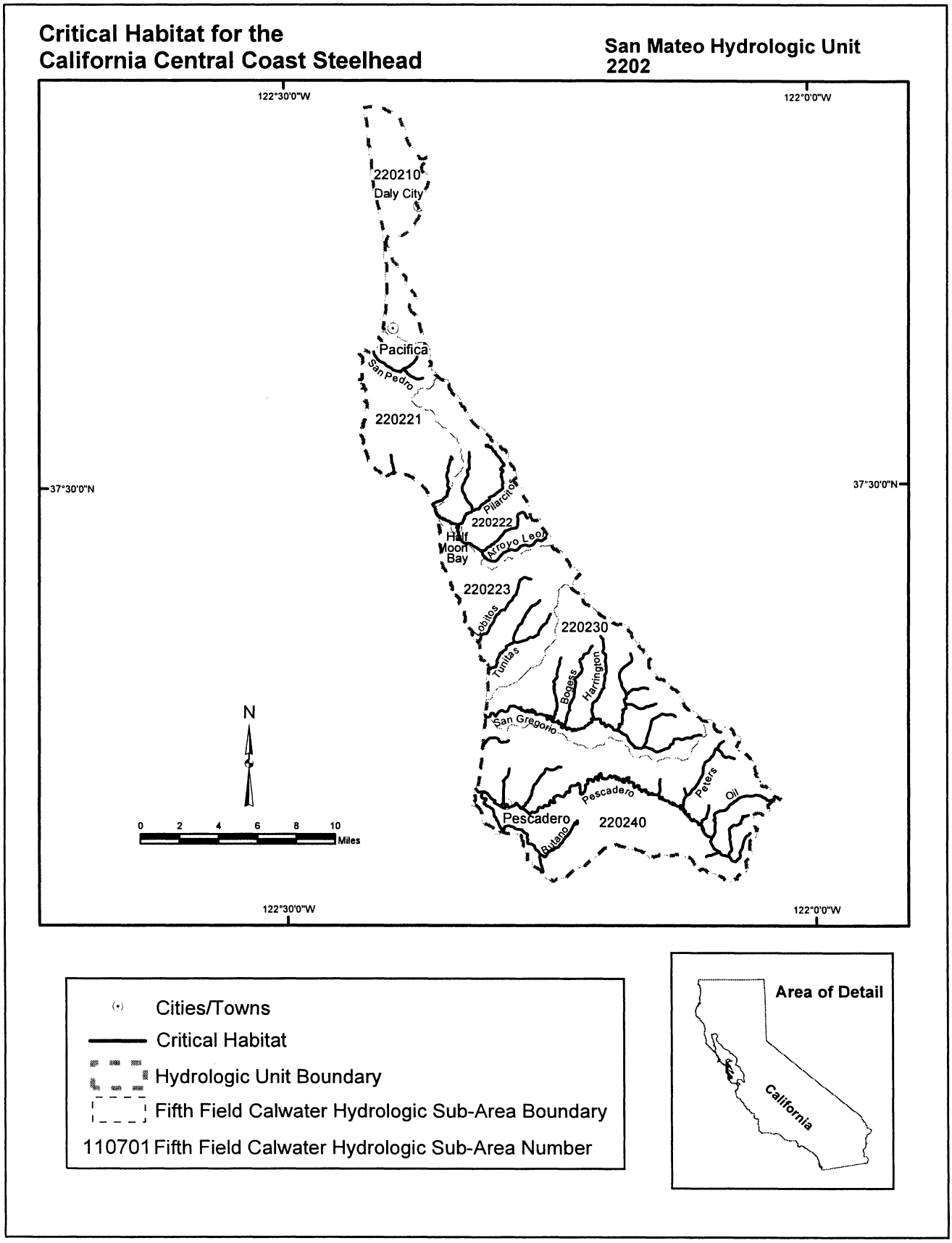
Russian River Hydrologic Unit 1114

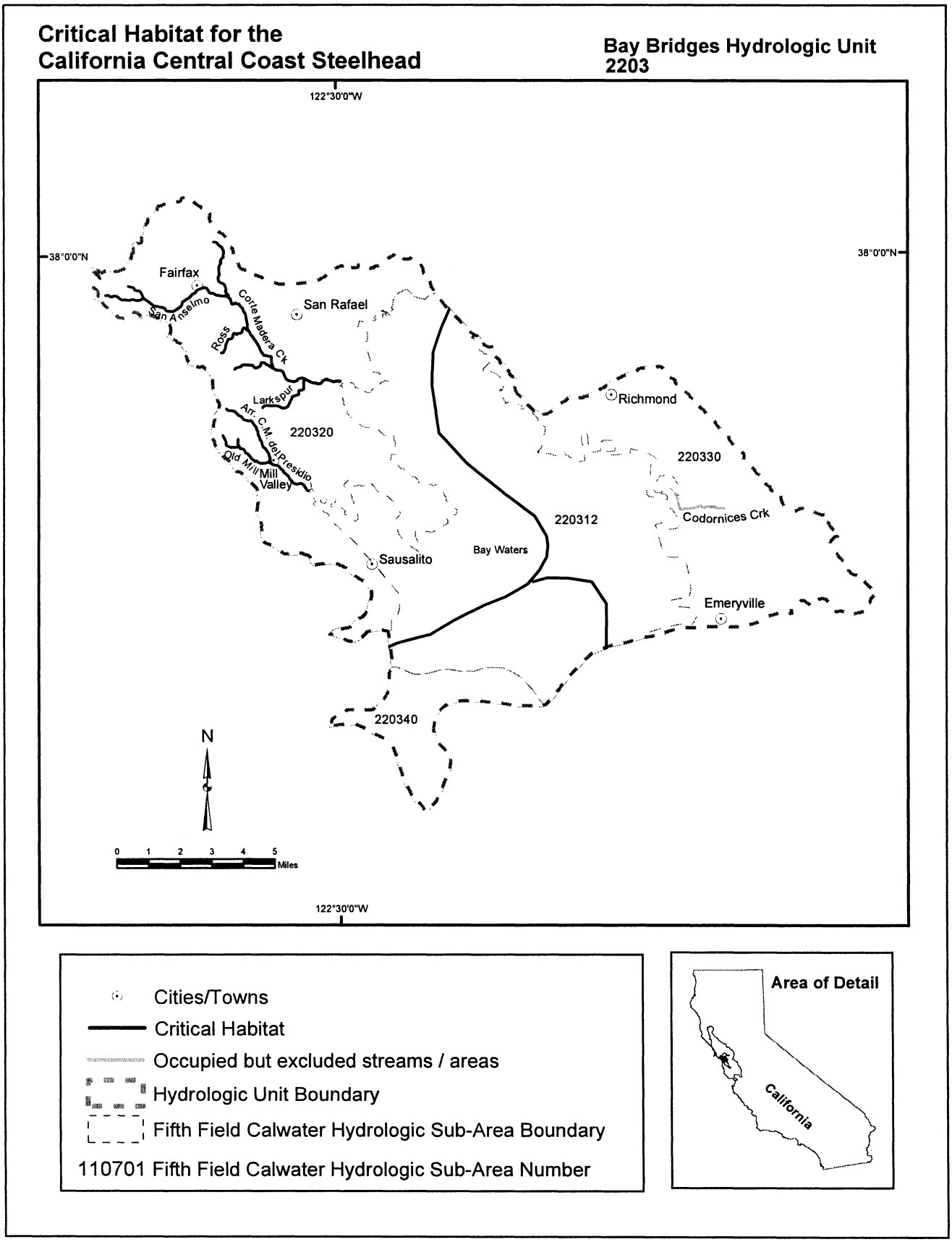


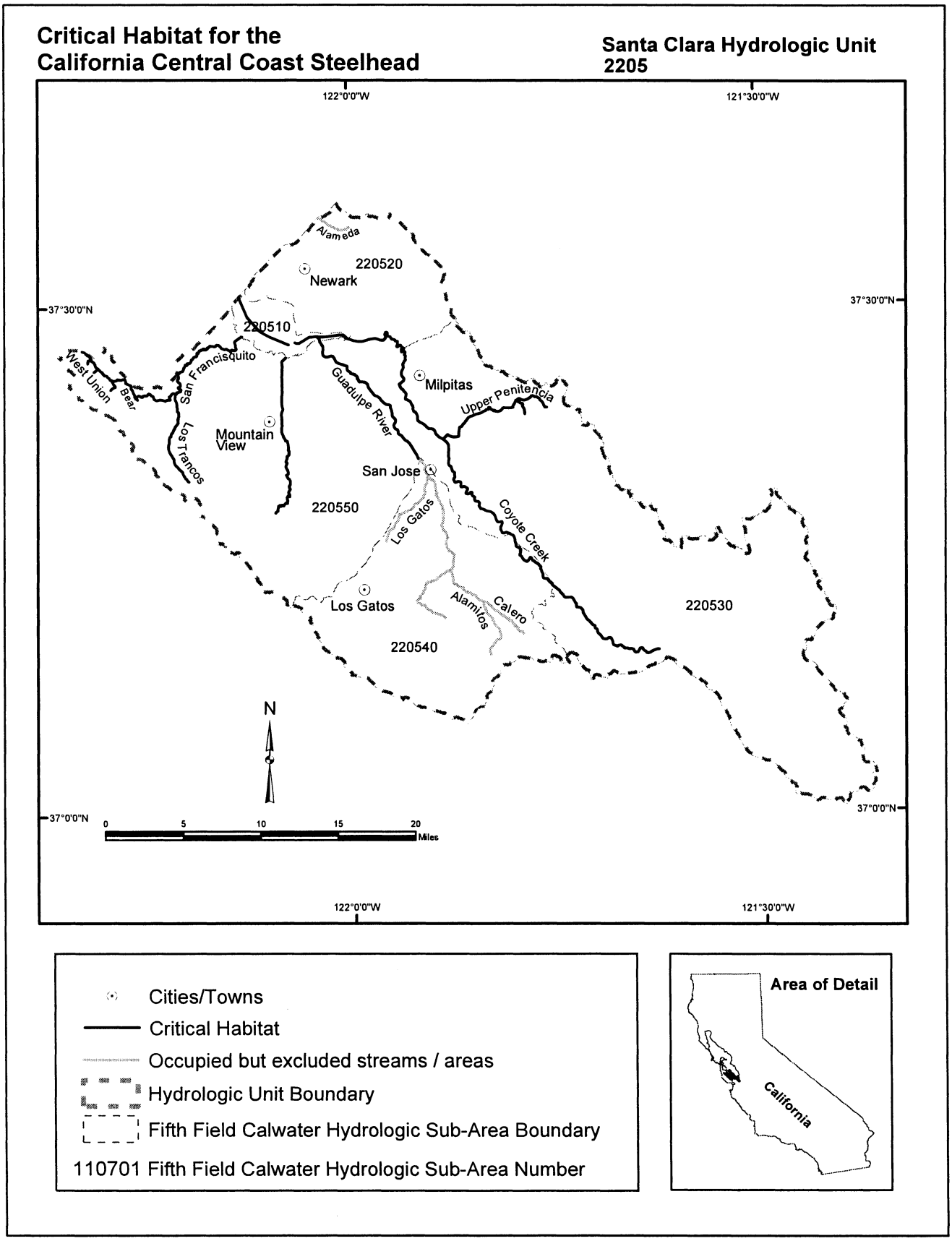
- Cities/Towns
- Critical Habitat
- Occupied but excluded streams / areas
- Hydrologic Unit Boundary
- Fifth Field Calwater Hydrologic Sub-Area Boundary
- 110701 Fifth Field Calwater Hydrologic Sub-Area Number

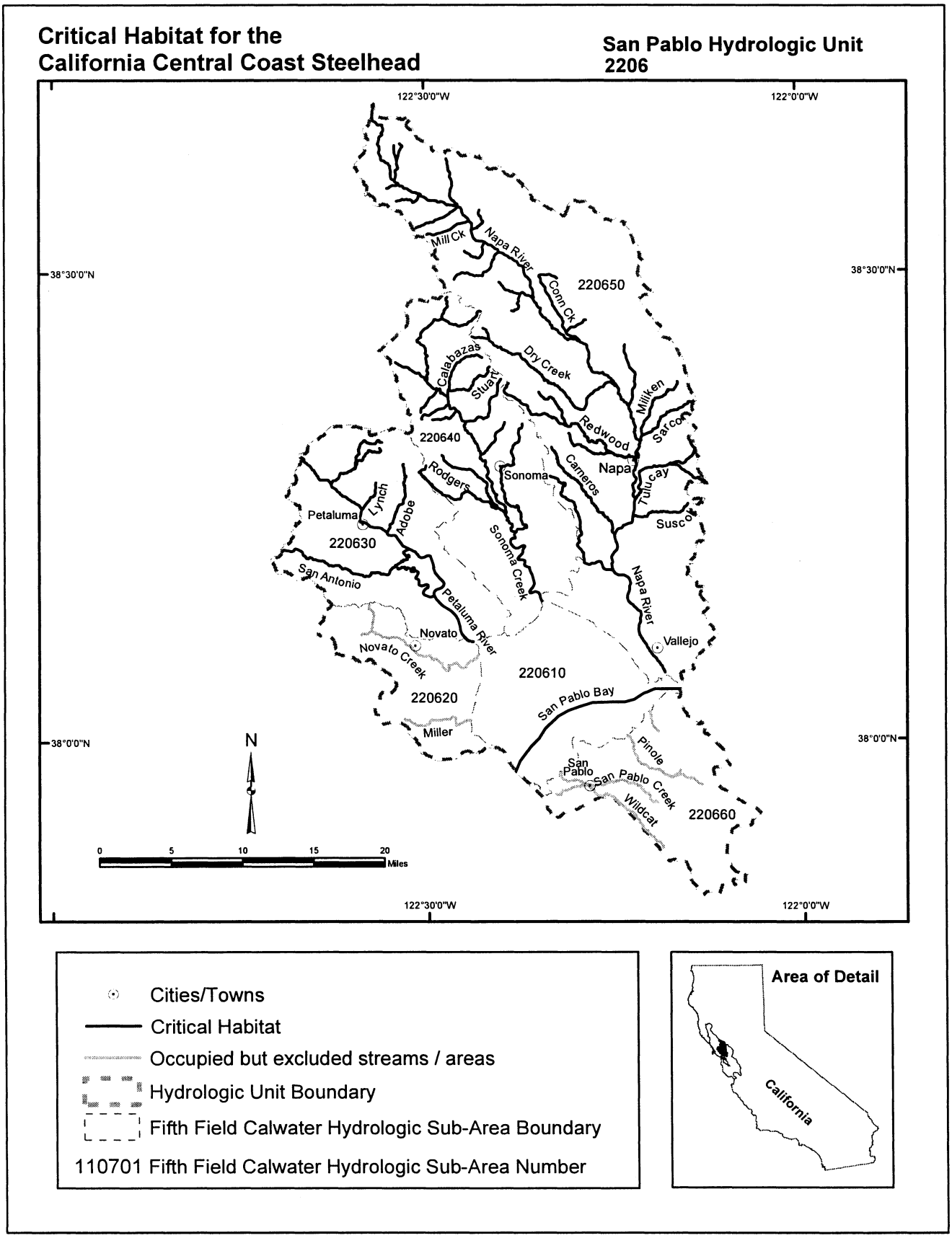

Critical Habitat for the
California Central Coast Steelhead
Bodega Hydrologic Unit
1115
38°30'0"N
123°0'0"W
38°30'0"N
111510
Salmon Creek
111520
Bodega Bay
111530
Estero Americano
111540
N
0 1 2 3 4 5
Miles
123°0'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

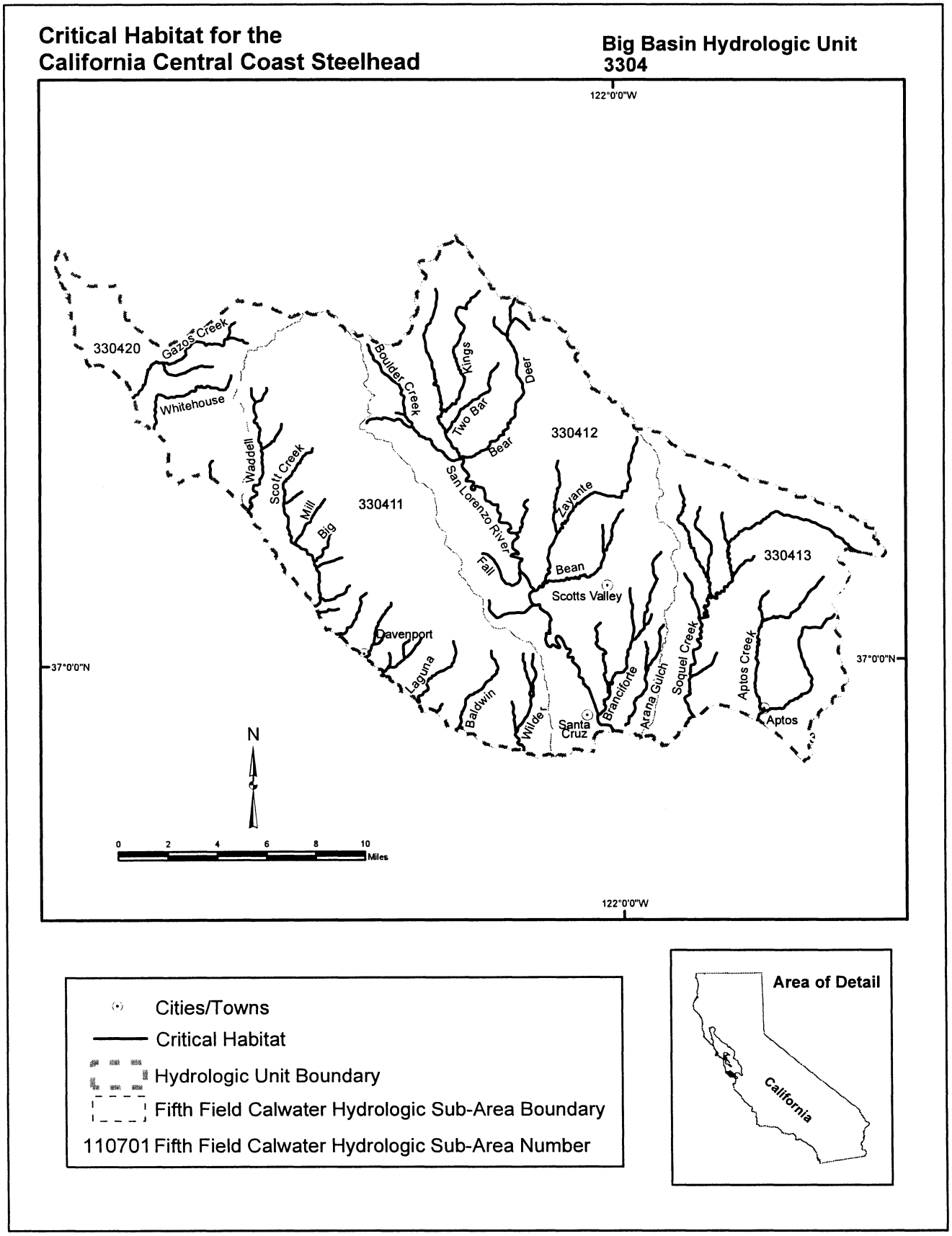

Critical Habitat for the
California Central Coast Steelhead
Marin Coastal Hydrologic Unit
2201
123°0'0"W
122°30'0"W
38°0'0"N
Walker Creek
220112
Millerton Gulch
220120
220114
Point
Reyes
Station
Lagunitas Creek
Cheda
220113
Olema Creek
Lagunitas
Pine Gulch Crk
Bolinas
220130
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
San Mateo Hydrologic Unit
2202
122°30'0"W
122°0'0"W
37°30'0"N
220210
Daly City
Pacifica
San Pedro
220221
Pilarcitos
220222
Half Moon Bay
Arroyo Leon
220223
Lobitos
220230
Tunitas
Bogess
Harrington
San Gregorio
Pescadero
Peters
Oil
Pescadero
220240
Butano
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
Bay Bridges Hydrologic Unit
2203
122°30'0"W
38°0'0"N
Fairfax
San Anselmo
Ross
Corte Madera Ck
San Rafael
Larkspur
Arr. C.M. del Presidio
Old Mill
Mill Valley
220320
Richmond
220330
220312
Codornices Crk
Bay Waters
Sausalito
Emeryville
220340
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
Santa Clara Hydrologic Unit
2205
122°0'0"W
121°30'0"W
37°30'0"N
37°0'0"N
Alameda
220520
Newark
220510
West Union
Bear
San Francisquito
Los Trancos
Mountain View
Guadulpe River
Milpitas
Upper Penitencia
San Jose
220550
Los Gatos
Coyote Creek
Los Gatos
Alamitos
Calero
220530
220540
N
0
5
10
15
20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
San Pablo Hydrologic Unit
2206
122°30'0"W
122°0'0"W
38°30'0"N
38°0'0"N
Mill Ck
Napa River
Conn Ck
220650
Calabazas
Stuart
Dry Creek
Millken
Sarco
Redwood
220640
Rodgers
Sonoma
Carneros
Napa
Tulucay
Susco
Petaluma
Lynch
Adobe
220630
San Antonio
Sonoma Creek
Petaluma River
Napa River
Novato
Novato Creek
Vallejo
220610
220620
San Pablo Bay
Miller
Pinole
San Pablo
San Pablo Creek
Wildcat
220660
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



BILLING CODE 3510–22–C

(i) *South-Central California Coast Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Pajaro River Hydrologic Unit 3305—(i) *Watsonville Hydrologic Sub-area 330510.* Outlet(s) = Pajaro River (Lat 36.8506, Long –121.8101) upstream to endpoint(s) in: Banks Canyon Creek (36.9958, –121.7264); Browns Creek (37.0255, –121.7754); Casserly Creek (36.9902, –121.7359); Corralitos Creek (37.0666, –121.8359); Gaffey Creek (36.9905, –121.7132); Gamecock Canyon (37.0362, –121.7587); Green Valley Creek (37.0073, –121.7256); Ramsey Gulch (37.0447, –121.7755); Redwood Canyon (37.0342, –121.7975); Salsipuedes Creek (36.9350, –121.7426); Shingle Mill Gulch (37.0446, –121.7971).

(ii) *Santa Cruz Mountains Hydrologic Sub-area 330520.* Outlet(s) = Pajaro River (Lat 36.9010, Long –121.5861); Bodfish Creek (37.0041, –121.6667); Pescadero Creek (36.9125, –121.5882); Tar Creek (36.9304, –121.5520); Uvas Creek (37.0146, –121.6314) upstream to endpoint(s) in: Blackhawk Canyon (37.0168, –121.6912); Bodfish Creek (36.9985, –121.6859); Little Arthur Creek (37.0299, –121.6874); Pescadero Creek (36.9826, –121.6274); Tar Creek (36.9558, –121.6009); Uvas Creek (37.0660, –121.6912).

(iii) *South Santa Clara Valley Hydrologic Sub-area 330530.* Outlet(s) = San Benito River (Lat 36.8961, Long –121.5625); Pajaro River (36.9222, –121.5388) upstream to endpoint(s) in: Arroyo Dos Picachos (36.8866, –121.3184); Bodfish Creek (37.0080, –121.6652); Bodfish Creek (37.0041, –121.6667); Carnadero Creek (36.9603, –121.5328); Llagas Creek (37.1159, –121.6938); Miller Canal (36.9698, –121.4814); Pacheco Creek (37.0055, –121.3598); San Felipe Lake (36.9835, –121.4604); Tar Creek (36.9304, –121.5520); Tequisquita Slough (36.9170, –121.3887); Uvas Creek (37.0146, –121.6314).

(iv) *Pacheco-Santa Ana Creek Hydrologic Sub-area 330540.* Outlet(s) = Arroyo Dos Picachos (Lat 36.8866, Long –121.3184); Pacheco Creek (37.0055, –121.3598) upstream to endpoint(s) in: Arroyo Dos Picachos (36.8912, –121.2305); Cedar Creek (37.0922, –121.3641); North Fork Pacheco Creek (37.0514, –121.2911); Pacheco Creek (37.0445, –121.2662); South Fork Pacheco Creek (37.0227, –121.2603).

(v) *San Benito River Hyddrologic Sub-area 330550.* Outlet(s) = San Benito River (Lat 36.7838, Long –121.3731) upstream to endpoint(s) in: Bird Creek (36.7604, –121.4506); Pescadero Creek (36.7202, –121.4187); San Benito River (36.3324, –120.6316); Sawmill Creek (36.3593, –120.6284).

(2) Carmel River Hydrologic Unit 3307—(i) *Carmel River Hydrologic Sub-area 330700.* Outlet(s) = Carmel River (Lat 36.5362, Long –121.9285) upstream to endpoint(s) in: Aqua Mojo Creek (36.4711, –121.5407); Big Creek (36.3935, –121.5419); Blue Creek (36.2796, –121.6530); Boronda Creek (36.3542, –121.6091); Bruce Fork (36.3221, –121.6385); Cachagua Creek (36.3909 , –121.5950); Carmel River (36.2837, –121.6203); Danish Creek (36.3730, –121.7590); Hitchcock Canyon Creek (36.4470, –121.7597); James Creek (36.3235, –121.5804); Las Garzas Creek (36.4607, –121.7944); Millers Fork (36.2961, –121.5697); Pinch Creek (36.3236, –121.5574); Pine Creek (36.3827, –121.7727); Potrero Creek (36.4801, –121.8258); Rana Creek (36.4877, –121.5840); Rattlesnake Creek (36.3442, –121.7080); Robertson Canyon Creek (36.4776, –121.8048); Robertson Creek (36.3658, –121.5165); San Clemente Creek (36.4227, –121.8115); Tularcitos Creek (36.4369, –121.5163); Ventana Mesa Creek (36.2977, –121.7116).

(ii) [Reserved]

(3) Santa Lucia Hydrologic Unit 3308-(i) *Santa Lucia Hydrologic Sub-area 330800.* Outlet(s) = Alder Creek (Lat 35.8578, Long –121.4165); Big Creek (36.0696, –121.6005); Big Sur River (36.2815, –121.8593); Bixby Creek (36.3713, –121.9029); Garrapata Creek (36.4176, –121.9157); Limekiln Creek (36.0084, –121.5196); Little Sur River (36.3350, –121.8934); Malpaso Creek (36.4814, –121.9384); Mill Creek (35.9825, –121.4917); Partington Creek (36.1753, –121.6973); Plaskett Creek (35.9195, –121.4717); Prewitt Creek (35.9353, –121.4760); Rocky Creek (36.3798, –121.9028); Salmon Creek (35.3558, –121.3634); San Jose Creek (36.5259, –121.9253); Vicente Creek (36.0442, –121.5855); Villa Creek (35.8495, –121.4087); Willow Creek (35.8935, –121.4619) upstream to endpoint(s) in: Alder Creek (35.8685, –121.3974); Big Creek (36.0830, –121.5884); Big Sur River (36.2490, –121.7269); Bixby Creek (36.3715, –121.8440); Devil's Canyon Creek (36.0773, –121.5695); Garrapata Creek (36.4042, –121.8594); Joshua Creek (36.4182, –121.9000); Limekiln Creek (36.0154, –121.5146); Little Sur River (36.3312, –121.7557); Malpaso Creek (36.4681, –121.8800); Mill Creek (35.9907, –121.4632); North Fork Big Sur River (36.2178, –121.5948); Partington Creek (36.1929, –121.6825); Plaskett Creek (35.9228, –121.4493); Prewitt Creek (35.9419, –121.4598); Redwood Creek (36.2825, –121.6745); Rocky Creek (36.3805, –121.8440); San Jose Creek (36.4662, –121.8118); South Fork Little Sur River (36.3026, –121.8093); Vicente Creek (36.0463, –121.5780); Villa Creek (35.8525, –121.3973); Wildcat Canyon Creek (36.4124, –121.8680); Williams Canyon Creek (36.4466, –121.8526); Willow Creek (35.9050, –121.3851).

(ii) [Reserved]

(4) Salinas River Hydrologic Unit 3309–(i) *Neponset Hydrologic Sub-area 330911.* Outlet(s) = Salinas River (Lat 36.7498, Long –121.8055); upstream to endpoint(s) in: Gabilan Creek (36.6923, –121.6300); Old Salinas River (36.7728, –121.7884); Tembladero Slough (36.6865, –121.6409).

(ii) *Chualar Hydrologic Sub-area 330920.* Outlet(s) = Gabilan Creek (Lat 36.6923, Long –121.6300) upstream.

(iii) *Soledad Hydrologic Sub-area 330930.* Outlet(s) = Salinas River (Lat 36.4878, Long –121.4688) upstream to endpoint(s) in: Arroyo Seco River (36.2644, –121.3812); Reliz Creek (36.2438, –121.2881).

(iv) *Upper Salinas Valley Hydrologic Sub-area 330940.* Outlet(s) = Salinas River (Lat 36.3183, Long –121.1837) upstream.

(v) *Arroyo Seco Hydrologic Sub-area 330960.* Outlet(s) = Arroyo Seco River (Lat 36.2644, Long –121.3812); Reliz Creek (36.2438, –121.2881); Vasqueros Creek (36.2648, –121.3368) upstream to endpoint(s) in: Arroyo Seco River (36.2041, –121.5002); Calaboose Creek (36.2942, –121.5082); Church Creek (36.2762, –121.5877); Horse Creek (36.2046, –121.3931); Paloma Creek (36.3195, –121.4894); Piney Creek (36.3023, –121.5629); Reliz Creek (36.1935, –121.2777); Rocky Creek (36.2676, –121.5225); Santa Lucia Creek (36.1999, –121.4785); Tassajara Creek (36.2679, –121.6149); Vaqueros Creek (36.2479, –121.3369); Willow Creek (36.2059, –121.5642).

(vi) *Gabilan Range Hydrologic Sub-area 330970.* Outlet(s) = Gabilan Creek (Lat 36.7800, –121.5836) upstream to endpoint(s) in: Gabilan Creek (36.7335, –121.4939).

(vii) *Paso Robles Hydrologic Sub-area 330981.* Outlet(s) = Salinas River (Lat 35.9241, Long –120.8650) upstream to endpoint(s) in:

Atascadero Creek (35.4468, –120.7010); Graves Creek (35.4838, –120.7631); Jack Creek (35.5815, –120.8560); Nacimiento River (35.7610, –120.8853); Paso Robles Creek (35.5636, –120.8455); Salinas River (35.3886, –120.5582); San Antonio River (35.7991, –120.8849); San Marcos Creek (35.6734, –120.8140); Santa Margarita Creek (35.3923, –120.6619); Santa Rita Creek

(35.5262, –120.8396); Sheepcamp Creek (35.6145, –120.7795); Summit Creek (35.6441, –120.8046); Tassajera Creek (35.3895, –120.6926); Trout Creek (35.3394, –120.5881); Willow Creek (35.6107, –120.7720).

(5) Estero Bay Hydrologic Unit 3310—

(i) *San Carpoforo Hydrologic Sub-area 331011.* Outlet(s) = San Carpoforo Creek (Lat 35.7646, Long –121.3247) upstream to endpoint(s) in: Dutra Creek (35.8197, –121.3273); Estrada Creek (35.7710, –121.2661); San Carpoforo Creek (35.8202, –121.2745); Unnamed Tributary (35.7503, –121.2703); Wagner Creek (35.8166, –121.2387).

(ii) *Arroyo De La Cruz Hydrologic Sub-area 331012.* Outlet(s) = Arroyo De La Cruz (Lat 35.7097, Long –121.3080) upstream to endpoint(s) in: Arroyo De La Cruz (35.6986, –121.1722); Burnett Creek (35.7520, –121.1920); Green Canyon Creek (35.7375 , –121.2314); Marmolejo Creek (35.6774, –121.1082); Spanish Cabin Creek (35.7234, –121.1497); Unnamed Tributary (35.7291, –121.1977); West Fork Burnett Creek (35.7516, –121.2075).

(iii) *San Simeon Hydrologic Sub-area 331013.* Outlet(s) = Arroyo del Corral (Lat 35.6838, Long –121.2875); Arroyo del Puerto (35.6432, –121.1889); Little Pico Creek (35.6336, –121.1639); Oak Knoll Creek (35.6512, –121.2197); Pico Creek (35.6155, –121.1495); San Simeon Creek (35.5950, –121.1272) upstream to endpoint(s) in: Arroyo Laguna (35.6895, –121.2337); Arroyo del Corral (35.6885, –121.2537); Arroyo del Puerto (35.6773, –121.1713); Little Pico Creek (35.6890, –121.1375); Oak Knoll Creek (35.6718, –121.2010); North Fork Pico Creek (35.6886, –121.0861); San Simeon Creek (35.6228, –121.0561); South Fork Pico Creek (35.6640, –121.0685); Steiner Creek (35.6032, –121.0640); Unnamed Tributary (35.6482, –121.1067); Unnamed Tributary (35.6616, –121.0639); Unnamed Tributary (35.6741, –121.0981); Unnamed Tributary (35.6777, –121.1503); Unnamed Tributary (35.6604, –121.1571); Unnamed Tributary (35.6579, –121.1356); Unnamed Tributary (35.6744, –121.1187); Unnamed Tributary (35.6460, –121.1373); Unnamed Tributary (35.6839, –121.0955); Unnamed Tributary (35.6431, –121.0795); Unnamed Tributary (35.6820, –121.2130); Unnamed Tributary (35.6977, –121.2613); Unnamed Tributary (35.6702, –121.1884); Unnamed Tributary (35.6817, –121.0885); Van Gordon Creek (35.6286, –121.0942).

(iv) *Santa Rosa Hydrologic Sub-area 331014.* Outlet(s) = Santa Rosa Creek (Lat 35.5685, Long –121.1113) upstream to endpoint(s) in: Green Valley Creek (35.5511, –120.9471); Perry Creek (35.5323–121.0491); Santa Rosa Creek (35.5525, –120.9278); Unnamed Tributary (35.5965, –120.9413); Unnamed Tributary (35.5684, –120.9211); Unnamed Tributary (35.5746, –120.9746).

(v) *Villa Hydrologic Sub-area 331015.* Outlet(s) = Villa Creek (Lat 35.4601, Long –120.9704) upstream to endpoint(s) in: Unnamed Tributary (35.4798, –120.9630); Unnamed Tributary (35.5080, –121.0171); Unnamed Tributary (35.5348, –120.8878); Unnamed Tributary (35.5510, –120.9406); Unnamed Tributary (35.5151, –120.9497); Unnamed Tributary (35.4917, –120.9584); Unnamed Tributary (35.5173, –120.9516); Villa Creek (35.5352, –120.8942).

(vi) *Cayucos Hydrologic Sub-area 331016.* Outlet(s) = Cayucos Creek (Lat 35.4491, Long –120.9079) upstream to endpoint(s) in: Cayucos Creek (35.5257, –120.9271); Unnamed Tributary (35.5157, –120.9005); Unnamed Tributary (35.4943, –120.9513); Unnamed Tributary (35.4887, –120.8968).

(vii) *Old Hydrologic Sub-area 331017.* Outlet(s) = Old Creek (Lat 35.4345, Long –120.8868) upstream to endpoint(s) in: Old Creek (35.4480, –120.8871)

(viii) *Toro Hydrologic Sub-area 331018.* Outlet(s) = Toro Creek (Lat 35.4126, Long –120.8739) upstream to endpoint(s) in: Toro Creek (35.4945, –120.7934); Unnamed Tributary (35.4917, –120.7983).

(ix) *Morro Hydrologic Sub-area 331021.* Outlet(s) = Morro Creek (Lat 35.3762, Long –120.8642) upstream to endpoint(s) in: East Fork Morro Creek (35.4218, –120.7282); Little Morro Creek (35.4155, –120.7532); Morro Creek (35.4291, –120.7515); Unnamed Tributary (35.4292, –120.8122); Unnamed Tributary (35.4458, –120.7906); Unnamed Tributary (35.4122, –120.8335); Unnamed Tributary (35.4420, –120.7796).

(x) *Chorro Hydrologic Sub-area 331022.* Outlet(s) = Chorro Creek (Lat 35.3413, Long –120.8388) upstream to endpoint(s) in: Chorro Creek (35.3340, –120.6897); Dairy Creek (35.3699, –120.6911); Pennington Creek (35.3655, –120.7144); San Bernardo Creek (35.3935, –120.7638); San Luisito (35.3755, –120.7100); Unnamed Tributary (35.3821, –120.7217); Unnamed Tributary (35.3815, –120.7350).

(xi) *Los Osos Hydrologic Sub-area 331023.* Outlet(s) = Los Osos Creek (Lat 35.3379, Long –120.8273) upstream to endpoint(s) in: Los Osos Creek (35.2718, –120.7627).

(xii) *San Luis Obispo Creek Hydrologic Sub-area 331024.* Outlet(s) = San Luis Obispo Creek (Lat 35.1822, Long –120.7303) upstream to endpoint(s) in: Brizziolari Creek (35.3236, –120.6411); Froom Creek (35.2525, –120.7144); Prefumo Creek (35.2615, –120.7081); San Luis Obispo Creek (35.3393, –120.6301); See Canyon Creek (35.2306, –120.7675); Stenner Creek (35.3447, –120.6584); Unnamed Tributary (35.2443, –120.7655).

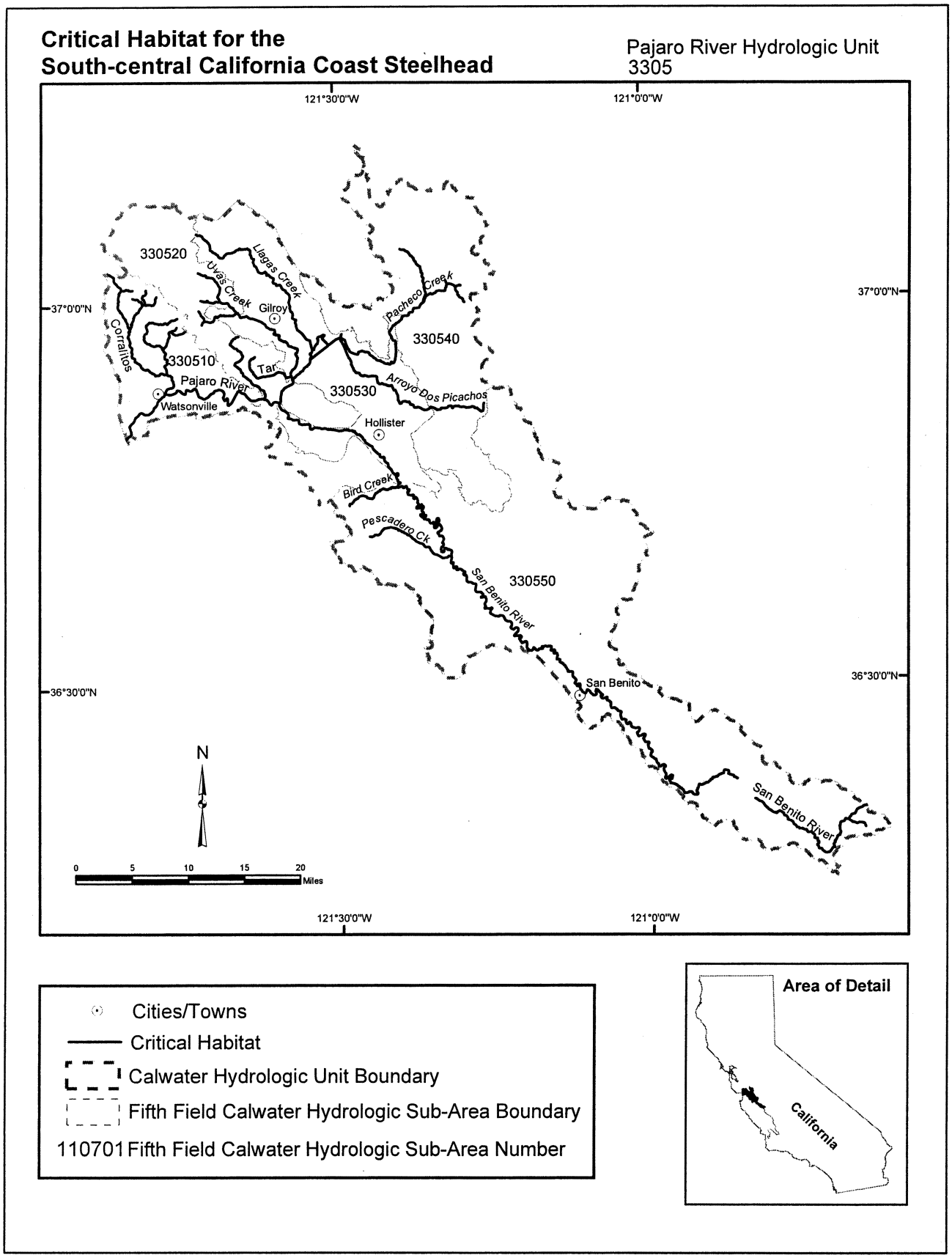
(xiii) *Point San Luis Hydrologic Sub-area 331025.* Outlet(s) = Coon Creek (Lat 35.2590, Long –120.8951); Islay Creek (35.2753, –120.8884) upstream to endpoint(s) in: Coon Creek (35.2493, –120.7774); Islay Creek (35.2574, –120.7810); Unnamed Tributary (35.2753, –120.8146); Unnamed Tributary (35.2809, –120.8147); Unnamed Tributary (35.2648, –120.7936).

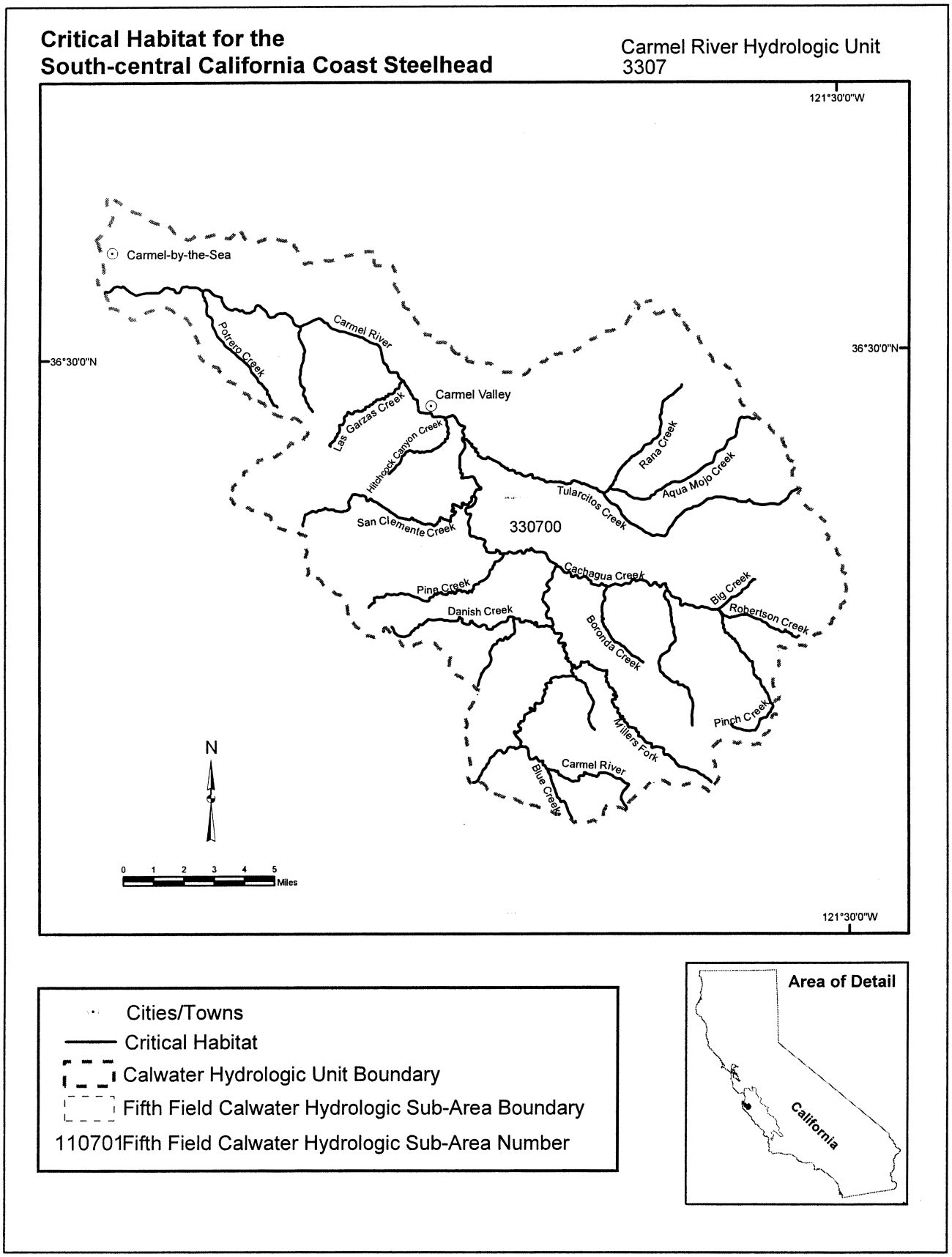
(xiv) *Pismo Hydrologic Sub-area 331026.* Outlet(s) = Pismo Creek (Lat 35.1336, Long –120.6408) upstream to endpoint(s) in: East Corral de Piedra Creek (35.2343, –120.5571); Pismo Creek (35.1969, –120.6107); Unnamed Tributary (35.2462, –120.5856).

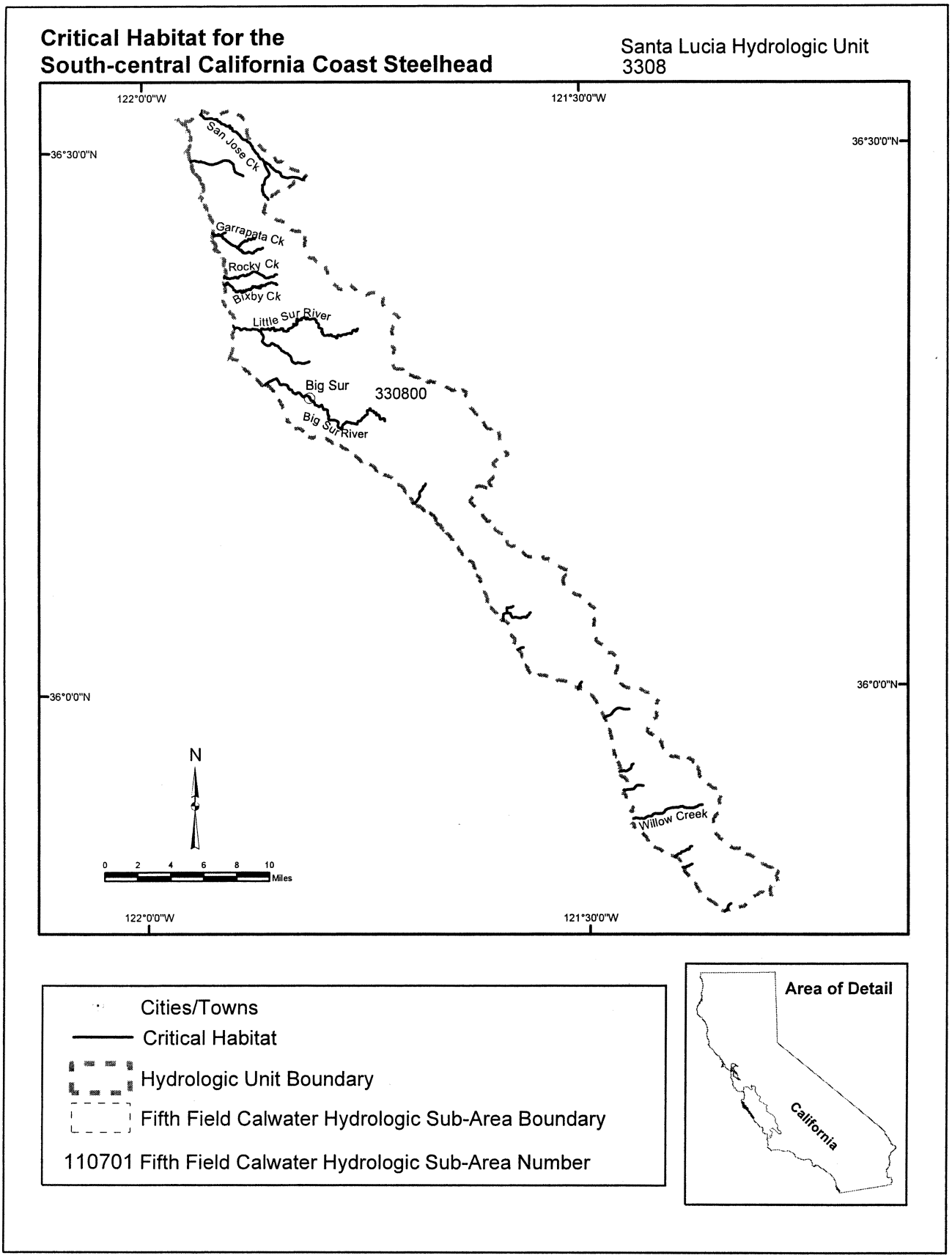
(xv) *Oceano Hydrologic Sub-area 331031.* Outlet(s) = Arroyo Grande Creek (Lat 35.1011, Long –120.6308) upstream to endpoint(s) in: Arroyo Grande Creek (35.1868, –120.4881); Los Berros Creek (35.0791, –120.4423).

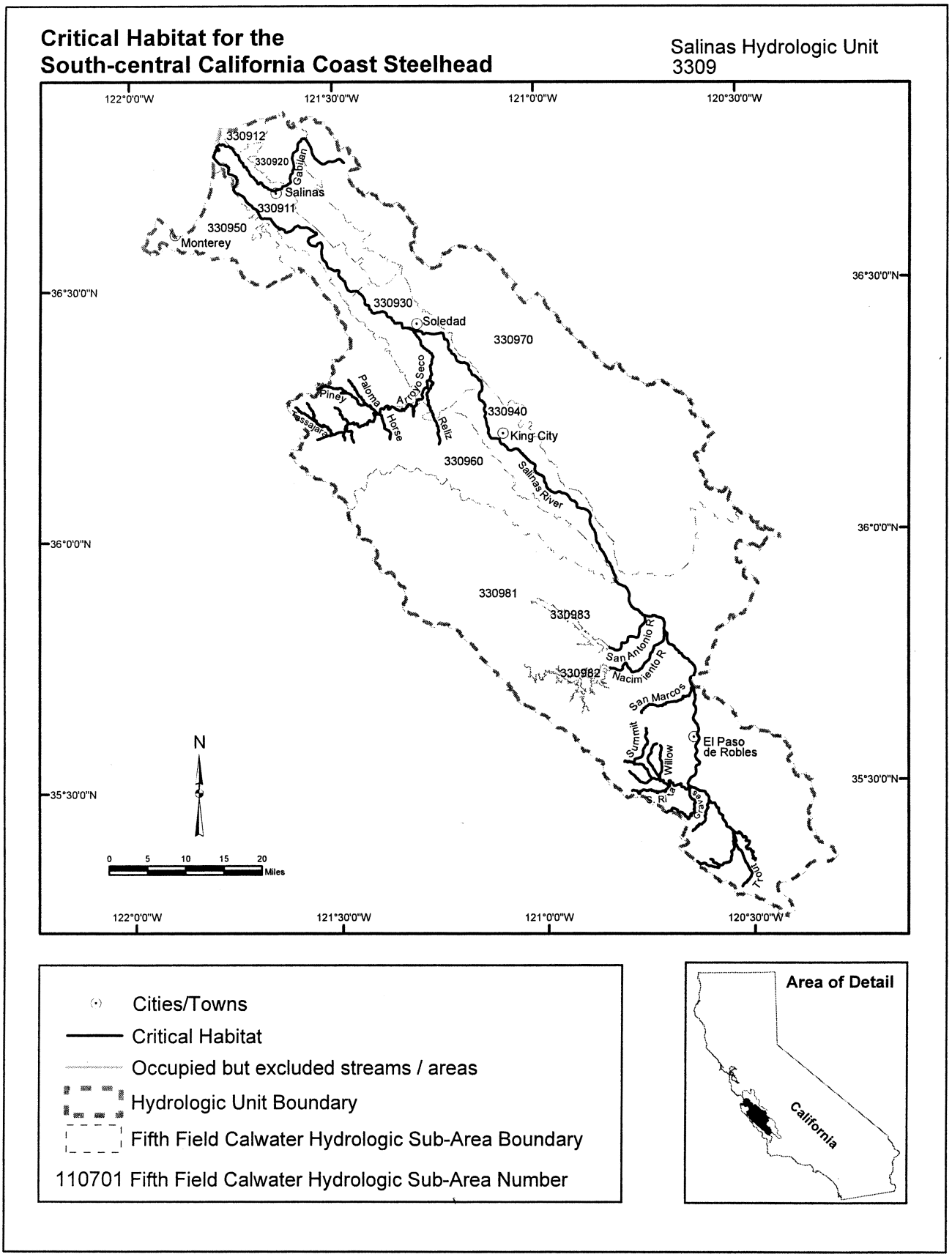
(6) Maps of critical habitat for the South-Central Coast Steelhead ESU follow:

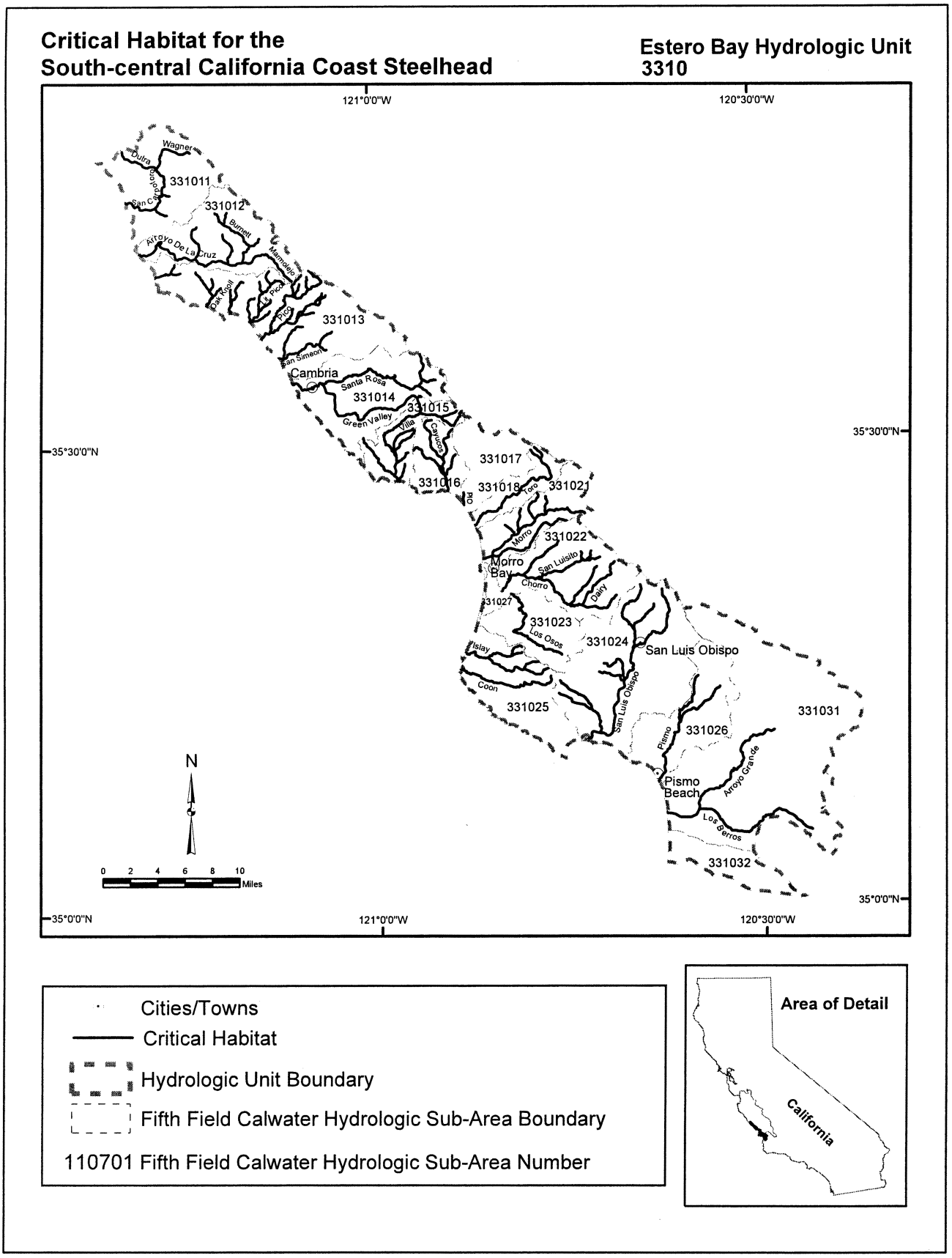
BILLING CODE 3510–22–P


Critical Habitat for the
South-central California Coast Steelhead
Pajaro River Hydrologic Unit
3305
121°30'0"W
121°0'0"W
37°0'0"N
36°30'0"N
330520
330510
330530
330540
330550
Llagas Creek
Uvas Creek
Gilroy
Pacheco Creek
Corralitos
Tar
Pajaro River
Watsonville
Arroyo Dos Picachos
Hollister
Bird Creek
Pescadero Ck
San Benito River
San Benito
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
South-central California Coast Steelhead
Carmel River Hydrologic Unit
3307
121°30'0"W
36°30'0"N
Carmel-by-the-Sea
Carmel River
Potrero Creek
Carmel Valley
Las Garzas Creek
Hitchcock Canyon Creek
Rana Creek
Aqua Mojo Creek
Tularcitos Creek
San Clemente Creek
330700
Cachagua Creek
Pine Creek
Danish Creek
Big Creek
Robertson Creek
Boronda Creek
Pinch Creek
Miller's Fork
Carmel River
Blue Creek
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
South-central California Coast Steelhead
Santa Lucia Hydrologic Unit
3308
122°0'0"W
121°30'0"W
36°30'0"N
36°0'0"N
San Jose Ck
Garrapata Ck
Rocky Ck
Bixby Ck
Little Sur River
Big Sur
330800
Big Sur River
Willow Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
South-central California Coast Steelhead
Salinas Hydrologic Unit
3309
122°0'0"W
121°30'0"W
121°0'0"W
120°30'0"W
36°30'0"N
36°0'0"N
35°30'0"N
330912
330920
Gabilan
Salinas
330911
330950
Monterey
330930
Soledad
330970
Arroyo Seco
Paloma
Piney
Horse
Reliz
330940
King City
330960
Salinas River
330981
330983
San Antonio R
Nacimiento R
330982
San Marcos
Summit
Willow
El Paso
de Robles
Cravens
Trout
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



BILLING CODE 3510–22–C

(j) *Southern California Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Santa Maria River Hydrologic Unit 3312—(i) *Santa Maria Hydrologic Sub-area 331210.* Outlet(s) = Santa Maria River (Lat 34.9710, Long –120.6504) upstream to endpoint(s) in: Cuyama River (34.9058, –120.3026); Santa Maria River (34.9042, –120.3077); Sisquoc River (34.8941, –120.3063).

(ii) *Sisquoc Hydrologic Sub-area 331220.* Outlet(s) = Sisquoc River (Lat 34.8941, Long –120.3063) upstream to endpoint(s) in: Abel Canyon (34.8662, –119.8354); Davey Brown Creek (34.7541, –119.9650); Fish Creek (34.7531, –119.9100); Foresters Leap (34.8112, –119.7545); La Brea Creek (34.8804, –120.1316); Horse Creek (34.8372, –120.0171); Judell Creek (34.7613, –119.6496); Manzana Creek (34.7082, –119.8324); North Fork La Brea Creek (34.9681, –120.0112); Sisquoc River (34.7087, –119.6409); South Fork La Brea Creek (34.9543, –119.9793); South Fork Sisquoc River (34.7300, –119.7877); Unnamed Tributary (34.9342, –120.0589); Unnamed Tributary (34.9510, –120.0140); Unnamed Tributary (34.9687, –120.1419); Unnamed Tributary (34.9626, –120.1500); Unnamed Tributary (34.9672, –120.1194); Unnamed Tributary (34.9682, –120.0990); Unnamed Tributary (34.9973, –120.0662); Unnamed Tributary (34.9922, –120.0294); Unnamed Tributary (35.0158, –120.0337); Unnamed Tributary (34.9464, –120.0309); Unnamed Tributary (34.7544, –119.9476); Unnamed Tributary (34.7466, –119.9047); Unnamed Tributary (34.7646, –119.8673); Unnamed Tributary (34.8726, –119.9525); Unnamed Tributary (34.8884, –119.9325); Unnamed Tributary (34.8659, –119.8982); Unnamed Tributary (34.8677, –119.8513); Unnamed Tributary (34.8608, –119.8541); Unnamed Tributary (34.8784, –119.8458); Unnamed Tributary (34.8615, –119.8159); Unnamed Tributary (34.8694, –119.8229); Unnamed Tributary (34.7931, –119.8485); Unnamed Tributary (34.7846, –119.8337); Unnamed Tributary (34.7872, –119.7684); Unnamed Tributary (34.7866, –119.7552); Unnamed Tributary (34.8129, –119.7714); Unnamed Tributary (34.7760, –119.7448); Unnamed Tributary (34.7579, –119.7999); Unnamed Tributary (34.7510, –119.7921); Unnamed Tributary (34.7769, –119.7149); Unnamed Tributary (34.7617, –119.6878); Unnamed Tributary (34.7680, –119.6503); Unnamed Tributary (34.7738, –119.6493); Unnamed Tributary (34.7332, –119.6286); Unnamed Tributary (34.7519, –119.6209); Unnamed Tributary (34.7188, –119.6673); Water Canyon (34.8754, –119.9324).

(2) Santa Ynex Hydrologic Unit 3314—(i) *Mouth of Santa Ynez Hydrologic Sub-area 331410.* Outlet(s) = Santa Ynez River (Lat 34.6930, Long –120.6033) upstream to endpoint(s) in: San Miguelito Creek (34.6309, –120.4631).

(ii) *Santa Ynez, Salsipuedes Hydrologic Sub-area 331420.* Outlet(s) = Santa Ynez River (Lat 34.6335, Long –120.4126) upstream to endpoint(s) in: El Callejon Creek (34.5475, –120.2701); El Jaro Creek (34.5327, –120.2861); Llanito Creek (34.5499, –120.2762); Salsipuedes Creek (34.5711, –120.4076).

(iii) *Santa Ynez, Zaca Hydrologic Sub-area 331430.* Outlet(s) = Santa Ynez River (Lat 34.6172, Long –120.2352) upstream.

(iv) *Santa Ynez to Bradbury Hydrologic Sub-area 331440.* Outlet(s) = Santa Ynez River (Lat 34.5847, Long –120.1445) upstream to endpoint(s) in: Alisal Creek (34.5465, –120.1358); Hilton Creek (34.5839, –119.9855); Quiota Creek (34.5370, –120.0321); San Lucas Creek (34.5558, –120.0119); Santa Ynez River (34.5829, –119.9805); Unnamed Tributary (34.5646, –120.0043).

(3) South Coast Hydrologic Unit 3315—(i) *Arroyo Hondo Hydrologic Sub-area 331510.* Outlet(s) = Alegria Creek (Lat 34.4688, Long –120.2720); Arroyo Hondo Creek (34.4735, –120.1415); Cojo Creek (34.4531, –120.4165); Dos Pueblos Creek (34.4407, –119.9646); El Capitan Creek (34.4577, –120.0225); Gato Creek (34.4497, –119.9885); Gaviota Creek (34.4706, –120.2267); Jalama Creek (34.5119, –120.5023); Refugio Creek (34.4627, –120.0696); Sacate Creek (34.4708, –120.2942); San Augustine Creek (34.4588, –120.3542); San Onofre Creek (34.4699, –120.1872); Santa Anita Creek (34.4669, –120.3066); Tecolote Creek (34.4306, –119.9173) upstream to endpoint(s) in: Alegria Creek (34.4713, –120.2714); Arroyo Hondo Creek (34.5112, –120.1704); Cojo Creek (34.4840, –120.4106); Dos Pueblos Creek (34.5230, –119.9249); El Capitan Creek (34.5238, –119.9806); Escondido Creek (34.5663, –120.4643); Gato Creek (34.5203, –119.9758); Gaviota Creek (34.5176, –120.2179); Jalama Creek (34.5031, –120.3615); La Olla (34.4836, –120.4071); Refugio Creek (34.5109, –120.0508); Sacate Creek (34.4984, –120.2993); San Augustine Creek (34.4598, –120.3561); San Onofre Creek (34.4853, –120.1890); Santa Anita Creek (34.4742, –120.3085); Tecolote Creek (34.5133, –119.9058); Unnamed Tributary (34.5527, –120.4548); Unnamed Tributary (34.4972, –120.3026).

(ii) *UCSB Slough Hydrologic Sub-area 331531.* Outlet(s) = San Pedro Creek (Lat 34.4179, Long –119.8295); Tecolito Creek (34.4179, –119.8295) upstream to endpoint(s) in: Atascadero Creek (34.4345, –119.7755); Carneros Creek (34.4674, –119.8584); Cieneguitas Creek (34.4690, –119.7565); Glen Annie Creek (34.4985, –119.8666); Maria Ygnacio Creek (34.4900, –119.7830); San Antonio Creek (34.4553, –119.7826); San Pedro Creek (34.4774, –119.8359); San Jose Creek (34.4919, –119.8032); Tecolito Creek (34.4478, –119.8763); Unnamed Tributary (34.4774, –119.8846).

(iii) *Mission Hydrologic Sub-area 331532.* Outlet(s) = Arroyo Burro Creek (Lat 34.4023, Long –119.7430); Mission Creek (34.4124, –119.6876); Sycamore Creek (34.4166, –119.6668) upstream to endpoint(s) in: Arroyo Burro Creek (34.4620, –119.7461); Mission Creek (34.4482, –119.7089); Rattlesnake Creek (34.4633, –119.6902); San Roque Creek (34.4530, –119.7323); Sycamore Creek (34.4609, –119.6841).

(iv) *San Ysidro Hydrologic Sub-area 331533.* Outlet(s) = Montecito Creek (Lat 34.4167, Long –119.6344); Romero Creek (34.4186, –119.6208); San Ysidro Creek (34.4191, –119.6254); upstream to endpoint(s) in: Cold Springs Creek (34.4794, –119.6604); Montecito Creek (34.4594, –119.6542); Romero Creek (34.4452, –119.5924); San Ysidro Creek (34.4686, –119.6229); Unnamed Tributary (34.4753, –119.6437).

(v) *Carpinteria Hydrologic Sub-area 331534.* Outlet(s) = Arroyo Paredon (Lat 34.4146, Long –119.5561); Carpenteria Lagoon (Carpenteria Creek) (34.3904, –119.5204); Rincon Lagoon (Rincon Creek) (34.3733, –119.4769) upstream to endpoint(s) in: Arroyo Paredon (34.4371, –119.5481); Carpinteria Creek (34.4429, –119.4964); El Dorado Creek (34.4682, –119.4809); Gobernador Creek (34.4249, –119.4746); Rincon Lagoon (Rincon Creek) (34.3757, –119.4777); Steer Creek (34.4687, –119.4596); Unnamed Tributary (34.4481, –119.5112).

(4) Ventura River Hydrologic Unit 4402—(i) *Ventura Hydrologic Sub-area 440210.* Outlet(s) = Ventura Estuary (Ventura River) (Lat 34.2742, Long –119.3077) upstream to endpoint(s) in: Canada Larga (34.3675, –119.2377); Hammond Canyon (34.3903,

–119.2230); Sulphur Canyon (34.3727, –119.2362); Unnamed Tributary (34.3344, –119.2426); Unnamed Tributary (34.3901, –119.2747).

(ii) *Ventura Hydrologic Sub-area 440220.* Outlet(s) = Ventura River (Lat 34.3517, Long –119.3069) upstream to endpoint(s) in: Coyote Creek (34.3735, –119.3337); Matilija Creek (34.4846, –119.3086); North Fork Matilija Creek (34.5129, –119.2737); San Antonio Creek (34.4224, –119.2644); Ventura River (34.4852, –119.3001).

(iii) *Lions Hydrologic Sub-area 440231.* Outlet(s) = Lion Creek (Lat 34.4222, Long –119.2644) upstream to endpoint(s) in: Lion Creek (34.4331, –119.2004).

(iv) *Thatcher Hydrologic Sub-area 440232.* Outlet(s) = San Antonio Creek (Lat 34.4224, Long –119.2644) upstream to endpoint(s) in: San Antonio Creek (34.4370, –119.2417).

(5) Santa Clara Calleguas Hydrologic Unit 4403—(i) *Mouth of Santa Clara Hydrologic Sub-area 440310.* Outlet(s) = Santa Clara River (Lat 34.2348, Long –119.2568) upstream.

(ii) *Santa Clara, Santa Paula Hydrologic Sub-area 440321.* Outlet(s) = Santa Clara River (Lat 34.2731, Long –119.1474) upstream to endpoint(s) in: Santa Paula Creek (34.4500, –119.0563).

(iii) *Sisar Hydrologic Sub-area 440322.* Outlet(s) = Sisar Creek (Lat 34.4271, Long –119.0908) upstream to endpoint(s) in: Sisar Creek (34.4615, –119.1312).

(iv) *Sespe, Santa Clara Hydrologic Sub-area 440331.* Outlet(s) = Santa Clara River (Lat 34.3513, Long –119.0397) upstream to endpoint(s) in: Sespe Creek (34.4509, –118.9258).

(v) *Sespe Hydrologic Sub-area 440332.* Outlet(s) = Sespe Creek (Lat 34.4509, Long –118.9258) upstream to endpoint(s) in: Abadi Creek (34.6099, –119.4223); Alder Creek (34.5691, –118.9528); Bear Creek (34.5314, –119.1041); Chorro Grande Creek (34.6285, –119.3245); Fourfork Creek (34.4735, –118.8893); Howard Creek (34.5459, –119.2154); Lady Bug Creek (34.5724, –119.3173); Lion Creek (34.5047, –119.1101); Little Sespe Creek (34.4598, –118.8938); Munson Creek (34.6152, –119.2963); Park Creek (34.5537, –119.0028); Piedra Blanca Creek (34.6109, –119.1838); Pine Canyon Creek (34.4488, –118.9661); Portrero John Creek (34.6010, –119.2695); Red Reef Creek (34.5344, –119.0441); Rose Valley Creek (34.5195, –119.1756); Sespe Creek (34.6295, –119.4412); Timber Creek (34.5184, –119.0698); Trout Creek (34.5869, –119.1360); Tule Creek (34.5614, –119.2986); Unnamed Tributary (34.5125, –118.9311); Unnamed Tributary (34.5537, –119.0088); Unnamed Tributary (34.5537, –119.0048); Unnamed Tributary (34.5757, –119.3051); Unnamed Tributary (34.5988, –119.2736); Unnamed Tributary (34.5691, –119.3428); West Fork Sespe Creek (34.5106, –119.0502).

(vi) *Santa Clara, Hopper Canyon, Piru Hydrologic Sub-area 440341.* Outlet(s) = Santa Clara River (Lat 34.3860, Long –118.8711) upstream to endpoint(s) in: Hopper Creek (34.4263, –118.8309); Piru Creek (34.4613, –118.7537); Santa Clara River (34.3996, –118.7837).

(6) Santa Monica Bay Hydrologic Unit 4404—(i) *Topanga Hydrologic Sub-area 440411.* Outlet(s) = Topanga Creek (Lat 34.0397, Long –118.5831) upstream to endpoint(s) in: Topanga Creek (34.0838, –118.5980).

(ii) *Malibu Hydrologic Sub-area 440421.* Outlet(s) = Malibu Creek (Lat 34.0322, Long –118.6796) upstream to endpoint(s) in: Malibu Creek (34.0648, –118.6987).

(iii) *Arroyo Sequit Hydrologic Sub-area 440444.* Outlet(s) = Arroyo Sequit (Lat 34.0445, Long –118.9338) upstream to endpoint(s) in: Arroyo Sequit (34.0839, –118.9186); West Fork Arroyo Sequit (34.0909, –118.9235).

(7) Calleguas Hydrologic Unit 4408—(i) *Calleguas Estuary Hydrologic Sub-area 440813.* Outlet(s) = Mugu Lagoon (Calleguas Creek) (Lat 34.1093, Long –119.0917) upstream to endpoint(s) in: Mugu Lagoon (Calleguas Creek) (Lat 34.1125, Long –119.0816).

(ii) [Reserved]

(8) San Juan Hydrologic Unit 4901—(i) *Middle Trabuco Hydrologic Sub-area 490123.* Outlet(s) = Trabuco Creek (Lat 33.5165, Long –117.6727) upstream to endpoint(s) in: Trabuco Creek (33.5264, –117.6700).

(ii) *Lower San Juan Hydrologic Sub-area 490127.* Outlet(s) = San Juan Creek (Lat 33.4621, Long –117.6842) upstream to endpoint(s) in: San Juan Creek (33.4929, –117.6610); Trabuco Creek (33.5165, –117.6727).

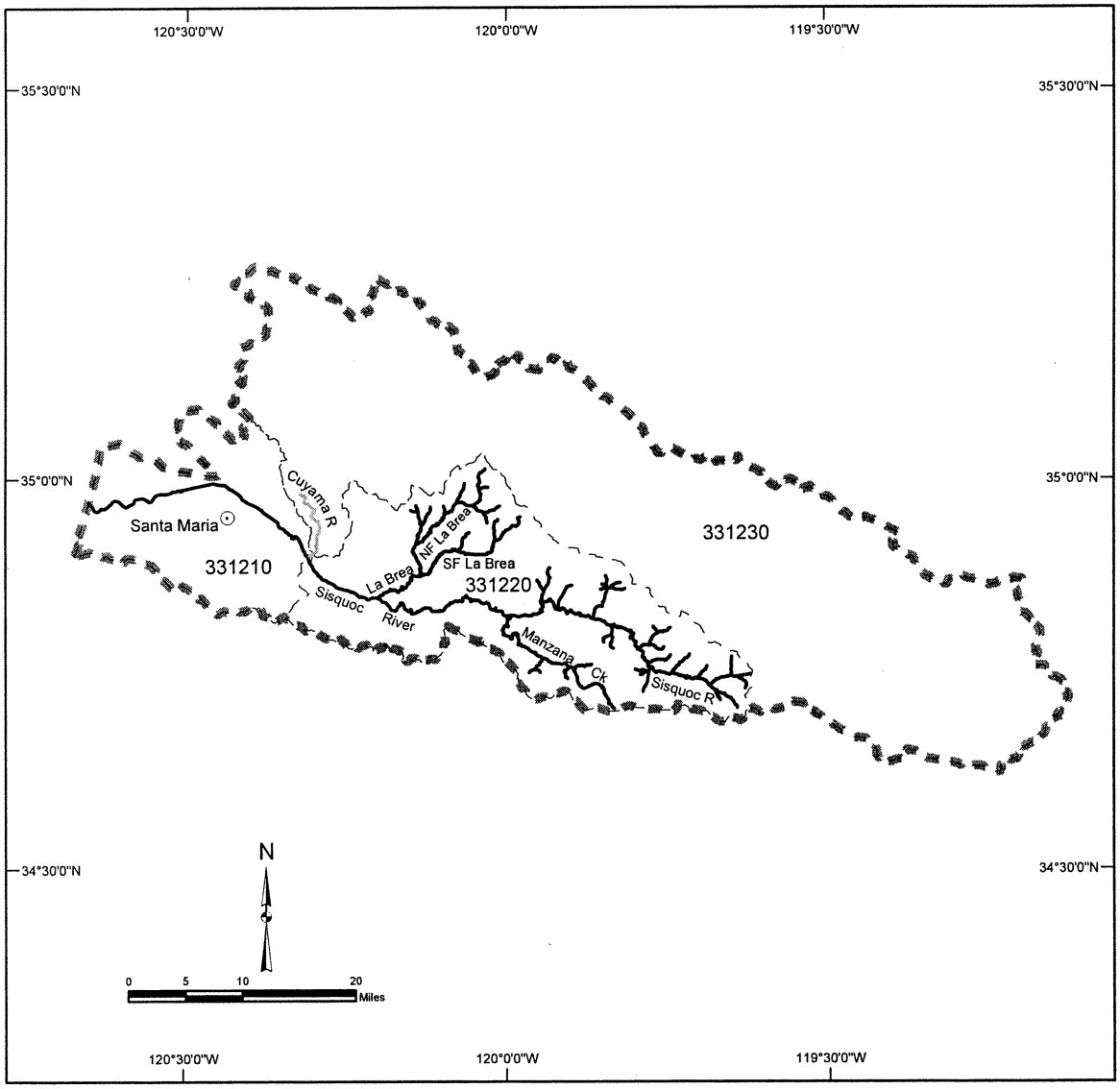
(iii) *San Mateo Hydrologic Sub-area 490140.* Outlet(s) = San Mateo Creek (Lat 33.3851, Long –117.5933) upstream to endpoint(s) in: San Mateo Creek (33.4779, –117.4386); San Mateo Canyon (33.4957, –117.4522).

(9) Maps of critical habitat for the Southern California Steelhead ESU follow:

BILLING CODE 3510–22P

Critical Habitat for the Southern California Steelhead

Santa Maria River Hydrologic Unit 3312



Cities/Towns

Critical Habitat

Occupied but excluded streams / areas

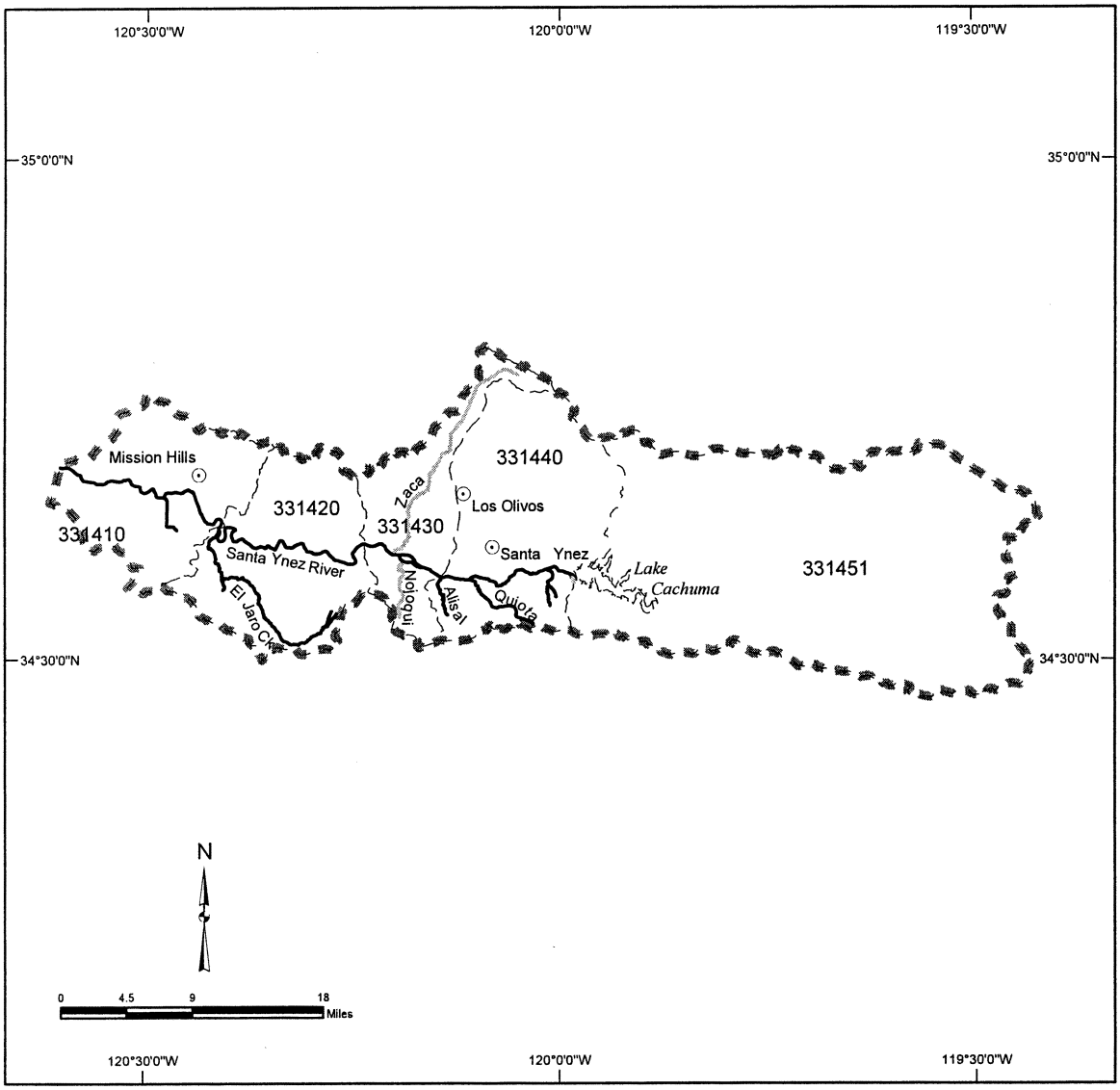
Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the Southern California Steelhead

Santa Ynez Hydrologic Unit 3314



Cities/Towns

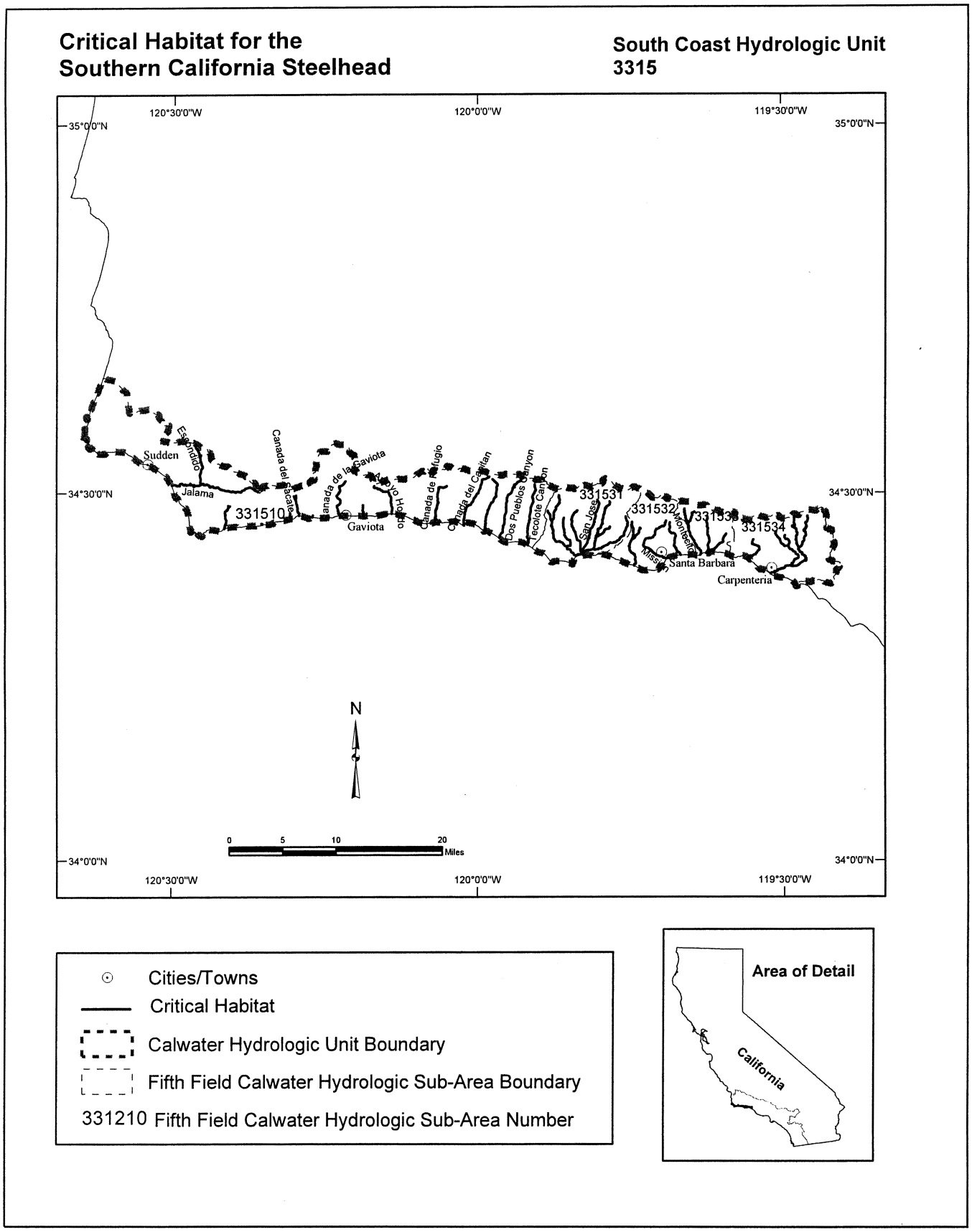
Critical Habitat

Occupied but excluded streams / areas

Calwater Hydrologic Unit Boundary

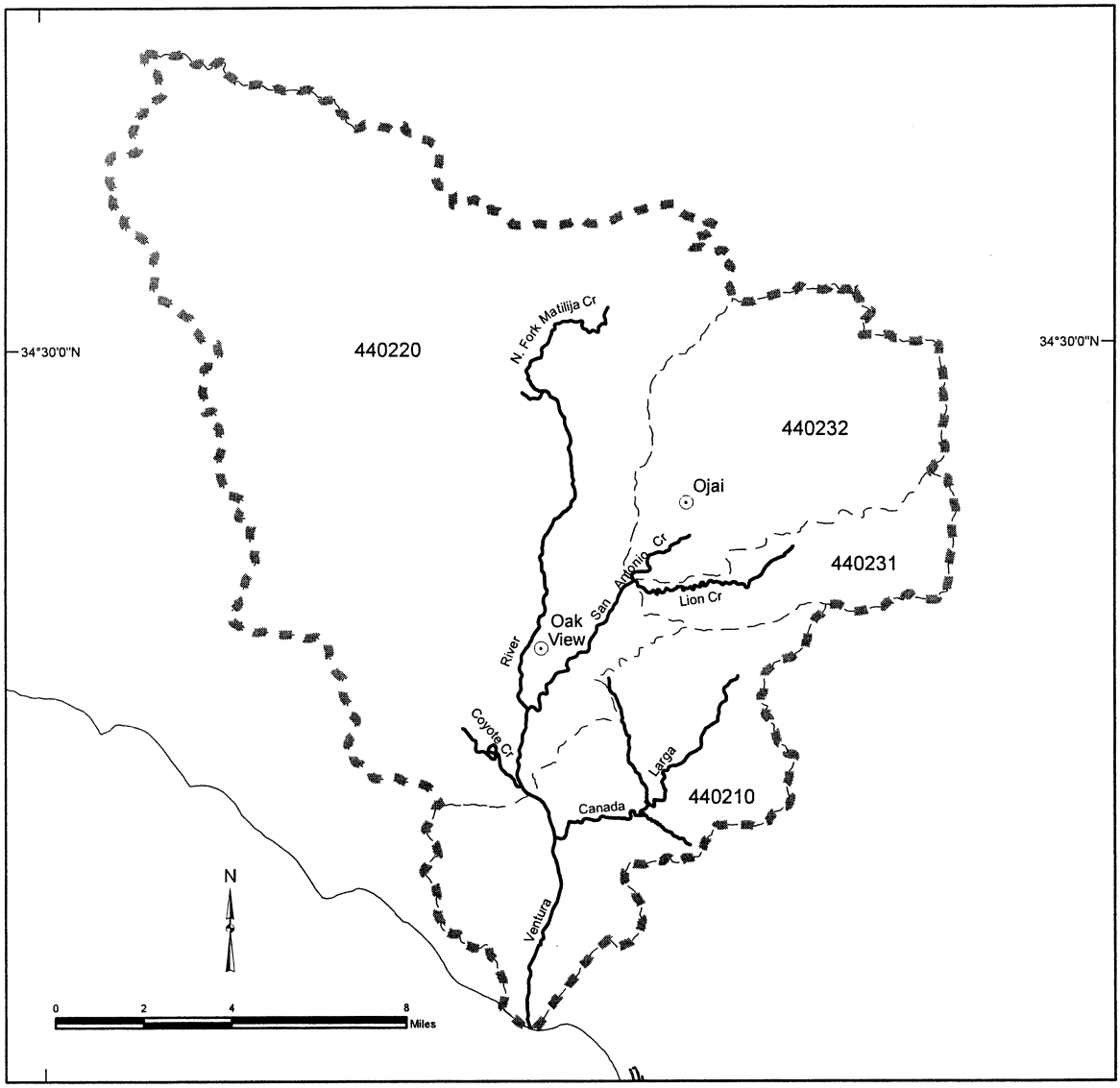
Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number


Critical Habitat for the
Southern California Steelhead
South Coast Hydrologic Unit
3315
120°30'0"W
120°0'0"W
119°30'0"W
35°0'0"N
34°30'0"N
34°0'0"N
Sudden
Jalama
Gaviota
Santa Barbara
Carpenteria
331510
331531
331532
331533
331534
N
0 5 10 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
331210 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

Critical Habitat for the Southern California Steelhead

Ventura River Hydrologic Unit 4402



Cities/Towns

Critical Habitat

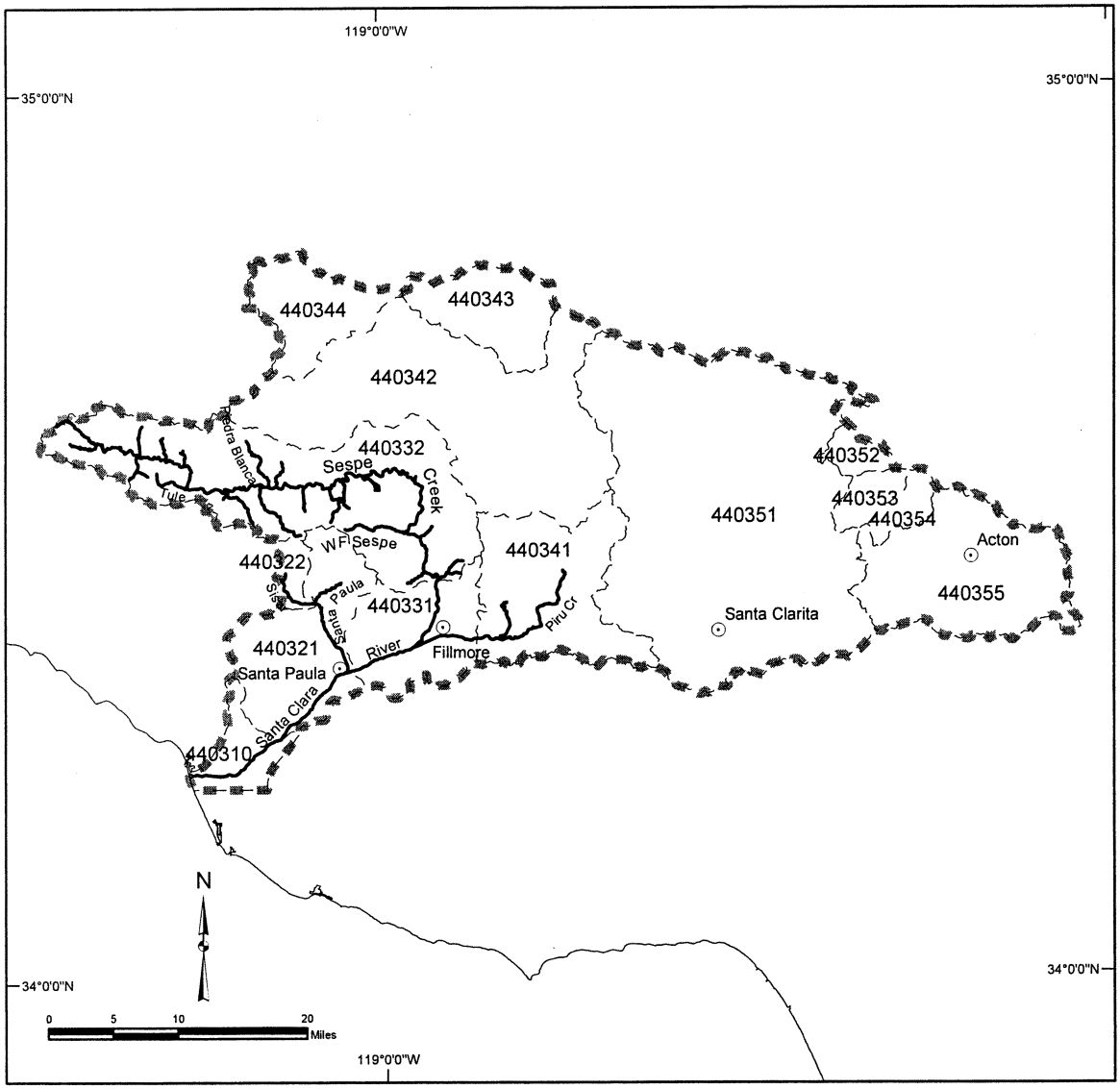
Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the Southern California Steelhead

Santa Clara-Calleguas Hydrologic Unit 4403



Cities/Towns

Critical Habitat

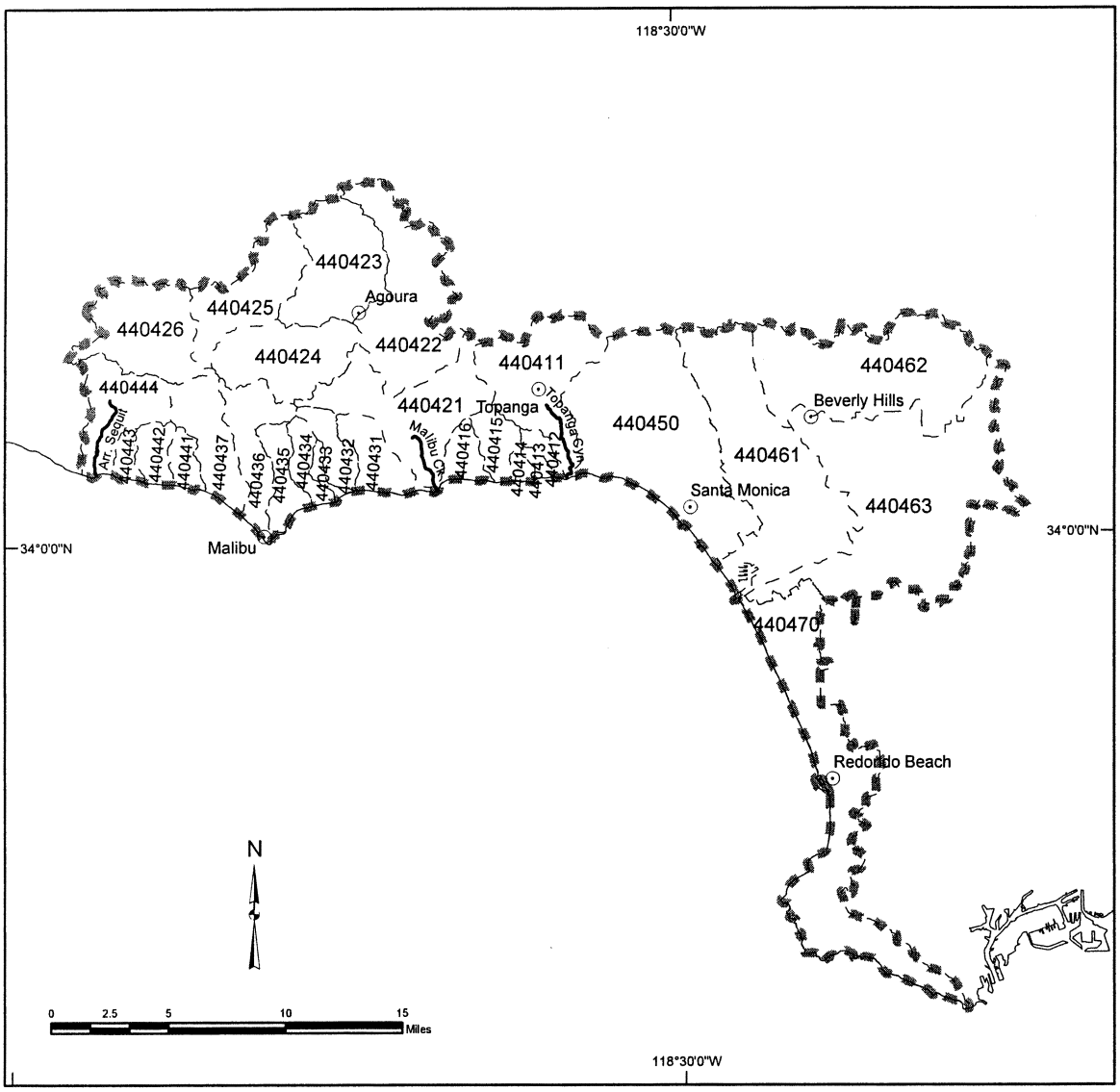
Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the Southern California Steelhead

Santa Monica Bay Hydrologic Unit 4404



Cities/Towns

Critical Habitat

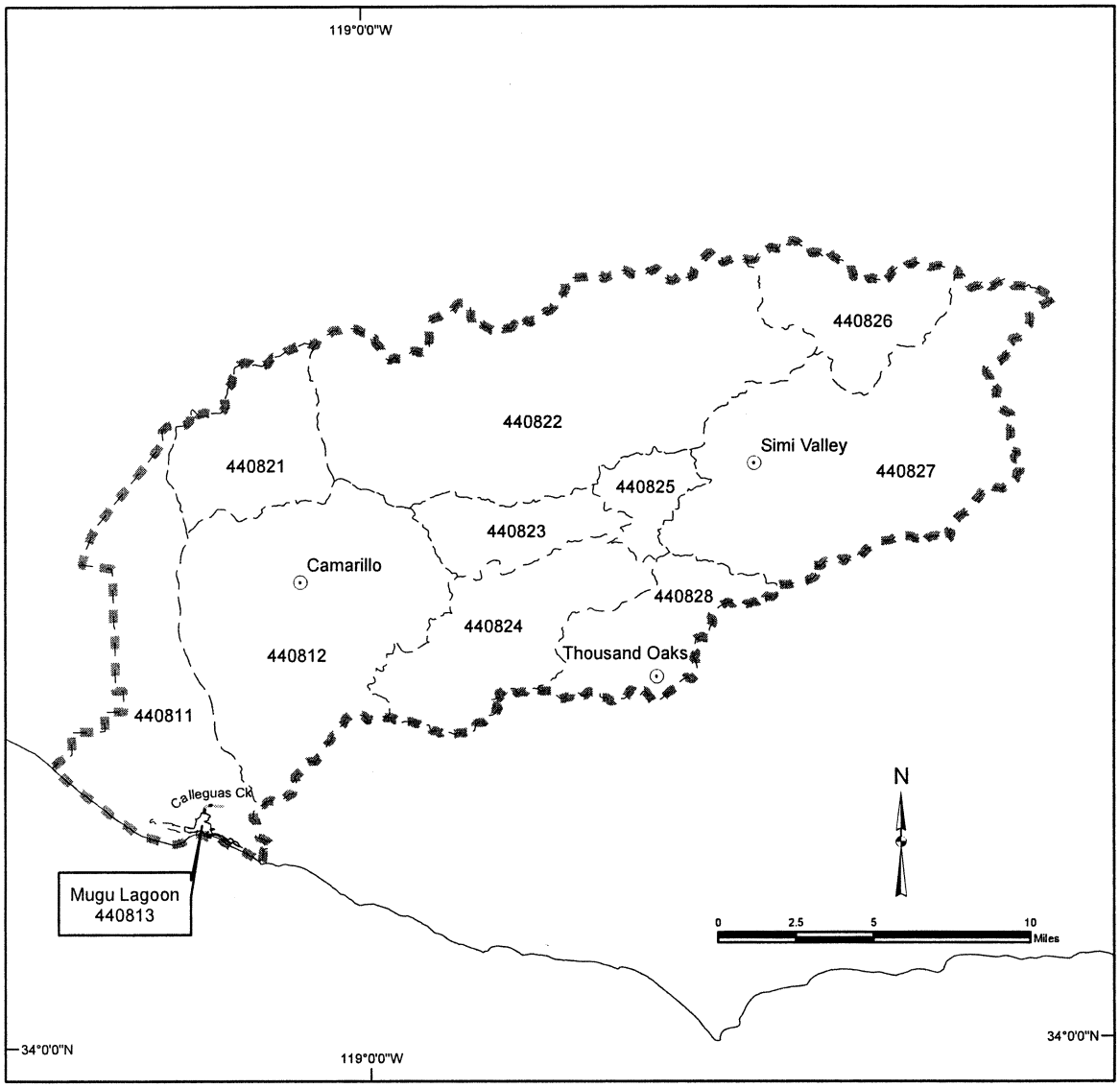
Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the Southern California Steelhead

Calleguas Hydrologic Unit 4408



Cities/Towns

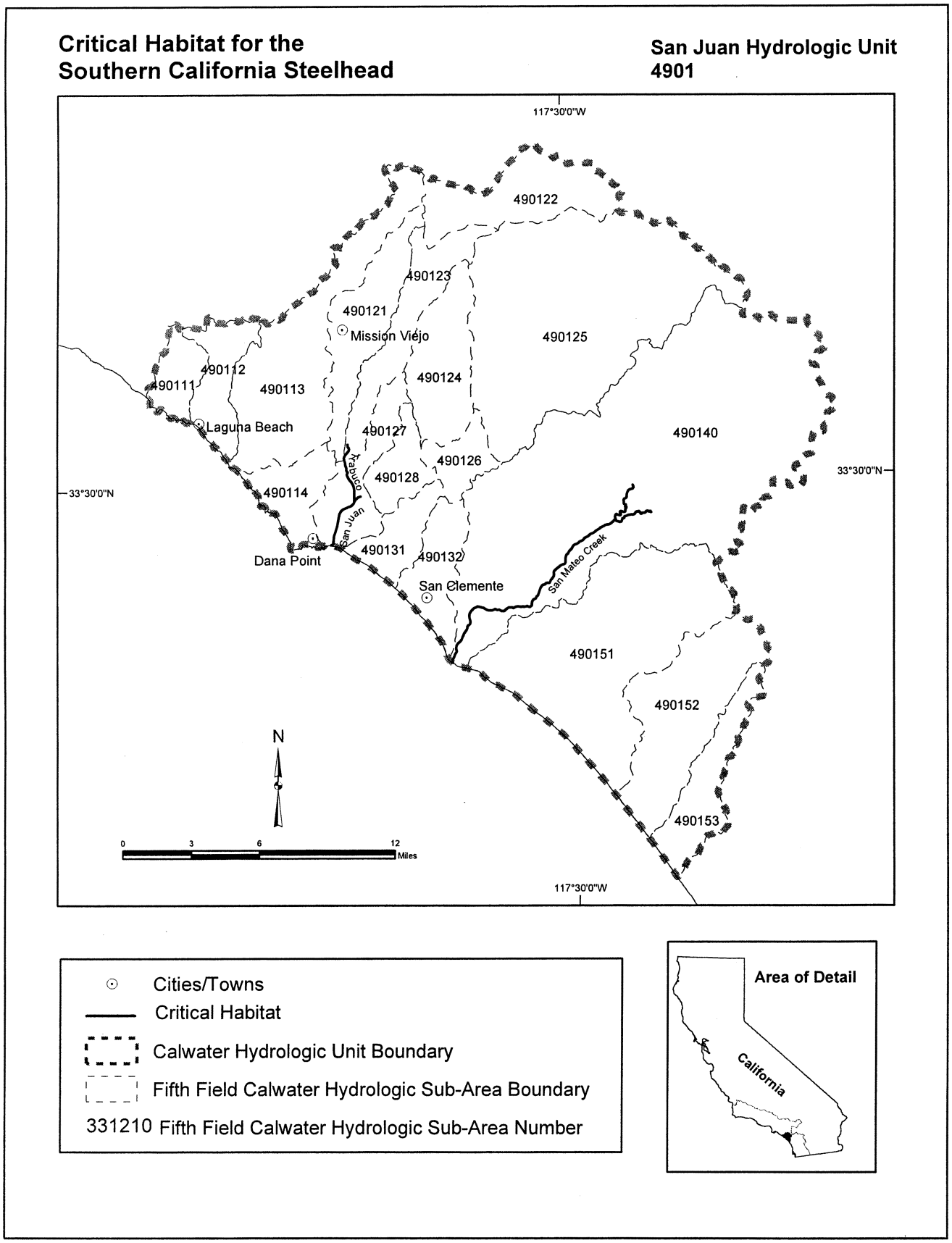
Critical Habitat

Occupied but excluded streams / areas

Calwater Hydrologic Unit Boundary

Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number



BILLING CODE 3510–22–C

(k) *Central Valley Spring Run Chinook Salmon (O. tshawytscha).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Tehama Hydrologic Unit 5504—(i) *Lower Stony Creek Hydrologic Sub-area 550410.* Outlet(s) = Glenn-Colusa Canal (Lat 39.6762, Long –122.0151); Stony Creek (39.7122, –122.0072) upstream to endpoint(s) in: Glenn-Colusa Canal (39.7122, –122.0072); Stony Creek (39.8178, –122.3253).

(ii) *Red Bluff Hydrologic Sub-area 550420.* Outlet(s) = Sacramento River (Lat 39.6998, Long –121.9419) upstream to endpoint(s) in: Antelope Creek (40.2023, –122.1275); Big Chico Creek (39.7757, –121.7525); Blue Tent Creek (40.2284, –122.2551); Burch Creek (39.8526, –122.1502); Butler Slough (40.1579, –122.1320); Coyote Creek (40.0929, –122.1621); Craig Creek (40.1617, –122.1350); Deer Creek (40.0144, –121.9481); Dibble Creek (40.2003, –122.2420); Dye Creek (40.0904, –122.0767); Elder Creek (40.0526, –122.1717); Jewet Creek (39.8913, –122.1005); Kusal Slough (39.7577, –121.9699); Lindo Channel (39.7623, –121.7923); McClure Creek (40.0074, –122.1729); Mill Creek (40.0550, –122.0317); Mud Creek (39.7931, –121.8865); New Creek (40.1873, –122.1350); Oat Creek (40.0847, –122.1658); Pine Creek (39.8760, –121.9777); Red Bank Creek (40.1391, –122.2157); Reeds Creek (40.1687, –122.2377); Rice Creek (39.8495, –122.1626); Rock Creek (39.8189, –121.9124); Salt Creek (40.1869, –122.1845); Singer Creek (39.9200, –121.9612); Thomes Creek (39.8822, –122.5527); Toomes Creek (39.9808, –122.0642); Unnamed Tributary (39.8532, –122.1627); Unnamed Tributary (40.1682, –122.1459); Unnamed Tributary (40.1867, –122.1353).

(2) Whitmore Hydrologic Unit 5507—(i) *Inks Creek Hydrologic Sub-area 550711.* Outlet(s) = Inks Creek (Lat 40.3305, Long –122.1520) upstream to endpoint(s) in: Inks Creek 40.3418, –122.1332).

(ii) *Battle Creek Hydrologic Sub-area 550712* Outlet(s) = Battle Creek (Lat 40.4083, Long –122.1102) upstream to endpoint(s) in: Battle Creek (40.4228, –121.9975); North Fork Battle Creek (40.4746, –121.8436); South Fork Battle Creek (40.3549, –121.6861).

(iii) *Inwood Hydrologic Sub-area 550722.* Outlet(s) = Bear Creek (Lat 40.4352, Long –122.2039) upstream to endpoint(s) in: Bear Creek (40.4859, –122.1529); Dry Creek (40.4574, –122.1993).

(3) Redding Hydrologic Unit 5508—(i) *Enterprise Flat Hydrologic Sub-area 550810.* Outlet(s)= Sacramento River (Lat 40.2526, Long –122.1707) upstream to endpoint(s) in: Anderson Creek (40.3910, –122.1984); Ash Creek (40.4451, –122.1815); Battle Creek (40.4083, –122.1102); Churn Creek (40.5431, –122.3395); Clear Creek (40.5158, –122.5256); Cow Creek (40.5438, –122.1318); Olney Creek (40.5262, –122.3783); Paynes Creek (40.2810, –122.1587); Stillwater Creek (40.4789, –122.2597).

(ii) *Lower Cottonwood Hydrologic Sub-area 550820.* Outlet(s) = Cottonwood Creek (Lat 40.3777, Long –122.1991) upstream to endpoint(s) in: Cottonwood Creek (40.3943, –122.5254); Middle Fork Cottonwood Creek (40.3314, –122.6663); South Fork Cottonwood Creek (40.1578, –122.5809).

(4) Eastern Tehama Hydrologic Unit 5509—(i) *Big Chico Creek Hydrologic Sub-area 550914.* Outlet(s) = Big Chico Creek (Lat 39.7757, Long –121.7525) upstream to endpoint(s) in: Big Chico Creek (39.8873, –121.6979).

(ii) *Deer Creek Hydrologic Sub-area 550920.* Outlet(s) = Deer Creek (Lat 40.0144, Long –121.9481) upstream to endpoint(s) in: Deer Creek (40.2019, –121.5130).

(iii) *Upper Mill Creek Hydrologic Sub-area 550942.* Outlet(s) = Mill Creek (Lat 40.0550, Long –122.0317) upstream to endpoint(s) in: Mill Creek (40.3997, –121.5131).

(iv) *Antelope Creek Hydrologic Sub-area 550963.* Outlet(s) = Antelope Creek (Lat 40.2023, Long –122.1272) upstream to endpoint(s) in: Antelope Creek (40.2416, –121.8630); North Fork Antelope Creek (40.2691, –121.8226); South Fork Antelope Creek (40.2309, –121.8325).

(5) Sacramento Delta Hydrologic Unit 5510—(i) *Sacramento Delta Hydrologic Sub-area 551000.* Outlet(s) = Sacramento River (Lat 38.0612, Long –121.7948) upstream to endpoint(s) in: Cache Slough (38.3086, –121.7633); Delta Cross Channel (38.2433, –121.4964); Elk Slough (38.4140, –121.5212); Elkhorn Slough (38.2898, –121.6271); Georgiana Slough (38.2401, –121.5172); Miners Slough (38.2864, –121.6051); Prospect Slough (38.1477, –121.6641); Sevenmile Slough (38.1171, –121.6298); Steamboat Slough (38.3052, –121.5737); Sutter Slough (38.3321, –121.5838); Threemile Slough (38.1155, –121.6835); Yolo Bypass (38.5800, –121.5838).

(ii) [Reserved]

(6) Valley-Putah-Cache Hydrologic Unit 5511—(i) *Lower Putah Creek Hydrologic Sub-area 551120.* Outlet(s) = Yolo Bypass (Lat 38.5800, Long –121.5838) upstream to endpoint(s) in: Sacramento Bypass (38.6057, –121.5563); Yolo Bypass (38.7627, –121.6325).

(ii) [Reserved]

(7) Marysville Hydrologic Unit 5515—(i) *Lower Yuba River Hydrologic Sub-area 551510.* Outlet(s) = Bear River (Lat 38.9398, Long –121.5790) upstream to endpoint(s) in: Bear River (38.9783, –121.5166).

(ii) *Lower Yuba River Hydrologic Sub-area 551530.* Outlet(s) = Yuba River (Lat 39.1270, Long –121.5981) upstream to endpoint(s) in: Yuba River (39.2203, –121.3314).

(iii) *Lower Feather River Hydrologic Sub-area 551540.* Outlet(s) = Feather River (Lat 39.1270, Long –121.5981) upstream to endpoint(s) in: Feather River (39.5203, –121.5475).

(8) Yuba River Hydrologic Unit 5517—(i) *Browns Valley Hydrologic Sub-Area 551712.* Outlet(s) = Dry Creek (Lat 39.2207, Long –121.4088); Yuba River (39.2203, –121.3314) upstream to endpoint(s) in: Dry Creek (39.3201, –121.3117); Yuba River (39.2305, –121.2813).

(ii) *Englebright Hydrologic Sub-area 551714.* Outlet(s) = Yuba River (Lat 39.2305, Long –121.2813) upstream to endpoint(s) in: Yuba River (39.2388, –121.2698).

(9) Valley-American Hydrologic Unit 5519—(i) *Lower American Hydrologic Sub-area 551921.* Outlet(s) = American River (Lat 38.5971, Long –121.5088) upstream to endpoint(s) in: American River (38.5669, –121.3827).

(ii) *Pleasant Grove Hydrologic Sub-area 551922.* Outlet(s) = Sacramento River (Lat 38.5965, Long –121.5086) upstream to endpoint(s) in: Feather River (39.1270, –121.5981).

(10) Colusa Basin Hydrologic Unit 5520—(i) *Sycamore-Sutter Hydrologic Sub-area 552010.* Outlet(s) = Sacramento River (Lat 38.7604, Long –121.6767) upstream to endpoint(s) in: Tisdale Bypass (39.0261, –121.7456).

(ii) *Sutter Bypass Hydrologic Sub-area 552030.* Outlet(s) = Sacramento River (Lat 38.7849, Long –121.6219) upstream to endpoint(s) in: Butte Creek (39.1987, –121.9285); Butte Slough (39.1987, –121.9285); Nelson Slough (38.8901, –121.6352); Sacramento Slough (38.7843, –121.6544); Sutter Bypass (39.1417, –121.8196; 39.1484, –121.8386); Tisdale Bypass (39.0261, –121.7456); Unnamed Tributary (39.1586, –121.8747).

(iii) *Butte Basin Hydrologic Sub-area 552040.* Outlet(s) = Butte Creek (Lat 39.1990, Long –121.9286); Sacramento River (39.4141, –122.0087) upstream to endpoint(s) in: Butte creek (39.7095, –121.7506); Colusa Bypass (39.2276,

–121.9402); Unnamed Tributary (39.6762, –122.0151).

(11) Butte Creek Hydrologic Unit 5521—*Upper Little Chico Hydrologic Sub-area 552130.* Outlet(s) = Butte Creek (Lat 39.7096, –121.7504) upstream to endpoint(s) in Butte Creek (39.8665, –121.6344).

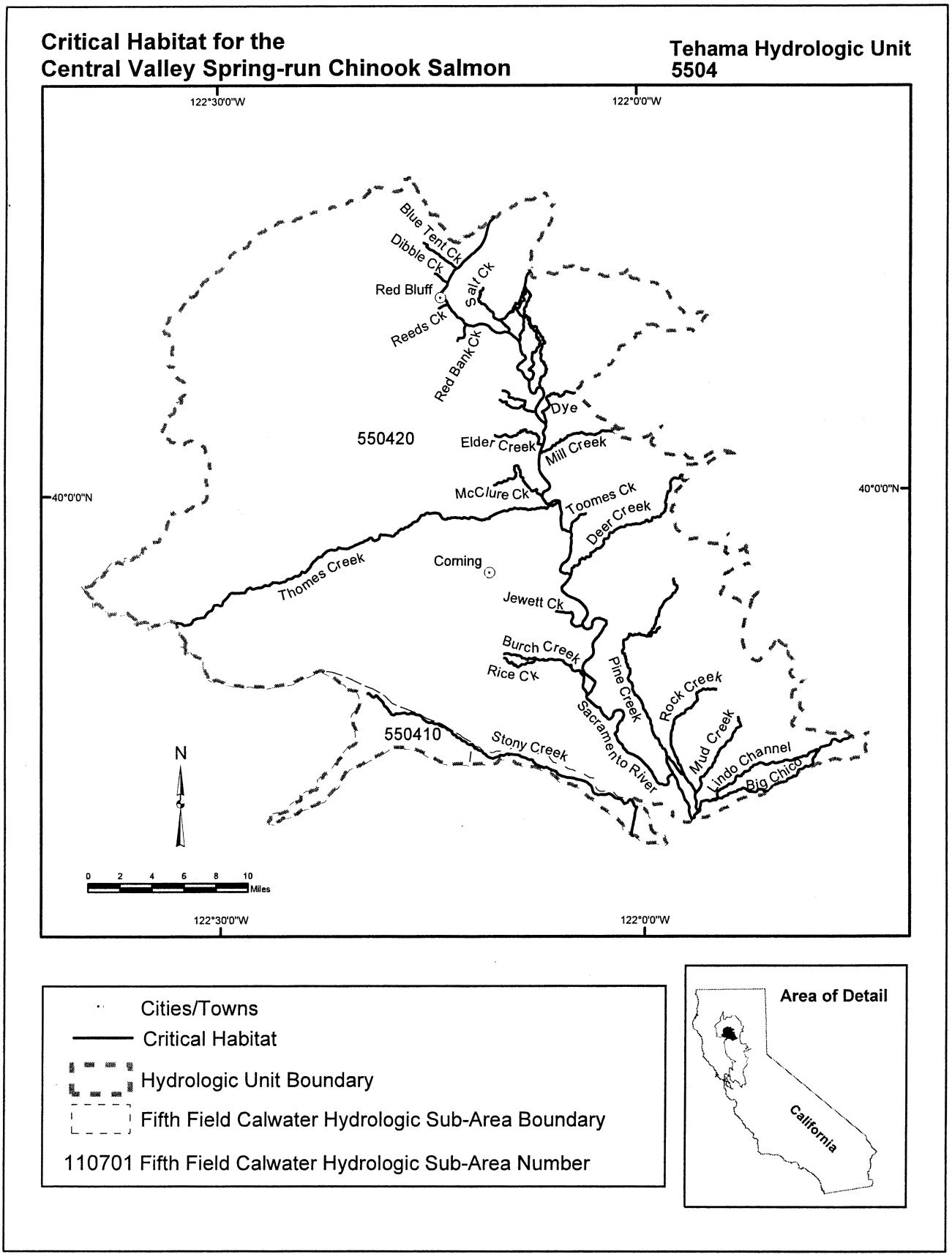
(12) Shasta Bally Hydrologic Unit 5524—(i) *Platina Hydrologic Sub-area 552436.* Outlet(s) = Middle Fork Cottonwood Creek (Lat 40.3314, –122.6663) upstream to endpoint(s) in Beegum Creek (40.3066, –122.9205); Middle Fork Cottonwood Creek (40.3655, –122.7451).

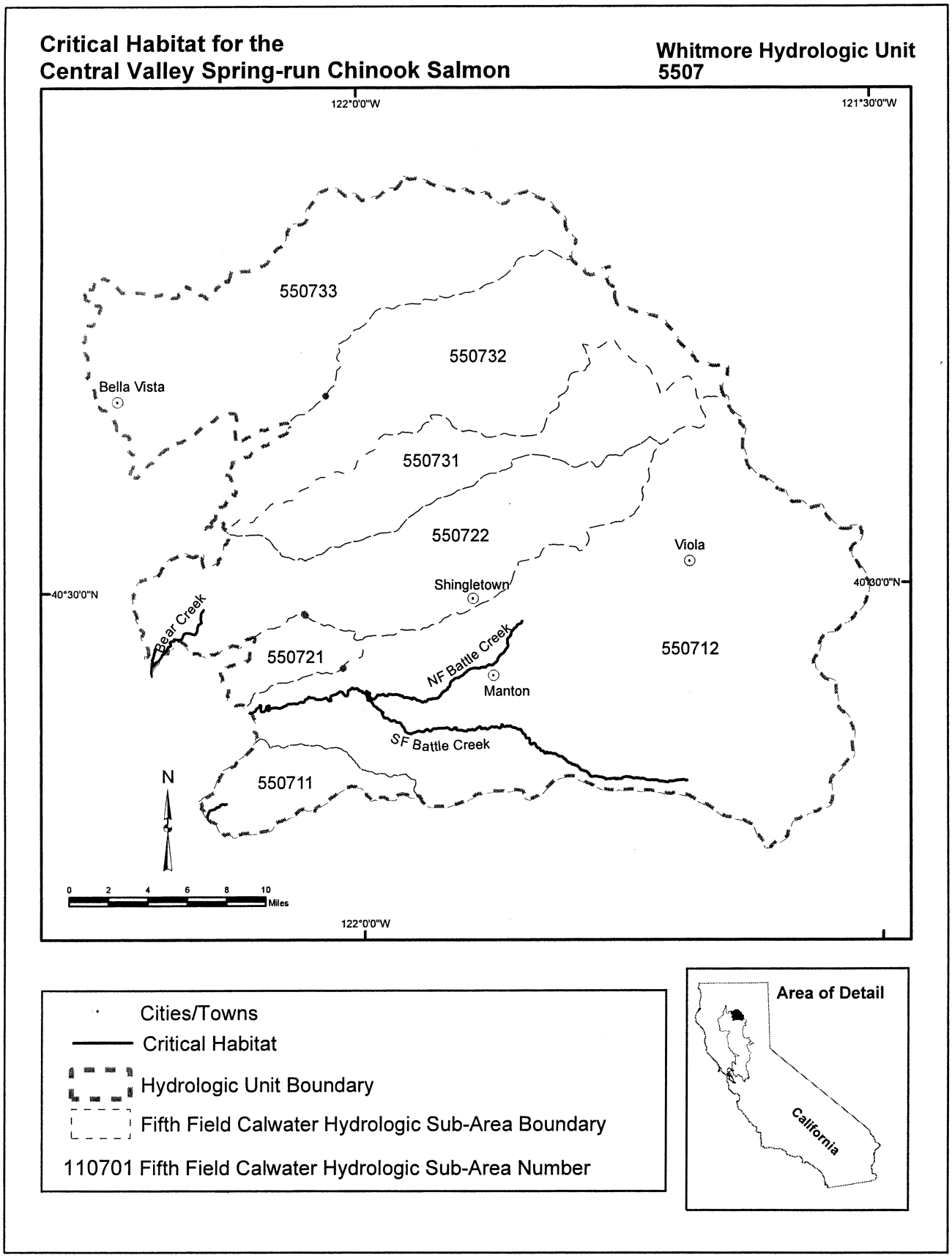
(ii) *Spring Creek Hydrologic Sub-area 552440.* Outlet(s) = Sacramento River (Lat 40.5943, Long –122.4343) upstream to endpoint(s) in: Sacramento River (40.6116, –122.4462)

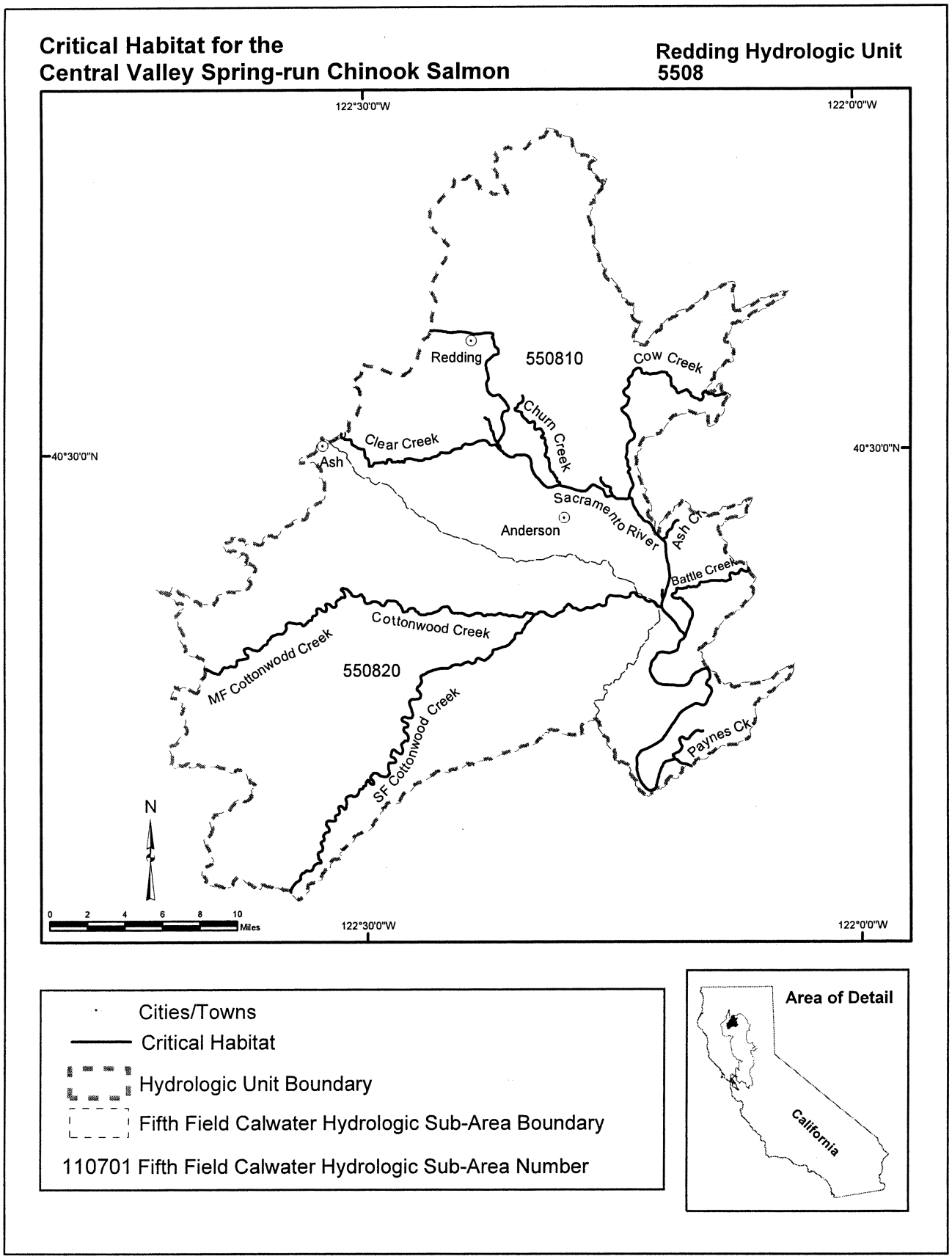
(iii) *Kanaka Peak Hydrologic Sub-area 552462.* Outlet(s) = Clear Creek (Lat 40.5158, Long –122.5256) upstream to endpoint(s) in: Clear Creek (40.5992, –122.5394).

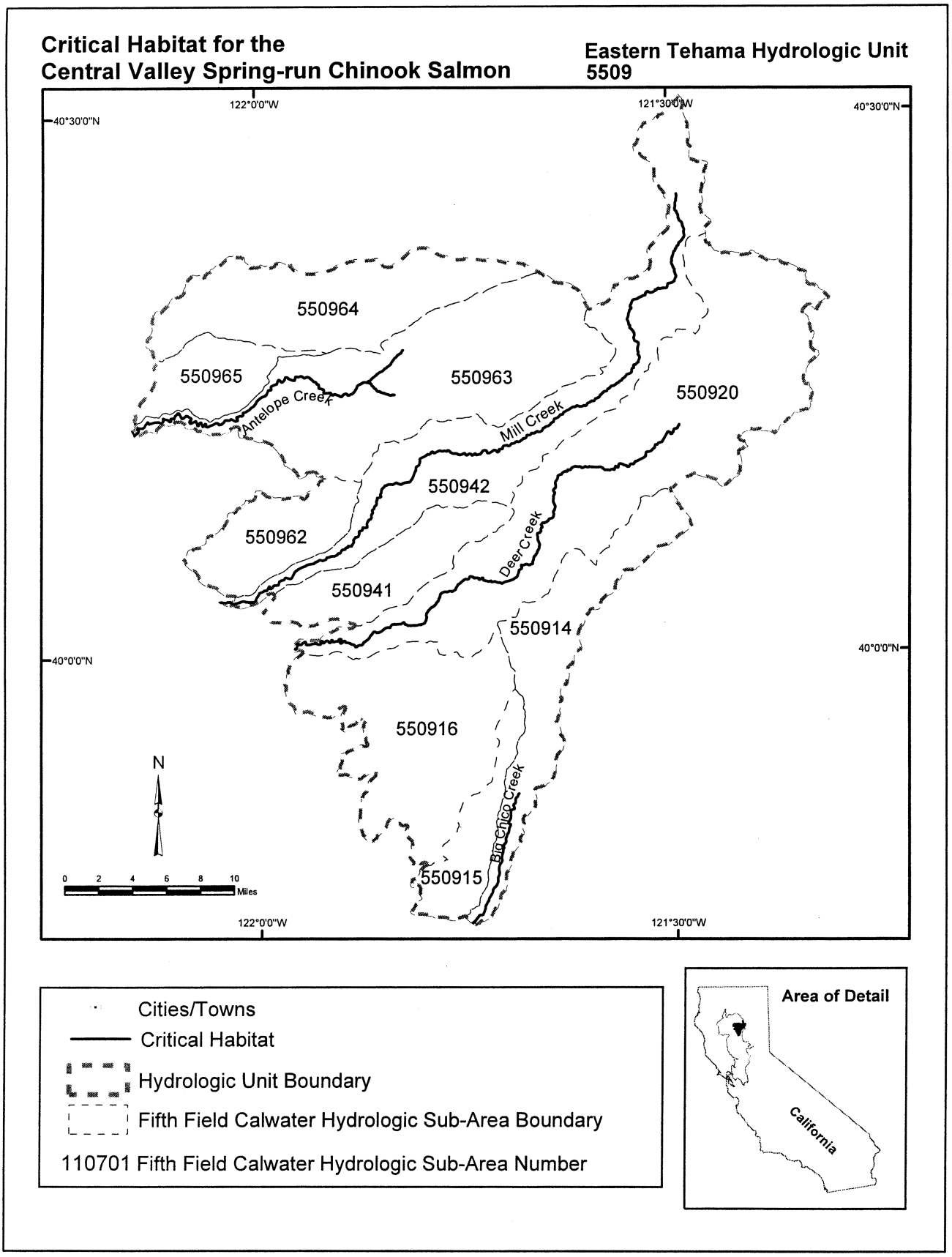
(13) Maps of critical habitat for the Central Valley Spring Run Chinook ESU follow:

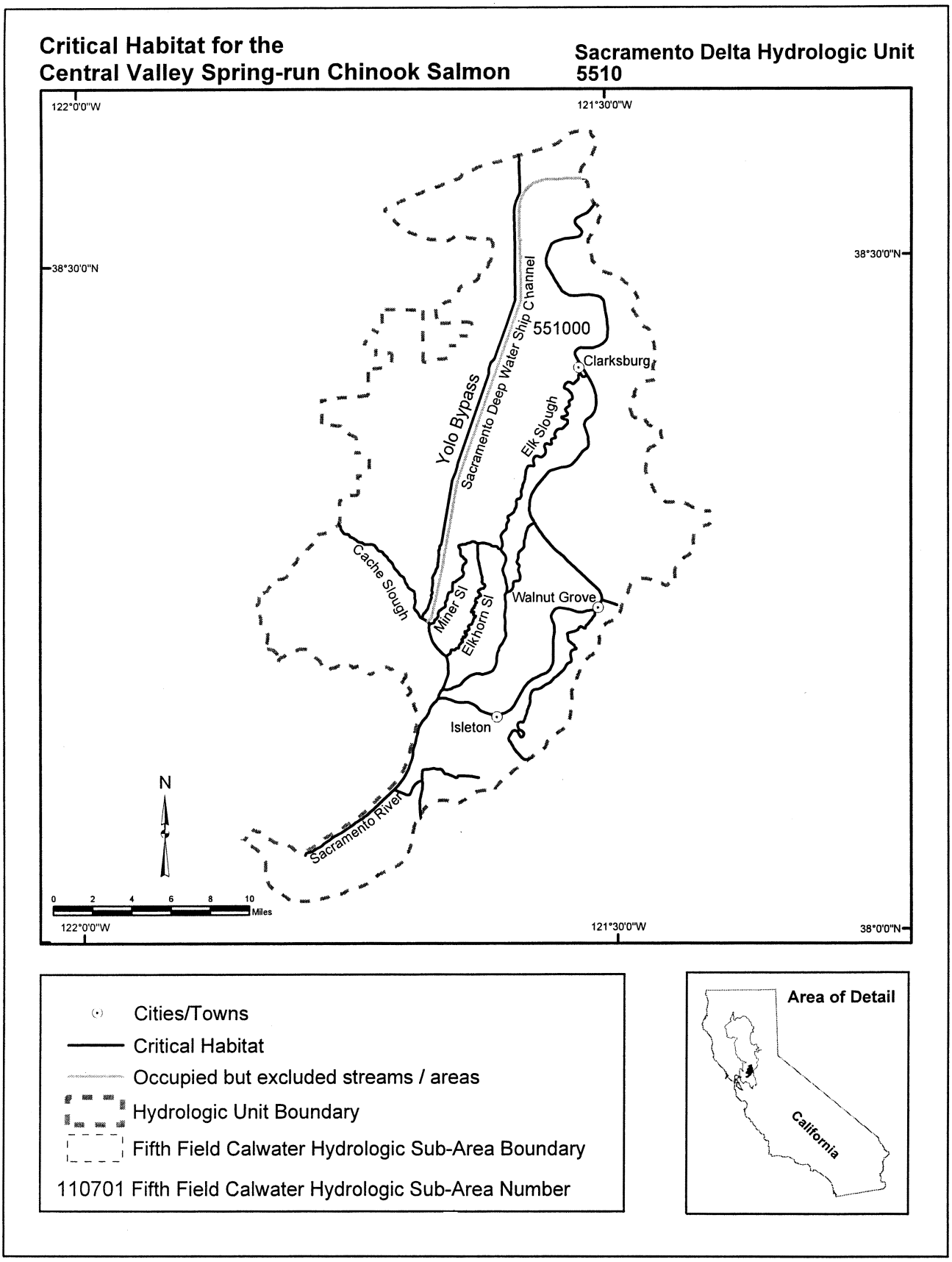
BILLING CODE 3510–22–P

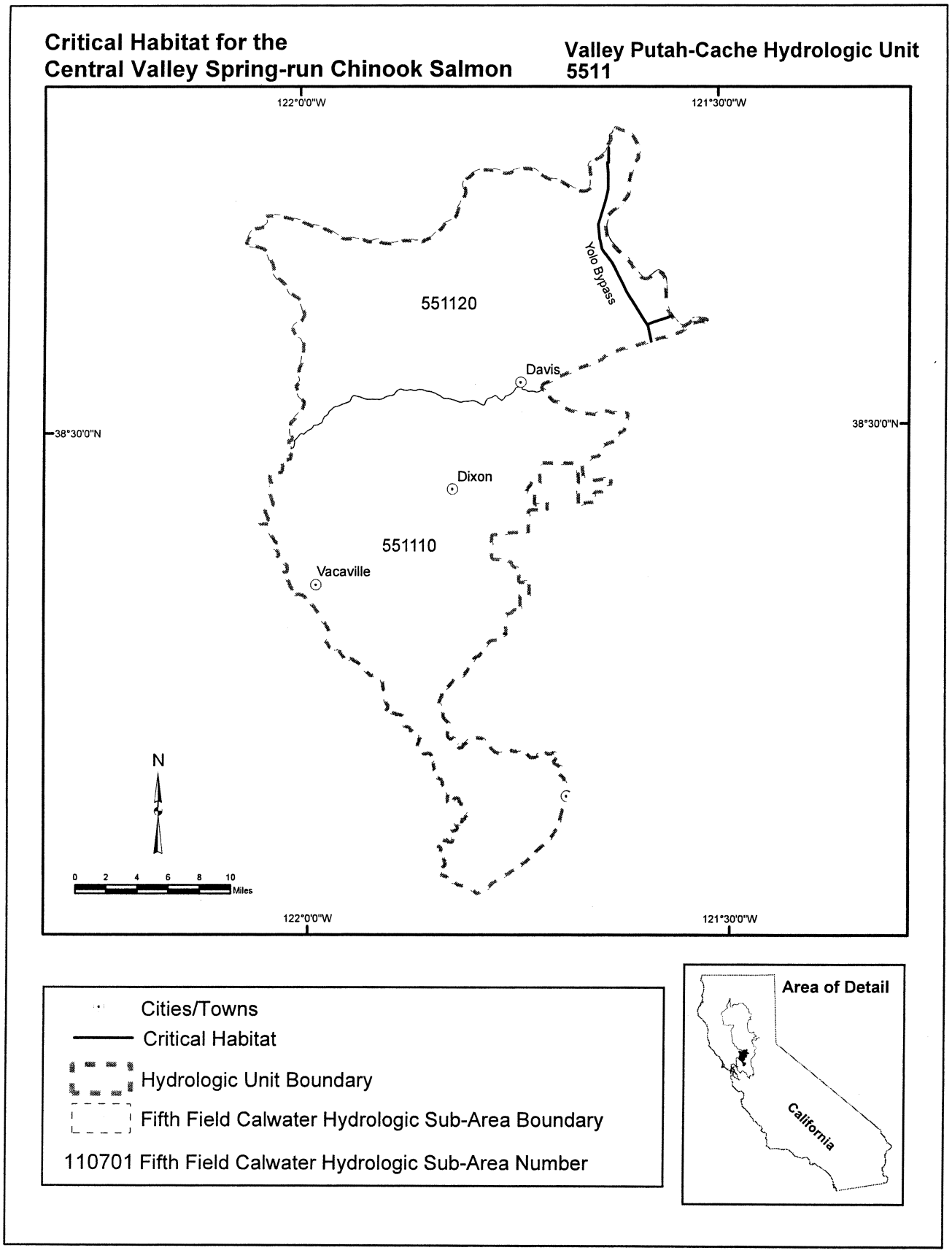

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Tehama Hydrologic Unit
5504
122°30'0"W
122°0'0"W
40°0'0"N
Blue Tent Ck
Dibble Ck
Red Bluff
Salt Ck
Reeds Ck
Red Bank Ck
Dye
550420
Elder Creek
Mill Creek
McClure Ck
Toomes Ck
Deer Creek
Thomes Creek
Corning
Jewett Ck
Burch Creek
Rice Ck
Pine Creek
Rock Creek
Sacramento River
Mud Creek
550410
Stony Creek
Lindo Channel
Big Chico
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

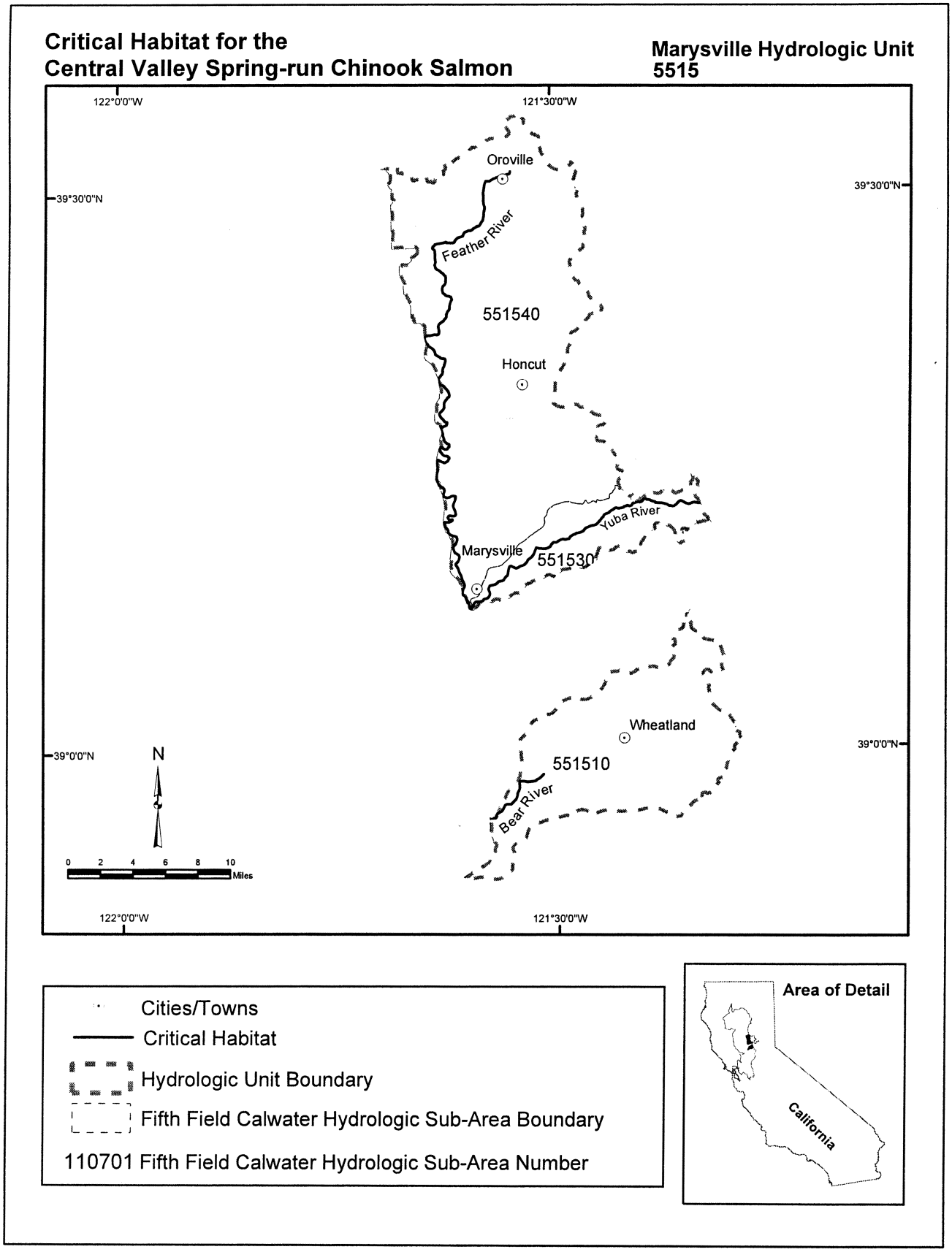

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Whitmore Hydrologic Unit
5507
122°0'0"W
121°30'0"W
550733
550732
Bella Vista
550731
550722
Viola
Shingletown
40°30'0"N
40°30'0"N
Bear Creek
550721
NF Battle Creek
550712
Manton
SF Battle Creek
N
550711
0 2 4 6 8 10
Miles
122°0'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

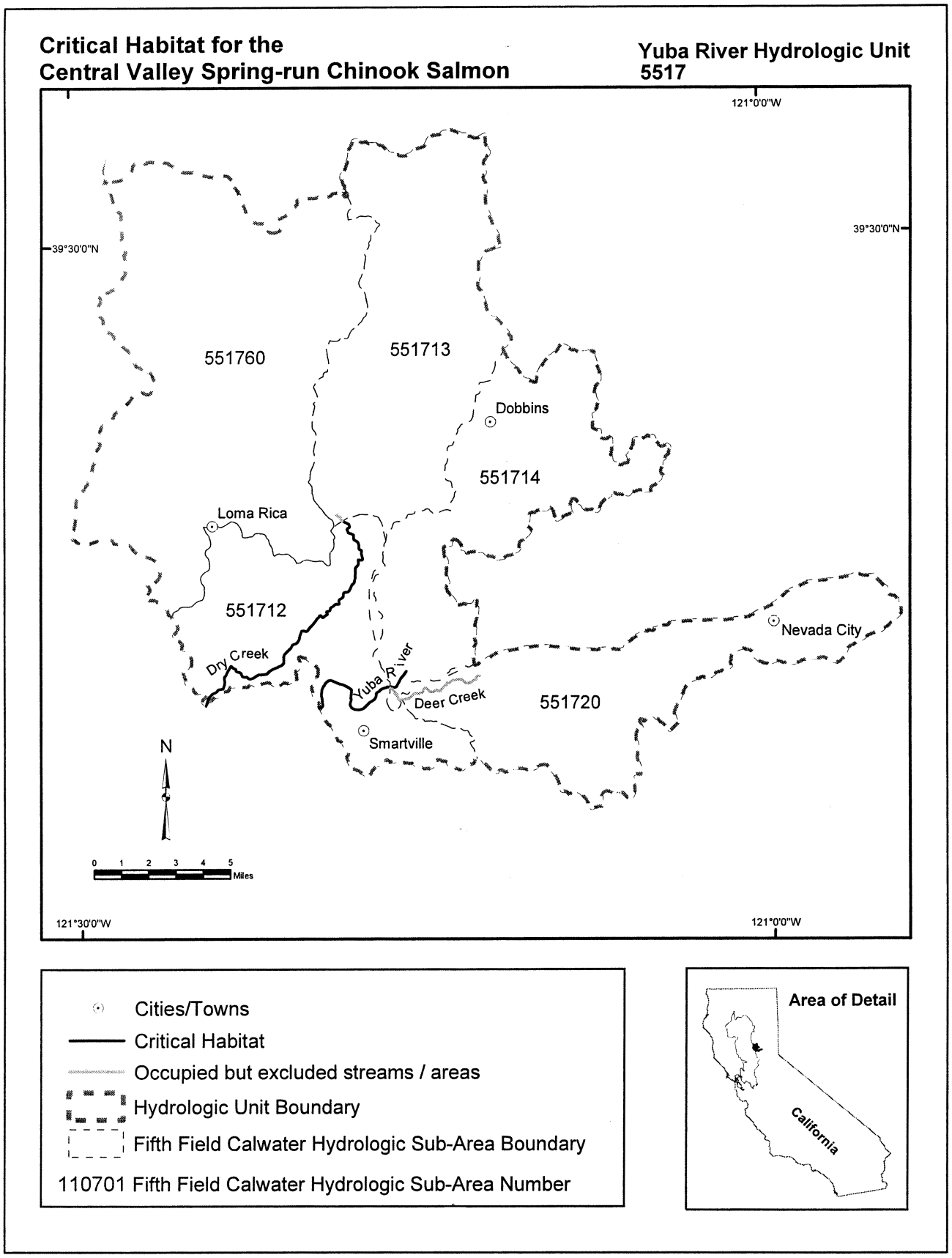

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Redding Hydrologic Unit
5508
122°30'0"W
122°0'0"W
40°30'0"N
Redding
550810
Cow Creek
Churn Creek
Clear Creek
Ash
Sacramento River
Ash Cr
Anderson
Battle Creek
Cottonwood Creek
MF Cottonwodd Creek
550820
SF Cottonwood Creek
Paynes Ck
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

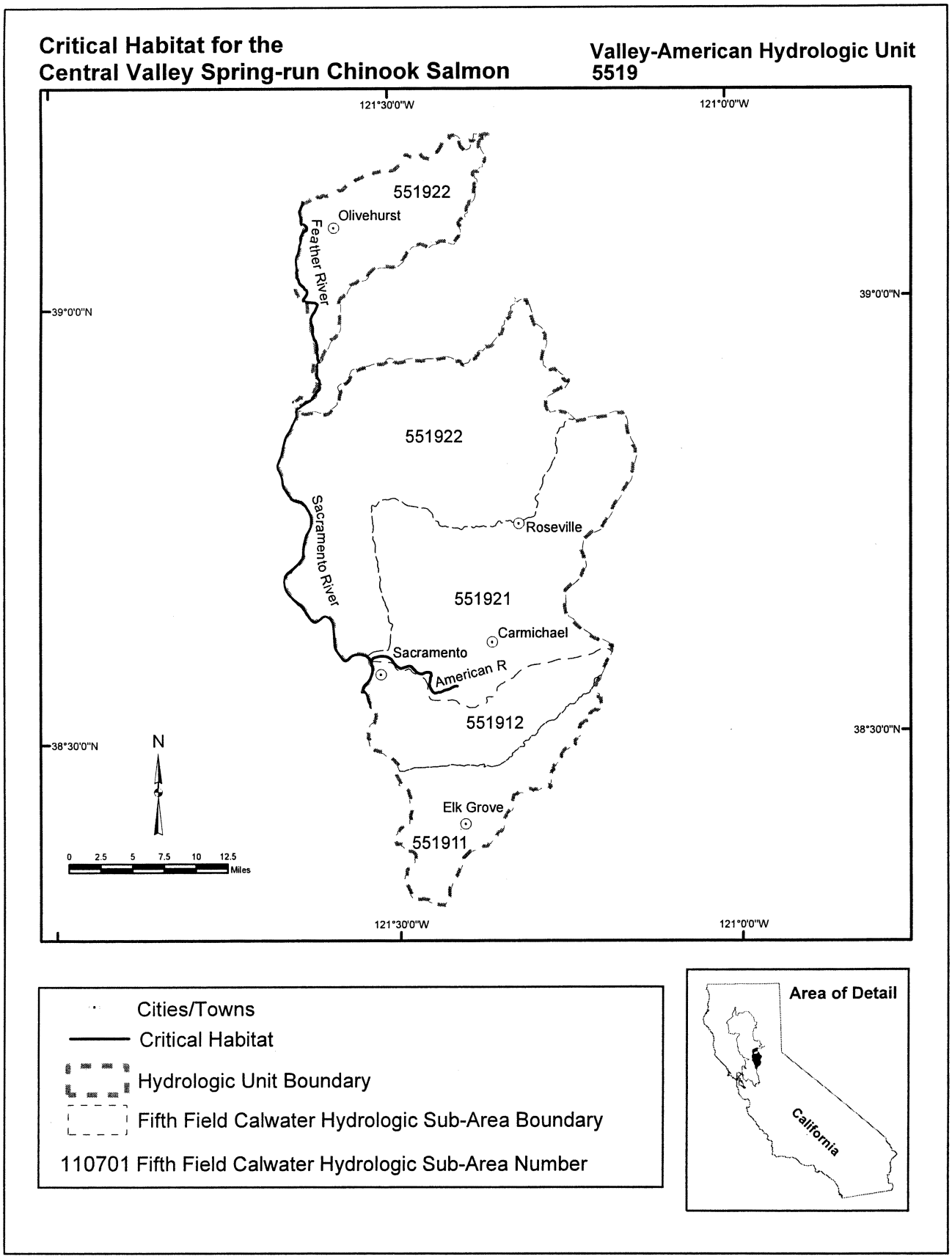

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Eastern Tehama Hydrologic Unit
5509
122°0'0"W
121°30'0"W
40°30'0"N
40°0'0"N
550964
550965
550963
550920
550942
550962
550941
550914
550916
550915
Antelope Creek
Mill Creek
Deer Creek
Big Chico Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

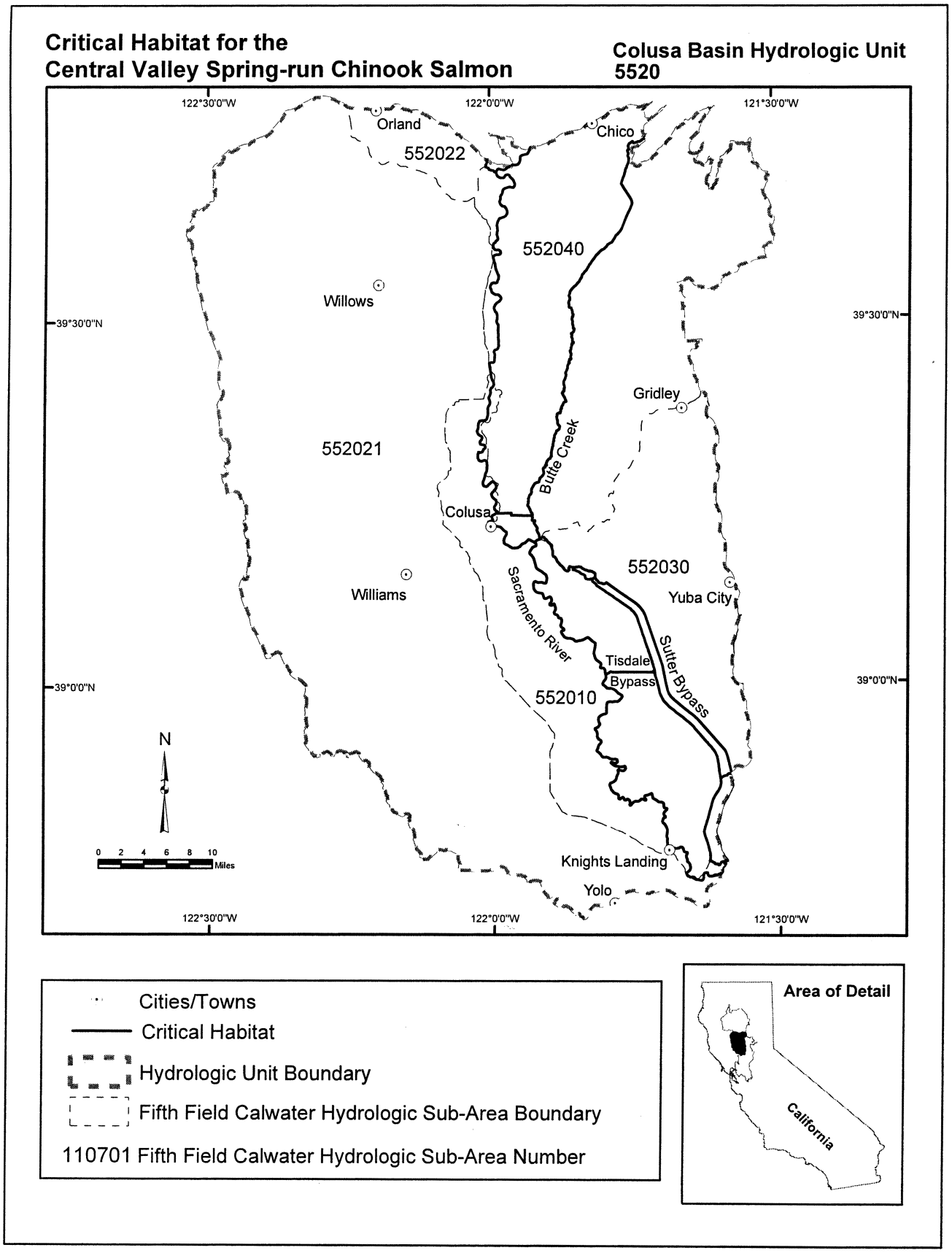

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Sacramento Delta Hydrologic Unit
5510
122°0'0"W
121°30'0"W
38°30'0"N
38°0'0"N
551000
Clarksburg
Yolo Bypass
Sacramento Deep Water Ship Channel
Elk Slough
Cache Slough
Miner Sl
Elkhorn Sl
Walnut Grove
Isleton
Sacramento River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

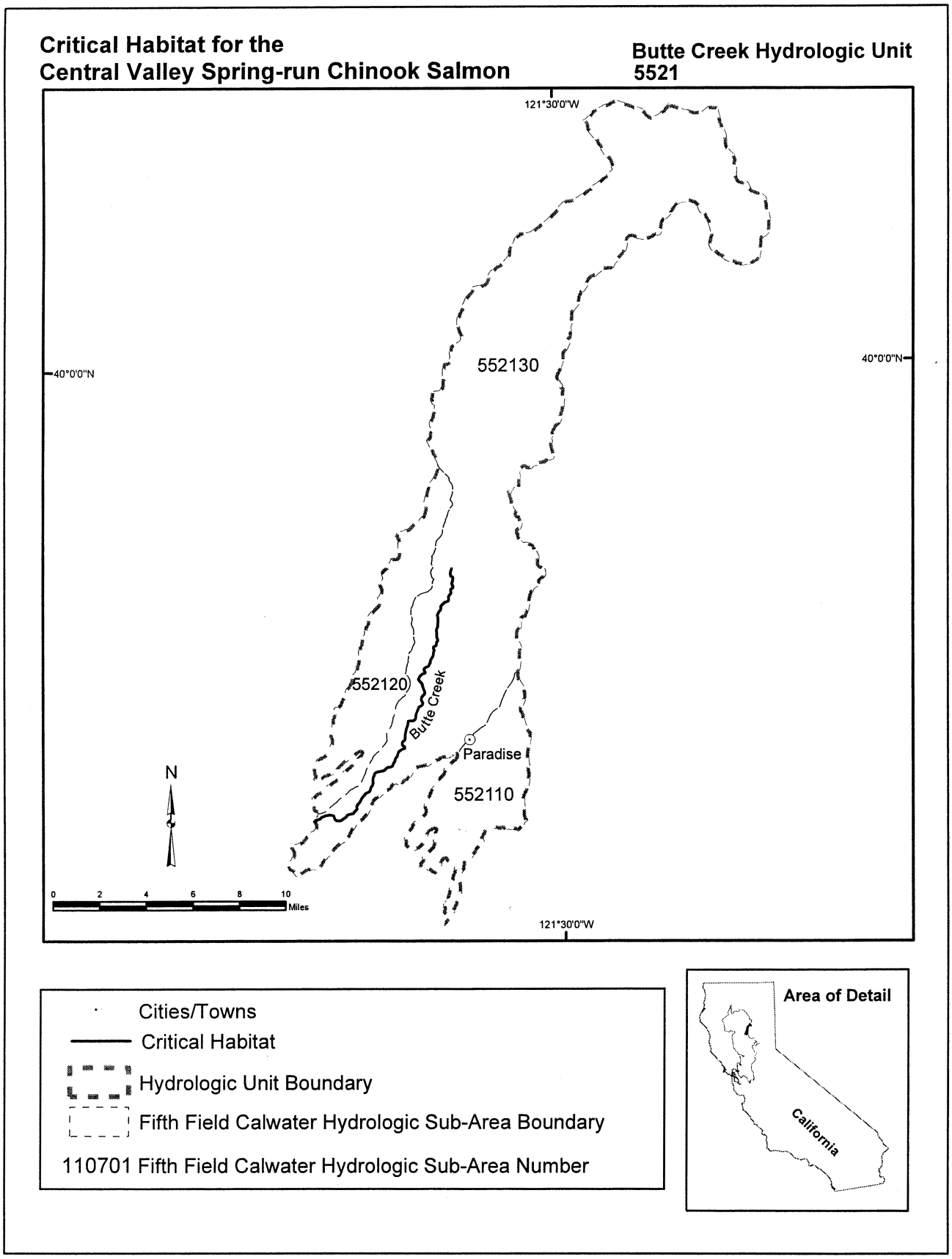

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Valley Putah-Cache Hydrologic Unit
5511
122°0'0"W
121°30'0"W
38°30'0"N
Yolo Bypass
551120
Davis
Dixon
551110
Vacaville
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

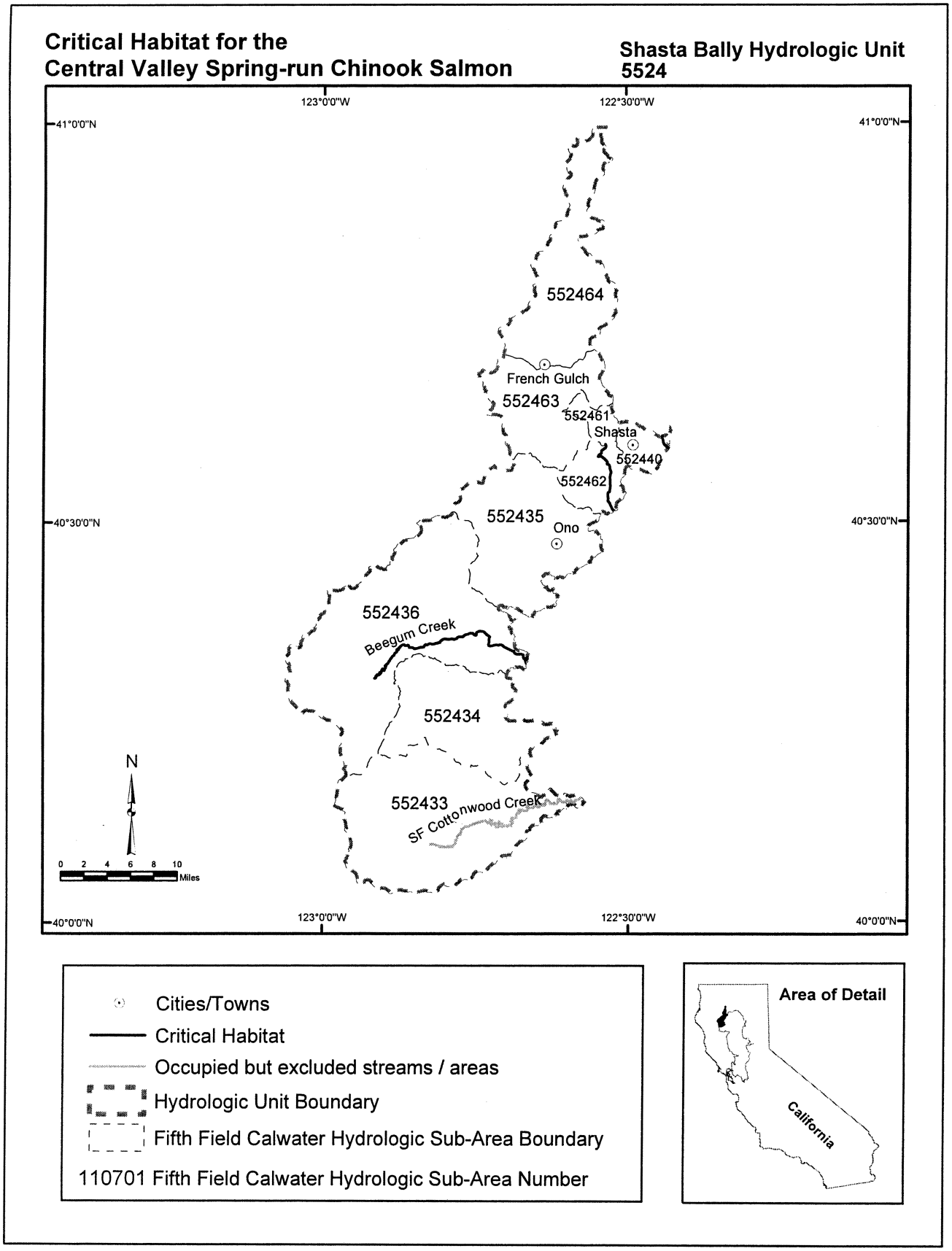

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Marysville Hydrologic Unit
5515
122°0'0"W
121°30'0"W
39°30'0"N
39°0'0"N
Oroville
Feather River
551540
Honcut
Yuba River
Marysville
551530
Wheatland
551510
Bear River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Yuba River Hydrologic Unit
5517
121°0'0"W
39°30'0"N
39°30'0"N
551760
551713
Dobbins
551714
Loma Rica
551712
Nevada City
Dry Creek
Yuba River
Deer Creek
551720
Smartville
N
0 1 2 3 4 5
Miles
121°30'0"W
121°0'0"W
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Valley-American Hydrologic Unit
5519
121°30'0"W
121°0'0"W
39°0'0"N
38°30'0"N
551922
Olivehurst
Feather River
551922
Roseville
Sacramento River
551921
Carmichael
Sacramento
American R
551912
Elk Grove
551911
N
0 2.5 5 7.5 10 12.5
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Colusa Basin Hydrologic Unit
5520
122°30'0"W
122°0'0"W
121°30'0"W
39°30'0"N
39°0'0"N
Orland
Chico
552022
552040
Willows
Gridley
552021
Butte Creek
Colusa
552030
Williams
Yuba City
Sacramento River
Sutter Bypass
Tisdale
Bypass
552010
N
0 2 4 6 8 10
Miles
Knights Landing
Yolo
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Butte Creek Hydrologic Unit
5521
121°30'0"W
40°0'0"N
40°0'0"N
552130
552120
Butte Creek
Paradise
552110
N
0 2 4 6 8 10
Miles
121°30'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



BILLING CODE 3510–22–C

(l) *Central Valley steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Tehama Hydrologic Unit 5504—(i) *Lower Stony Creek Hydrologic Sub-area 550410.* Outlet(s) = Stony Creek (Lat 39.6760, Long –121.9732) upstream to endpoint(s) in: Stony Creek (39.8199, –122.3391).

(ii) Red Bluff Hydrologic Sub-area 550420. Outlet(s) = Sacramento River (Lat 39.6998, Long –121.9419) upstream to endpoint(s) in: Antelope Creek (40.2023, –122.1272); Big Chico Creek (39.7757, –121.7525); Blue Tent Creek (40.2166, –122.2362); Burch Creek (39.8495, –122.1615); Butler Slough (40.1579, –122.1320); Craig Creek (40.1617, –122.1350); Deer Creek (40.0144, –121.9481); Dibble Creek (40.2002, –122.2421); Dye Creek (40.0910, –122.0719); Elder Creek (40.0438, –122.2133); Lindo Channel (39.7623, –121.7923); McClure Creek (40.0074, –122.1723); Mill Creek (40.0550, –122.0317); Mud Creek (39.7985, –121.8803); New Creek (40.1873, –122.1350); Oat Creek (40.0769, –122.2168); Red Bank Creek (40.1421, –122.2399); Rice Creek (39.8495, –122.1615); Rock Creek (39.8034, –121.9403); Salt Creek (40.1572, –122.1646); Thomes Creek (39.8822, –122.5527); Unnamed Tributary (40.1867, –122.1353); Unnamed Tributary (40.1682, –122.1459); Unnamed Tributary (40.1143, –122.1259); Unnamed Tributary (40.0151, –122.1148); Unnamed Tributary (40.0403, –122.1009); Unnamed Tributary (40.0514, –122.0851); Unnamed Tributary (40.0530, –122.0769).

(2) Whitmore Hydrologic Unit 5507—(i) *Inks Creek Hydrologic Sub-area 550711.* Outlet(s) = Inks Creek (Lat 40.3305, Long –122.1520) upstream to endpoint(s) in: Inks Creek (40.3418, –122.1332).

(ii) *Battle Creek Hydrologic Sub-area 550712.* Outlet(s) = Battle Creek (Lat 40.4083, Long –122.1102) upstream to endpoint(s) in: Baldwin Creek (40.4369, –121.9885); Battle Creek (40.4228, –121.9975); Brush Creek (40.4913, –121.8664); Millseat Creek (40.4808, –121.8526); Morgan Creek (40.3654, –121.9132); North Fork Battle Creek (40.4877, –121.8185); Panther Creek (40.3897, –121.6106); South Ditch (40.3997, –121.9223); Ripley Creek (40.4099, –121.8683); Soap Creek (40.3904, –121.7569); South Fork Battle Creek (40.3531, –121.6682); Unnamed Tributary (40.3567, –121.8293); Unnamed Tributary (40.4592, –121.8671).

(iii) *Ash Creek Hydrologic Sub-area 550721.* Outlet(s) = Ash Creek (Lat 40.4401, Long –122.1375) upstream to endpoint(s) in: Ash Creek (40.4628, –122.0066).

(iv) *Inwood Hydrologic Sub-area 550722.* Outlet(s) = Ash Creek (Lat 40.4628, Long –122.0066); Bear Creek (40.4352, –122.2039) upstream to endpoint(s) in: Ash Creek (40.4859, –121.8993); Bear Creek (40.5368, –121.9560); North Fork Bear Creek (40.5736, –121.8683).

(v) *South Cow Creek Hydrologic Sub-area 550731.* Outlet(s) = South Cow Creek (Lat 40.5438, Long –122.1318) upstream to endpoint(s) in: South Cow Creek (40.6023, –121.8623).

(vi) *Old Cow Creek Hydrologic Sub-area 550732.* Outlet(s) = Clover Creek (Lat 40.5788, Long –122.1252); Old Cow Creek (40.5442, –122.1317) upstream to endpoint(s) in: Clover Creek (40.6305, –122.0304); Old Cow Creek (40.6295, –122.9619).

(vii) *Little Cow Creek Hydrologic Sub-area 550733.* Outlet(s) = Little Cow Creek (Lat 40.6148, –122.2271); Oak Run Creek (40.6171, –122.1225) upstream to endpoint(s) in: Little Cow Creek (40.7114, –122.0850); Oak Run Creek (40.6379, –122.0856).

(3) Redding Hydrologic Unit 5508—(i) *Enterprise Flat Hydrologic Sub-area 550810.* Outlet(s) = Sacramento River (Lat 40.2526, Long –122.1707) upstream to endpoint(s) in: Ash Creek (40.4401, –122.1375); Battle Creek (40.4083, –122.1102); Bear Creek (40.4360, –122.2036); Calaboose Creek (40.5742, –122.4142); Canyon Creek (40.5532, –122.3814); Churn Creek (40.5986, –122.3418); Clear Creek (40.5158, –122.5256); Clover Creek (40.5788, –122.1252); Cottonwood Creek (40.3777, –122.1991); Cow Creek (40.5437, –122.1318); East Fork Stillwater Creek (40.6495, –122.2934); Inks Creek (40.3305, –122.1520); Jenny Creek (40.5734, –122.4338); Little Cow Creek (40.6148, –122.2271); Oak Run (40.6171, –122.1225); Old Cow Creek (40.5442, –122.1317); Olney Creek (40.5439, –122.4687); Oregon Gulch (40.5463, –122.3866); Paynes Creek (40.3024, –122.1012); Stillwater Creek (40.6495, –122.2934); Sulphur Creek (40.6164, –122.4077).

(ii) *Lower Cottonwood Hydrologic Sub-area 550820.* Outlet(s) = Cottonwood Creek (Lat 40.3777, Long –122.1991) upstream to endpoint(s) in: Cold Fork Cottonwood Creek (40.2060, –122.6608); Cottonwood Creek (40.3943, –122.5254); Middle Fork Cottonwood Creek (40.3314, –122.6663); North Fork Cottonwood Creek (40.4539, –122.5610); South Fork Cottonwood Creek (40.1578, –122.5809).

(4) Eastern Tehama Hydrologic Unit 5509—(i) *Big Chico Creek Hydrologic Sub-area 550914.* Outlet(s) = Big Chico Creek (Lat 39.7757, Long –121.7525) upstream to endpoint(s) in: Big Chico Creek (39.8898, –121.6952).

(ii) *Deer Creek Hydrologic Sub-area 550920.* Outlet(s) = Deer Creek (Lat 40.0142, Long –121.9476) upstream to endpoint(s) in: Deer Creek (40.2025, –121.5130).

(iii) *Upper Mill Creek Hydrologic Sub-area 550942.* Outlet(s) = Mill Creek (Lat 40.0550, Long –122.0317) upstream to endpoint(s) in: Mill Creek (40.3766, –121.5098); Rocky Gulch Creek (40.2888, –121.5997).

(iv) *Dye Creek Hydrologic Sub-area 550962.* Outlet(s) = Dye Creek (Lat 40.0910, Long –122.0719) upstream to endpoint(s) in: Dye Creek (40.0996, –121.9612).

(v) *Antelope Creek Hydrologic Sub-area 550963.* Outlet(s) = Antelope Creek (Lat 40.2023, Long –122.1272) upstream to endpoint(s) in: Antelope Creek (40.2416, –121.8630); Middle Fork Antelope Creek (40.2673, –121.7744); North Fork Antelope Creek (40.2807, –121.7645); South Fork Antelope Creek (40.2521, –121.7575).

(5) Sacramento Delta Hydrologic Unit 5510—*Sacramento Delta Hydrologic Sub-area 551000.* Outlet(s) = Sacramento River (Lat 38.0653, Long –121.8418) upstream to endpoint(s) in: Cache Slough (38.2984, –121.7490); Elk Slough (38.4140, –121.5212); Elkhorn Slough (38.2898, –121.6271); Georgiana Slough (38.2401, –121.5172); Horseshoe Bend (38.1078, –121.7117); Lindsey Slough (38.2592, –121.7580); Miners Slough (38.2864, –121.6051); Prospect Slough (38.2830, –121.6641); Putah Creek (38.5155, –121.5885); Sevenmile Slough (38.1171, –121.6298); Streamboat Slough (38.3052, –121.5737); Sutter Slough (38.3321, –121.5838); Threemile Slough (38.1155, –121.6835); Ulatis Creek (38.2961, –121.7835); Unnamed Tributary (38.2937, –121.7803); Unnamed Tributary (38.2937, –121.7804); Yolo Bypass (38.5800, –121.5838).

(6) Valley-Putah-Cache Hydrologic Unit 5511—*Lower Putah Creek Hydrologic Sub-area 551120.* Outlet(s) = Sacramento Bypass (Lat 38.6057, Long –121.5563); Yolo Bypass (38.5800, –121.5838) upstream to endpoint(s) in: Sacramento Bypass (38.5969, –121.5888); Yolo Bypass (38.7627, –121.6325).

(7) American River Hydrologic Unit 5514—*Auburn Hydrologic Sub-area 551422.* Outlet(s) = Auburn Ravine (Lat 38.8921, Long –121.2181); Coon Creek (38.9891, –121.2556); Doty Creek (38.9401, –121.2434) upstream to

endpoint(s) in: Auburn Ravine (38.8888, –121.1151); Coon Creek (38.9659, –121.1781); Doty Creek (38.9105, –121.1244).

(8) Marysville Hydrologic Unit 5515—(i) *Lower Bear River Hydrologic Sub-area 551510.* Outlet(s) = Bear River (Lat 39.9398, Long –121.5790) upstream to endpoint(s) in: Bear River (39.0421, –121.3319).

(ii) *Lower Yuba River Hydrologic Sub-area 551530.* Outlet(s) = Yuba River (Lat 39.1270, Long –121.5981) upstream to endpoint(s) in: Yuba River (39.2203, –121.3314).

(iii) *Lower Feather River Hydrologic Sub-area 551540.* Outlet(s) = Feather River (Lat 39.1264, Long –121.5984) upstream to endpoint(s) in: Feather River (39.5205, –121.5475).

(9) Yuba River Hydrologic Unit 5517—(i) *Browns Valley Hydrologic Sub-area 551712.* Outlet(s) = Dry Creek (Lat 39.2215, Long –1121.4082); Yuba River (39.2203, –1121.3314) upstream to endpoint(s) in: Dry Creek (39.3232, Long –1121.3155); Yuba River (39.2305, –1121.2813).

(ii) *Englebright Hydrologic Sub-area 551714.* Outlet(s) = Yuba River (Lat 39.2305, Long –1121.2813) upstream to endpoint(s) in: Yuba River (39.2399, –1121.2689).

(10) Valley American Hydrologic Unit 5519—(i) *Lower American Hydrologic Sub-area 551921.* Outlet(s) = American River (Lat 38.5971, –1121.5088) upstream to endpoint(s) in: American River (38.6373, –1121.2202); Dry Creek (38.7554, –1121.2676); Miner's Ravine (38.8429, –1121.1178); Natomas East Main Canal (38.6646, –1121.4770); Secret Ravine(38.8541, –1121.1223).

(ii) *Pleasant Grove Hydrologic Sub-area 551922.* Outlet(s) = Sacramento River (Lat 38.6026, Long –1121.5155) upstream to endpoint(s) in: Auburn Ravine (38.8913, –1121.2424); Coon Creek (38.9883, –1121.2609); Doty Creek (38.9392, –1121.2475); Feather River (39.1264, –1121.5984).

(11) Colusa Basin Hydrologic Unit 5520—(i) *Sycamore-Sutter Hydrologic Sub-area 552010.* Outlet(s) = Sacramento River (Lat 38.7604, Long –1121.6767) upstream to endpoint(s) in: Tisdale Bypass (39.0261, –1121.7456).

(ii) *Sutter Bypass Hydrologic Sub-area 552030.* Outlet(s) = Sacramento River (Lat 38.7851, Long –1121.6238) upstream to endpoint(s) in: Butte Creek (39.1990, –1121.9286); Butte Slough (39.1987, –1121.9285); Nelson Slough (38.8956, –1121.6180); Sacramento Slough (38.7844, –1121.6544); Sutter Bypass (39.1586, –1121.8747).

(iii) *Butte Basin Hydrologic Sub-area 552040.* Outlet(s) = Butte Creek (Lat 39.1990, Long –1121.9286); Sacramento River (39.4141, –1122.0087) upstream to endpoint(s) in: Butte Creek (39.7096, –1121.7504); Colusa Bypass (39.2276, –1121.9402); Little Chico Creek (39.7380, –1121.7490); Little Dry Creek (39.6781, –1121.6580).

(12) Butte Creek Hydrologic Unit 5521—(i) *Upper Dry Creek Hydrologic Sub-area 552110.* Outlet(s) = Little Dry Creek (Lat 39.6781, –1121.6580) upstream to endpoint(s) in: Little Dry Creek (39.7424, –1121.6213).

(ii) *Upper Butte Creek Hydrologic Sub-area 552120.* Outlet(s) = Little Chico Creek (Lat 39.7380, Long –1121.7490) upstream to endpoint(s) in: Little Chico Creek (39.8680, –1121.6660).

(iii) *Upper Little Chico Hydrologic Sub-area 552130.* Outlet(s) = Butte Creek (Lat 39.7096, Long –1121.7504) upstream to endpoint(s) in: Butte Creek (39.8215, –1121.6468); Little Butte Creek (39.8159, –1121.5819).

(13) Ball Mountain Hydrologic Unit 5523—*Thomes Creek Hydrologic Sub-area 552310.* Outlet(s) = Thomes Creek (39.8822, –1122.5527) upstream to endpoint(s) in: Doll Creek (39.8941, –1122.9209); Fish Creek (40.0176, –1122.8142); Snake Creek (39.9945, –1122.7788); Thomes Creek (39.9455, –1122.8491); Willow Creek (39.8941, –1122.9209).

(14) Shasta Bally Hydrologic Unit 5524—(i) *South Fork Hydrologic Sub-area 552433.* Outlet(s) = Cold Fork Cottonwood Creek (Lat 40.2060, Long –1122.6608); South Fork Cottonwood Creek (40.1578, –1122.5809) upstream to endpoint(s) in: Cold Fork Cottonwood Creek (40.1881, –1122.8690); South Fork Cottonwood Creek (40.1232, –1122.8761).

(ii) *Platina Hydrologic Sub-area 552436.* Outlet(s) = Middle Fork Cottonwood Creek (Lat 40.3314, Long –1122.6663) upstream to endpoint(s) in: Beegum Creek (40.3149, –1122.9776): Middle Fork Cottonwood Creek (40.3512, –1122.9629).

(iii) *Spring Creek Hydrologic Sub-area 552440.* Outlet(s) = Sacramento River (Lat 40.5943, Long –1122.4343) upstream to endpoint(s) in: Middle Creek (40.5904, –1121.4825); Rock Creek (40.6155, –1122.4702); Sacramento River (40.6116, –1122.4462); Salt Creek (40.5830, –1122.4586); Unnamed Tributary (40.5734, –1122.4844).

(iv) *Kanaka Peak Hydrologic Sub-area 552462.* Outlet(s) = Clear Creek (Lat 40.5158, Long –1122.5256) upstream to endpoint(s) in: Clear Creek (40.5998, 122.5399).

(15) North Valley Floor Hydrologic Unit 5531—(i) *Lower Mokelumne Hydrologic Sub-area 553120.* Outlet(s) = Mokelumne River (Lat 38.2104, Long –1121.3804) upstream to endpoint(s) in: Mokelumne River (38.2263, –1121.0241); Murphy Creek (38.2491, –1121.0119).

(ii) *Lower Calaveras Hydrologic Sub-area 553130.* Outlet(s) = Calaveras River (Lat 37.9836, Long –1121.3110); Mormon Slough (37.9456,-121.2907) upstream to endpoint(s) in: Calaveras River (38.1025, –1120.8503); Mormon Slough (38.0532, –1121.0102); Stockton Diverting Canal (37.9594, –1121.2024).

(16) Upper Calaveras Hydrologic Unit 5533—*New Hogan Reservoir Hydrologic Sub-area 553310.* Outlet(s) = Calaveras River (Lat 38.1025, Long –1120.8503) upstream to endpoint(s) in: Calaveras River (38.1502, –1120.8143).

(17) Stanislaus River Hydrologic Unit 5534—*Table Mountain Hydrologic Sub-area 553410.* Outlet(s) = Stanislaus River (Lat 37.8355, Long –1120.6513) upstream to endpoint(s) in: Stanislaus River (37.8631, –1120.6298).

(18) San Joaquin Valley Floor Hydrologic Unit 5535—(i) *Riverbank Hydrologic Sub-area 553530.* Outlet(s) = Stanislaus River (Lat 37.6648, Long –1121.2414) upstream to endpoint(s) in: Stanislaus River (37.8355, –1120.6513).

(ii) *Turlock Hydrologic Sub-area 553550.* Outlet(s) = Tuolumne River (Lat 37.6059, Long –1121.1739) upstream to endpoint(s) in: Tuolumne River (37.6401, –1120.6526).

(iii) *Montpelier Hydrologic Sub-area 553560.* Outlet(s) = Tuolumne River (Lat 37.6401, Long –1120.6526) upstream to endpoint(s) in: Tuolumne River (37.6721, –1120.4445).

(iv) *El Nido-Stevinson Hydrologic Sub-area 553570.* Outlet(s) = Merced River (Lat 37.3505, Long –1120.9619) upstream to endpoint(s) in: Merced River (37.3620, –1120.8507).

(v) *Merced Hydrologic Sub-area 553580.* Outlet(s) = Merced River (Lat 37.3620, Long –1120.8507) upstream to endpoint(s) in: Merced River (37.4982, –1120.4612).

(vi) *Fahr Creek Hydrologic Sub-area 553590.* Outlet(s) = Merced River (Lat 37.4982, Long –1120.4612) upstream to endpoint(s) in: Merced River (37.5081, –1120.3581).

(19) Delta-Mendota Canal Hydrologic Unit 5541—(i) *Patterson Hydrologic Sub-area 554110.* Outlet(s) = San Joaquin River (Lat 37.6763, Long –1121.2653) upstream to endpoint(s) in: San Joaquin River (37.3491, –1120.9759).

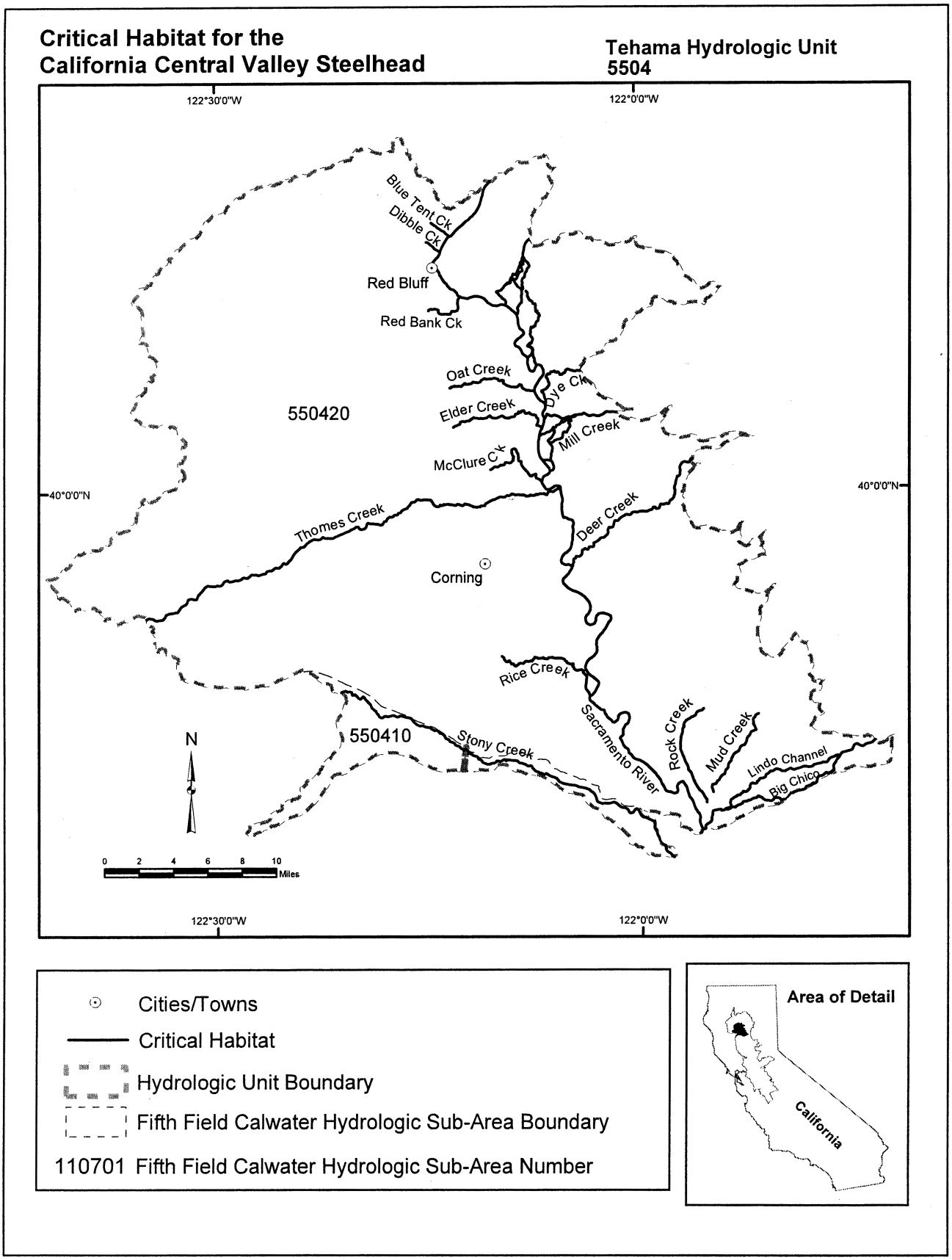
(ii) *Los Banos Hydrologic Sub-area 554120.* Outlet(s) = Merced River (Lat 37.3490, Long –1120.9756) upstream to endpoint(s) in: Merced River (37.3505, –1120.9619).

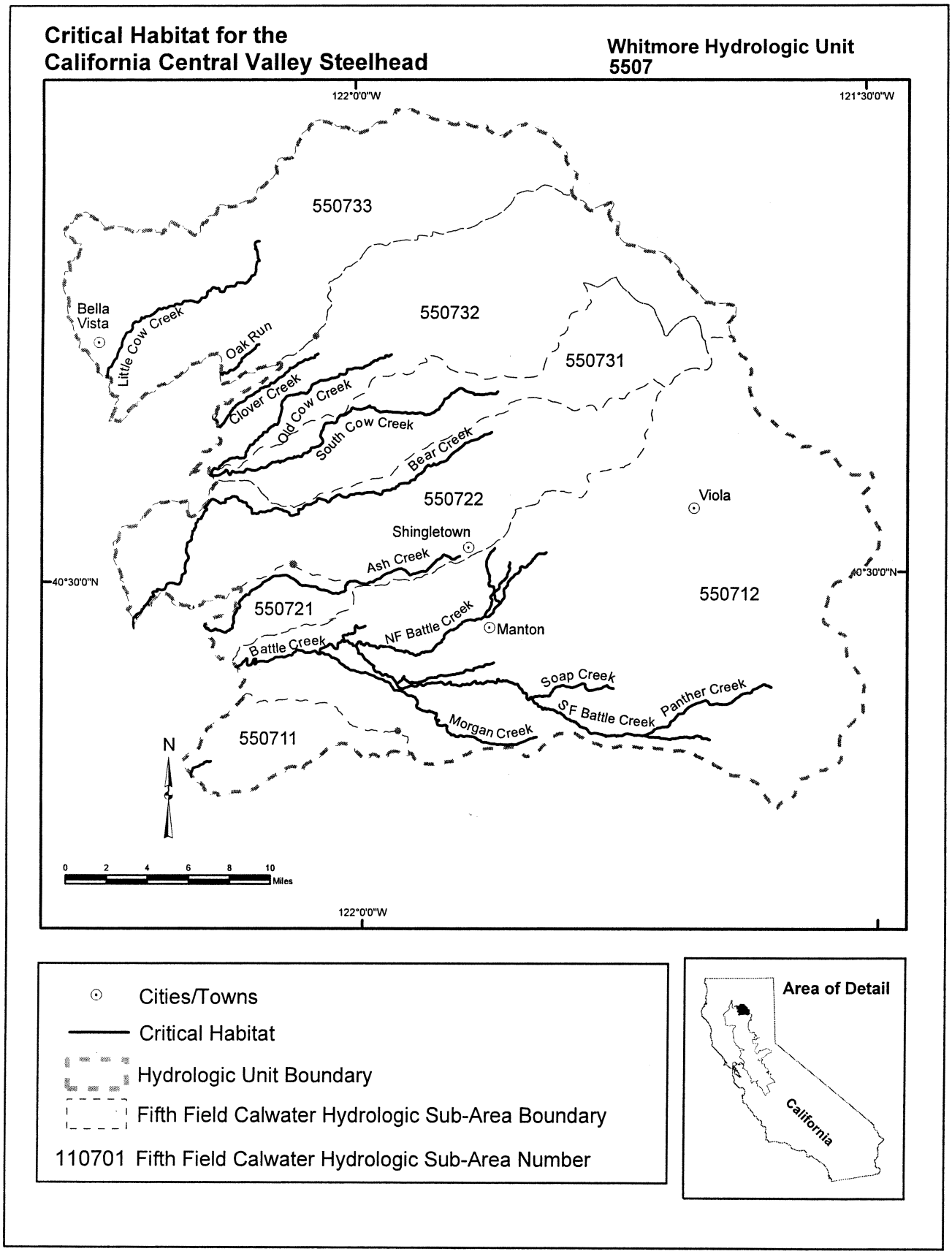
(20) North Diablo Range Hydrologic Unit 5543—*North Diablo Range Hydrologic Sub-area 554300.* Outlet(s) = San Joaquin River (Lat 38.0247, Long –1121.8218) upstream to endpoint(s) in: San Joaquin River (38.0246, –1121.7471).

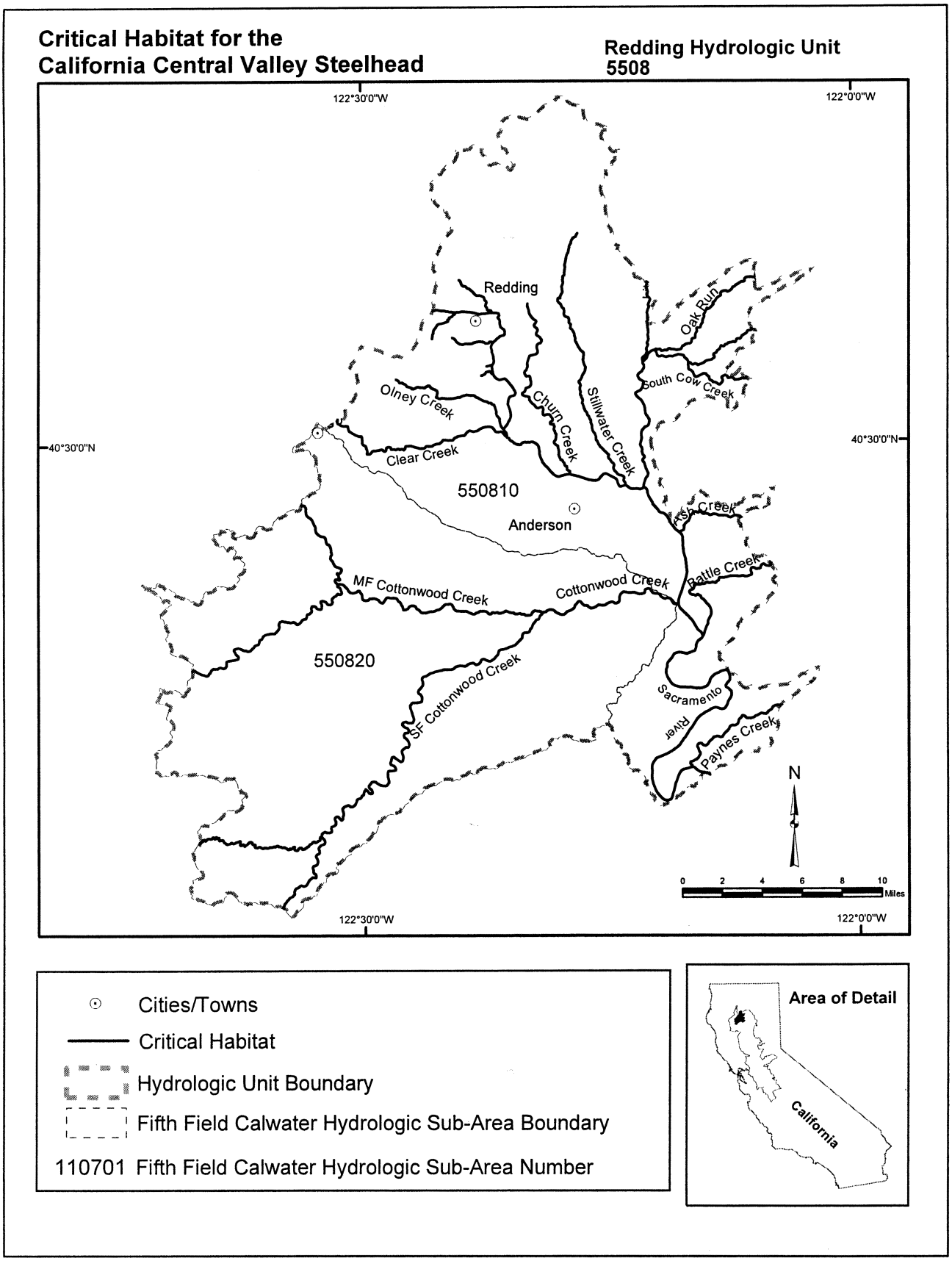
(21) San Joaquin Delta Hydrologic Unit 5544—*San Joaquin Delta Hydrologic Sub-area 554400.* Outlet(s) = San Joaquin River (Lat 38.0246, Long –1121.7471) upstream to endpoint(s) in: Big Break (38.0160, –1121.6849); Bishop Cut (38.0870, –1121.4158); Calaveras River (37.9836, –1121.3110); Cosumnes River (38.2538, –1121.4074); Disappointment Slough (38.0439, –1121.4201); Dutch Slough (38.0088, –1121.6281); Empire Cut (37.9714, –1121.4762); False River (38.0479, –1121.6232); Frank's Tract (38.0220, –1121.5997); Frank's Tract (38.0300, –1121.5830); Holland Cut (37.9939, –1121.5757); Honker Cut (38.0680, –1121.4589); Kellog Creek (37.9158, –1121.6051); Latham Slough (37.9716, –1121.5122); Middle River (37.8216, –1121.3747); Mokelumne River (38.2104, –1121.3804); Mormon Slough (37.9456,-121.2907); Mosher Creek (38.0327, –1121.3650); North Mokelumne River (38.2274, –1121.4918); Old River (37.8086, –1121.3274); Orwood Slough (37.9409, –1121.5332); Paradise Cut (37.7605, –1121.3085); Pixley Slough (38.0443, –1121.3868); Potato Slough (38.0440, –1121.4997); Rock Slough (37.9754, –1121.5795); Sand Mound Slough (38.0220, –1121.5997); Stockton Deep Water Channel (37.9957, –1121.4201); Turner Cut (37.9972, –1121.4434); Unnamed Tributary (38.1165, –1121.4976); Victoria Canal (37.8891, –1121.4895); White Slough (38.0818, –1121.4156); Woodward Canal (37.9037, –1121.4973).

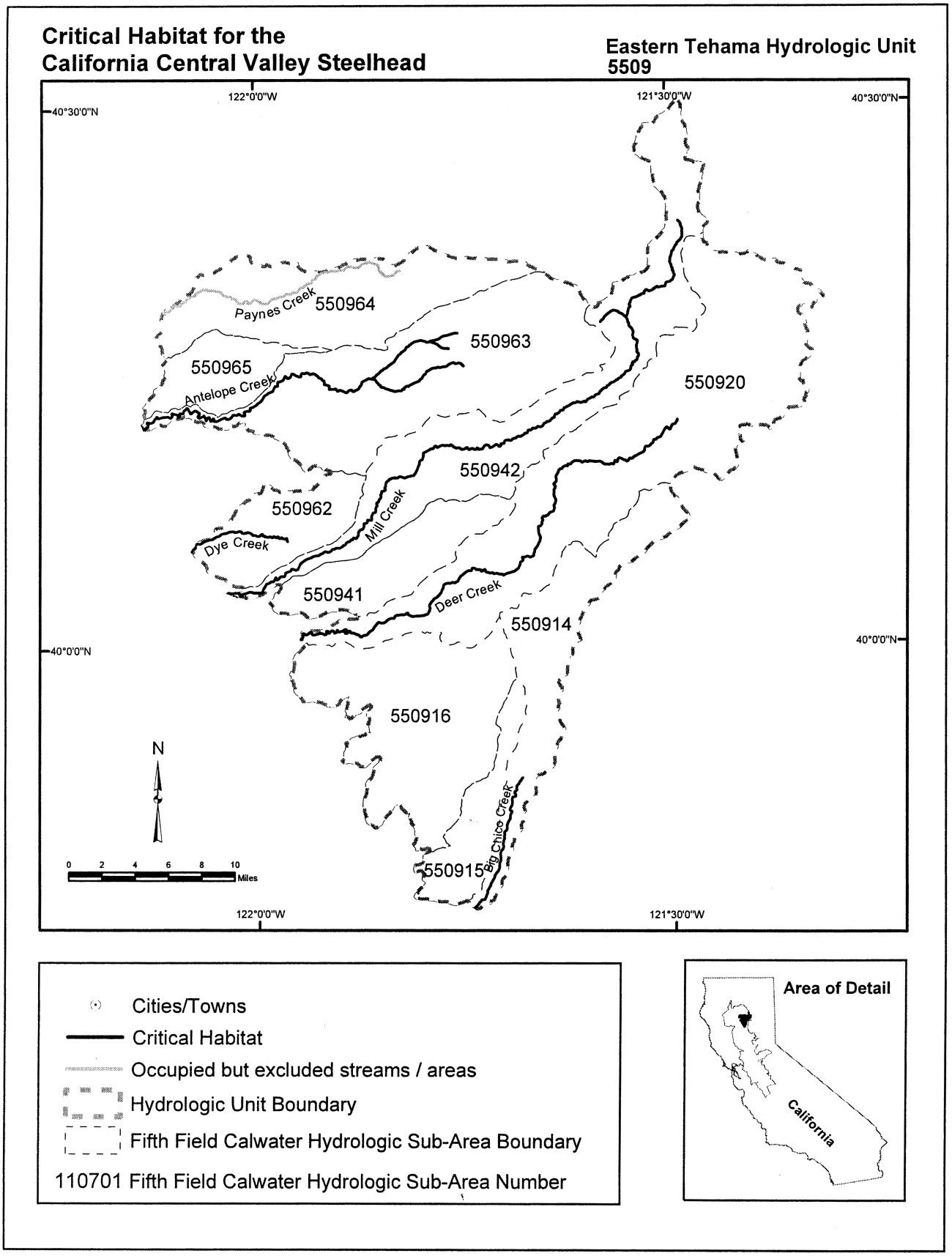
(22) Maps of critical habitat for the Central Valley Steelhead ESU follow:

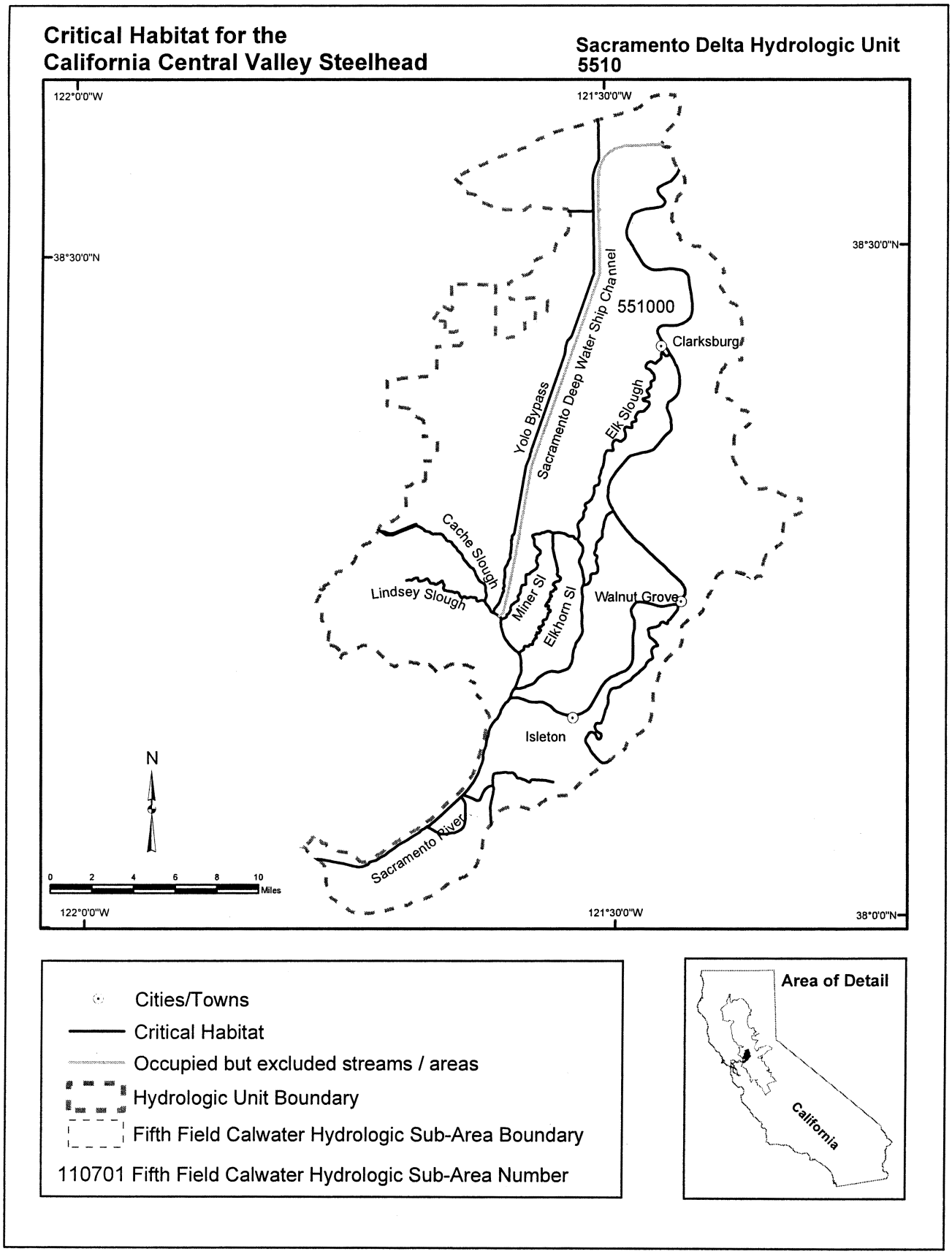
BILLING CODE 3510–22–P

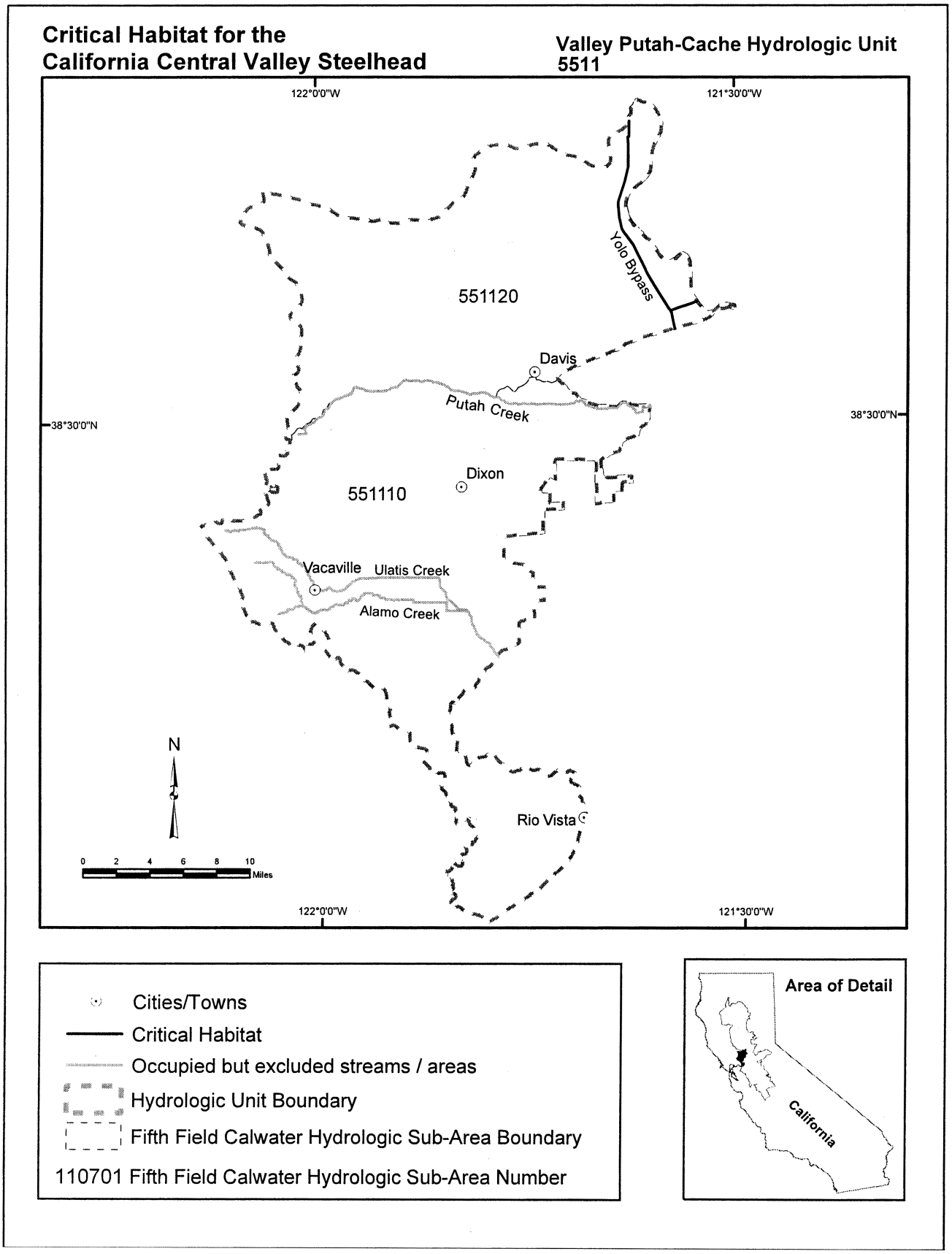

Critical Habitat for the
California Central Valley Steelhead
Tehama Hydrologic Unit
5504
122°30'0"W
122°0'0"W
40°0'0"N
Blue Tent Ck
Dibble Ck
Red Bluff
Red Bank Ck
Oat Creek
Dye Ck
Elder Creek
550420
Mill Creek
McClure Ck
Thomes Creek
Deer Creek
Corning
Rice Creek
Sacramento River
Rock Creek
Mud Creek
Lindo Channel
Big Chico
550410
Stony Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

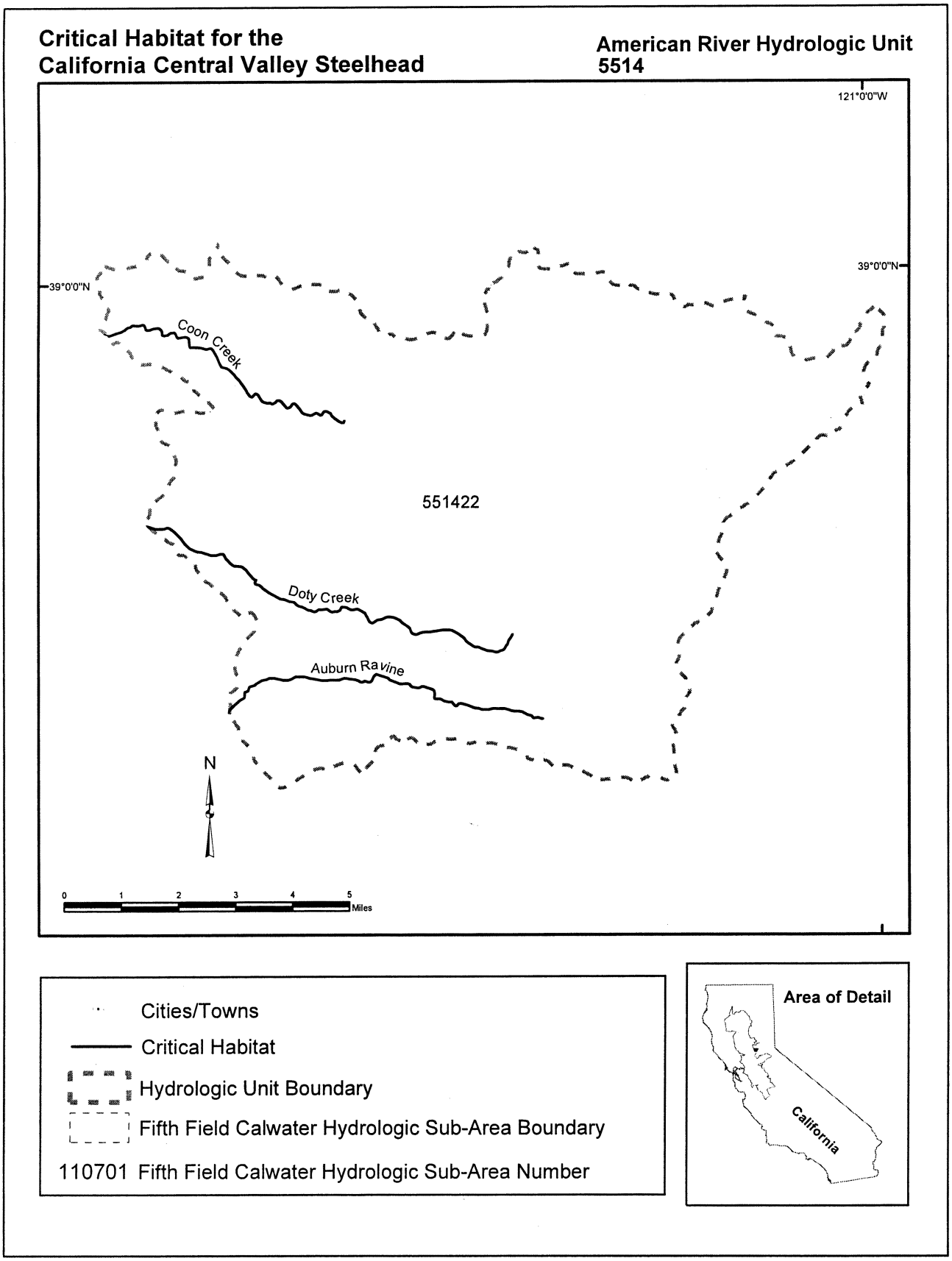

Critical Habitat for the
California Central Valley Steelhead
Whitmore Hydrologic Unit
5507
122°0'0"W
121°30'0"W
40°30'0"N
550733
550732
550731
550722
550721
550712
550711
Bella Vista
Little Cow Creek
Oak Run
Clover Creek
Old Cow Creek
South Cow Creek
Bear Creek
Viola
Shingletown
Ash Creek
NF Battle Creek
Manton
Battle Creek
Soap Creek
SF Battle Creek
Panther Creek
Morgan Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

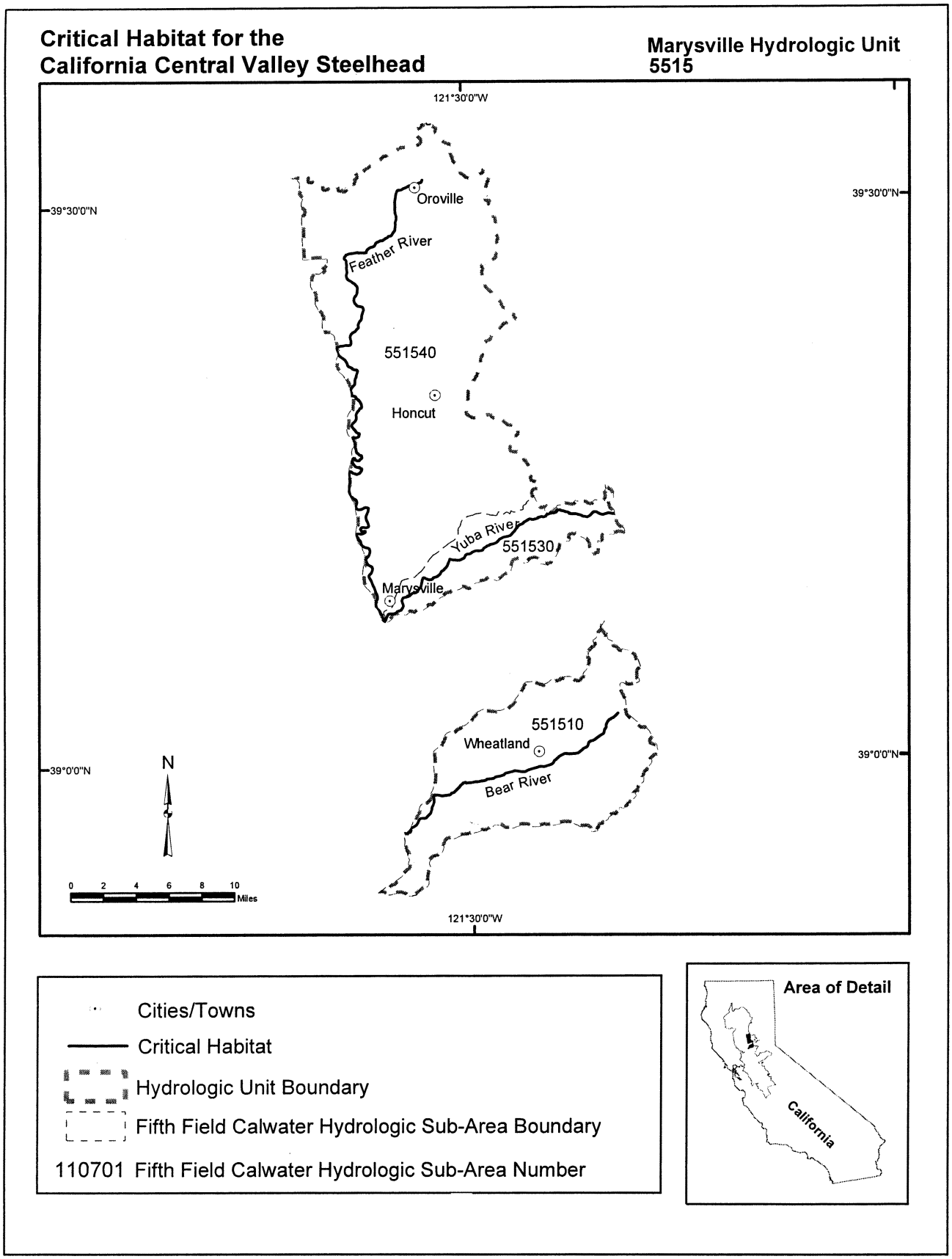

Critical Habitat for the
California Central Valley Steelhead
Redding Hydrologic Unit
5508
122°30'0"W
122°0'0"W
40°30'0"N
Redding
Oak Run
South Cow Creek
Olney Creek
Churn Creek
Stillwater Creek
Clear Creek
550810
Anderson
Cottonwood Creek
Battle Creek
MF Cottonwood Creek
550820
SF Cottonwood Creek
Sacramento River
Paynes Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

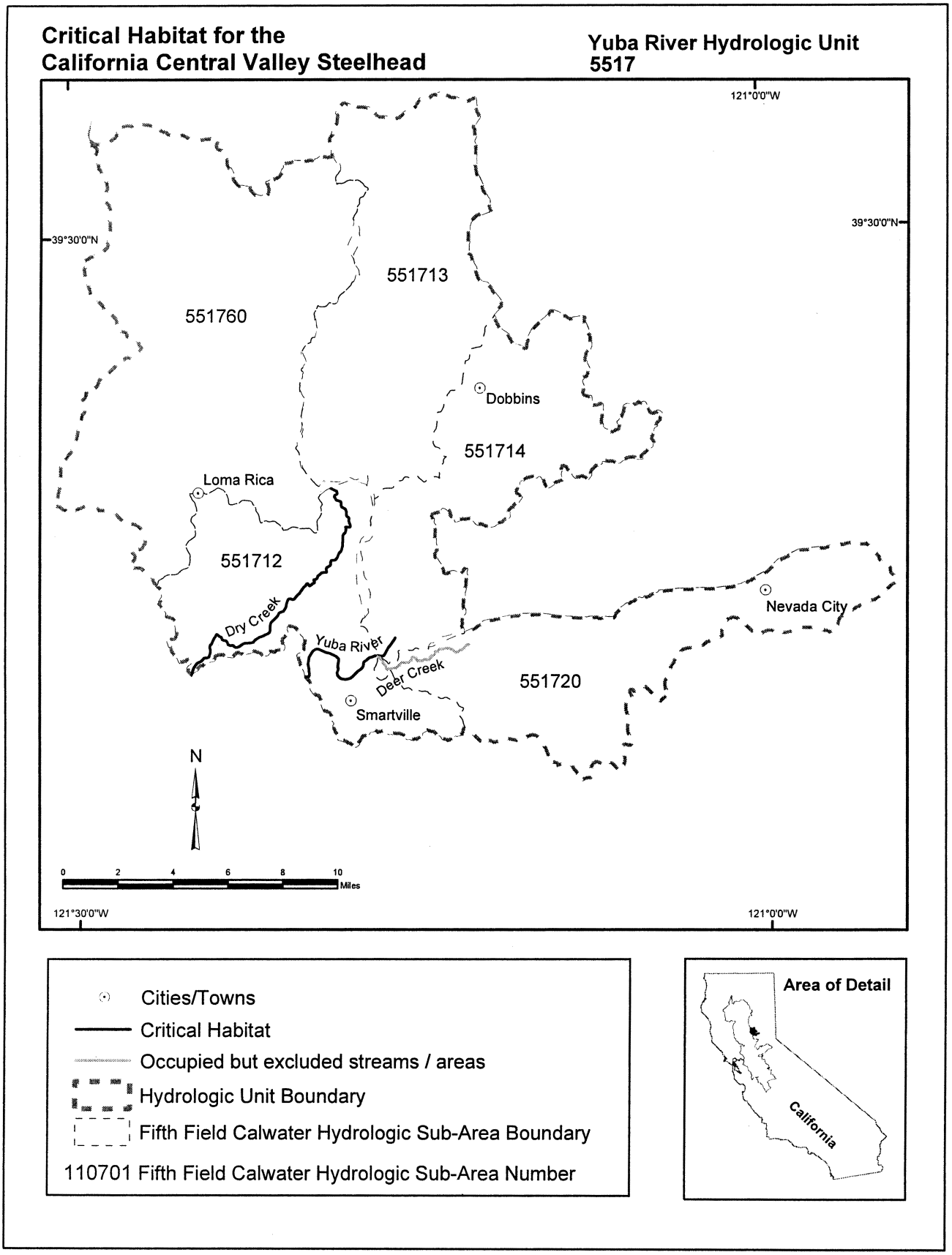

Critical Habitat for the
California Central Valley Steelhead
Eastern Tehama Hydrologic Unit
5509
122°0'0"W
121°30'0"W
40°30'0"N
40°0'0"N
Paynes Creek
550964
550963
550965
Antelope Creek
550920
550942
550962
Mill Creek
Dye Creek
550941
Deer Creek
550914
550916
Big Chico Creek
550915
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

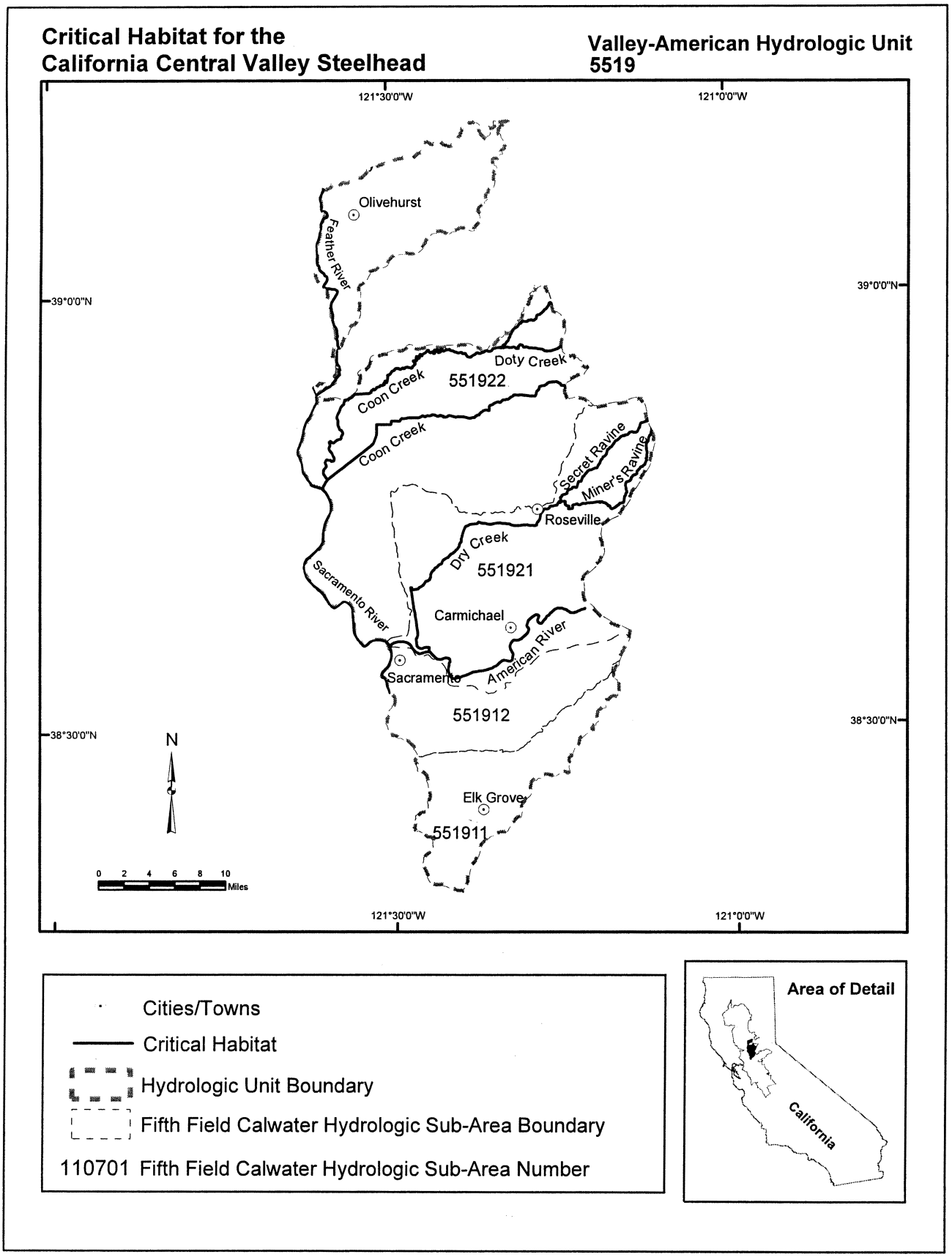

Critical Habitat for the
California Central Valley Steelhead
Sacramento Delta Hydrologic Unit
5510
122°0'0"W
121°30'0"W
38°30'0"N
38°0'0"N
551000
Clarksburg
Yolo Bypass
Sacramento Deep Water Ship Channel
Elk Slough
Cache Slough
Lindsey Slough
Miner Sl
Elkhorn Sl
Walnut Grove
Isleton
Sacramento River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

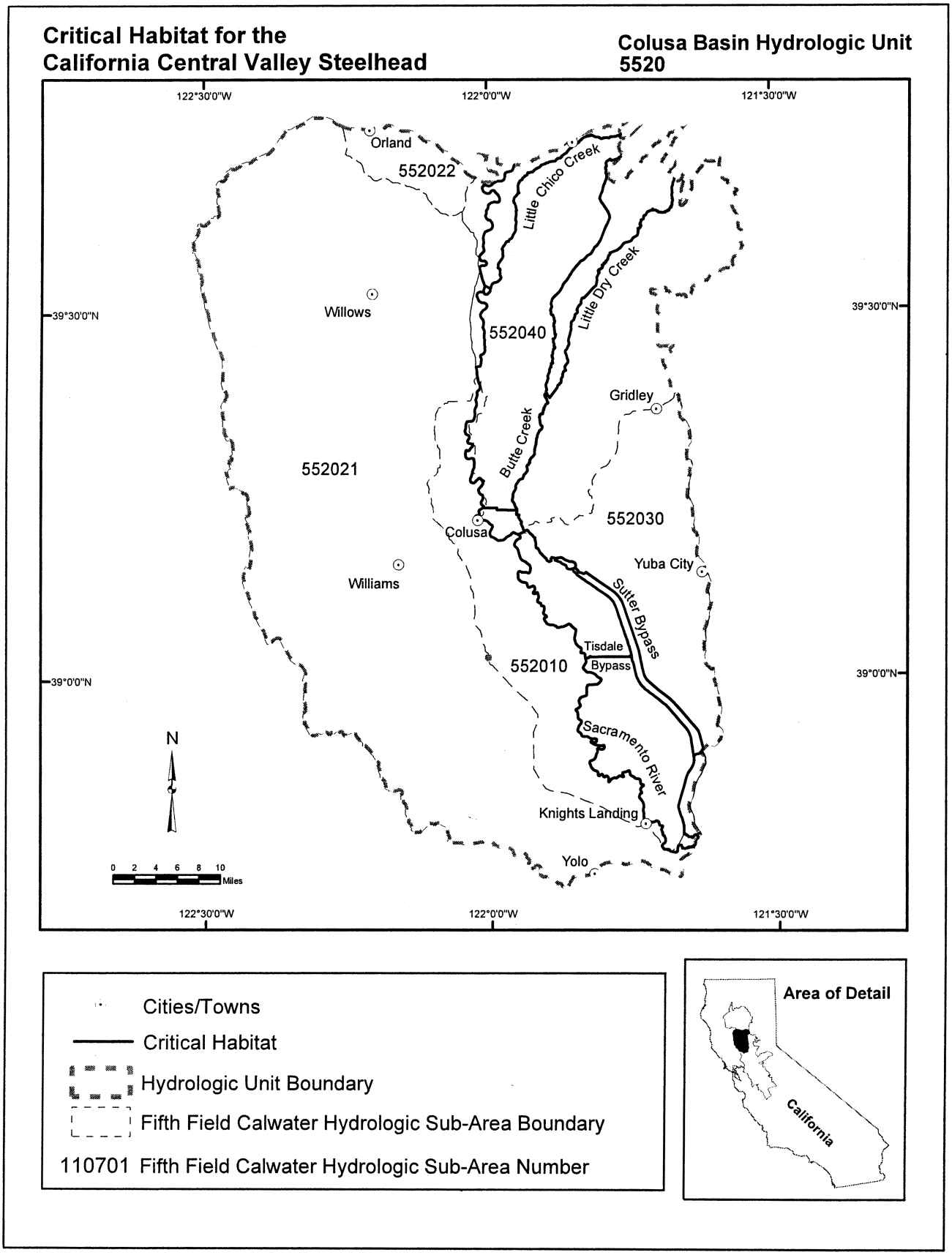

Critical Habitat for the
California Central Valley Steelhead
Valley Putah-Cache Hydrologic Unit
5511
122°0'0"W
121°30'0"W
38°30'0"N
Yolo Bypass
551120
Davis
Putah Creek
Dixon
551110
Vacaville
Ulatis Creek
Alamo Creek
Rio Vista
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

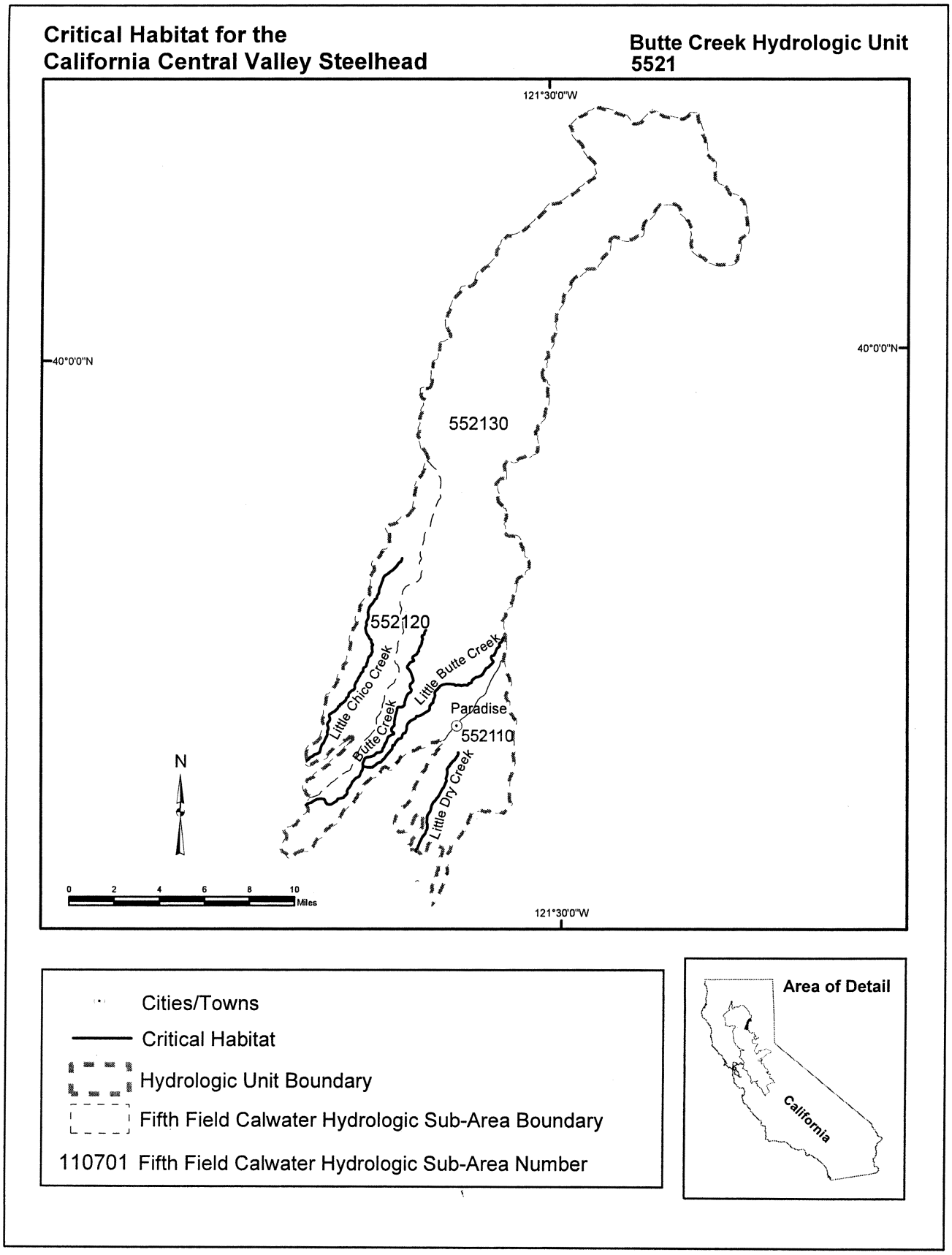

Critical Habitat for the
California Central Valley Steelhead
American River Hydrologic Unit
5514
121°0'0"W
39°0'0"N
39°0'0"N
Coon Creek
551422
Doty Creek
Auburn Ravine
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

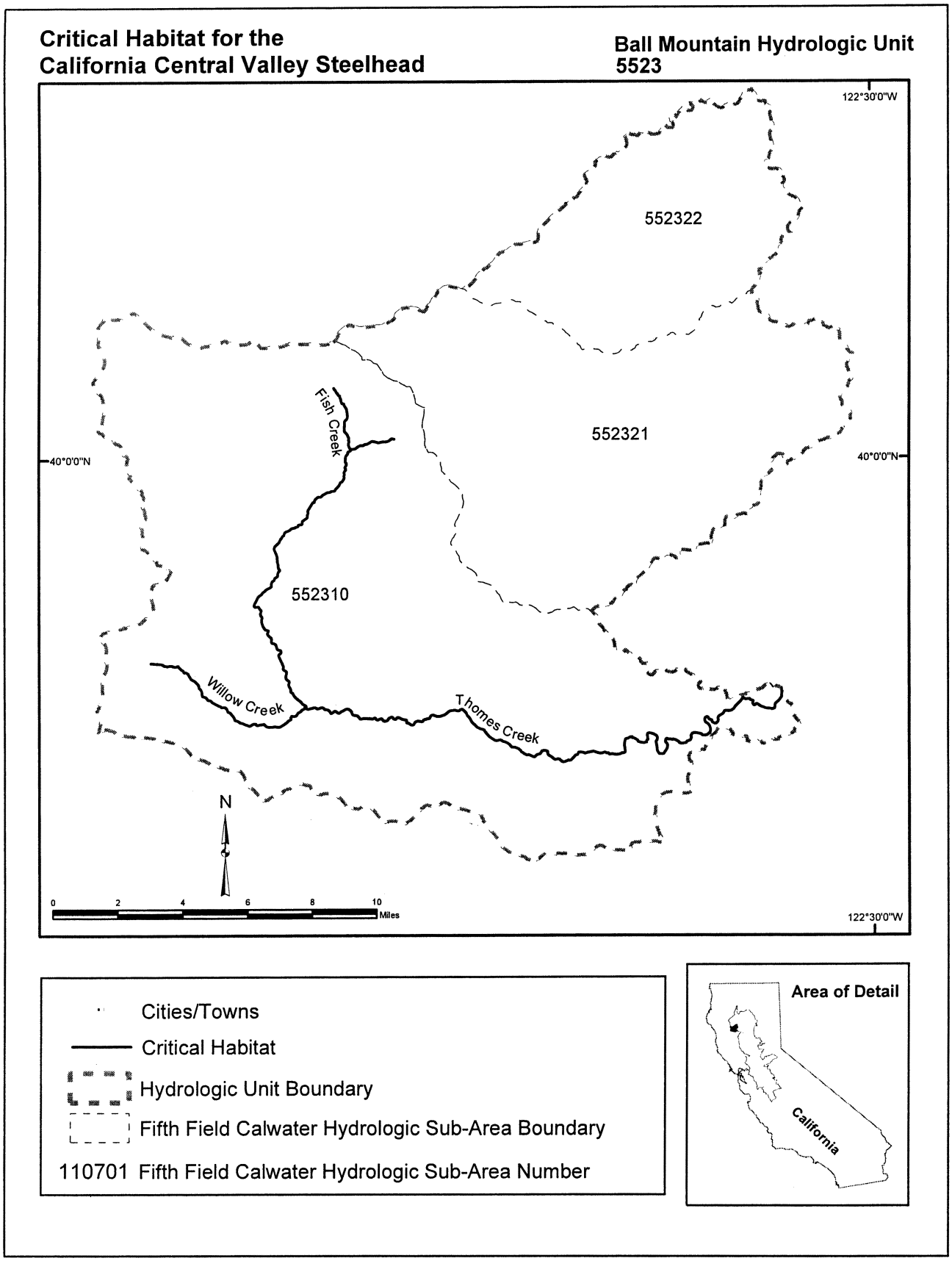

Critical Habitat for the
California Central Valley Steelhead
Marysville Hydrologic Unit
5515
121°30'0"W
39°30'0"N
39°0'0"N
Oroville
Feather River
551540
Honcut
Yuba River
551530
Marysville
551510
Wheatland
Bear River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

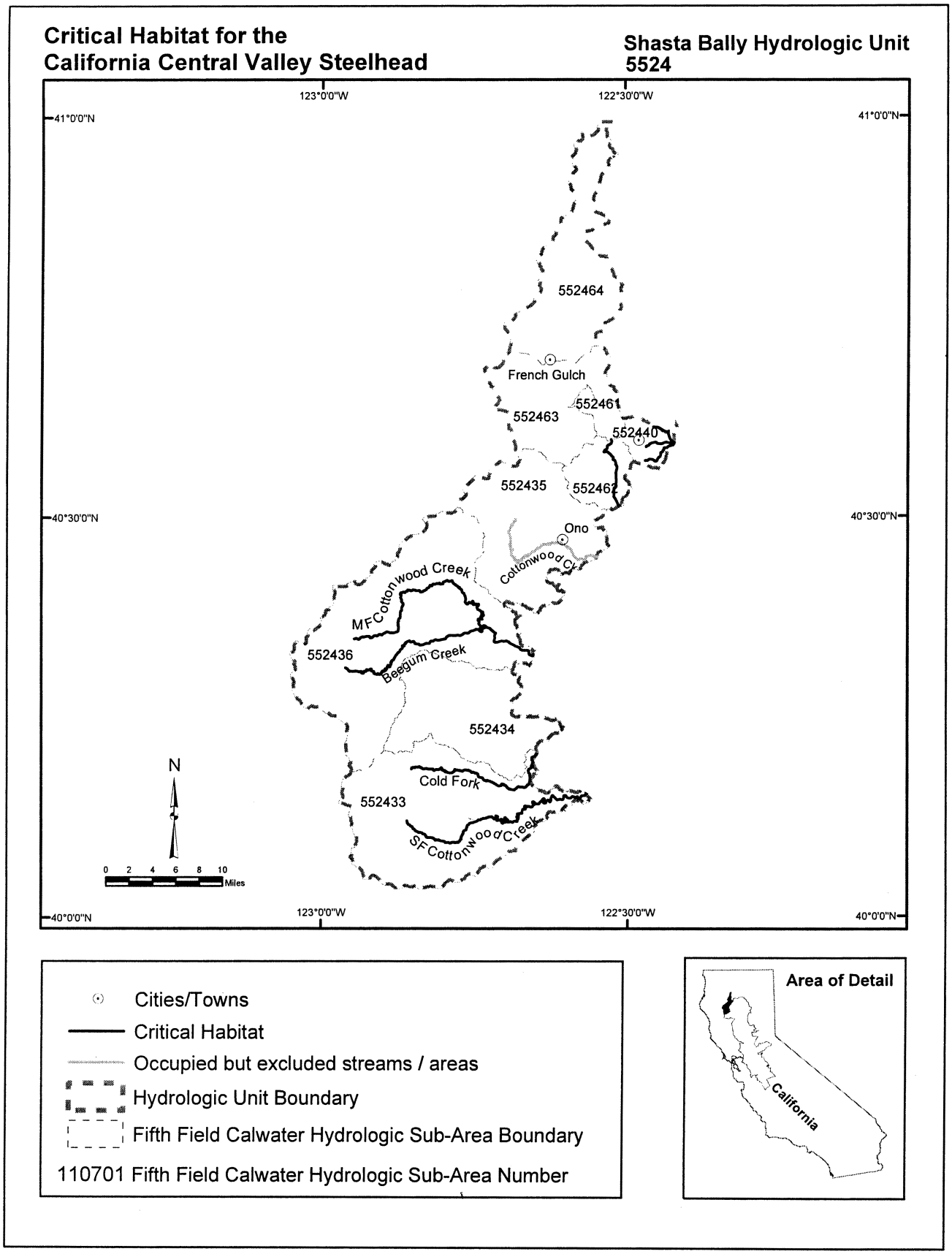

Critical Habitat for the
California Central Valley Steelhead
Yuba River Hydrologic Unit
5517
121°0'0"W
39°30'0"N
39°30'0"N
551713
551760
Dobbins
551714
Loma Rica
551712
Dry Creek
Yuba River
Deer Creek
Nevada City
551720
Smartville
N
0 2 4 6 8 10
Miles
121°30'0"W
121°0'0"W
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

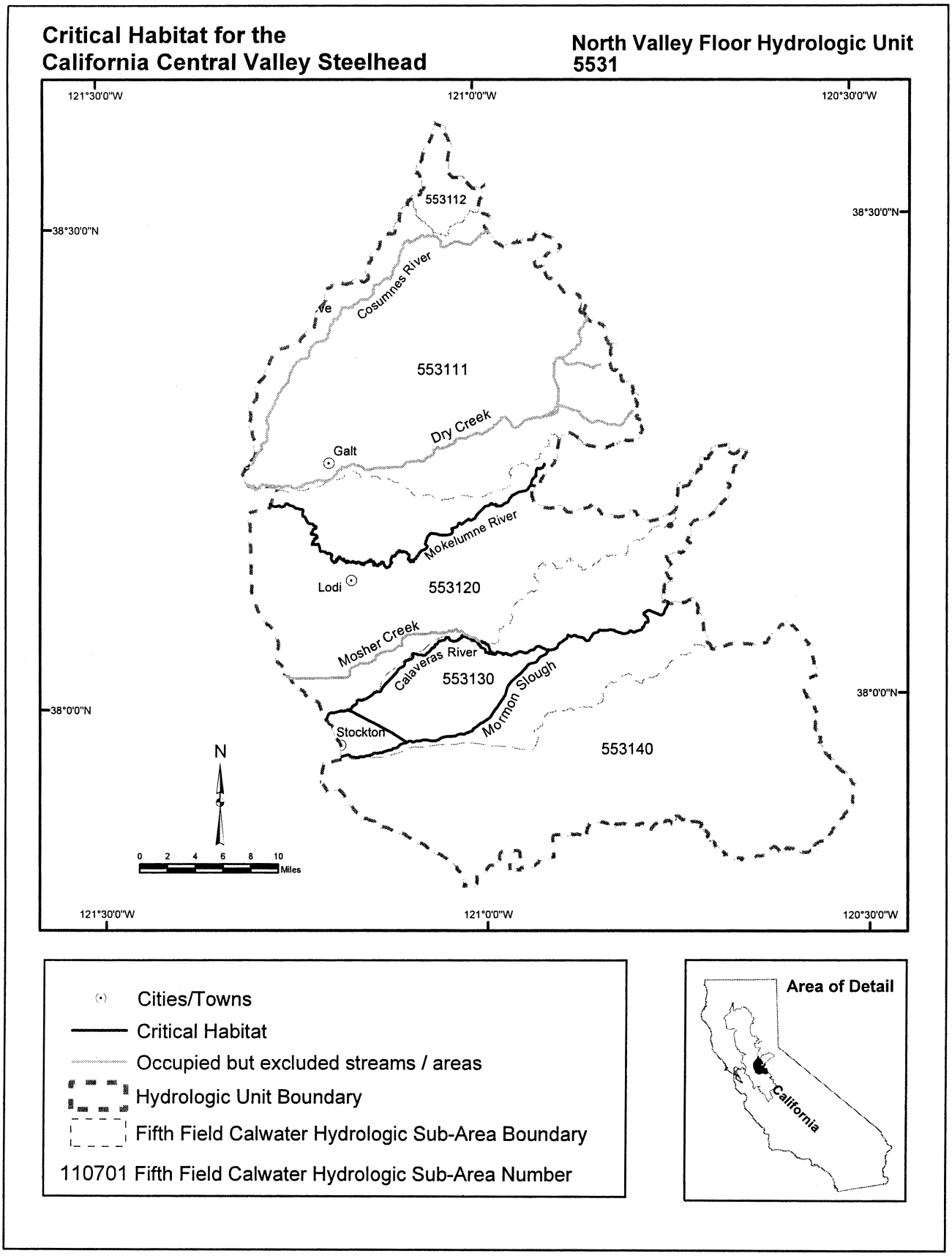

Critical Habitat for the
California Central Valley Steelhead
Valley-American Hydrologic Unit
5519
121°30'0"W
121°0'0"W
39°0'0"N
38°30'0"N
Olivehurst
Feather River
Doty Creek
551922
Coon Creek
Coon Creek
Secret Ravine
Miner's Ravine
Roseville
Dry Creek
551921
Sacramento River
Carmichael
American River
Sacramento
551912
Elk Grove
551911
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

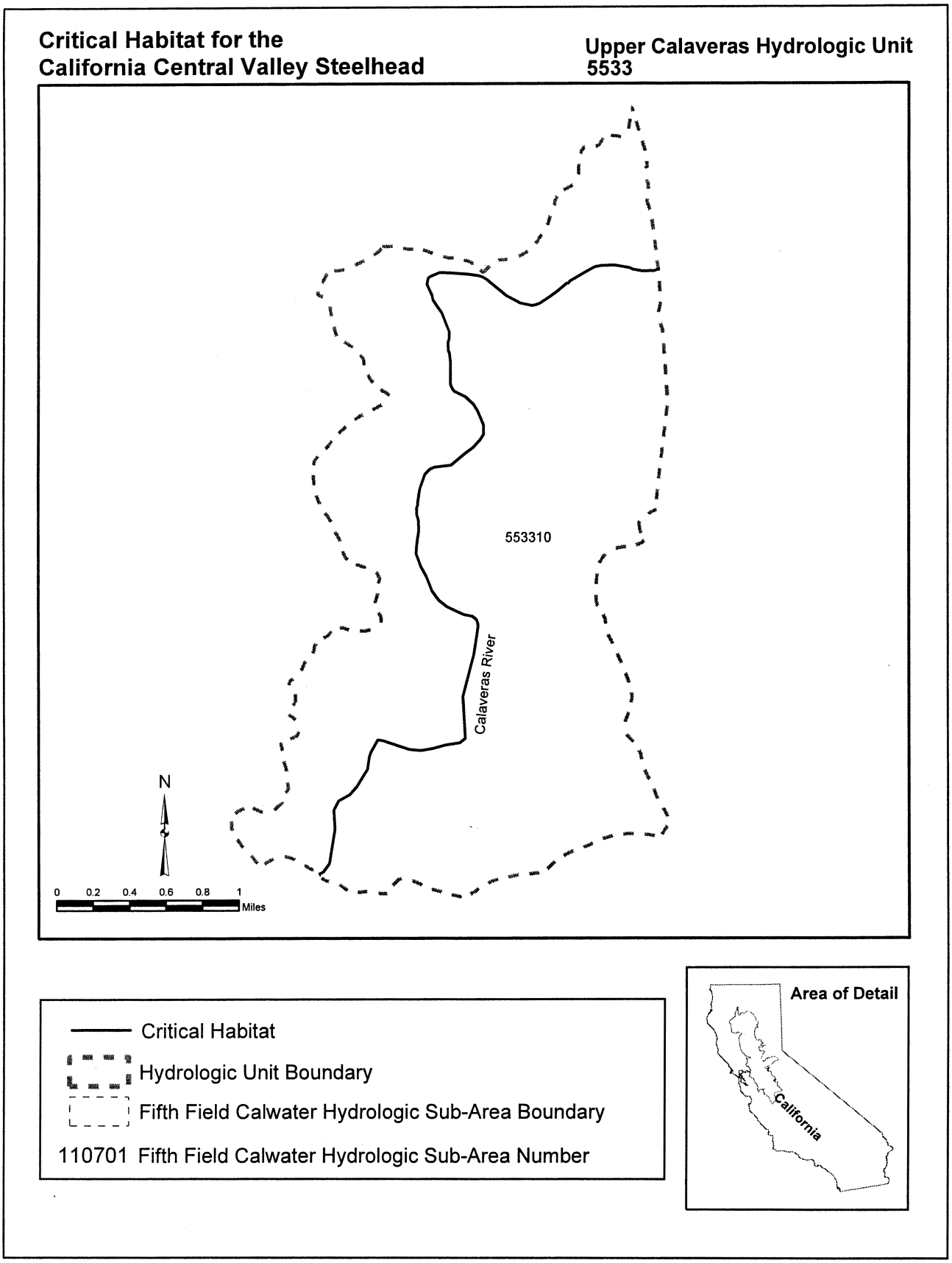

Critical Habitat for the
California Central Valley Steelhead
Colusa Basin Hydrologic Unit
5520
122°30'0"W
122°0'0"W
121°30'0"W
39°30'0"N
39°0'0"N
Orland
552022
Little Chico Creek
Little Dry Creek
Willows
552040
Gridley
Butte Creek
552021
552030
Colusa
Yuba City
Williams
Sutter Bypass
Tisdale
Bypass
552010
Sacramento River
Knights Landing
Yolo
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

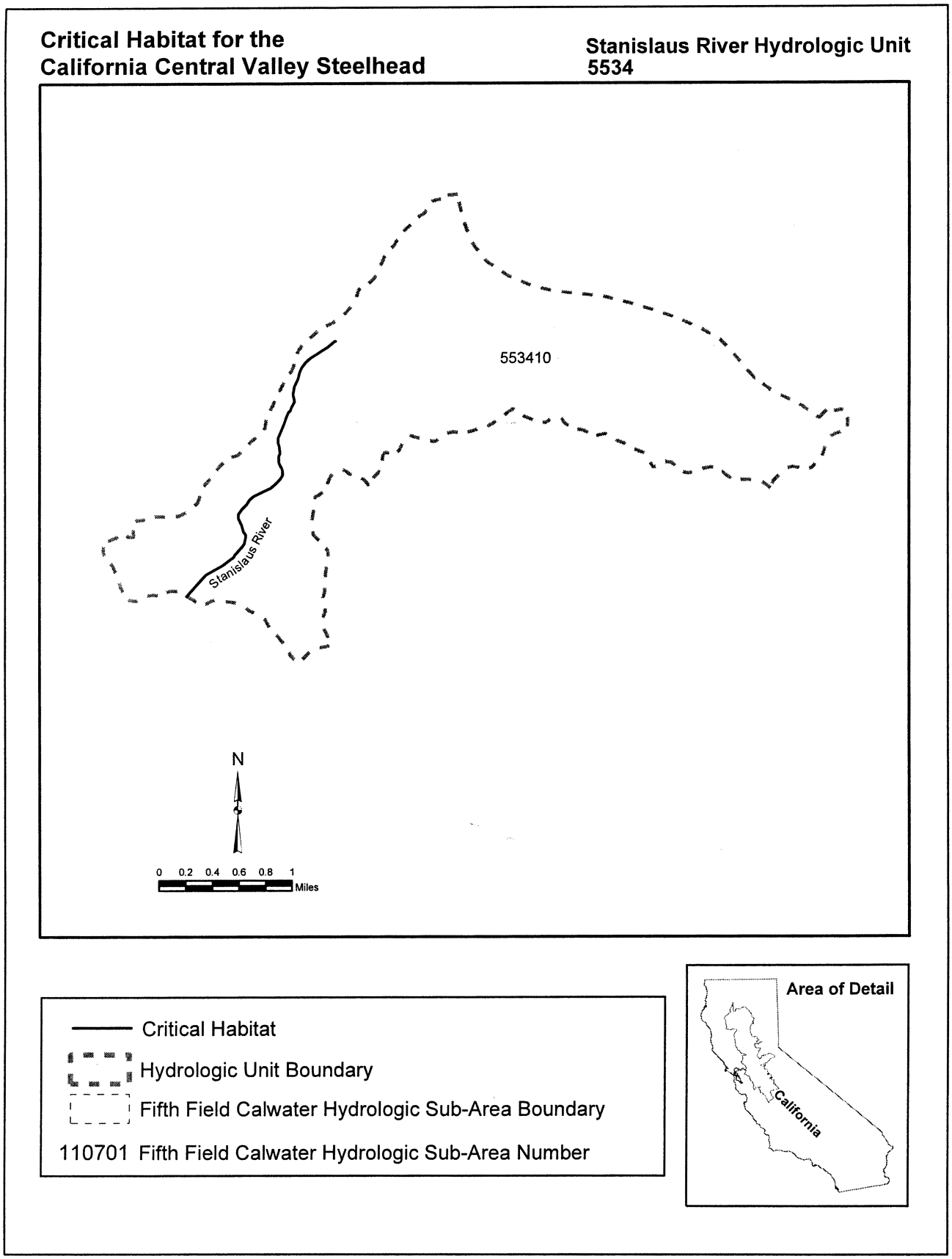

Critical Habitat for the
California Central Valley Steelhead
Butte Creek Hydrologic Unit
5521
121°30'0"W
40°0'0"N
40°0'0"N
552130
552120
Little Chico Creek
Little Butte Creek
Butte Creek
Paradise
552110
Little Dry Creek
N
0 2 4 6 8 10
Miles
121°30'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

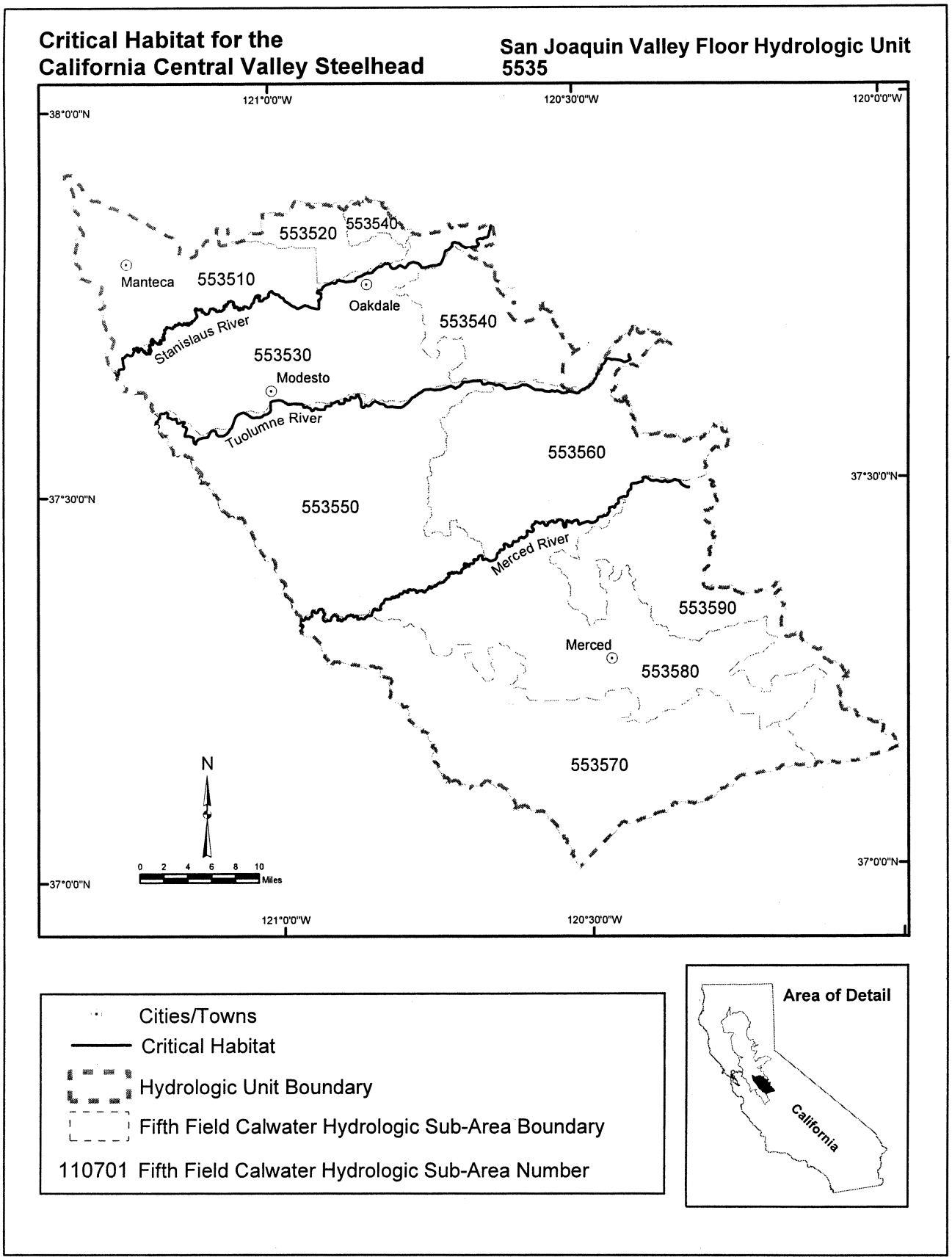

Critical Habitat for the
California Central Valley Steelhead
Ball Mountain Hydrologic Unit
5523
122°30'0"W
552322
552321
Fish Creek
40°0'0"N
40°0'0"N
552310
Willow Creek
Thomes Creek
N
0 2 4 6 8 10
Miles
122°30'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

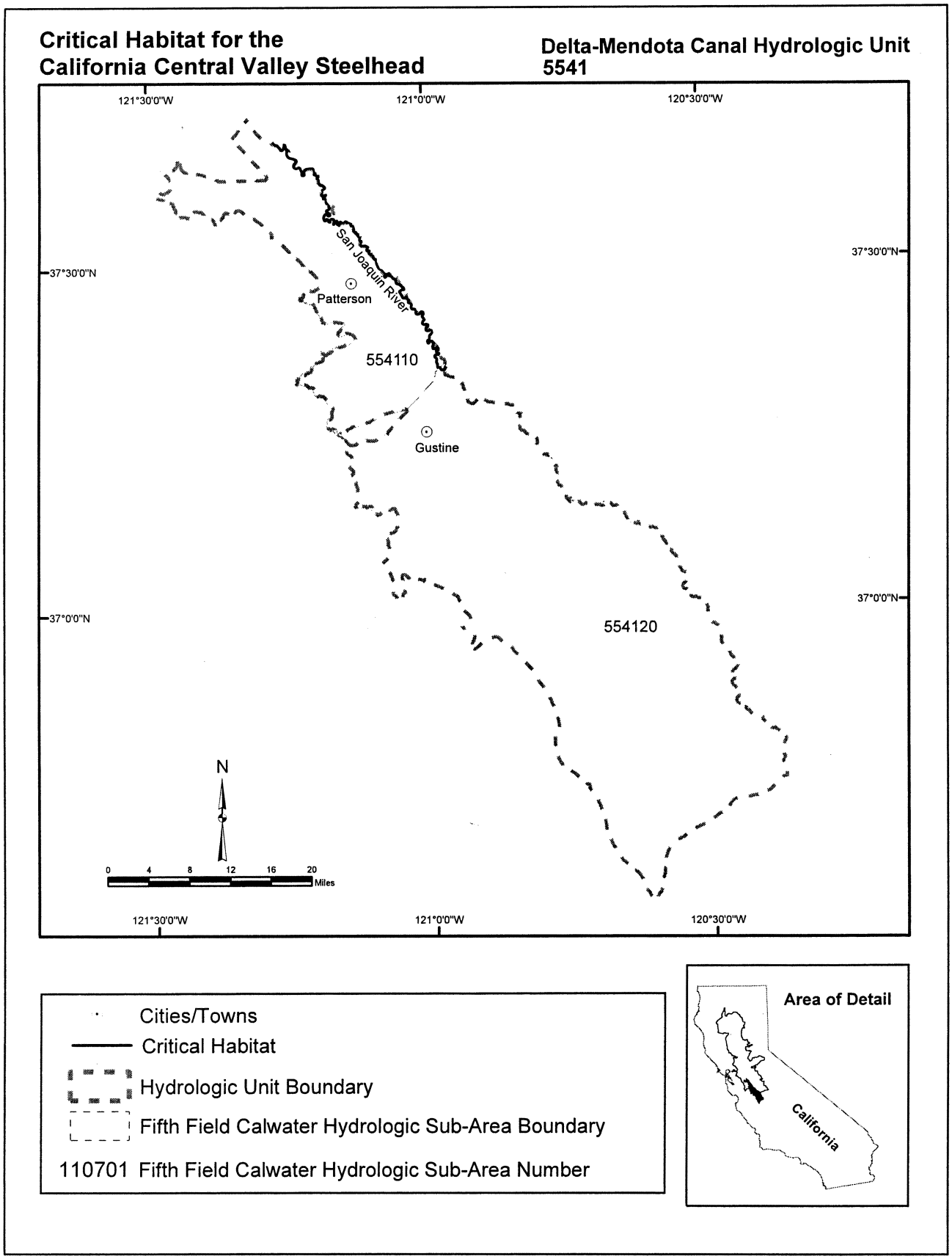

Critical Habitat for the
California Central Valley Steelhead
Shasta Bally Hydrologic Unit
5524
123°0'0"W
122°30'0"W
41°0'0"N
40°30'0"N
40°0'0"N
552464
French Gulch
552461
552463
552440
552435
552462
Ono
Cottonwood Cr
MF Cottonwood Creek
552436
Beegum Creek
552434
Cold Fork
552433
SF Cottonwood Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

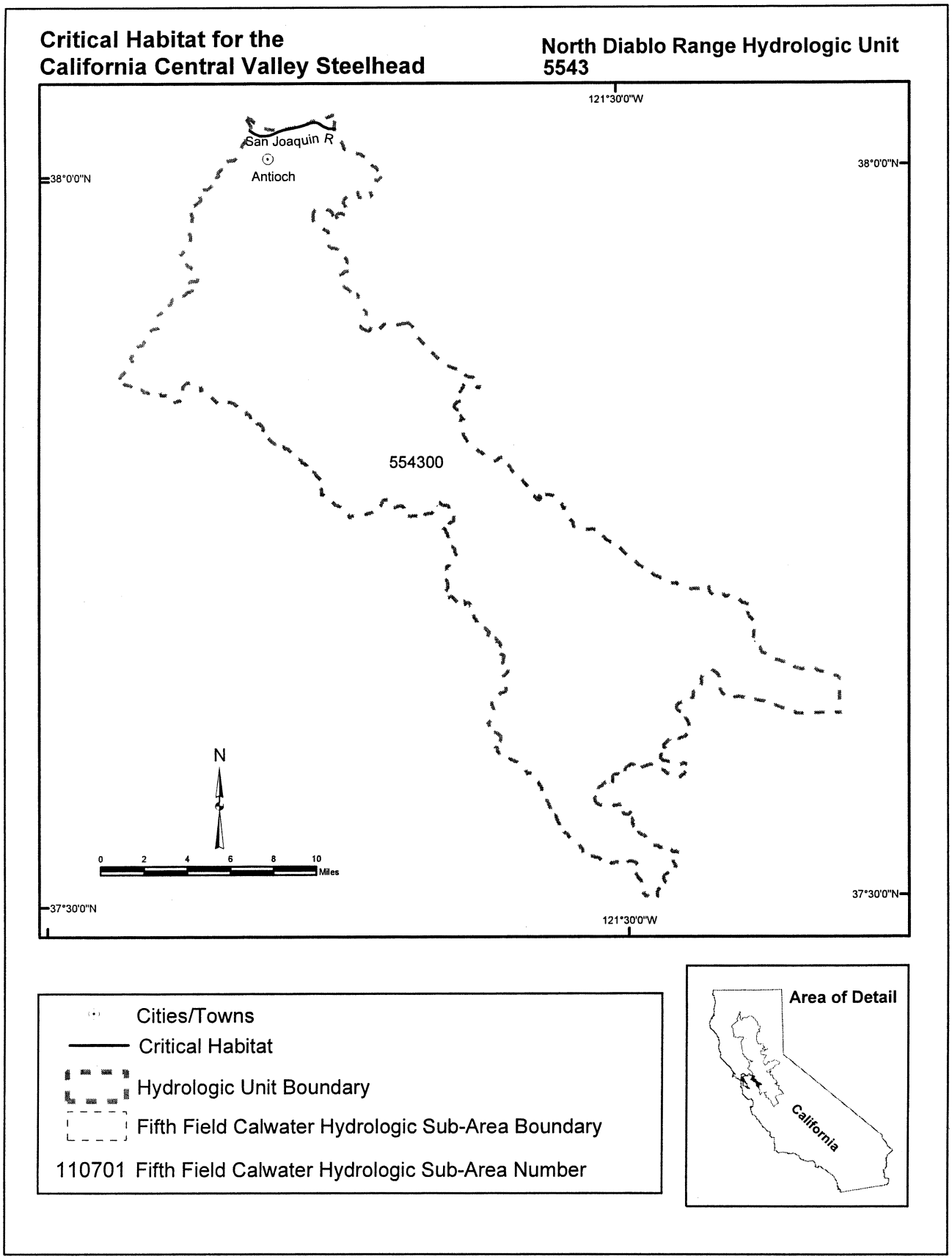

Critical Habitat for the
California Central Valley Steelhead
North Valley Floor Hydrologic Unit
5531
121°30'0"W
121°0'0"W
120°30'0"W
38°30'0"N
38°0'0"N
553112
Cosumnes River
553111
Dry Creek
Galt
Mokelumne River
Lodi
553120
Mosher Creek
Calaveras River
553130
Mormon Slough
Stockton
553140
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

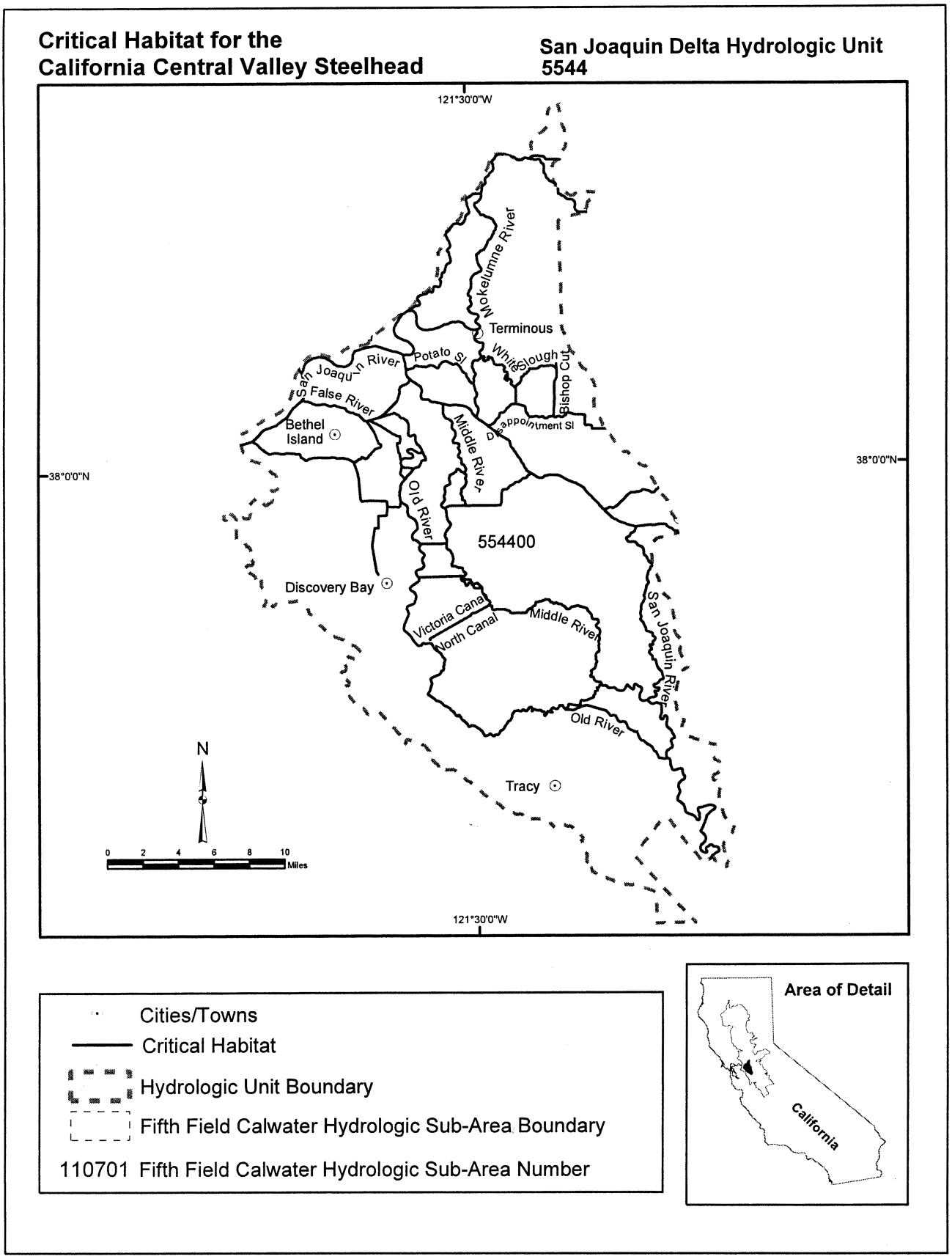

Critical Habitat for the
California Central Valley Steelhead
Upper Calaveras Hydrologic Unit
5533
553310
Calaveras River
N
0 0.2 0.4 0.6 0.8 1
Miles
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
Stanislaus River Hydrologic Unit
5534
553410
Stanislaus River
N
0 0.2 0.4 0.6 0.8 1
Miles
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the California Central Valley Steelhead
San Joaquin Valley Floor Hydrologic Unit 5535
121°0'0"W
120°30'0"W
120°0'0"W
38°0'0"N
37°30'0"N
37°0'0"N
553520
553540
553510
Manteca
Oakdale
553540
Stanislaus River
553530
Modesto
Tuolumne River
553560
553550
Merced River
553590
Merced
553580
553570
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
Delta-Mendota Canal Hydrologic Unit
5541
121°30'0"W
121°0'0"W
120°30'0"W
37°30'0"N
37°0'0"N
San Joaquin River
Patterson
554110
Gustine
554120
N
0 4 8 12 16 20
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
North Diablo Range Hydrologic Unit
5543
121°30'0"W
38°0'0"N
San Joaquin R
Antioch
554300
N
0 2 4 6 8 10
Miles
37°30'0"N
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



[FR Doc. 05–16389 Filed 9–1–05; 8:45 am]

BILLING CODE 3510–22–C

Federal Register

Friday,
September 2, 2005

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 226

Endangered and Threatened Species; Designation of Critical Habitat for 12 Evolutionarily Significant Units of West Coast Salmon and Steelhead in Washington, Oregon, and Idaho; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 030716175–5203–04; I.D. No. 070303A]

RIN 0648–AQ77

Endangered and Threatened Species; Designation of Critical Habitat for 12 Evolutionarily Significant Units of West Coast Salmon and Steelhead in Washington, Oregon, and Idaho

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

ACTION: Final rule.

SUMMARY: We, the National Marine Fisheries Service (NMFS), are issuing a final rule designating critical habitat for 12 Evolutionarily Significant Units (ESUs) of West Coast salmon (chum, *Oncorhynchus keta;* sockeye, *O. nerka;* chinook, O. *tshawytscha*) and steelhead (*O. mykiss*) listed as of the date of this designation under the Endangered Species Act of 1973, as amended (ESA). The specific areas designated in the rule text set out below include approximately 20,630 mi (33,201 km) of lake, riverine, and estuarine habitat in Washington, Oregon, and Idaho, as well as approximately 2,312 mi (3,721 km) of marine nearshore habitat in Puget Sound, Washington. Some of the areas designated are occupied by two or more ESUs. The annual net economic impacts of changes to Federal activities as a result of critical habitat designation (regardless of whether those activities would also change as a result of the ESA's jeopardy requirement) are estimated to be approximately $201.2 million. Fish and wildlife conservation actions for the Federal Columbia River Power System and other major hydropower projects in the Pacific Northwest are expected to generate another $500–700 million in annual costs, including forgone power revenues. While these hydropower projects are covered by ESA section 7, the conservation actions that generate these costs are imposed by a wide variety of laws. We solicited information and comments from the public in an Advance Notice of Proposed Rulemaking (ANPR) and on all aspects of the proposed rule. This rule is being issued to meet the timeline established in litigation between NMFS and Pacific Coast Federation of Fishermen's Associations (*PCFFA et. al* v. *NMFS* (Civ. No. 03–1883)). In the proposed rule, we identified a number of potential exclusions we were considering including exclusions for federal lands subject to the Pacific Northwest Forest Plan, PACFISH and INFISH. We are continuing to analyze whether exclusion of those federal lands is appropriate.

DATES: This rule becomes effective January 2, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment, during normal business hours, at the National Marine Fisheries Service, NMFS, Protected Resources Division, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. The final rule, maps, and other materials relating to these designations can be found on our website at *http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm.*

FOR FURTHER INFORMATION CONTACT: Steve Stone at the above address, at (503) 231–2317, or Marta Nammack at (301) 713–1401 ext. 180.

SUPPLEMENTARY INFORMATION:

Organization of the Final Rule

This **Federal Register** notice describes the final critical habitat designations for 12 ESUs of West Coast salmon and steelhead under the ESA. The pages that follow summarize the comments and information received in response to proposed designations published on December 14, 2004 (69 FR 74572), describe any changes from the proposed designations, and detail the final designations for 12 ESUs. To assist the reader, the content of this document is organized as follows:

I. Background and Previous Federal Action
II. Summary of Comments and Recommendations
Notification and General Comments
Identification of Critical Habitat Areas
Economics Methodology
Weighing the Benefits of Designation vs. Exclusion
Effects of Designating Critical Habitat
ESU-Specific Issues
III. Summary of Revisions
IV. Methods and Criteria Used To Identify Critical Habitat
Salmon Life History
Identifying the Geographical Area Occupied by the Species and Specific Areas Within the Geographical Area
Primary Constituent Elements (PCEs)
Special Management Considerations or Protections
Unoccupied Areas
Lateral Extent of Critical Habitat
Military Lands
Critical Habitat Analytical Review Teams
V. Application of ESA Section 4(b)(2)
Exclusions Based on ''Other Relevant Impacts''
Impacts to Tribes
Impacts to Landowners With Contractual Commitments to Conservation
Exclusions Based on National Security Impacts
Exclusions Based on Economic Impacts
VI. Critical Habitat Designation
VII. Effects of Critical Habitat Designation
Section 7 Consultation
Activities Affected by Critical Habitat Designation
VIII. Required Determinations
IX. References Cited

I. Background and Previous Federal Action

We are responsible for determining whether species, subspecies, or distinct population segments of West Coast salmon and steelhead (*Oncorhynchus* spp.) are threatened or endangered, and for designating critical habitat for them under the ESA (16 U.S.C. 1531 *et seq*). To qualify as a distinct population segment, a West Coast salmon or steelhead population must be substantially reproductively isolated from other conspecific populations and represent an important component in the evolutionary legacy of the biological species. According to agency policy, a population meeting these criteria is considered to be an Evolutionarily Significant Unit (ESU) (56 FR 58612; November 20, 1991).

We are also responsible for designating critical habitat for species listed under our jurisdiction. Section 3 of the ESA defines critical habitat as (1) specific areas within the geographical area occupied by the species at the time of listing, on which are found those physical or biological features that are essential to the conservation of the listed species and that may require special management considerations or protection, and (2) specific areas outside the geographical area occupied by the species at the time of listing that are essential for the conservation of a listed species. Our regulations direct us to focus on ''primary constituent elements,'' or PCEs, in identifying these physical or biological features. Section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS, ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened salmon or steelhead ESU or result in the destruction or adverse modification of critical habitat. Section 4 of the ESA requires us to consider the economic impacts, impacts on national security, and other relevant impacts of

specifying any particular area as critical habitat.

The timeline for completing the critical habitat designations described in this **Federal Register** document was established pursuant to litigation between NMFS and the Pacific Coast Federation of Fishermen's Associations, Institute for Fisheries Resources, the Center for Biological Diversity, the Oregon Natural Resources Council, the Pacific Rivers Council, and the Environmental Protection Information Center (PCFFA *et al.*) and is subject to a Consent Decree and Stipulated Order of Dismissal (Consent Decree) approved by the D.C. District Court. A complete summary of previous court action regarding these designations can be found in the proposed rule (69 FR 74578; December 14, 2004).

In keeping with the Consent Decree, on December 14, 2004 (69 FR 74572), we published proposed critical habitat designations for eight ESUs of salmon and five ESUs of *O. mykiss*. (For the latter ESUs we used the species' scientific name rather than ''steelhead'' because at the time they were being proposed for revision to include both anadromous (steelhead) and resident (rainbow/redband) forms of the species—see 69 FR 33101; June 14, 2004). The 13 ESUs addressed in the proposed rule were: (1) Puget Sound Chinook salmon; (2) Lower Columbia River Chinook salmon; (3) Upper Willamette River Chinook salmon; (4) Upper Columbia River spring-run Chinook salmon; (5) Hood Canal summer-run chum salmon; (6) Columbia River chum salmon; (7) Ozette Lake sockeye salmon; (8) Oregon Coast coho salmon; (9) Upper Columbia River *O. mykiss*; (10) Snake River Basin *O. mykiss*; (11) Middle Columbia River *O. mykiss*; (12) Lower Columbia River *O. mykiss*; and (13) Upper Willamette River *O. mykiss*. The comment period for the proposed critical habitat designations was originally open until February 14, 2005. On February 7, 2005 (70 FR 6394), we announced a court-approved Amendment to the Consent Decree which revised the schedule for completing the designations and extended the comment period until March 14, 2005, and the date to submit final rules to the **Federal Register** as August 15, 2005.

In the critical habitat proposed rule we stated that ''the final critical habitat designations will be based on the final listing decisions for these 13 ESUs due by June 2005 and thus will reflect occupancy 'at the time of listing' as the ESA requires.'' All of these ESUs had been listed as threatened or endangered between 1997–1999, but in 2002 we announced that we would reassess the listing status of these and other ESUs (67 FR 6215; February 11, 2002). We recently published final listing decisions for seven of the 13 ESUs and extended the deadline for the Oregon Coast coho salmon ESU and the five ESUs of *O. mykiss* (70 FR 37160; June 28, 2005). Final listing determinations for these six ESUs are expected by December 2005 (70 FR 37217 and 37219, June 28, 2005). However, the Consent Decree governing the schedule for our final critical habitat designations requires that we complete final designations for those of the 13 ESUs identified above that are listed as of August 15, 2005. We are not issuing a final critical habitat designation for the Oregon Coast coho salmon ESU because it is only proposed for listing at this time (70 FR 37217; June 28, 2005). In contrast, because anadromous forms (*i.e.*, ''steelhead'') of the five *O. mykiss* ESUs have been listed since 1997–1999 (see summary in June 14, 2004 **Federal Register** notice, 69 FR 33103), we are now issuing final critical habitat designations for them in this notice in accordance with the Consent Decree. We are able to do so because in developing critical habitat designations for this species we have focused on the co-occurring range of both anadromous and resident forms. Therefore, both the proposed and final designations were restricted to the species' anadromous range, although we did consider (but did not propose to designate) some areas occupied solely by resident fish (for example, areas above Dworshak Dam in Idaho). We focused on the co-occurring range due to uncertainties about (1) the distribution of resident fish outside the range of co-occurrence, (2) the location of natural barriers impassable to steelhead and upstream of habitat areas proposed for designation, and (3) the final listing status of the resident form. Section 4(a)(3)(B) of the ESA provides for the revision of critical habitat designations as appropriate, and we will do so if necessary after making final listing determinations for those five *O. mykiss* ESUs. Moreover, we intend to actively review critical habitat and make revisions as needed for all 12 ESUs to keep them as up-to-date as possible. Parties are encouraged to contact NMFS if they have questions or need additional information regarding these designations (see **ADDRESSES**).

In an ANPR (68 FR 55926; September 29, 2003), we noted that the ESA and its supporting regulations require the agency to address a number of issues before designating critical habitat: ''What areas were occupied by the species at the time of listing? What physical and biological features are essential to the species' conservation? Are those essential features ones that may require special management considerations or protection? Are areas outside those currently occupied 'essential for conservation'? What are the benefits to the species of critical habitat designation? What economic and other relevant impacts would result from a critical habitat designation, even if coextensive with other causes such as listing? What is the appropriate geographic scale for weighing the benefits of exclusion and benefits of designation? What is the best way to determine if the failure to designate an area as critical habitat will result in the extinction of the species concerned?'' We recognized that ''[a]nswering these questions involves a variety of biological and economic considerations'' and therefore were seeking public input before issuing a proposed rule. As we stated in the proposed rule that followed: ''We received numerous comments in response to the ANPR and considered them during development of this proposed rulemaking. Where applicable, we have referenced these comments in this **Federal Register** notice as well as in other documents supporting this proposed rule.'' In the proposed rule, we described the methods and criteria we applied to address these questions, relying upon the unique life history traits and habitat requirements of salmon and steelhead.

In issuing the final rule, we considered the comments we received to determine whether a change in our proposed approach to designating critical habitat for salmon and steelhead was warranted. In some instances, we concluded based on comments received that a change was warranted. For example, in this final rule we have revised our approach to allow us to consider excluding areas covered by habitat conservation plans in those cases where the benefits of exclusion outweigh the benefits of designation.

In other instances, we believe the approach taken is supported by the best available scientific information, and that given the time and additional analyses required, changes to the methods and criteria we applied in the proposed rule were not feasible. We recognize there are other equally valid approaches to designating critical habitat and for answering the myriad questions described above. Nevertheless, issuance of the final rule for designating critical habitat for these ESUs is subject to a Court Order that requires us to submit the final regulation to the **Federal**

Register no later than August 15, 2005, less than five months after the close of the public comment period. Taking alternative approaches to designating critical habitat would have required a retooling of multiple interrelated analyses and undertaking additional new analyses in support of the final rule, and was not possible given the time available to us. We will continue to study alternative methods and criteria and may apply them in future rulemakings designating critical habitat for these or other species.

II. Summary of Comments and Recommendations

As described in agency regulations at 50 CFR 424.16 (c) (1), in the critical habitat proposed rule we requested that all interested parties submit written comments on the proposals. We also contacted the appropriate Federal, state, and local agencies, scientific organizations, and other interested parties and invited them to comment on the proposed rule. To facilitate public participation we made the proposed rule available via the internet as soon as it was signed (approximately 2 weeks prior to actual publication) and accepted comments by standard mail and fax as well as via e-mail and the internet (*e.g., www.regulations.gov*). In addition, we held four public hearings between January 11, 2005, and January 25, 2005, in the following locations: Kennewick and Seattle, WA; Boise, ID; and Portland, OR. We received a total of 5,230 written comments (5,111 of these in the form of e-mail with nearly identical verbiage) during the comment period on the proposed rule. Three comments dealt solely with Oregon Coast coho salmon and are not addressed in this rule.

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input (70 FR 2664; January 14, 2005). The OMB Peer Review Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to provide public oversight on the quality of agency information, analyses, and regulatory activities, and applies to information disseminated on or after June 16, 2005. Prior to publishing the proposed rule we submitted the initial biological assessments of our Critical Habitat Analytical Review Teams (CHARTs) to state and tribal comanagers and asked them to review those findings. These co-manager reviews resulted in several changes to the CHARTs' preliminary assessments (for example, revised fish distribution as well as conservation value ratings) and helped to ensure that the CHARTs' revised findings (NMFS, 2005a) incorporated the best available scientific data. We later solicited technical review of the entire critical habitat proposal (biological, economic, and policy bases) from 45 independent experts selected from the academic and scientific community, Native American tribal groups, Federal and state agencies, and the private sector. We also solicited opinions from three individuals with economics expertise to review the draft economics analysis supporting the proposed rule. All three of the economics reviewers and three of the biological reviewers submitted written opinions on our proposal. We have determined that the independent expert review and comments received regarding the science involved in this rulemaking constitute adequate prior review under section II.2 of the OMB Peer Review Bulletin (NMFS, 2005b).

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding critical habitat for the various ESUs, and we address them in the following summary. Peer reviewer comments were sufficiently similar to public comments that we have responded to their comments through our general responses below. For readers' convenience we have assigned comments to major issue categories and where possible have combined similar comments into single comments and responses.

Notification and General Comments

Comment 1: Several commenters raised concerns/complaints regarding the adequacy of public notification and time to comment.

Response: We made all reasonable attempts to communicate our rulemaking process and the critical habitat proposal to the affected public. Prior to the proposed rule we published an ANPR in which we identified issues for consideration and evaluation, and solicited comments regarding these issues and information regarding the areas and species under consideration (68 FR 55926; September 29, 2003). We considered comments on the ANPR during our development of the proposed rule. As soon as the proposed rule was signed on November 29, 2004 (2 weeks before actual publication in the **Federal Register**), we posted it and supporting information on the agency's internet site to facilitate public review, and we have provided periodic updates to that site (see **ADDRESSES**). In response to numerous requests—in particular from plaintiffs as well as private citizens, counties, farm bureaus, and state legislators in Washington—the original 60-day public comment period was extended by 30 days (70 FR 6394; February 7, 2005) to allow additional time for the public to submit comments on the critical habitat proposals. As required by the ESA, we also provided notice of these proposals to affected Federal agencies, states, counties, and tribal governments. Further, we provided notice of these proposals to professional scientific organizations and media sources in Washington, Oregon, and Idaho.

Additionally, we realize that the statutory scheme provides a short time frame for designating critical habitat. Congress amended the ESA in 1982 to establish the current time frame for designation. In doing so Congress struck a balance between the recognition that critical habitat designations are based upon information that may not be determinable at the time of listing and the desire to ensure that designations occur in a timely fashion. Additionally, the ESA and supporting regulations provide that designations may be revised as new data become available to the Secretary. We recognize that where the designation covers a large geographic area, as is the case here, the short statutory time frame provides a short period for the public to consider a great deal of factual information. We also recognize that this designation takes a new approach by considering relative conservation value of different areas and applying a cost-effectiveness framework. In this notice we are announcing our intention to consider revising the designations as new habitat conservation plans and other management plans are developed, and as other new information becomes available. Through that process we anticipate continuing to engage the interested public and affected landowners in an ongoing dialogue regarding critical habitat designations.

Comment 2: One commenter disapproved of our decision to vacate the February 2000 critical habitat designations for these ESUs. Another expressed the view that we should have focused only on completing an economic analysis (which was lacking in the 2000 designations) rather than revising the entire approach to designation.

Response: We believe that the issues identified in a legal challenge to our February 2000 designations warranted withdrawing that rule. Moreover, we believe a new approach was needed, unless we were to simply disregard the economic analysis once it was

completed. Developing a cost-effectiveness approach, designed to achieve the greatest conservation at the least cost, is in keeping with long-standing Executive direction on rulemaking and is a responsible and conservation-oriented approach to implementing section 4(b)(2) of the ESA. In addition, we had new and better information in 2004 than we had in 2000, such as the state fish and wildlife agency data on fish distribution. The ESA requires that we use the best available information, and the distribution data are the best information currently available. Finally, the litigation challenging our 2000 designation also challenged the lack of specificity in our designation of the riparian area, leading us to consider whether there was a better approach that was more consistent with our regulations and with the best available information. This issue is discussed in greater detail in a later response.

Comment 3: Some commenters stated that we should wait to publish final critical habitat designations until after final listing determinations have been made and the final hatchery listing policy is published.

Response: The ESA states that the Secretary *shall* designate critical habitat, defined as areas within or outside the geographical area occupied by the species a*t the time of listing* and using the best *available* information (emphasis added). These designations follow that statutory mandate and have been completed on a schedule established under a Consent Decree. Also, the final hatchery listing policy and final listing determinations for several salmon ESUs were published on June 28, 2005 (70 FR 37160 and 37204) in advance of the completion of this final critical habitat designation. For reasons described above in the ''Background and Previous Federal Action'' section, we are now making final designations for those listed salmon and steelhead ESUs in the Northwest Region that are subject to the Consent Decree and listed as of the date of this designation.

Comment 4: One peer reviewer disagreed with the agency's approach to identifying ESUs and, consequently, found it very difficult to comment objectively on the substance of the critical habitat designations because how NMFS identifies ESUs affects the criteria one would develop to address critical habitat. Another commenter requested clarification regarding whether listed hatchery fish will be considered genetically the same as wild fish and suggested a change in the ESU boundary between Lower Columbia and Middle Columbia River *O. mykiss* ESUs. One commenter disagreed with our inclusion of hatchery fish in an ESU and argued that Congress had no intention of using critical habitat to afford protection to artificial breeding facilities such as hatchery raceways. One commenter did not support the inclusion of resident and anadromous *O. mykiss* in the same ESU.

Response: For reasons described above, we are subject to a Consent Decree to issue these final critical habitat designations. Comments regarding whether hatchery fish should be considered as part of an ESU are not addressed in this document but are related to issues discussed in our hatchery listing policy published on June 28, 2005 (70 FR 37204), as well as a concurrent listing determination notice (70 FR 37160, June 28, 2005). With respect to concerns about the possible designation of hatchery raceways as critical habitat, we do not believe that these and other manmade structures associated with the hatchery environment (such as rearing ponds, egg incubation trays, etc.) contain the requisite PCEs.

Comments regarding inclusion of resident trout in *O. mykiss* ESUs are not addressed in this document but are related to issues discussed in our hatchery listing policy published on June 28, 2005 (70 FR 37160). However, for reasons described earlier in this document, we are making final critical habitat designations for the anadromous form of *O. mykiss* in five steelhead ESUs because this life history form has been listed since as early as 1997 (depending on the ESU). This action is in keeping with the Consent Decree which requires us to designate critical habitat for all ESUs listed as threatened or endangered as of August 15, 2005. We will revise the designations if appropriate following the final listing determinations for these five ESUs.

Identification of Critical Habitat Areas

Comment 5: Several commenters contended that we can only designate areas that are essential for species conservation.

Response: Section 3(5)(A) of the ESA has a two-pronged definition of critical habitat: ''(i) 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; and (ii) *specific areas outside the geographical area occupied by the species,* at the time it is listed * * * upon a determination by the Secretary that such areas are essential for the conservation of the species'' (emphasis added). As described in the proposed rule, and documented in the reports supporting it, we have strictly applied this definition and made the requisite findings. We requested and received comments on various aspects of our identification of areas meeting this definition and address those here. Only those areas meeting the definition were considered in the designation process. Comments regarding the section 4(b)(2) process, in which we considered the impacts of designation and whether areas should be excluded, are addressed in a subsequent section.

Comment 6: In the proposed rule we considered occupied streams within a fifth field watershed (as delineated by the U.S. Geological Survey) as the ''specific area'' in which the physical or biological features essential to conservation of the ESUs were found. We also used these watershed delineations as the ''particular areas''—the analytical unit—for purposes of the section 4(b)(2) analysis. In the proposed rule we requested public comment on whether considering exclusions on a stream-by-stream approach would be more appropriate. Two commenters believed that the watershed scale was too broad for making critical habitat designations and suggested that a sixth field watershed or a stream-by-stream approach was more appropriate. One commenter believed that we should conduct a reach-by-reach assessment in their particular watershed.

Response: Our ESA section 4(b)(2) report (NMFS, 2005c) acknowledges that the delineation of both specific areas and particular areas should be as small as practicable, to ensure our designations are not unnecessarily broad and to carry out congressional intent that we fully consider the impacts of designation. For reasons described in the section below on ''Methods and Criteria Used to Identify Critical Habitat,'' we continue to believe that the specific facts of salmon biology and life history make the fifth field watershed an appropriate scale to use in delineating the ''specific'' areas in which physical or biological features are found. We also believe consideration of the impacts of designation on a fifth field watershed scale results in a meaningful section 4(b)(2) balancing process. Moreover, congressional direction requires that designations be completed in a very short time frame by a specified deadline, ''based on such data as may be available at that time.'' Given that short time frame and the geographic extent of salmon critical habitat (approximately 29,000 stream miles), the fifth field

watershed was the smallest practicable area we were able to analyze.

Comment 7: Some commenters believed we applied the definition of ''specific areas within the geographical area occupied by the species at the time it is listed'' too narrowly. In their views, this led to two errors—failure to designate all ''accessible'' stream reaches and failure to designate riparian and upstream areas. The argument raised in support of the first assertion is that the ''best scientific data available'' support a conclusion that salmon and steelhead will occupy all accessible streams in a watershed during a period of time that can be reasonably construed as ''at the time it is listed.'' One commenter stated that ''[w]hether a particular stream reach is occupied cannot be determined with certainty based on 'occupation' data alone, especially for fragmented, declining, or depressed populations of fish.'' The commenter pointed to the rationale provided in our 2000 rule for identifying occupied areas as all areas accessible within a subbasin (a 4th field watershed, using U.S. Geological Survey terminology): ''NMFS believes that adopting a more inclusive, watershed based description of critical habitat is appropriate because it (1) recognizes the species' use of diverse habitats and underscores the need to account for all of the habitat types supporting the species' freshwater and estuarine life stages, from small headwater streams to migration corridors and estuarine rearing areas; (2) takes into account the natural variability in habitat use that makes precise mapping problematic (e.g. some streams may have fish present only in years with abundant rainfall) (65 FR 7764; February 16, 2000).''

The argument raised in support of the second assertion is that in delineating ''specific areas within the geographical area occupied by the species,'' we need not confine ourselves to areas that are literally ''occupiable'' by the species. If there are physical or biological features essential to conservation to be found within a broadly defined ''geographical area occupied by the species,'' we have the duty to delineate specific areas in a way that encompasses them. Some argued that limiting the designation to the stream channel fails to recognize the biological and hydrological connections between streams and riparian areas and would lead to further degradation of the latter. Two commenters suggested that we use a fixed distance (e.g., 300 ft (91.4m)) if a functional description is not used. Some requested that we adopt the ''functional zone'' description for lateral extent used in the 2000 designations (65 FR 7764; February 16, 2000) while other commenters felt that our reference to habitat linkages with upslope and upstream areas was vague and wondered whether we were actually using the old approach anyway. Other commenters believed that using the line of ordinary high water or bankfull width was appropriate and noted that this would remove prior ambiguities about which areas were designated. The U.S. Forest Service (USFS) commented that regardless of the lateral extent designated, they would continue to protect and restore riparian and upslope areas in occupied and unoccupied watersheds. Other commenters supported the approach taken in this designation, to identify specific areas occupied by the species and not broadly designate ''all areas accessible,'' some commenting that this was a more rigorous assessment and more in keeping with the ESA.

Response: The approach we took in the proposed designation is different from the approach we took in the vacated 2000 designation for a variety of reasons. The ESA directs that we will use the best scientific data available in designating critical habitat. Our regulations also provide direction: ''[e]ach critical habitat will be defined by specific limits using reference points and lines as found on standard topographic maps of the area. * * * Ephemeral reference points (e.g., trees, sand bars) shall not be used in defining critical habitat.'' (50 CFR 424.12(c)) With respect to our approach for identifying ''the geographical area occupied by the species,'' we recognize that the state fish and wildlife distribution data are limited to areas that have been surveyed or where professional judgment has been applied to infer distribution, and that large areas of watersheds containing fish may not have been observed or considered. We also recognize there have been many instances in which previously unobserved areas are found to be occupied once they are surveyed (NMFS, 2005a). Nevertheless, we believe the extensive data compiled by the state fish and wildlife agencies, which was not available when we completed the 2000 designations, represents the best scientific data that is currently available regarding the geographical area occupied by the species. Moreover, the CHARTs reviewed the data and had an opportunity to interact with the state fish and wildlife biologists to confirm the accuracy of the data. We also believe the approach we have taken in this designation better conforms to the regulatory direction to use ''specific limits'' for the designation. The approach we used in 2000 used subbasin boundaries to delineate ''specific areas,'' which arguably met the requirement to use ''specific limits,'' but we believe using latitude-longitude endpoints in stream reaches, as we have done here, better adheres to the letter and spirit of our regulations.

With respect to our approach of limiting the designation to the occupied stream itself, not extending the designation into the riparian zone or upstream areas, we acknowledge that our regulations contemplate situations in which areas that are not literally occupiable may nevertheless be designated. Section (d) of 50 CFR 424.12 gives as an example a situation in which areas upland of a pond or lake may be designated if it is determined that ''the upland areas were essential to the conservation of an aquatic species located in the ponds and lakes.'' For this designation, however, given the vast amount of habitat under consideration (nearly 30,000 stream miles) and the short statutory time frames in which to complete the designation, we could not determine ''specific limits'' that would allow us to map with accuracy what part of the riparian zone or upstream area could be considered to contain PCEs. As an alternative, we considered the approach we used in 2000, which was to designate riparian areas that provide function, but concluded that approach may not have been entirely consistent with the regulatory requirement to use ''specific limits.'' We believe limiting the designation to streams will not compromise the ability of an ESA section 7 consultation to provide for conservation of the species. Section 7 requires Federal agencies to ensure their actions are not likely to destroy or adversely modify critical habitat. Actions occurring in the riparian zone, upstream areas, or upland areas all have the potential to destroy or adversely modify the critical habitat in the stream. Although these areas are not themselves designated, Federal agencies must nevertheless meet their section 7 obligations if they are taking actions in these areas that ''may affect'' the designated critical habitat in the stream. Thus, although this designation is restricted to the stream itself, we will continue to be concerned about the same activities we have emphasized in the past decade of consultations.

Comment 8: Several commenters believed we incorrectly applied the definition of ''specific areas outside the geographical area occupied by the species.'' In the view of some, we failed our duty under the ESA by not making a determination that we had identified

as critical habitat enough areas (occupied and unoccupied) to support conservation. In the view of others, it was this failure that led to one of the errors described in the previous comment—the failure to designate all ''accessible stream reaches.'' Many commenters, without identifying the analytical flaw, expressed concern about statements made in the press that the change from ''all areas accessible'' to areas documented as occupied led to a 90-percent reduction in critical habitat. Other commenters supported the approach taken in this designation, to identify specific areas occupied by the species and not broadly designate ''all areas accessible,'' some commenting that this was a more rigorous assessment and more in keeping with the ESA.

Response: Section 3(5)(A)(i) of the ESA requires us to identify specific areas within the geographical area occupied by the species that contain physical or biological features that may require special management considerations or protection. Section 3(5)(A)(ii) requires that specific areas outside the geographical area occupied by the species only fall within the definition of critical habitat if the Secretary determines that the area is essential for conservation. Our regulations further provide that we will designate unoccupied areas ''only when a designation limited to [the species'] present range would be inadequate to ensure the conservation of the species (50 CFR 424.12(e)).'' The ESA requires the Secretary to designate critical habitat at the time of listing. If critical habitat is not then determinable, the Secretary may extend the period by 1 year, ''but not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.''

At the present time, we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that unoccupied areas are essential for conservation, aside from the three areas designated for Hood Canal summer-run chum. In this case, we were able to determine that these specific areas are essential for conservation because summer-run chum have such a restricted geographic area, there is a local recovery plan that has been in place for several years, and conservation hatchery fish are currently being released in these areas in an effort the recovery plan finds is essential for conservation of this ESU. We received no comments specifically questioning our findings that these unoccupied areas proposed for designation are essential for conservation. We anticipate revising our critical habitat designations in the future as additional information becomes available through recovery planning processes (see Comment 12).

Regarding the concern about changing the designation from ''all areas accessible'' to the delineation of stream reaches actually occupied, when we announced the proposal we stated that it represented a 90 percent reduction in stream miles designated. The facts are more complicated. In those subbasins where we designated all areas accessible below dams and long-standing natural barriers, there are approximately 127,000 miles (204,400 km) of streams. A large proportion of these stream miles are not and have never been ''accessible'' to salmon and steelhead. In 2000, when we designated all areas accessible, however, we created an impression that every mile of stream in these subbasins was designated. We did not have information at that time, nor do we presently have information, that allows us to quantify exactly how many stream miles may be ''accessible'' and therefore how much of a reduction this rule represents over what may have been designated in the 2000 rule. Although we acknowledge it is a reduction, it is far less than a 90-percent reduction and we regret any confusion our statements may have created.

Comment 9: Some commenters (including one peer reviewer) questioned the adequacy of our identification of PCEs, in particular the lack of specificity. The peer reviewer agreed that spawning areas were essential habitat features but did not believe that the others were because they are large and spread out or it is unclear what additional protections are needed. One commenter noted that it is difficult using the state fish and wildlife agency data to pinpoint PCEs with accuracy and that ''[s]ome of this information may require additional review, field verification, or confirmation by local sources such as Oregon Department of Fish and Wildlife biologists.'' With respect to one particular PCE, this commenter pointed out: ''For example, PCE 5 (nearshore marine areas free of obstruction) includes an element of ''natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders and side channels. It is not clear how nearshore marine areas free of obstruction would possess these features.''

Response: To determine the physical or biological features essential to conservation of these ESUs, we first considered their complex life cycle. As described in the ANPR and proposed rule, ''[t]his complex life cycle gives rise to complex habitat needs, particularly during the freshwater phase (see review by Spence *et al.*, 1996).'' We considered these habitat needs in light of our regulations regarding criteria for designating critical habitat. Those criteria state that the requirements essential to species' conservation include such things as ''space * * * [f]ood, water, air, light, minerals, or other nutritional or physiological requirements. * * * cover or shelter.'' They further state that we are to focus on the ''primary constituent elements'' such as ''spawning sites, feeding sites, * * * water quality or quantity,'' etc. In the ANPR and proposed rule we identified the features of the habitat that are essential for the species to complete each life stage and are therefore essential to its conservation. We described the features in terms of sites (spawning, rearing, migration) that contain certain elements. We disagree with the peer reviewer that rearing and migration habitat is not ''essential to the conservation of the species'' or that it is not possible to determine where those areas are. The peer reviewer's contention that rearing and migration sites do not require ''additional protections'' is discussed in a separate comment and response.

Regarding one commenter's point, we have sought to verify the presence of fish and of PCEs with the relevant state, tribal, or Federal biologists for each specific area. Before publishing the proposed rule we provided the CHART reports to the state fish and wildlife agencies for review, and again during the comment period. We held further discussions with them where questions were raised. Also to clarify the point raised by this commenter regarding our description of the nearshore PCE, by free of obstruction we were referring to various manmade in-water structures placed in nearshore areas (such as seawalls, jetties, tide gates) that modify or simplify the habitat and restrict or impede the nearshore movements of salmon. In contrast, natural features identified with this PCE, such as aquatic vegetation, large wood and rocks, provide important cover to salmon and steelhead migrating and foraging in the nearshore area.

Comment 10: Some commenters believed it was inappropriate to designate critical habitat in irrigation returns, drains, or wasteways because these are not natural waterbodies and were not historically occupied. They argue that critical habitat must be

limited to areas that were historically occupied by the species.

Response: The ESA defines critical habitat as ''(i) 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 * * * essential to the conservation of the species'' (emphasis added). The statute does not limit designation to areas that were historically occupied. In some cases the historically occupied habitat may be unavailable or too degraded to support the species, in which case newly created habitat may be the most suitable habitat available. Moreover, some of these comments were directed at waterways that were historically occupied, have not been occupied in recent decades because of habitat degradation, but now may be occupied because of habitat restoration or increased water quantity. In light of comments received on specific waterways, we asked the CHARTs to review them and confirm their determination that the areas were occupied and contained the PCEs, and that the PCEs may require special management considerations or protection. During our final review of occupied stream reaches we found areas in four watersheds where the PCEs were either entirely lacking or were so degraded as to be functionally nonexistent, and so removed them from consideration as critical habitat.

Comment 11: One peer reviewer noted that introduced predatory fishes should be identified as having a significant impact on critical habitat. Another wondered how we were dealing with listed bull trout eating listed steelhead.

Response: We agree that predators, both exotic and native, can have an impact on listed salmon and steelhead and initially considered the absence of predators as a potential PCE. However, after reviewing our regulations at 50 CFR 424.12 we concluded that they are not one of the ''principal biological or physical constituent elements within the defined area that are essential to the conservation of the species.'' We recognize that these predators can have negative impacts on native fishes and in 1998 co-chaired a workshop to assess these impacts (NMFS and Oregon Department of Fish and Wildlife (ODFW), 1998). As a result, we have been working with state and Federal co-managers to address this issue, in particular via harvest regulations for introduced fishes. Regarding predation by bull trout (a native species), we concur with conclusions made by the U.S. Fish and Wildlife Service (USFWS) in a recent final rule: ''[W]e are not aware of any published scientific studies or other convincing evidence indicating bull trout predation is the leading cause in the decline of other native or introduced species.'' If evidence to the contrary becomes available then we will work with the USFWS to assess and address the conservation risks.

Comment 12: In the proposed rule we requested comments on the extent to which specific areas may require special management considerations or protection in light of existing management plans. Several commenters stated that lands covered by habitat conservation plans or other management or regulatory schemes do not require special management considerations or protection. Others commented that even where management plans are present, there still may be ''methods or procedures useful'' for protecting the habitat features.

Response: The statutory definition and our regulations (50 CFR 424.02; 424.12) require that specific areas within the geographical area occupied by the species must contain ''physical or biological features'' that are ''essential to the conservation of the species,'' and that ''may require special management considerations or protection.'' As described in the proposed rule, and documented in the reports supporting it, we first identified the physical or biological features essential to conservation (described in our regulations at 50 CFR 424.12(b)(5) as ''primary constituent elements'' or PCEs). We next determined the ''specific areas'' in which those PCEs are found based on the occupied stream reaches within a fifth field watershed. We used this watershed-scale approach to delineating specific areas because it is relevant to the spatial distribution of salmon and steelhead, whose innate homing behavior brings them back to spawn in the watersheds where they were born (Washington Department of Fisheries *et al.*, 1992; Kostow, 1995; McElhany *et al.*, 2000). We then considered whether the PCEs in each specific area (watershed) ''may require special management considerations or protection.''

We recognize there are many ways in which ''specific areas'' may be delineated, depending upon the biology of the species, the features of its habitat and other considerations. In addressing these comments, we considered whether to change the approach described in our proposed rule and instead delineate specific areas based on ownership. The myriad ownerships and state and local regulatory regimes present in any watershed, as well as the timing issues discussed previously, made such an approach impractical for this rulemaking, as noted in Section I above. While there are other equally valid methods for identifying areas as critical habitat, we believe that the watershed scale is an appropriate scale for identifying specific areas for salmon and steelhead, and for then determining whether the PCEs in these areas may require special management considerations or protections. We will continue to study this issue and alternative approaches in future rulemakings designating critical habitat.

Comment 13: One commenter stated that we could not designate any unoccupied areas if we had excluded any occupied areas, relying on the regulatory provision cited in a previous comment and response. The commenter also asserted that reducing harvest of listed species would allow more habitat to be fully seeded and thereby also reduce the amount of habitat needed for designation as critical habitat.

Response: The first comment assumes that all habitat areas are equivalent and exchangeable, which they are not. An area may be essential for conservation because it was historically the most productive spawning area for an ESU and unless access to it is restored, the ESU will not fully recover to the point that the protections of the ESA are no longer necessary. This area will be essential regardless of whether some other specific area has been excluded. The second comment reflects the view that if mortality of listed fish can be reduced in some life stage outside the spawning grounds, then less spawning habitat will be needed to support recovery. This comment could apply equally to any activity that affects fish survival, not just harvest in fisheries (for example, mortality of fish passing through dams). An increased number of returning adults would not necessarily result in a decreased need for critical habitat. Healthy salmon ESUs rely for their long-term survival on the abundance, productivity, spatial distribution and diversity of their constituent populations. Well-distributed habitat of high enough quality to ensure productivity across cycles of varying ocean survival will remain important to salmon conservation, regardless of whether fewer salmon are harvested or suffer from other forms of human-induced mortality (McElhany *et al.*, 2003).

Comment 14: Several commenters supported the designation of unoccupied areas above dams and some believed that by not designating these areas we will make it more difficult to achieve fish passage in the future. They

further noted that excluding these presently blocked areas now may promote habitat degradation that will hinder conservation efforts should passage be provided in the future. Several commenters identified areas above specified dams as being essential for conservation.

Response: At the present time, we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. With respect to the particular dams identified by the commenters, the Northwest region is actively involved in a multi-year, large-scale recovery planning effort that involves scientific teams (called technical recovery teams or TRTs), which identify biological recovery goals, and policy teams, who actively work with local planning groups to identify actions to achieve those goals. These local recovery efforts are developing information which will be important to inform decisions about whether unoccupied habitat will be needed to facilitate conservation beyond what is currently occupied, and this work is part of our ongoing effort to work with and seek input from those stakeholders directly affected by the salmon listings. We accepted the first partial local recovery plan developed under this effort in March and anticipate receiving several more by the end of the year. Until those processes are more fully developed, we cannot make the specific determinations required under the ESA to designate critical habitat in ''unoccupied'' areas except for in the few noted instances (see Comment 7). We use our authorities under the ESA and other statutes to advocate for salmon passage above impassible dams where there is evidence such passage would promote conservation. This is not the same, however, as making the determinations required by the statute and our regulations to support designation.

Comment 15: In the proposed rule we requested comments regarding the use of professional judgment as a basis for identifying areas occupied by the species. One commenter indicated that it was appropriate to accept the professional judgment of fish biologists who are most familiar with fish habitat within a watershed. Others believed that limiting the definition of occupied stream reaches to only those where fish presence has been observed and documented is overly narrow and fails to consider a number of conditions that affect species distribution, including natural population fluctuations and habitat alterations that affect accessibility or condition (*e.g.*, de-watering stream reaches). These commenters also argued that defining occupied reaches should be based on a broad time scale that takes into account metapopulation processes such as local extinction and recolonization, adding along with other commenters that many streams have not been adequately surveyed and species may frequent stream reaches but not actually be observed by a biologist at the time that critical habitat is being assessed.

Response: We relied on data provided by state fish and wildlife agencies as well as the USFS and Bureau of Land Management to determine which specific stream reaches were occupied by each ESU. The data sets we relied on to define occupancy reported distribution based on two general categories: (1) Field observations based on stream surveys or (2) professional judgment based on the expert opinion of area biologists. We reviewed other classifications used in these data sets, such as ''potential,'' suitable habitat blocked, disputed, unknown, and historic, but determined that areas classified as such were not suitable for defining occupancy. Depending on the source, each used similar criteria for the judgment that an unobserved area had fish present. For example, in Oregon there are streams considered occupied based on ''strong'' or ''modest'' professional opinion, while in Washington similar data are classified as ''presumed'' (NMFS, 2005a). In all cases the exercise of professional judgment included the consideration of habitat suitability for the particular species. Each agency's data set was compiled using input principally from state, Federal, and tribal biologists. In a few cases the data identify streams where local biologists (*e.g.*, private consultants for a county or watershed group) had survey data or expertise, and the state incorporated the data after its own review. Federal biologists on the CHARTs reviewed these data, relying on their first-hand knowledge and experience with the watersheds as well as a variety of published and unpublished reports (*e.g.*, watershed analyses and recent field survey reports). When questions arose about a particular site, we reconfirmed the data with the state, tribal, or Federal biologist(s) familiar with the area. We received several comments on our proposed rule regarding the accuracy of the distribution data in specific locations and, where we could confirm that the information provided by the commenter was accurate, we accepted it as the best available information and adjusted our designation. We view designation of critical habitat as an ongoing process and expect to adjust the designations as necessary as new information or improved methods become available.

Comment 16: Several comments addressed the proposed designation of nearshore habitats in Puget Sound, including the lateral extent of these areas. In the proposed rule we described this extent as the area inundated by extreme high tide but requested comments on whether ordinary high water line may be more appropriate to use in estuarine and nearshore marine areas. We also noted that these zones may be excluded from critical habitat if the benefits of exclusion outweigh the benefits of designation. Most commenters on this issue supported the designation of nearshore areas (in particular the shoreline of Vashon and Maury islands) and using the line of extreme high water as the lateral extent, although one commenter requested that we extend the lateral extent landward to include riparian and other areas, such as backshores and bluffs, affecting the nearshore zone. One commenter noted that flooding events cause vegetation changes and debris movement important to salmon, and some commented that development in this zone (bulkheads, seawalls, levees, etc.) needs to be addressed. Others noted that this zone is also important spawning habitat for forage fishes and provides both aquatic and terrestrial invertebrate prey. One commenter requested that we extend the designated nearshore zone westward to include all shallow waters in the Strait of Juan de Fuca while another requested that we continue to research whether other marine areas warrant designation. One commenter noted that excluding these nearshore zones would contradict the CHART findings which identified them as high conservation value rearing and migration areas. In contrast, one commenter asserted that there is a lack of science to support designating nearshore zones as critical habitat.

Response: We believe that the best available scientific data support a designation of nearshore zones in Puget Sound. This unique, fjord-like ecosystem contains a variety of habitats with physical or biological features essential to Chinook and chum salmon conservation, ranging from deep water habitats used by subadult and adults for migration and foraging to shallow nearshore areas important for juvenile rearing and for migration. In the 2000 critical habitat designations we

designated all marine areas of Puget Sound (as well as a lateral extent defined by riparian function) adopting an approach that mirrored our designation of all areas accessible in fresh water. However, since then we have revised our approach to be more definite about which specific areas contain physical or biological features essential to conservation, and that may require special management considerations or protection and thus warrant designation as critical habitat.

While all waters of Puget Sound can be occupied by salmon, we have far greater certainty that the nearshore areas associated with the photic zone are both occupied and contain essential features that may require special management considerations or protection. In terms of occupation, it is well documented that juvenile salmon leaving their natal streams typically stay in nearshore areas where they depend on a photic-based food web of plankton and other invertebrates (Pacific Fishery Management Council, 1999). While the photic zone layer is present throughout Puget Sound, it only penetrates to the bottom in nearshore areas to a depth of approximately 30 meters (Williams *et al.*, 2001). We have defined the PCEs for nearshore marine areas as being free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels. This area is also the zone containing important marine vegetation and cover (*e.g.*, eelgrass meadows and kelp forests) and in which salmon forage species reside (*e.g.*, surf smelt and sand lance) (Puget Sound Water Quality Action Team, 2000 and 2002). Activities potentially affecting PCEs in this zone include the construction of overwater structures (*e.g.*, docks and piers), dredging and bank armoring (Puget Sound Water Quality Action Team, 2002).

Similarly, we believe that the lateral extent of critical habitat in nearshore marine areas is best described in terms of tidal fluctuations that govern the areas occupied by salmon. We believe that the area inundated by extreme high tide is an appropriate delineation for the landward extent of critical habitat because it represents a regularly-occurring intertidal fringe that is recognizable (*e.g.*, vegetation and landform changes), and contains and influences PCE elements such as large wood, rocks and boulders, and aquatic vegetation. We recognize that other areas landward of the line of extreme high tide (*e.g.*, bluffs) have a major influence on the high intertidal zone and that activities in this zone could adversely modify adjacent designated areas. However, for the reasons described in our response to riparian zones we have not designated areas beyond extreme high tide.

Comment 17: Several comments addressed the CHART process although few recommended changes to the CHARTs' ratings of watershed conservation values. Several commenters supported the process used, in particular the recognition that not all habitats have the same conservation value for an ESU and that this in turn allows for a more meaningful exclusion assessment under section 4(b)(2) of the ESA. One peer reviewer agreed with the CHART's recognition of the importance of connectivity when identifying critical habitat, and emphasized that protecting upstream areas accrues benefits to downstream areas. One commenter contended that the CHART assessments were compromised by restricting them to consider only the stream channel rather than upslope areas as well. One commenter and a peer reviewer noted the lack of emphasis on the dynamic, process-based character of salmonid habitat and suggested that we adopt a model of species persistence across the landscape and incorporating metapopulation considerations to identify critical habitat.

Response: The CHART process was an important part of our analytical framework in that it allowed us to improve our analysis of the best available scientific data and to provide watershed-specific conservation ratings useful for the Secretary's exercise of discretion in balancing whether the benefits of exclusion outweigh the benefits of designation under section 4(b)(2) of the ESA. We do not believe that designating only the stream channel compromised the CHARTs' ability to assess watershed conservation values. As noted in the CHART report (NMFS, 2005a), the CHARTs employed a scoring system to assess—among other area characteristics—the quality, quantity, and distribution of PCEs within a watershed. The PCEs we have defined for these ESUs are found within occupied stream channels and therefore it is appropriate to focus our assessment on those areas. That said, the CHART scoring did include a factor related to the potential improvement of existing PCEs and thereby allowed the CHARTs to consider the ability of the watershed to contribute PCEs via natural processes such as recruitment of large wood and substrate, flow regulation, floodplain connectivity, etc. We recognize that salmon habitat is dynamic and that our present understanding of areas important for conservation will likely change as recovery planning sheds light on areas that can and should be protected and restored. We intend to actively update these designations as needed so that they reflect the best available scientific data and understanding.

Comment 18: Two commenters questioned why only Federal biologists served on the CHARTs, one noting that including other non-Federal biologists would have increased the CHARTs' knowledge base. One commenter also suggested improving the CHART process by assembling multiple teams of independent scientists and comparing their results with the existing CHART conclusions.

Response: The CHARTs consisted of over 65 Federal biologists from NMFS, USFWS, and BLM, and were all well-qualified to conduct critical habitat assessments. Nearly all of the biologists have had first hand experience with ESA, in particular implementation of section 7 in the areas evaluated and have knowledge of the existing management plans and protections. We recognize that numerous other non-Federal biologists have great experience; however, including them would have potentially triggered the requirements of the Federal Advisory Committee Act (FACA), which include chartering a committee. We were concerned that the FACA's procedural requirements would have prevented our timely compliance with the existing Consent Decree. As noted in the proposed rule, we sought state and tribal co-manager review of the initial CHART findings and believe that opportunity for notice and comment on our proposed rule has provided the opportunity for all biologists interested in these designations to provide their expertise.

Comment 19: Some commenters wondered whether the CHARTs considered the work of the various Technical Recovery Teams (TRTs), and one commenter contended that the CHART assessments should be reviewed by the TRTs. One commenter asked how conservation genetic concepts were incorporated into the designations.

Response: We solicited participation and input from the various TRTs and salmon recovery coordinators. Given their priorities (*i.e.*, providing crucial recovery planning criteria and guidance), and the time constraints under which we needed to complete the critical habitat assessments, not all of the TRT members were able to participate on the CHARTs. However,

each CHART did receive valuable support and input from at least one TRT scientist or recovery coordinator both during the course of CHART deliberations as well as informally on numerous occasions where we needed up-to-date information to support CHART assessments. Therefore we believe that we have been able to integrate much of the TRT findings into our final critical habitat designations. These findings include population identification and viability criteria (McElhany *et al.*, 2000; NMFS, 2001; Interior Columbia Basin Technical Recovery Team, 2003; McElhany *et al.*, 2003; Myers *et al.*, 2003; McClure *et al.*, 2005) which incorporate conservation genetic concepts and in turn aided the CHART's assignment of watershed conservation values. We recognize that recovery planning is an ongoing process and that new information from the TRTs and recovery planning stakeholders may result in changes to our critical habitat assessments and we can and will make needed adjustments in the future.

Comment 20: Two commenters requested that we provide maps that show both designated and excluded areas. Another noted that it would be helpful to provide the stream length mileages to describe the areas designated.

Response: To avoid confusion in this **Federal Register** notice—which is limited to black and white graphics—we have only depicted designated stream reaches in this document. However, we have made color maps depicting designated and excluded reaches available in documents via the internet (see **ADDRESSES**). Also, while we recognize the utility of providing stream mileages, we have instead relied on defining designated stream reaches using endpoints (*i.e.*, latitude and longitude coordinates) because they are not subject to the potentially large errors associated with estimating mileages at varying map scales. However, the CHART report (NMFS, 2005a) does contain larger scale maps that may be easier for estimating stream mileages, and we have also made geographic information systems (GIS) data available via the internet (see **ADDRESSES**) to further facilitate viewing the geographic extent of these designations. Landowners can (and did in the course of evaluating our proposal) use these resources to determine if their land is designated critical habitat or can contact us for assistance (see **FOR FURTHER INFORMATION CONTACT**).

Economics Methodology

Comment 21: Several commenters stated that the economic analysis overestimates the actual costs of the rule by including costs that should be attributed to the baseline. For example, commenters asserted that costs associated with listing and application of the jeopardy requirement should not be included in the analysis. Commenters also asserted that costs that would have occurred under PACFISH, INFISH, or the Northwest Forest Plan should be excluded from the analysis. One commenter also stated that costs associated with existing critical habitat designations for salmon or other endangered species should be considered baseline impacts.

Response: Regarding costs associated with listing and application of ESA section 7's jeopardy requirement, the economic analysis follows the direction of the *New Mexico Cattlegrowers* decision, in which the Court of Appeals for the Tenth Circuit called for ''a full analysis of all of the economic impacts of a critical habitat designation, regardless of whether those impacts are attributable coextensively to other causes (*New Mexico Cattle Growers' Association* v. *U.S. Fish and Wildlife Service,* 248 F.3d 1277, 10th Cir. 2001). Consistent with this decision, the economic analysis includes incremental impacts, those that are solely attributable to critical habitat designation and would not occur without the designation, as well as coextensive impacts, or those that are associated with habitat-modifying actions covered by both the jeopardy and adverse modification standards under section 7 of the ESA. This overestimate of costs does not bias our 4(b)(2) balancing for two reasons. On the ''benefit of designation'' side of the balance, we consider the benefit of designation to be the entire benefit that results from application of section 7's requirements regarding adverse modification of critical habitat, regardless of whether application of the jeopardy requirement would result in the same impact. Moreover, the cost-effectiveness approach we have adopted allows us to consider relative benefits of designation or exclusion and prioritize for exclusion areas with a relatively low conservation value and a relatively high economic cost. With such an approach it is most important that we are confident our analysis has accurately captured the relative economic impacts. We believe it has.

In many cases, the protections afforded by PACFISH, the Northwest Forest Plan and other regulations are intertwined with those of section 7. In cases in which the specific regulation or initiative driving the salmon and steelhead conservation efforts is uncertain, we considered it as an ESA section 7 impact and examined the record of consultations with the affected agencies and based our analysis on the habitat protection measures routinely incorporated into the consultations. The economic analysis therefore assumes that the impacts of these types of habitat protection measures are attributable to the implementation of section 7. In these instances, to the extent that conservation burdens on economic activity are not, in fact, resulting from section 7 consultation, the economic analysis may overstate costs of the designation. We took this possibility into account in conducting the 4(b)(2) balancing of benefits. Conservation efforts clearly engendered by other regulations are included in the regulatory baseline. For example, Federal lands management activities in the Northwest Forest Plan planning area are affected by PACFISH. As a result, some projects that would have affected salmon habitat will not be proposed, and therefore will not be subject to section 7 consultation. These changes in projects are considered baseline and are not included as a cost of section 7 in the economic analysis.

Commenters correctly note that there are designations currently in place protecting critical habitat for salmon, specifically those in the Snake River Basin. We acknowledged this in our proposed rule, but also noted that the presence of those existing designations weighs equally on both sides of the 4(b)(2) balance—that is, the existing designations also could be considered as part of the baseline for determining the benefit of designation for the ESUs addressed in the present rule. This concern is also addressed by the cost-effectiveness approach we have adopted since it relies on relative benefits of designation and exclusion rather than absolute benefits.

Comment 22: One commenter and one peer reviewer noted that the economic analysis assigns costs to all activities within the geographic boundary of the watersheds, though not all activities in this area will lead to an ESA section 7 consultation or are equally likely to have economic impacts. By doing this, the agency assumed that if the stream reaches currently occupied by salmon were designated as critical habitat, then activities throughout the watershed would be affected, whether or not they are adjacent to critical habitat stream reaches.

Response: It is possible for activities not directly adjacent to the proposed streambanks to affect salmon and steelhead or their habitat, for example, by increasing risk of erosion or

decreased water quality, and may therefore be subject to consultation and modification. Thus, the watersheds represent a reasonable proxy for the potential boundary of consultation activities. In some cases the revised economic analysis applies costs less broadly by refining the geographic scale for certain activities. For example, the analysis of pesticide impacts and the analysis of potential impacts on Federal lands management activities and Federal grazing activities have been refined and are now calculated based on stream mile estimates within a watershed.

Comment 23: One commenter asserted that the draft report inflates its cost estimates by repeatedly choosing the high-end of a range of costs, while a peer reviewer suggested that using the mid-range as a representative cost estimate was problematic.

Response: In determining likely costs associated with modifications to activities to benefit salmon and steelhead, the economic analysis identifies a range of costs using available data from, for example, agency budgets, documented conversations with stakeholders, and published literature. The full range of costs of these activities is presented in the economic analysis and individual watersheds are generally ranked in terms of cost impact by the midpoint of the cost range, as opposed to the high end. While we recognize that a formal sample of projects costs based on the consultation record or other sources is a better approach in theory, available data did not allow such an approach. In gathering the cost information that was available, we avoided using outliers and sought to construct a typical range of costs.

Comment 24: Some commenters asserted that the economic analysis fails to account for regional economic interactions between watersheds. One commenter stated that this would result in an overstatement of the costs, while other comments state that this would underestimate the costs. One peer reviewer suggested using regional economic models to address these interactions.

Response: We acknowledge that modifications to economic activities within one watershed may affect economic activities in other watersheds. The economic analysis discusses the potential for regional economic impacts associated with each of the potentially affected activities. Impacts are assigned to particular areas (watersheds) based on where they are generated as opposed to felt. That is, if the designation of a watershed causes impacts in multiple nearby watersheds, and exclusion of the impact-causing watershed would remove those economic impacts from the region, the economic analysis appropriately assigns the total cost impact to the impact-causing watershed. This method of assigning impacts is most useful to us in deciding the relative cost-effectiveness of excluding particular areas from critical habitat designation. As we acknowledge in NMFS 2005d, the economic analysis does not explicitly analyze the potential for these regional interactions to introduce cumulative economic impacts. Data are not available to support such an effort, nor would the results necessarily be applicable at the level of a particular watershed. If these impacts in fact exist, our results are likely to be biased downward, in that we have likely underestimated the costs of critical habitat designation at the level of the ESU. At the level of a watershed, however, the potential error is smaller. For this reason, we do not believe the lack of a regional modeling framework introduces a significant bias into the results for particular watersheds.

Comment 25: Several commenters stated that the economic analysis underestimates the actual costs of the rule by excluding several categories of costs from the estimates. One commenter stated that the *New Mexico Cattlegrowers* decision specifically requires a full analysis of all impacts, including those resulting from the species' listing. One commenter requested that assessment of impacts stemming from activities occurring outside the designated area should be included, including indirect and regional impacts. Another commenter stated that the analysis should consider direct, indirect, and induced economic impacts including: Changes in property values, property takings, water rights impacts, business activity and potential economic growth, commercial values, county and state tax base, public works project impacts, disproportionate economic burdens on society sections, impacts to custom and culture, impacts to other endangered species, environmental impacts to other types of wildlife, and any other relevant impact. One comment more specifically noted that the economic analysis of impacts on dredging activities did not take into account the potential impact on the barging industry, or how the nation's trade balance would be impacted if farmers lose or have less ability to ship grain and other products on barges.

Response: As noted in a previous response, the Court in the *New Mexico Cattlegrowers* decision called for ''a full analysis of all of the economic impacts of a *critical habitat designation,* regardless of whether those impacts are attributable coextensively to other causes.'' (emphasis added) The economic analysis conducted for this rule evaluates direct costs associated with the designation of critical habitat and includes: (1) Direct coextensive impacts, or those that are associated with habitat-modifying actions covered by both the jeopardy (listing) and adverse modification (critical habitat) standards; and (2) direct incremental impacts, or those that are solely attributable to critical habitat designation.

We acknowledge that designation of critical habitat may also trigger economic impacts outside of the direct effects of section 7 or outside of the watersheds subject to the economic analysis. For example, state environmental laws may contain provisions that are triggered if a state-regulated activity occurs in Federally-designated critical habitat. Another possibility is that critical habitat designation could have ''stigma'' effects, or impacts on the economic value of private land not attributable to any direct restrictions on the use of the land. Our economic analysis did not reveal significant economic impacts from stigma effects for the designation of salmon and steelhead. Further, significant impacts of critical habitat on an industry may lead to broader regional economic impacts. All of these types of impacts are considered in the analysis, although it was not possible to estimate quantitative impacts in every case. We took these considerations into account in balancing benefits under section 4(b)(2).

We acknowledge that designation of critical habitat may also trigger impacts on customs, culture, or other wildlife species. We concluded that data were not presently available that would allow us to quantify these impacts, at the scale of this designation, for the economic analysis. Our analysis was further circumscribed by the short time frames available, and our primary focus on conservation benefits to the listed species that are the subject of this designation. We took this limitation into account in the balancing of benefits under section 4(b)(2).

Comment 26: Some commenters expressed concern that the economic analysis does not address cumulative costs of multiple layers of regulation on economic activities.

Response: Our economic analysis estimates costs associated with conducting an ESA section 7 consultation to ensure Federal agency

actions are not likely to destroy or adversely modify critical habitat. We did not have information available at the scale of this designation to determine the marginal cost or benefit of such a consultation, in addition to any state or local review that may occur, nor did the commenter provide data that would allow us to make such a determination.

Comment 27: One commenter stated that the economic analysis fails to factor in subsidies given to industries such as livestock grazing, hydropower operations, and irrigation activities, which minimizes true costs to the public. Another commenter further stated that the analysis does not distinguish between several countervailing cost elements, including ''socialized costs'' (costs Congress has decided that the public should bear, such as costs to Federal activities), actual costs to private entities, incentive costs, subsidies, and offsetting costs. As a result, for Federal programs, the analysis miscategorizes activities that benefit a small but favored sector of society, but that cause costs to the larger society. The analysis assumes that costs to these activities are costs to society in general.

Response: The analysis attempts to measure true social costs associated with implementing the critical habitat rule. To accomplish this, the analysis uses the measurement of the direct costs associated with meeting the regulatory burden imposed by the rule as the best available proxy for the measurement of true social costs. We agree that it is relevant to consider appropriate countervailing or net cost impacts, where possible, in determining the benefit of exclusion. Where data are available, our analysis attempts to capture the net economic impact (*i.e.*, the increased regulatory burden less any discernable offsetting market gains) of section 7 efforts imposed on regulated entities and the regional economy. For example, in the economic analysis, the revised impact estimates for pesticide use restrictions explicitly net out agriculture subsidy payments in the estimation of lost agricultural profits.

Comment 28: One commenter stated that the increase in paperwork as a result of re-initiating consultation on potential impacts to critical habitat for projects that have already been through section 7 consultation is a major concern.

Response: We do consider that all activities may be subject to future consultation, regardless of whether past consultation occurred on these activities. Designation of critical habitat may result in reinitiating consultation on activities that were subject to previous consultation to ensure that the adverse modification requirement is addressed in addition to the jeopardy requirement. The economic analysis estimates the level of administrative effort associated with section 7 consultations, whether those consultations concern a new activity or readdress the impacts of a previously reviewed activity. The revised economic analysis includes a refined estimate of administrative costs associated with consultations on West Coast salmon and steelhead.

Comment 29: One commenter and two peer reviewers stated that the economic analysis should include a discussion of flow change impacts to irrigation and other activities. Excluding these costs underestimates total economic impact. A commenter pointed out that low flow years and drought years are not discussed in the economic impacts, and consideration of these events is especially relevant to estimating impacts of instream flow augmentation. Similarly, another commenter stated that the analysis should include an analysis of impacts of increased spill at hydropower dams on the cost of power in the region.

Response: The amount of water within particular areas that may be diverted from activities such as irrigation, flood control, municipal water supply, and hydropower, for the purposes of salmon and steelhead conservation is uncertain. As a result, a comprehensive prospective analysis of the impacts of potential water diversion from these activities would be highly speculative. In addition, the interrelated nature of dam and diversion projects, and hydrology, across river systems makes it impossible to attribute flow-related impacts from salmon and steelhead conservation to specific watersheds. We acknowledge this limitation of the economic analysis. The revised economic analysis, however, includes an expanded discussion of the potential impacts of changes in flow regimes on hydropower production and prices and water diversions on irrigation based on historical examples. This broader context will assist us in our decision making.

Comment 30: Some commenters stated that the economic analysis estimates impacts using a constant per-capita income basis and that doing so is likely to underestimate the impacts on rural communities.

Response: Per-capita income is not explicitly factored into the per-watershed quantitative impact estimates in the economic analysis. The commenter is highlighting that equal costs in any given watersheds will not likely result in the same relative economic burden to residents of those watersheds. This is because the ratio of costs of the designation to income may vary across watersheds. In lower income areas, the cost of implementing modifications to projects for the benefit of the salmon may be more burdensome relative to higher income areas. We did consider the extent to which costs of designation within a watershed are likely to be borne locally. In addition, information on distribution of wealth across the designation is provided contextually in the economic analysis, and this information is weighed in considering the benefits of exclusion of particular areas.

Comment 31: One commenter stated that the analysis makes no attempt to explain or quantify with any level of precision what the additional costs of design and operation modification and mitigation measures required by ESA section 7 consultation are.

Response: The economic analysis focuses on the impacts of section 7 consultation on economic activities by first identifying the types of activities occurring that may be subject to section 7 consultation. The analysis then estimates the regulatory burden placed upon these activities as a result of these consultations. The burden estimate is based upon a review of past modifications to those activities undertaken for the benefit of West Coast salmon and steelhead, interviews with NMFS' consulting biologists, affected parties, and available documents and literature. This research on the potential costs of these modifications then determined a typical range of costs for potential project modifications that may be associated with section 7 consultation in the future.

Comment 32: One commenter stated that the economic analysis assumes that the population growth and economy of the impact areas is stagnant, and asserted that the analysis should evaluate population and economic growth on a regional, state, and county basis, and evaluate the degree to which the listing of salmon and steelhead may have contributed to any population and economic decline. Another commenter asserted that past costs are not good indicators of future costs due to streamlining of the consultation process, for example, for fire management on Federal lands. One peer reviewer suggested using the consultation record to forecast trends in consultations for particular types of projects.

Response: The economic analysis does not uniformly assume that all activities and associated consultations

will occur at the same rate in future years as past, but projects the most likely level of future activity using information available at the watershed level. Further, the economic analysis does not quantify retrospective impacts of West Coast salmon and steelhead conservation as the focus of the analysis is the impact associated with the future critical habitat designation. Finally, while the consultation record may reveal some short-term trends for individual or groups of ESUs, it is not adequate to estimate trends for particular types of activities at a watershed level.

Comment 33: Some commenters stated that the economic analysis uses data that are overly broad or makes assumptions across geographic areas that are too far reaching. For example, one commenter states that the economic analysis assumes that the necessity and scope of modifications will be constant across ESUs for most activities, when in reality, these are actually likely to vary substantially.

Response: For each activity, the economic analysis examines the probability of consultation and the likelihood of modification. A variety of activity-specific information sources were used to forecast the frequency and geographic distribution of potentially affected activities. That is, frequency of consultation was not always assumed to be uniform across ESUs. The economic analysis does not, however, assume that costs increase in areas of overlapping ESUs. In other words, the presence of critical habitat for multiple ESUs is not expected to generate a greater impact than if the particular area is critical habitat for only a single ESU. Examination of the consultation history did not reveal differences in requests for modification to projects (reasonable and prudent alternatives) among the ESUs. We recognize, however, that the broad scope and scale of the analysis required us to make simplifying assumptions in order to complete the designations in a timely fashion (see, for example, the summary of major assumptions and potential biases of the analysis described in the final economic analysis (NMFS, 2005d)).

Comment 34: Several commenters and a peer reviewer expressed concern that the economic analysis fails to consider the full range of economic benefits of salmon habitat conservation and therefore provides a distorted picture of the economic consequences of designating versus excluding each of these areas. Similarly, commenters expressed concerns that the economic impact of not designating particular areas to fishers and investors in recovery efforts should be considered in the economic analysis. Commenters specifically cited the lack of consideration in the economic analysis of the potential benefits of critical habitat designation on: (1) Decreased risk of extinction; (2) benefits to other aquatic and riparian species; (3) water quality; (4) flood control values; (5) recreation; (6) commercial fishing; (7) fish harvest for tribal uses; and (8) increased public education.

Response: As described in the economic analysis (NMFS, 2005e) and ESA section 4(b)(2) report (NMFS, 2005b), we did not have information available at the scale of this designation that would allow us to quantify the benefits of designation in terms of increased fisheries. Such an estimate would have required us to determine the additional number of fish likely to be produced as a result of the designation, and would have required us to determine how to allocate the economic benefit from those additional fish to a particular watershed. Instead, we considered the ''benefits of designation'' in terms of conservation value ratings for each particular area (see ''Methods and Criteria Used to Designate Critical Habitat'' section). We also lacked information to quantify and include in the economic analysis the economic benefit that might result from such things as improved water quality or flood control, or improved condition of other species.

Moreover, we did not have information at the scale of this designation that would allow us to consider the relative ranking of these types of benefits on the ''benefits of designation'' side of the 4(b)(2) balance. Our primary focus was to determine, consider, and balance the benefits of designating these areas to conservation of the listed species. Given the uncertainties involved in quantifying or even ranking these ancillary types of benefits, we were concerned that their consideration would interject an element of uncertainty into our primary task.

Comment 35: One commenter asserted that the economic analysis does not consider the importance of agriculture in Washington and how many communities rely upon the agriculture industry to survive. A number of commenters further stated that the analysis should address impacts on agriculture of a judicially imposed moratorium on pesticide use near salmon-bearing streams. The inability to use pesticides on farmland could result directly in decreases in crop yields. More specifically, the commenters believed that the economic analysis underestimates the impacts of the Washington Toxics litigation (*Washington Toxics Coalition et. al.* v. *EPA*, No. 04–35138) limiting pesticide use around salmon-supporting waters and suggests that the economic analysis should analyze the impact of this injunction.

Response: Regarding impacts to agricultural communities, we considered impacts to small businesses in our Regulatory Flexibility Act analysis, and also took account of disparate impacts by considering per capita impacts as a basis for exclusion in the ESA section 4(b)(2) balancing. We did not otherwise separately consider economic impacts to various economically or culturally defined communities in the economic analysis or in the section 4(b)(2) balancing. For example, we also did not separately consider impacts of designation or exclusion on coastal fishing communities. As with the consideration of ancillary unquantifiable benefits of designation described above, we were concerned that including a consideration of these ancillary benefits of exclusion would inject an unacceptable level of uncertainty into our analysis.

We agree that the draft economic analysis did not adequately consider the impact of pesticide restrictions on the agricultural industry. The revised economic analysis (NMFS, 2005d), therefore, includes refined estimates of potential lost profits associated with reduced crop yields as a result of implementing pesticide restrictions across the critical habitat designation. The analysis assumes that the agricultural net revenue generated by land within certain distances of salmon-supporting waters would be completely lost. That is, the analysis assumes that no changes in behavior are undertaken to mitigate the impact of pesticide restrictions. This assumption may lead to overestimated impacts of restricting pesticide use. On the other hand, the analysis may underestimate the impact of pesticide restrictions by assuming that farmers outside the designated areas (*e.g.*, upstream) will not be restricted in their activities.

Comment 36: A few commenters and peer reviewers stated that impacts associated with changes in the operations of the Federal Columbia River Power System (FCRPS) and other major hydropower dams should be included. One commenter noted that the FCRPS is an important issue as salmon-related conservation at these sites have impacted the price of power. Conversely, another stated that modifications to the FCRPS projects and

operations would result in high costs regardless of the presence of critical habitat for these salmon and steelhead ESUs due to the listing of the species and existing critical habitat for three Snake River ESUs in this region (Snake River spring/summer Chinook, fall Chinook, and sockeye salmon). This commenter therefore concluded that costs of modifications to FCRPS for the three ESUs with existing critical habitat should be part of the baseline.

Response: The revised economic analysis includes an expanded discussion of the impacts on the FCRPS and other major hydropower projects of section 7 consultations and other conservation measures. We have provided more detailed estimated of these impacts and find them to be in the range of $500–700 million. We do not apportion these costs to a particular watershed, however, because the FCRPS and some other major hydropower projects are operated as integrated systems that span multiple watersheds. As a result, the impacts of section 7 consultations on these systems are best considered at a spatial scale considerably greater than an individual watershed. We agree that the impacts specifically attributable to the listing of the three Snake River ESUs are an appropriate part of the baseline, but available information did not allow us to distinguish these impacts from impacts specifically attributable to the salmon and steelhead ESUs addressed in this rule.

Comment 37: One comment letter contended that the Initial Regulatory Flexibility Analysis (IRFA) mischaracterizes the number of potential farms that would be affected by critical habitat designation. The analysis states that only three farms in Adams County, Washington, may be affected by critical habitat designation, while U.S. Department of Agriculture reports that there are 717 farms in the county.

Response: The IRFA analysis identified potential impacts to small entities using data from Dun and Bradstreet's ''Market Identifiers'' on the ratio of small businesses to total businesses in potentially affected industries within counties containing proposed critical habitat. The IRFA listed a single type of agricultural operation: Beef Cattle Ranching & Farming. The estimated number of these operations in a county was weighted by the proportion of that county covered by the critical habitat designation. The Final Regulatory Flexibility Act analysis includes three additional types of agricultural operations.

Comment 38: Another commenter stated that the IRFA needs more citations regarding the applied sources of information.

Response: We have provided appropriate citations in the Final Regulatory Flexibility Analysis.

Comment 39: One commenter stated that the Small Business Regulatory Enforcement Fairness Act (SBREFA) analysis assumes that most compliance costs would be borne by third parties when, in fact, a significant portion of all section 7 related costs are not borne by those entities, but rather are borne by the Bureau of Reclamation (BOR).

Response: In many cases it is uncertain who will bear the costs of modification. The potentially burdened parties associated with modifications to activities are identified in the economic analysis. The BOR may, in fact, bear the cost of modifications to BOR dams, Federal land management activities, and so forth. Where information is not available on a per-project basis regarding the potentially affected party, the analysis takes a conservative approach, assuming that impacts may be borne by private entities, a portion of which may be small entities.

Weighing the Benefits of Designation vs. Exclusion

Comment 40: Several commenters supported the use of a cost-effectiveness framework, one commenter explicitly objected to it, and some commenters had concerns with the way we applied it. One commenter asserted that the economic analysis ''would have been very different'' if we had evaluated the absolute conservation value of an area ''with or without [section] 7 requirements,'' rather than relative conservation values. One commenter asserted that ''[w]ithout any target level of conservation for designation, the framework does not guarantee that areas necessary for conservation will be designated.'' Another commenter asserted that weighing quantitative economic costs against qualitative habitat ratings prejudiced the ESA section 4(b)(2) analysis in favor of excluding areas lacking a high conservation value. Several commenters suggested that the 4(b)(2) process could benefit from more explanation regarding how the process was applied.

Response: We believe the comparison of benefits provides the Secretary useful information as to the benefits of any particular inclusion or exclusion. The Secretary has discretion in balancing the statutory factors, including what weight to give those factors. The ESA provides the Secretary with the discretion to exclude areas based on the economic impact, or any other relevant impact, so long as a determination is made that the benefits of exclusion outweigh the benefits of designation, and so long as the exclusion will not result in extinction of the species concerned.

Subsequent to publication of this rule, we will undertake a review of the methods and criteria applied in this rule. If the Secretary determines the critical habitat designations should be modified as a result of that review, we will propose a revised designation with appropriate opportunity for notice and comment.

Comment 41: In the proposed rule we identified a number of potential exclusions that we were considering but were not at that time proposing. These potential exclusions included: Federal lands subject to Northwest Forest Plan, PACFISH and INFISH (including watersheds where 45 percent or more of the land was covered by one of these plans); all critical habitat for four ESUs (Snake River *O. mykiss*, Middle Columbia River *O. mykiss*, Upper Columbia River spring-run Chinook salmon, and Oregon Coast coho salmon); areas in the mainstem Columbia River that contain or are directly affected by the operation of the Federal dams on the river, including reservoir pools above dams, tail race areas below dams, and the navigation locks.

Several commenters opposed these potential exclusions. Some disagreed that designation of critical habitat is unnecessary or diminished in light of existing management constraints, contending that such a position is contrary to the ESA's conservation purpose and our implementing regulations and citing recent Court decisions bearing on this issue. Several noted that because these species are still listed, existing regulatory and voluntary mechanisms are inadequate and noted that we concluded as such in our 2000 designations. Some commenters believed that the assumptions underlying such exclusions were unjustifiable and potentially disastrous for salmon recovery. Some commenters noted that INFISH was incorrectly identified in this list since that strategy applies only to non-anadromous watersheds. Several commenters believed that we failed to adequately describe the benefits of designation as they pertain to these potential exclusions. One commenter noted that the lack of specificity regarding which areas might be excluded as well as the lack of clear exclusion standards seriously hindered the public's ability to comment on the proposed exclusions. This commenter cited agency

regulations at 50 CFR 424.16(b) and believed that this and other potential exclusions did not contain an adequate ''summary of the data on which the proposal is based (including, as appropriate, citation of pertinent information sources), and shall show the relationship of such data to the rule proposed.''

In contrast, several commenters supported the potential exclusions mentioned in the proposed rule. One peer reviewer supported the exclusion of Federal lands covered by PACFISH and the Northwest Forest Plan and believed that critical habitat designation would have negligible benefit in these areas. Some commenters contended that designating critical habitat on these Federal lands was duplicative with existing ESA section 7 consultation processes, inefficient (*e.g.,* citing costs of re-initiating consultation), and offers no additional conservation benefit to the listed species. One commenter believed that excluding Federal lands would be consistent with our exclusion of lands subject to Integrated Natural Resource Management Plans since existing land management plans provide similar protections. This commenter also cited the USFWS' exclusion of Federal lands for bull trout (69 FR 59996; October 6, 2004) and provided information supporting their belief that we should make the same determination for salmon and steelhead ESUs. Several commenters and one peer reviewer contended that we are obligated to fully examine the web of private, local, state, regional, and Federal protections already in place and only designate as critical habitat those areas that are affirmatively in need of additional management considerations.

Response: Section 4(b)(2) provides the Secretary with discretion to exclude areas from the designation of critical habitat if the Secretary determines that the benefits of exclusion outweigh the benefits of designation, and the Secretary finds that exclusion of the area will not result in extinction of the species. In the proposed rule, and the reports supporting it, we explained the policies that guided us and provided supporting analysis for a number of proposed exclusions. We also noted a number of additional potential exclusions, explaining that we were considering them because the Secretary of the Interior had recently made similar exclusions in designating critical habitat for the bull trout: ''On October 6, 2004, the FWS issued a final rule designating critical habitat for the bull trout * * * The Secretary of the Interior found that a number of conservation measures designed to protect salmon and steelhead on Federal, state, tribal and private lands would also have significant beneficial impacts to bull trout. Therefore, the Secretary of the Interior determined that the benefits of excluding those areas exceeded the benefits of including those areas as critical habitat. The Secretary of Commerce has reviewed the bull trout rule and has recognized the merits of the approach taken by the Secretary of the Interior to these emerging issues.'' We acknowledged, in the proposed rule, however, that we lacked the analysis to propose these potential exclusions for West Coast salmon and steelhead: At this time, the Secretary of Commerce still ''has not had an opportunity to fully evaluate all of the potential exclusions, the geographical extent of such exclusions, or compare the benefits of these exclusions to the benefits of inclusion.'' Our regulations require that our proposed and final rules provide the data upon which the rule is based (50 CFR 424.16; 50 CFR 424.18).

Recently, in response to the Department of Interior's request, a District Court has remanded the bull trout rule to the Department of Interior for further rulemaking. *Alliance for the Wild Rockies and Friends of the Wild Swan* v. *David Allen and United States Fish and Wildlife* (CV 04–1812). In seeking the remand the Department of Interior noted that it intends to reconsider the 4(b)(2) exclusions in the proposed rule and that it recently issued a **Federal Register** notice seeking comment on those exclusions (70 FR 29998; May 25, 2005). In response, we received extensive comment from those supporting and opposing these potential exclusions. Based on our review of the information received and the short time between the close of the comment period and the court-ordered deadline for completing this rulemaking, we are unable to conclude at this time that the benefits of excluding these areas outweigh the benefits of designation, with the exception of areas covered by three habitat conservation plans, discussed below.

Nevertheless, we will continue to study this issue and alternative approaches in future rulemakings designating critical habitat. In particular, we intend to analyze the planning and management framework for each of the ownership categories proposed for consideration for exclusion. In each case, we envision that the planning and management framework would be evaluated against a set of criteria, which could include at least some or all of the following:

1. Whether the land manager has specific written policies that create a commitment to protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

2. Whether the land manager has geographically specific goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

3. Whether the land manager has guidance for land management activities designed to achieve goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

4. Whether the land manager has an effective monitoring system to evaluate progress toward goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

5. Whether the land manager has a management framework that will adjust ongoing management to respond to monitoring results and/or external review and validation of progress toward goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

6. Whether the land manager has effective arrangements in place for periodic and timely communications with NOAA on the effectiveness of the planning and management framework in reaching mutually agreed goals for protection or appropriate management of the physical or biological features essential to long-term conservation of ESA-listed salmon and steelhead.

Comment 42: In the proposed rule we requested comments on the potential exclusion of lands subject to conservation commitments by state and private landowners reflected in habitat conservation plans and cooperative agreements approved by NMFS, specifically: (1) Land subject to Washington state forest practice rules referred to as the Forests and Fish Agreement; (2) lands covered by a Habitat Conservation Plan (HCP) approved under section 10 of the ESA (NMFS, 2004f); and (3) non-Federal timber lands covered by the Term Sheet in the Snake River Basin Adjudication. Several commenters (including three with NMFS-approved HCPs) concurred with the potential exclusion of lands covered by an HCP, believing that we would not likely secure additional conservation benefits by designating these areas as critical habitat. These and other commenters acknowledged the

potential education benefits of designation but asserted that designating HCP lands could have an unintended consequence of damaging existing and future cooperative relationships. Some commenters noted that the USFWS had excluded lands addressed in the Washington Department of Natural Resources' (WDNR) HCP and the Forest and Fish Agreement in their recent bull trout critical habitat designation (69 FR 59996; October 6, 2004) and requested that we do the same. These commenters additionally noted that HCPs have already undergone extensive environmental review and ESA section 7 consultation and been found to not likely jeopardize the species. With respect to the potential exclusion of lands subject to the Forest and Fish Agreement, several commenters asserted that Washington Forest Practice regulations already provide adequate protections and that excluding these areas would promote keeping them in a forested landscape rather than converting them to other land uses and smaller parcels that are not as good for fish. Several commenters expressed support for the Oregon Plan for Salmon and Watersheds. One commenter believed that we should consider excluding all basins with water rights adjudications. Some commenters believe that such exclusions should be based on the actual effectiveness of the habitat conservation strategies and plans, including whether they are being fully funded and implemented.

Several commenters (including one with a NMFS-approved HCP) disagreed with the potential exclusion of lands covered by HCPs, believing it would be contrary to the ESA, and some cited recent litigation bearing on this issue (e.g., *Center for Biological Diversity* v. *Norton*, 240 F. Supp. 2d 1090 (D. Ariz. 2003); *Gifford Pinchot Task Force* v. *FWS*, 378 F. 3d 1059 (9th Cir. 2004). One commenter did not support such exclusions because they contended there are no guarantees the plans will remain in place, when for example, ownership changes or landowners change their minds. Another commenter who presently has a NMFS-approved HCP welcomed the critical habitat designation and noted that doing so would help ensure that actions by other landowners within and adjacent to its HCP lands will help ensure conservation of an area that provides fish habitat and valuable drinking water. One commenter believed that we should not exclude areas subject to licenses issued by the Federal Energy Regulatory Commission (FERC), noting in particular the Mid-Columbia HCP and uncertainties associated with downstream FERC projects at Priest Rapids and Wanapum Dams. Another commenter cited agency regulations at 50 CFR 424.16(b) and believed that this and other potential exclusions did not contain an adequate ''summary of the data on which the proposal is based (including, as appropriate, citation of pertinent information sources),'' nor did they ''show the relationship of such data to the rule proposed.'' Several commenters believed that we failed to adequately describe the benefits of designation as they pertain to these potential exclusions.

Response: The analysis required for these types of exclusions, as with all others, first requires careful consideration of the benefits of designation versus the benefits of exclusion to determine whether benefits of exclusion outweigh benefits of designation. The benefit of designating critical habitat on non-Federal areas covered by an approved HCP or other type of conservation agreement depends upon the type and extent of Federal activities expected to occur in that area in the future. Activities may be initiated by the landowner, such as when the landowner seeks a permit for bank armoring, water withdrawal, or dredging. Where the area is covered by an HCP, the activity for which a permit is sought may or may not be covered by the HCP. For example, an HCP covering forestry activities may include provisions governing construction of roads, but may not include provisions governing bank armoring or pesticide application. The activity may be initiated by the Federal agency without any landowner involvement, such as when a Federal agency is involved in building a road or bridge, dredging a navigation channel, or applying a pesticide on Federal land upstream of the HCP-covered area. In analyzing the benefits of designation for these HCP-covered areas, we must consider which Federal activities are covered by the HCP and which are not. Where activities are covered by the HCP, we must consider whether an ESA section 7 consultation on that particular activity would result in beneficial changes to the proposed action over and above what would be obtained under the HCP. Designation may also benefit the species by notifying the landowner and the public of the importance of an area to species' conservation.

On the other side of the balance are the benefits of exclusion. We believe the primary benefits of exclusion are related to the conservation benefits to the species that come from conservation agreements on non-Federal land. If a landowner considers exclusion from critical habitat as a benefit, exclusion may enhance the partnership between NMFS and the landowner and thus enhance the implementation of the HCP or other agreement. If other landowners also consider exclusion from critical habitat as a benefit, our willingness to exclude such areas may provide an incentive for them to seek conservation agreements with us. Improved implementation of existing partnerships, and the creation of new conservation partnerships, would ultimately benefit conservation of the species.

Conservation agreements with non-Federal landowners enhance species conservation by extending species' protections beyond those available through other ESA provisions. Section 7 applies only to Federal agency actions. Its requirements protect listed salmon and steelhead on Federal lands and whenever a Federal permit or funding is involved in non-Federal actions, but its reach is limited. The vast majority of activities occurring in riparian and upland areas on non-Federal lands do not require a Federal permit or funding and are not reached by section 7 (in contrast to instream activities, most of which do require a Federal permit). The ability of the ESA to induce landowners to adopt conservation measures lies instead in the take prohibitions of sections 9(a) and 4(d). Many landowners have chosen to put conservation plans in place to avoid any uncertainty regarding whether their actions constitute ''take''.

Beginning in 1994, when we released our draft HCP Handbook for public review and comment, we have pursued policies that provide incentives for non-Federal landowners to enter into cooperative partnerships, based on a view that we can achieve greater species' conservation on non-Federal land through HCPs than we can through coercive methods (61 FR 63854; December 2, 1996). Before we approve an HCP and grant an incidental take permit, we must conduct a rigorous analysis under ESA section 10. The HCP must specify the impact likely to result from take, what steps the applicant will take to minimize and mitigate such impacts, and the funding available to implement such steps. The applicant must have considered alternative actions and explained why other alternatives are not being pursued, and we may require additional actions necessary or appropriate for the purposes of the plan. Before an HCP can be finalized, we must conclude that any take associated with implementing the

plan will be incidental, that the impact of such take will be minimized and mitigated, that the plan is adequately funded, and that the take will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. The HCP undergoes environmental analysis under the National Environmental Policy Act (NEPA) and we conduct a section 7 consultation with ourselves to ensure granting the permit is not likely to jeopardize the continued existence of the species or destroy or adversely modify designated critical habitat.

Based on comments received, we could not conclude that all landowners view designation of critical habitat as imposing a burden on the land, and exclusion from designation as removing that burden and thereby strengthening the ongoing relationship. Where an HCP partner affirmatively requests designation, exclusion is likely to harm rather than benefit the relationship. We anticipate further rulemaking in the near future to refine these designations, for example, in response to developments in recovery planning. In order to aide in future revisions, we will affirmatively request information from those with approved HCPs regarding the effect of designation on our ongoing partnership. We did not consider pending HCPs (e.g., Washington's Forest and Fish Agreement) for exclusion, both because we do not want to prejudge the outcome of the ongoing HCP process, and because we expect to have future opportunities to refine the designation and consider whether exclusion will outweigh the benefit of designation in a particular case.

During the comment period we received comments from only three landowners with current HCPs stating that they would consider exclusion as a benefit to our ongoing relationship—WDNR, Green Diamond Resources Company, and West Fork Timber Company. For those HCPs, we analyzed the activities covered by the HCPs, the protections afforded by the HCP agreement, and the Federal activities that are likely to occur on the affected lands. From this information we determined the benefit of designation, which we then weighed against the benefit of exclusion. We concluded that the conservation benefits to the species from the HCPs outweigh the conservation benefits of designation and therefore have excluded lands covered by these agreements in this final designation. The analysis is described in further detail (NMFS, 2005e).

Comment 43: Several commenters addressed the exclusion of Indian Lands. All of the commenting Tribes and inter-tribal commissions reiterated their support for the exclusions. One non-tribal commenter suggested that designation was not needed for Indian lands in Bellingham Bay.

Response: This final rule maintains the exclusion of Indian lands for the reasons described in the ''*Exclusions Based on Impacts to Tribes*'' section below.

Comment 44: A few commenters addressed our assessment of Integrated Natural Resource Management Plans (INRMPs) and the exclusion of Department of Defense (DOD) areas due to impacts on national security. One commenter thought it was reasonable to exclude military lands while another commenter asserted that we may not use the general ''national security'' language in ESA section 4(b)(2) to remove our obligation to comply with the demand for adequate INRMPs. One commenter wondered whether we considered the protection of U.S. agriculture in the context of national security.

Response: Pursuant to section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)), we contacted the DOD and, after evaluating the relevant INRMPs, we concluded that, as implemented, they provide conservation benefits greater than or equal to what would be expected to result from a section 7 consultation (NMFS, 2005f). We also determined that these INRMP sites as well as 13 additional DOD sites (e.g., Naval security zones and restricted areas in Puget Sound) should be excluded from designation due to potential impacts on national security (NMFS, 2005f). However, we did not have information available to draw a connection between the possible impacts of designation on agriculture and food supply and whether doing so might constitute an impact on ''national security,'' nor did the commenter provide specific information.

Effects of Designating Critical Habitat

Comment 45: One commenter questioned whether there exists an acceptable or unacceptable level of negative economic impact to communities, landowners, or local governments and whether the government must consider the impacts that their decisions will have on local economies.

Response: The economic analysis provides information regarding the impact to potentially affected economic activities of the proposed critical habitat designation. This information is used to identify the particular areas according to their relative cost burden. We weighed this information against the relative conservation value of the particular areas, considering the economic and any other relevant impact of designating critical habitat. Further, concurrent with the economic analysis, we prepared an analysis of potential impacts to small entities, including small businesses and government. This analysis identified the number of small businesses and governments likely impacted by the proposed critical habitat using county-specific data on the ratio of small businesses to total businesses in each potentially affected economic sector.

Comment 46: Some commenters noted that the success of watershed management and restoration efforts is dependent on critical habitat protections, noting that designations assist local recovery planning efforts and leverage needed money and cooperation. Several expressed concern that excluding areas from designation—in particular areas identified in existing recovery efforts as important for salmon—would undermine ongoing regional and local recovery planning efforts (e.g., Lower Columbia Salmon Recovery and Fish and Wildlife Subbasin Plan, WRIA 8, Elwha River Restoration Project) by signaling that these areas are not important for recovery.

Response: We acknowledge that critical habitat designations can serve an important educational role and that they can assist local recovery efforts as stated. The ESA requires that we use the best available scientific data to evaluate which areas warrant designation and that we balance the benefits of designation against the benefits of excluding particular areas. In so doing, it is possible that some areas subject to ongoing restoration activities may have been excluded from designation. However, such exclusion does not indicate that the area is unimportant to salmon or steelhead, but instead reflects the practical result of following the ESA's balancing of benefits as required under section 4(b)(2). We are hopeful that the information gathered and the analyses conducted to support these final designations (such as species distribution, watershed conservation value, and economic impacts from section 7 consultations) will be viewed as valuable resources for local recovery planners. As recovery planning proceeds and if we find that additional or different areas warrant designation or exclusion, we can and will make needed revisions using the same rulemaking process.

Comment 47: Several commenters asked for clarification regarding how we will make adverse modification determinations in ESA consultations. One commenter also suggested that a

finding of adverse modification would need to be contingent on the habitat conditions existing at the time of designation. They noted that where such conditions are the result of past and present management actions, and where those existing conditions would not be altered through proposed future actions, it is their belief that consultation on such future actions would result in a ''no adverse modification'' determination.

Response: In *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir. 2004), the Court of Appeals for the Ninth Circuit Court ruled that the USFWS' regulatory definition of ''destruction or adverse modification'' of critical habitat, which is also NMFS' regulatory definition (50 CFR 402.02), is contrary to law. Pending issuance of a new regulatory definition, we are relying on the statutory standard, which relates critical habitat to conservation of the species. The related point raised by one commenter regarding the relevance of habitat conditions at the time of listing when making an adverse modification determination cannot be answered in a generic way and would depend on the facts associated with a specific consultation.

Comment 48: Some commenters objected to the potential land use regulations that critical habitat designation would prompt, citing specific cases where county and Federal agencies imposed buffers and other restrictions to protect ESA-listed fish. One commenter asked what forms of compensation are available for landowners if their lands are designated as critical habitat. One commenter asserted that specific guidelines should be developed and applied fairly and consistently in all areas, urban or rural.

Response: The ESA requires that we designate critical habitat and these designations follow that statutory mandate and have been completed on a schedule established under a Consent Decree. Whether and if local jurisdictions will implement their authorities to issue land use regulations is a separate matter and is not under our control.

Comment 49: Several commenters urged us to commit to monitoring the effects of the designations and exclusions and to describe how we will respond to new information and make needed future revisions to critical habitat.

Response: We are actively engaged with an array of private and public stakeholders in recovery planning throughout the range of West Coast salmon and steelhead. As a result of this involvement and our regular contact with Federal, state and tribal comanagers (*e.g.*, via section 7 consultations and other forums) we believe we will be able to effectively monitor the effects of these designations. Moreover, we intend to actively revise critical habitat designations as needed for all 12 ESUs to keep them as up-to-date as possible. We encourage all parties to contact us (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**) if they have information indicating that these designations warrant revision.

Comment 50: Several commenters believed that we fail to (or inadequately) address required determinations related to a number of laws, regulations, and executive orders, including the NEPA, Regulatory Flexibility Act, and Data Quality Act. One commenter requested that we name Franklin County, Washington, as a joint lead or cooperating agency in the development of an environmental assessment or environmental impact statement pursuant to NEPA.

Response: Our responses to each of these issues are described below, and we also direct the reader to the ''Required Determinations'' section below to review our response to each of the determinations relevant to this rulemaking.

(a) *NEPA*—We believe that in *Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996) the Court correctly interpreted the relationship between NEPA and critical habitat designation under the ESA. The Court of Appeals for the Ninth Circuit rejected the suggestion that irreconcilable statutory conflict or duplicative statutory procedures are the only exceptions to application of NEPA to Federal actions. The court held that the legislative history of the ESA demonstrated that Congress intended to displace NEPA procedures with carefully crafted procedures specific to critical habitat designation. Further, the Douglas County Court held that the critical habitat mandate of the ESA conflicts with NEPA in that, although the Secretary may exclude areas from critical habitat designation if such exclusion would be more beneficial than harmful, the Secretary has no discretion to exclude areas from designation if such exclusion would result in extinction. The court noted that the ESA also conflicts with NEPA's demand for impact analysis, in that the ESA dictates that the Secretary ''shall'' designate critical habitat for listed species based upon an evaluation of economic and other ''relevant'' impacts, which the Court interpreted as narrower than NEPA's directive. Finally, the court, based upon a review of precedent from several circuits including the Fifth Circuit, held that an environmental impact statement is not required for actions that do not change the physical environment.

(b) *Regulatory Flexibility Act*—We have prepared a final regulatory flexibility analysis that estimates the number of regulated small entities potentially affected by this rulemaking and the estimated coextensive costs of section 7 consultation incurred by small entities. As described in the analysis, we considered various alternatives for designating critical habitat for these 12 ESUs. After considering these alternatives in the context of the section 4(b)(2) process of weighing benefits of exclusion against benefits of designation, we determined that our current approach to designation provides an appropriate balance of conservation and economic mitigation and that excluding the areas identified in this rulemaking would not result in extinction of the ESUs. Our final regulatory flexibility analysis estimates how much small entities will save in compliance costs due to the exclusions made in these final designations.

(c) *Data Quality Act*—One commenter asked if we had complied with the Data Quality Act. We have reviewed this rule for compliance with that Act and found that it complies with NOAA and OMB guidance.

(d) *Negotiated Rulemaking Act* (*5 U.S.C. 561 et seq.*)—One commenter asserted that we should have engaged in negotiated rulemaking to issue this final critical habitat designation. This is an interesting idea and could be pursued in future critical habitat rulemaking. However, because a court approved consent decree governs the time frame for completion of this final rule, we do not feel that there was ample time to comply with the numerous processes defined in the Negotiated Rulemaking Act for this rulemaking. For example, the Negotiated Rulemaking Act provides that if the agency decides to use this tool, it must follow Federal Advisory Committee Act procedures for selection of a committee, conduct of committee activities, as well as specific documentation processes (See *Negotiated Rulemaking Source Book*, 1990).

(e) *Intergovernmental Cooperation Act*—One commenter asserted that we did not properly and fully coordinate with local governments and did not comply with the Intergovernmental Cooperation Act. First, the commenter did not provide a statutory citation for the Intergovernmental Cooperation Act.

Although we are reluctant to speculate on that Act, we believe the comment is in reference to the Intergovernmental Cooperative Act, Public Law 90–577, 82 Stat. 1098 (1968) as amended by Public Law 97–258 (1982) (codified at 31 U.S.C. section 6501–08 and 40 U.S.C. section 531–35 (1988)). This Act addresses Federal grants and development assistance. Accordingly we do not find it relevant to the mandatory designation of critical habitat under the ESA. To the extent that the commenter's concern is assuring that state, local and regional viewpoints be solicited during the designation process, the ESA and our implementing regulations provide explicitly for public outreach. 16 U.S.C. 1533 (b)(3)(A); 50 CFR 424.16. As noted in response to Comment 1, we actively sought input from all sectors beginning with meetings with many stakeholders to inform an ANPR (68 FR 55926, September 29, 2003), and culminating in four public hearings to facilitate comment from the interested public in response to the proposed rule. In addition we met with several local governments and made ourselves available to meet with others.

(f) *National Historic Preservation Act (NHPA)*—One commenter asserted that we failed to comply with the NHPA (16 U.S.C. sections 470–470x–6). The NHPA does not apply to this designation. The NHPA applies to ''undertakings.'' ''Undertakings'' are defined under the implementing regulations as ''a *project, activity* or *program* funded in whole or in part under the direct or indirect jurisdiction of a Federal agency * * *.'' (emphasis added) (50 CFR 800.16). The mandatory designation of specific areas pursuant to the criteria defined in the ESA does not constitute an ''undertaking'' under the NHPA.

(g) *Farmland Protection Policy (FPPA)*—One commenter asserted that we failed to comply with FPPA (7 U.S.C. 4201). The FFPA does not apply to this designation. The FPPA applies to Federal programs. Federal programs under the Act are defined as ''those activities or responsibilities of a department, agency, independent commission, or other unit of the Federal Government that involve (A) undertaking, financing, or assisting construction or improvement projects; or (B) acquiring, managing or disposing of Federal lands and facilities. The designation of critical habitat does not constitute a ''Federal program'' under the FFPA.

(h) *Unfunded Mandates Reform Act*—One commenter asserted that we failed to properly conduct and provide an unfunded mandates analysis because, they contend, we based our decision solely on public awareness of the salmon listings. This is not the case. In the proposed rule, we found that the designation of critical habitat is not subject to the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) We then explained in detail why this is the case. The commenter does not take issue with these findings and we find nothing in the commenter's assertions to warrant changing our original determination.

(i) *Federalism*—One commenter asserted that we failed to properly comply with E.O. 13132.

In the proposed rule, we found that the designation of critical habitat does not have significant Federalism effects as defined under that order and, therefore, a Federalism assessment is not required. We find nothing in the commenter's assertions to warrant changing our original determination.

(j) *Takings*—One commenter disputed our conclusion in the proposed rule that the designations would not result in a taking. The commenter offered no information or analysis that would provide a basis for a different conclusion.

(k) *Civil Justice Reform*—One commenter asserted that we failed to properly conduct and provide a Civil Justice Reform analysis pursuant to E.O. 12988. In relevant part, Section 3 of E.O. 12988 requires agencies, within current budgetary constraints and existing executive branch coordination procedures such as E.O. 12866, to review new regulations pursuant to certain specified requirements. The review is conducted to eliminate unnecessary litigation over agency rules. As called for by Section (3)(a), we reviewed both the proposed and final rules to eliminate drafting errors and ambiguity, and we drafted both rules so as to minimize legal issues that would occasion litigation. This critical habitat designation does not of itself circumscribe conduct, but we have designated critical habitat as clearly as possible and, through our comprehensive 4(b)(2) analysis, have produced the least burdensome critical habitat designation that is also ESA compliant. As required by the applicable portions of Section (3)(b)(2), we have also described the changes to the regulatory language and attempted to clearly define key terms used in the regulation, either explicitly or with reference to other regulations or statutes that explicitly define those terms.

ESU-Specific Issues

ESU Specific Comments—Puget Sound Chinook Salmon

Comment 51: Several commenters believed that unoccupied areas above the Elwha and Glines Canyon dams should be designated as critical habitat for this ESU.

Response: The CHART agreed that these unoccupied areas may be essential for conservation of this ESU, especially given the relatively limited number of populations and available habitat for them in the North Olympic region. The CHART noted that Elwha Dam is scheduled for removal as early as 2007 and has been the subject of comprehensive environmental studies. Also, recent recovery planning assessments for this area (Shared Strategy, 2004a) indicate that the Elwha River and Dungeness River Chinook salmon populations must achieve the planning targets and other viable salmonid population parameters established by the TRT. However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above these dams warrant designation as critical habitat.

Comment 52: One commenter requested clarification as to why the Skokomish River watershed was designated as critical habitat and asked whether occupied areas were based on professional judgment or observation. Another commenter said that the Skokomish River watershed, including mainstem and tributary spawning areas, should not be excluded from designation.

Response: According to fish distribution data from Washington Department of Fish and Wildlife (WDFW) for this watershed, all but approximately 1 mile (1.6 km) of habitat (in upper Purdy Creek) is identified as occupied based on documented observation. We agree with comments that this watershed should not be excluded from designation. The CHART reviewed these comments and maintained that this watershed is of high conservation value to this ESU, especially in light of the relatively limited number of populations and available habitat for them in the Hood

Canal region as well as the importance of the early returning life history type (Puget Sound TRT, 2004). The CHART noted that recent recovery planning assessments for this area (Shared Strategy, 2004b) indicate that the Skokomish River and Dosewallips River Chinook salmon populations must achieve the planning targets and other viable salmonid population parameters established by the TRT.

Comment 53: One commenter questioned the exclusion of Bellingham Bay noting that it contains the estuary for two very depressed stocks of Chinook salmon.

Response: Our proposed exclusions were for the freshwater streams, not for the nearshore and estuarine areas which the CHART concluded were of high conservation value to rearing and migrating Chinook salmon. The CHART considered this comment and maintained that the Bellingham Bay watershed is still of low conservation value to this ESU, in particular noting that there is a limited amount of freshwater habitat here, and that exclusion of these habitat areas from designation would not significantly impede conservation of the ESU. This finding includes an implicit determination that exclusion will not lead to extinction of the species.

Comment 54: One commenter and a peer reviewer recommended that critical habitat on the Middle Fork Nooksack River be extended above the City of Bellingham's diversion dam to include all areas occupied by Chinook salmon.

Response: The CHART reviewed the new data and determined that the areas are occupied and contain spawning and rearing PCEs which may require special management considerations or protection (NMFS, 2005a). The CHART noted that WDFW has been placing fish into this portion of the river annually since 2001 in order to increase returns and that plans are underway to allow passage at the diversion dam (Shared Strategy, 2005; WDFW, 2004). The resultant changes are identified below under ''Summary of Revisions.''

Comment 55: Two commenters provided information indicating mapping errors in our Chinook salmon distribution in the Lower Snoqualmie River watershed, noting that distribution is limited by a canyon and gradient barrier at RM 2.5 on the South Fork Tolt River.

Response: The CHART reviewed the comments as well as maps and information in Washington Department of Fisheries' (WDF) catalog of Washington streams (WDF, 1975) and concluded that the species' distribution in the proposed rule was in error. The CHART concurred with the commenter's assessment that a gradient barrier likely exists as indicated, and the resultant changes are summarized below under ''Summary of Revisions.''

Comment 56: One commenter provided information indicating mapping errors in our Chinook salmon distribution in the Cedar River watershed, noting that distribution above Landsburg Dam should be extended to Lower Cedar Falls based on recent fish passage above the dam and spawning surveys in the vicinity of the falls.

Response: The CHART reviewed the comments as well as recent spawner survey information (Burton *et al.*, 2005) and concluded that the species' distribution in the proposed rule was in error. The CHART concurred with the commenter's assessment that spawning and rearing PCEs and fish distribution should be extended above Landsburg Diversion Dam to the natural barrier falls indicated. Similarly, in reviewing distribution for this and nearby subbasins, the CHART also noted that Chinook salmon distribution in the South Fork Stillaguamish River should extend up to at least RM 67 to near confluence of Buck and Palmer Creeks as well as farther up Canyon Creek. Sources supporting this correction include WDF's stream catalog (WDF, 1975) and the June 2004 Draft Stillaguamish Chinook Salmon Recovery Plan (Stillaguamish Implementation Review Committee, 2004). The resultant changes are summarized below under ''Summary of Revisions.''

Comment 57: Several commenters objected to our rating of North Lake Washington as medium and the resulting proposed exclusion due to economic impacts. One commenter contended that excluding North Lake Washington tributaries could jeopardize that population and compromise recovery of the entire ESU. One commenter also asked that we reconsider the exclusion of the Sammamish River watershed. One commenter asked whether we had considered data collected by the Watershed Resource Inventory Assessment (WRIA) 8 Technical Committee.

Response: The CHART reviewed these comments, as well as information prepared by the WRIA 8 Technical Committee (WRIA8 Steering Committee, 2002) and Washington Conservation Commission's Limiting Factors Report (Kerwin, 2001), and maintained that the Lake Sammamish, Sammamish River, and Lake Washington watersheds were of medium conservation value relative to other watersheds in the range of this ESU. The CHART also underscored that the medium rating for the Lake Washington watershed related to the tributaries to the lake, but that Lake Washington itself was of high conservation value due to its connectivity with the high-value Cedar River watershed and its support of rearing and migration habitat for fish from all four watersheds in the subbasin. The CHART concluded that excluding the Lake Sammamish and Sammamish River watersheds, and the tributary habitats to Lake Washington, would not significantly impede conservation of the ESU. This finding includes an implicit determination that exclusion will not lead to extinction of the species concerned.

Comment 58: One commenter wondered whether we analyzed the potential impacts of proposed exclusions on the prospects for achieving recovery of this ESU by meeting delisting criteria and asked what assurances we can make that the exclusions will not preclude recovery.

Response: The CHART was specifically tasked with reviewing the best available scientific data for this ESU and determining the relative conservation value of occupied watersheds. During our consideration of exclusions, as required by ESA section 4(b)(2), the CHARTs provided their best professional judgment as to whether any exclusions being considered due to economic impacts would significantly impede conservation. If so, then the area was not recommended for exclusion. We will revise the designation for this ESU if ongoing recovery planning efforts indicate that previously excluded areas warrant designation as critical habitat.

Comment 59: One commenter provided a minor clarification regarding the proposed rule's reference to the ''White Acclimation Pond,'' noting that there are actually four acclimation ponds for White River spring Chinook in the upper White River basin. Another noted that our ESU description contained a typographical error in defining the boundaries of this ESU.

Response: We appreciate receiving the clarifications and corrections and have updated the CHART report for this ESU to reflect these changes.

Comment 60: Several commenters objected to the potential exclusion of all nearshore zones for this ESU and noted these areas have been identified by Puget Sound watershed planners and scientists as crucial for juvenile salmon. One noted that excluding these zones would run contrary to our 4(b)(2) approach since all of the Puget Sound nearshore areas were identified as high-

conservation value areas. One commenter requested that we extend the designated nearshore zone westward to include all shallow waters in the Strait of Juan de Fuca

Response: We agree with the commenters' concerns and are going forward with designating nearshore areas as critical habitat for this ESU. The CHART also noted that additional nearshore areas west of the Elwha River may be essential for the conservation of this ESU, but based on the best information available at this time, we cannot conclude that the area is either occupied and contains the PCEs, or is unoccupied and is essential for conservation. If we determine that these or other nearshore areas warrant designation or revision, we will do so under subsequent rulemaking.

Comment 61: One commenter objected to the exclusion of streams on Vashon Island based on genetic concerns or small numbers of fish. This commenter believed that more documentation was needed to substantiate the assertion that these fish are not part of the ESU.

Response: The CHART considered these comments and determined that the limited number of habitat areas in the Puget Sound/East Passage watershed remain of low conservation value to the ESU. In addition, the CHART concluded that exclusion of these areas would not significantly impede the conservation of the ESU. Given these findings and the relatively high economic impacts associated with these areas, we conclude that exclusion is warranted.

Comment 62: Two commenters requested that we expand the designation for this ESU to include estuarine areas located behind tide gates in the Skagit River basin.

Response: The CHART concurred that these and other currently unoccupied estuarine areas were historically occupied and may be essential to the conservation of this ESU. However, we presently lack the information needed to prioritize and map the specific areas that warrant designation as critical habitat. We welcome such information and will revise our designations if new information—in particular, scientific assessments accompanying a recovery plan(s) involving affected landowners and other stakeholders—supports designating these and other unoccupied areas.

ESU Specific Comments—Lower Columbia River Chinook Salmon

Comment 63: In the proposed rule we requested comments on the potential designation of unoccupied areas upstream of Condit, Merwin, Swift, Yale, and Bull Run Dams. We noted that the CHART believed that each of these unoccupied areas may be essential to the conservation of this ESU. Several commenters supported the designation of areas above Condit Dam on the Big White Salmon River. Several commenters also supported the designation of areas above Merwin, Swift, and Yale Dams in the Lewis River Basin while one opposed it and contended that there was no biological basis for such designation and that even if there were, the benefits of designation are outweighed by the benefits of exclusion. This commenter also cited the USFWS' exclusion of these areas for bull trout and requested that we do so as well. Another commenter believed that critical habitat should not be designated above Bull Run Dam, citing recent modeling estimates indicating that these blocked areas are not likely to be as productive as other areas in the Sandy River Basin and that the costs of such designation could be substantial.

Response: The CHART maintained that unoccupied areas above all of these dams, except Bull Run Dam, may be essential for the conservation of this ESU. In the latter case the CHART concurred with the information provided by the commenter and believed that these areas were not likely to be as important to the conservation of the ESU (especially the spring-run fish) as unoccupied areas in the upper Lewis River above Merwin, Swift and Yale Dams. Moreover, the CHART noted that the recent interim recovery plan for the Washington portion of this ESU supports the reintroduction of fish to areas above the Lewis River dams (Lower Columbia Fish Recovery Board, 2004). The CHART also agreed that the areas above Condit Dam may be essential to ESU conservation, given the unique ecological setting of that drainage and the limited number of populations and habitat areas in the Columbia River Gorge (Rawding, 2000; Haring, 2003; McElhany *et al.*, 2003). However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above these dams warrant designation as critical habitat.

Comment 64: Two commenters disagreed with the exclusion of habitat areas in the Washougal River and Germany/Abernethy watersheds, citing concerns for fall-run fish in these watersheds and noting that they were deemed important in a recent interim recovery plan for this region of the lower Columbia River (Lower Columbia Fish Recovery Board, 2004).

Response: The CHART reviewed these comments, as well as information contained in the cited interim recovery plan, and maintained that both watersheds were of medium conservation value relative to other watersheds in the range of this ESU. All habitat areas in both watersheds had been proposed for exclusion due to economic impacts, and they still exceed these economic thresholds (NMFS, 2005c). After reviewing these and other comments received on the proposed rule, the CHART now concludes that excluding habitat areas in the Washougal River watershed would significantly impede the conservation of the ESU, but that excluding areas in the Germany/Abernethy watershed would not. The CHART noted that the interim recovery plan (Lower Columbia Fish Recovery Board, 2004) specifies that the Washougal River fall-run population is targeted to achieve a high viability level, while the population in the Germany/Abernethy watershed is proposed to achieve a reduced goal of medium viability. In addition, it believed that other watersheds in the coastal region of this ESU and adjacent to Germany/Abernethy (*e.g.*, Big Creek and Skamokawa/Elochoman watersheds) had a higher conservation value for the ESU because they support fall-run populations identified by the Willamette/Lower Columbia TRT (McElhany *et al.*, 2003) as core populations (historically abundant and may offer the most likely path to recovery). The resultant changes are summarized below under ''Summary of Revisions.''

Comment 65: One commenter disagreed with the designation of Riffe Lake in the Cowlitz River Basin, contending that it is unoccupied by this ESU because fish are trapped and hauled around the lake and it is not essential for recovery of the ESU.

Response: The CHART disagreed that Riffe Lake is unoccupied and noted a recent report (Tacoma Public Utilities, 2003) noting that juvenile fish do escape capture at the upstream dam and transit the lake on their downstream migration. Furthermore, the CHART underscored that the designation of Riffe Lake maintains the connectivity of a high value rearing and migration corridor for Chinook salmon spawning in five high-value watersheds upstream.

ESU Specific Comments—Upper Willamette River Chinook Salmon

Comment 66: In the proposed rule we requested comments on the potential designation of unoccupied areas upstream of Big Cliff and Detroit dams. We noted that the CHART believed that each of these unoccupied areas may be essential to the conservation of this ESU. No comments disputed this conclusion and one commenter noted that the Willamette/Lower Columbia River TRT's viability assessments indicate a relatively high risk of extinction for this ESU and thereby support designating, and re-gaining access to, unoccupied historical areas upstream of these dams as well as Green Peter Dam on the South Santiam River.

Response: The CHART maintained that areas above the North Santiam dams may be essential for the conservation of this ESU and agreed that the TRT's viability assessment (McElhany *et al.*, 2003) strongly suggests that these areas may warrant designation. The CHART also noted that recent reintroduction efforts underscore the importance of these areas and, if continued, may warrant considering them as occupied habitat areas. The CHART also agreed that areas upstream of Green Peter Dam may be essential for the conservation of this ESU, especially given the limited number of populations in this ESU (Myers *et al.*, 2003) and the likely productivity of that historical habitat. However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above these dams warrant designation as critical habitat.

ESU Specific Comments—Upper Columbia River Spring-Run Chinook Salmon

Comment 67: In the proposed rule we requested comments on the potential designation of unoccupied areas upstream of Enloe Dam. We noted that the CHART believed that these unoccupied areas may be essential for the conservation of this ESU. One commenter supported the designation of critical habitat above this dam, citing the area's historic use and potential recovery opportunities. Another commenter questioned whether salmon or steelhead ever occurred upstream of the dam, citing in particular a report by Chapman *et al.* (1995) that did not find evidence of historic occupation.

Response: The CHART maintained that habitat areas upstream of Enloe Dam may be essential for the conservation of this ESU, and noted that while there are some uncertainties regarding the ESU's historical distribution in this area, that the extensive habitat would likely be productive for this species. However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above this dam warrant designation as critical habitat.

ESU Specific Comments—Hood Canal Summer-Run Chum Salmon

Comment 68: One commenter strongly supported our designation of several creeks and streams in Hood Canal, but they and another commenter disagreed with the exclusion of the Skokomish River and noted that this large stream likely has the highest production potential of any Hood Canal summer-run chum stream.

Response: The CHART reviewed these comments and maintained that this watershed is of medium conservation value to this ESU relative to other occupied watersheds. All habitat areas in the Skokomish River watershed had been proposed for exclusion due to economic impacts, and they still exceed these economic thresholds (NMFS, 2005c). However, after reviewing these comments the CHART now concludes that excluding habitat areas in this watershed would significantly impede the conservation of the ESU. The CHART noted that the watershed contains the largest intact estuary in Hood Canal and that designation was warranted given the limited amount of habitat available to these fish throughout the ESU's range and our earlier determination that several unoccupied streams/reaches in other watersheds were essential for the ESU's conservation. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 69: Several commenters objected to the potential exclusion of all nearshore zones for this ESU and noted these areas have been identified by Puget Sound watershed planners and scientists as crucial for juvenile salmon. One noted that excluding these zones would run contrary to our 4(b)(2) approach since all of the Puget Sound nearshore areas were identified as high-conservation value areas. One commenter requested that we extend the designated nearshore zone westward to include all shallow waters in the Strait of Juan de Fuca.

Response: We agree with the commenters' concerns and are going forward with designating nearshore areas as critical habitat for this ESU. The CHART also noted that additional nearshore areas west of the Elwha River may be essential for the conservation of this ESU, but based on the best information available at this time, we cannot conclude that the area is either occupied and contains the PCEs, or is unoccupied and is essential for conservation. If we determine that these or other nearshore areas warrant designation or revision we will do so under subsequent rulemaking.

Comment 70: One commenter questioned whether areas above Elwha Dam had been proposed for designation, but believed that we should nonetheless designate these unoccupied areas for this ESU.

Response: The areas above Elwha Dam were not proposed for designation and the CHART did not identify these areas as essential for the conservation of the ESU.

Comment 71: One commenter provided an update and edits pertaining to three hatchery programs that have been discontinued consistent with the provisions of the Hood Canal Summer Chum Restoration Initiative (WDFW and PNPTT, 2000).

Response: We appreciate receiving the updates and have made corrections to the CHART report for this ESU to reflect this information.

ESU Specific Comments—Columbia River Chum Salmon

Comment 72: One commenter believed that we should designate unoccupied areas for this ESU above Condit Dam on the Big White Salmon River. Two commenters believed that we should designate unoccupied areas for this ESU on the Wind River up to Shipherd Falls.

Response: The CHART agreed that each of these unoccupied areas may be essential for the conservation of this ESU, especially given the limited amount of habitat in the Columbia River Gorge region for this ESU (McElhany *et al.*, 2003). However, as described in the general comments above (see

''Identification of Critical Habitat Areas'' section), we did not have information presently available to allow us to determine that the currently unoccupied areas are inadequate to support conservation, such that designation of these unoccupied areas is essential for conservation. We will revise the designation for this ESU if ongoing recovery planning efforts indicate that specific areas above these dams warrant designation as critical habitat.

Comment 73: Two commenters believed that we should designate unoccupied areas for this ESU above Merwin Dam on the Lewis River while one opposed it.

Response: The CHART considered these comments but concluded that these unoccupied areas are not essential for conservation of this ESU. They noted that there is a significant amount of extant habitat accessible and occupied by this ESU in other major tributaries to the Lower Columbia River (*e.g.*, lowermost portions of the Lewis River, and the Cowlitz, Washougal, and Grays Rivers) and that the historic areas above Merwin Dam are presently, and will likely continue to be, inundated and unsuitable for this species.

ESU Specific Comments—Ozette Lake Sockeye Salmon

Comment 74: One commenter agreed with the CHART finding that the Ozette Lake watershed was a high conservation value, but argued that the assessment was incomplete and inaccurate. This commenter provided data regarding spawning and rearing locations throughout the watershed. They also urged us to designate all fluvial waters in the watershed due to their influence on sockeye habitat downstream, and, in particular, feeder streams adjacent to spawning beaches in the lake, and asserted that restricting the designations to only occupied areas will not recover this ESU.

Response: The CHART reviewed these comments and has updated the references and made corrections in its final report (NMFS, 2005a). These corrections include edits to the species' life history and habitat use descriptions, and distribution changes to incorporate more recent spawning surveys (Makah Tribe, 2005). The CHART appreciated the commenter's concern for the entire fluvial hydrosystem in this basin (including sediment feeder streams, riparian zones, floodplains, and alluvial aquifers), but concluded that most of the areas identified therein were not occupied at the time of listing nor were they likely to have been occupied historically. In addition, the CHART did not identify areas that could be occupied and are essential for the conservation of this ESU. Based on this assessment we believe that the specific areas identified in this final designation are those that meet the ESA's definition of critical habitat (see also Comment 7).

ESU Specific Comments—Upper Columbia River Steelhead

Comment 75: In the proposed rule we requested comments on the potential designation of unoccupied areas upstream of Enloe Dam. We noted that the CHART believed that these unoccupied areas may be essential to the conservation of this ESU. One commenter supported the designation of critical habitat above this dam, citing the area's historic use and potential recovery opportunities, while another commenter cited several references that suggest the areas above Enloe Dam were not historically occupied by steelhead.

Response: The CHART maintained that habitat areas upstream of Enloe Dam may be essential for the conservation of this ESU, and noted that while there are some uncertainties regarding the ESU's historical distribution in this area, the extensive habitat would likely be productive for this species. However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above this dam warrant designation as critical habitat.

Comment 76: Two commenters questioned whether upper Salmon Creek in the Okanogan subbasin was occupied by steelhead, citing flow conditions that they believed may limit access. One of these commenters also questioned whether upper Chumstick Creek in the Wenatchee subbasin was occupied by steelhead.

Response: The CHART confirmed that both Salmon and Chumstick creeks are occupied by steelhead based on information from the Colville Confederated Tribes (2003 and 2005) and USFWS (2004). The CHART acknowledged that flow conditions may occasionally limit access to some habitat areas in the lower Okanogan River but underscored that the relatively few remaining tributary habitats in this area are crucial for the conservation of this ESU. For both watersheds the CHART considered the quality of the PCEs and factored their condition into the overall medium conservation value assigned to each watershed.

As a result of reviewing the best available information for these and other areas occupied by this ESU the CHART determined that Henry Creek was not occupied by the species and that the Entiat River (Entiat River watershed, proposed for designation) contained spawning PCEs downstream from the vicinity of Marical Canyon. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 77: Three commenters asserted that it was inappropriate to designate critical habitat in the Sand Hollow wasteway (Columbia River/Sand Hollow watershed) and in Crab Creek (Lower Crab Creek watershed). These commenters argued that habitat conditions make these areas unsuitable for salmonids.

Response: The CHART reviewed these comments and concluded that these areas are occupied based on area surveys described in NMFS'' 2000 FCRPS biological opinion (NMFS, 2000). The CHART acknowledged that flow and temperature conditions may occasionally limit access to some habitat areas in these watersheds but underscored that the relatively few remaining tributary habitats are important to steelhead. The CHART also maintained that it was reasonable to conclude that steelhead originating from this watershed may be uniquely adapted to the high temperatures cited by the commenters. Also, the CHART noted that NMFS has maintained that when fish are found here that the BOR should pursue an appropriate course of action when fish are present (*i.e.* ensuring flows), not necessarily just minimizing attraction to the area (as suggested by the commenter).

ESU Specific Comments—Snake River Steelhead

Comment 78: In the proposed rule we requested comments on the potential designation of unoccupied areas upstream of Dworshak Dam. We noted that the CHART believed that this area (presently unoccupied by anadromous *O. mykiss*) may be essential to the conservation of this ESU. One commenter did not believe it was appropriate to designate these areas to protect resident *O. mykiss*.

Response: Dworshak Dam on the North Fork Clearwater River is a barrier to the upstream migration of steelhead. The CHART reviewed these areas as part of its habitat assessment for this ESU and concluded that they may be essential for conservation. Although many areas are now inundated, the

CHART concluded that most of the blocked watersheds are still in good condition. The CHART also noted that the Interior Columbia Basin TRT identified these areas as part of a historically independent population and underscored that the resident *O. mykiss* above Dworshak Dam are genetically unique relative to other *O. mykiss* in the Clearwater River Basin. A recently completed status review update of this ESU (NMFS, 2003) noted that ''recent genetic data suggest that native resident *O. mykiss* above Dworshak Dam on the North Fork Clearwater should be considered part of this ESU, but hatchery rainbow trout that have been introduced to that and other areas would not.'' Given these considerations, the CHART concluded that these blocked watersheds may be essential for ESU conservation, but it was uncertain which specific areas within them may warrant consideration as critical habitat. Because the areas above the dam are unoccupied by steelhead (but do support resident *O. mykiss* which were not part of the steelhead ESU listed in 1997), and the status of all proposed *O. mykiss* ESUs is still under review (70 FR 37219, June 28, 2005), there is considerable uncertainty regarding whether these areas will be considered essential for the conservation of this ESU and we are not designating critical habitat in these areas at this time.

In addition, the CHART further assessed the occupied stream reaches immediately downstream of Dworshak Dam (Lower North Fork Clearwater) and determined that this short (approximately 2 miles (3.2 km)) segment does not contain PCEs for steelhead. The CHART cited the fact that this area is primarily a tailrace of the dam and that juvenile steelhead probably have little chance of survival in this reach of the river. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 79: In the proposed rule we requested comments on the potential designation of unoccupied reaches of the Pahsimeroi River subbasin, specifically in the following watersheds: Big Creek, Pahsimeroi River/Goldberg Creek, and Upper Pahsimeroi River. Similarly, we requested comments on unoccupied reaches in the Lemhi River subbasin in the Big Timber Creek, Eighteen Mile Creek, Hawley Creek, and Texas Creek watersheds. We noted that the CHART believed that these unoccupied areas may be essential to the conservation of this ESU. One commenter supported the designation of these streams while another stated that these areas have been disconnected from the lower Pahsimeroi River and mainstem Lemhi River for as long as 100 years (due to irrigation dewatering and/or natural dewatering), were not occupied at the time of listing, and should not be considered essential for the conservation of this ESU.

Response: The areas in question consist of the upper Pahsimeroi and Lemhi Rivers and adjacent tributaries in the watersheds identified above. These areas may support resident *O. mykiss*, but this life form (for reasons discussed previously in this document) was not part of the steelhead ESU listed in 1997. Comments received from the USFS indicate that the upper Pahsimeroi River naturally sinks above Furey Lane (near river mile 24) for a distance of several miles upstream. In most years this creates a natural barrier to fish migration (although upstream areas are occasionally accessible to steelhead during extreme flow events). The CHART reviewed the conservation value of unoccupied areas within the Lemhi and Pahsimeroi River subbasins and determined that they may be essential for conservation but that the sporadic access to these areas does not support a conclusion that they are occupied or that they are unoccupied but essential for conservation.

In the case of the Texas Creek watershed the CHART did review new information from the U.S. Bureau of Land Management (BLM, 2005) identifying occupied habitat areas with spawning and rearing PCEs and that may require special management consideration or protection (NMFS, 2005a). The CHART noted that this is the only remaining unfragmented headwater stream serving as a primary tributary of origin for the upper Lemhi River and that steelhead have been observed returning to Purcell Springs (a spring-fed tributary to Texas Creek) about ten miles upstream from the Lemhi River's origin at Leadore. This watershed was considered to be of high conservation value to the ESU, and occupied habitat areas within this watershed are now being designated as critical habitat. The resultant changes are summarized below under ''Summary of Revisions.''

The CHART also noted that the Agency Creek watershed (tributary to the lower Lemhi River) warranted elevation from a low to a medium conservation value based on recent model watershed rankings (Upper Salmon Basin Watershed Project, 2002 and 2004) that place this as a high priority tributary with important juvenile rearing PCEs and thermal refugia. This watershed was proposed for designation and is designated in this final rule.

Comment 80: One commenter believed that Sweetwater and Webb creeks (Upper Sweetwater Creek watershed) should be excluded from designation. They contended that the construction and subsequent operation of the Lewiston Orchards Project diverts flows from most of the habitat that may once have been potentially accessible to steelhead in Sweetwater and Webb creeks during the summer. The existing diversions result in summer/fall dewatering of these streams and thus strongly influence the current quality and extent of PCEs.

Response: The CHART maintained that this watershed warrants a medium conservation value. The CHART noted that Sweetwater and Webb creeks flow into Lapwai Creek (in a high conservation value watershed) and provide the best spawning and rearing habitat for A-run steelhead in the Lapwai Creek drainage. As one of the few remaining drainages in the Clearwater River basin that produces A-run steelhead, the CHART concluded that these watersheds are of high or medium conservation value to this ESU. Therefore, we found that the benefits of exclusion of this area did not outweigh the benefits of its inclusion.

Comment 81: One commenter believed that Big Mallard Creek and Wind River should not be excluded from designation. This commenter also contended that the South Fork Clearwater River and tributaries (*e.g.*, the Potlatch River) were erroneously classified as unoccupied and excluded. They concluded that all streams in the Clearwater and Salmon River basins should be designated critical habitat.

Response: These watersheds were classified as occupied and as containing PCEs that may require special management considerations or protection, but they received a low conservation value rating because they have very limited amounts of PCEs (approximately 2 miles (3.2 km) total). Accordingly they were proposed for exclusion. We received no new information to change the CHART's assessment, and the CHART maintained that the exclusion of these watersheds would not significantly impede conservation of the ESU. This finding includes an implicit determination that exclusion will not lead to extinction of the species concerned.

Comment 82: One commenter believed that steelhead occupy the mainstem of Morgan Creek (Upper Salmon River subbasin) upstream of the confluence with the West Fork Morgan Creek. The commenter noted that a biologist from the Salmon-Challis National Forest has documented the

presence of steelhead in the upstream habitat areas.

Response: The CHART reviewed documentation from the Salmon-Challis National Forest and found additional occupied habitat areas upstream of the areas identified in the proposed rule for critical habitat (Salmon Challis National Forest, 2001–2004). The CHART reviewed the new data and determined that the areas are occupied and contain rearing PCEs (and likely spawning PCEs) which may require special management considerations or protection. All of the streams are either tributary to or upstream extensions of other occupied habitat areas. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 83: One peer reviewer agreed with the designations identified in the Grande Ronde and Imnaha River basins and another identified several locations where ODFW biologists had recently identified additional occupied reaches in the Grande Ronde River subbasin.

Response: The CHART reviewed the new data and determined that the areas are occupied and contain rearing PCEs (and likely spawning PCEs) which may require special management considerations or protection. All of the streams are either tributary to or upstream extensions of other occupied habitat areas. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 84: During its final deliberations the CHART reviewed recent information from the BLM (BLM, 2005) that included steelhead survey data for several watersheds in the following subbasins: Hells Canyon, Lower Salmon, Little Salmon River, South Fork Clearwater, and Clearwater. These data were not available for review prior to issuance of our proposed rule last year.

Response: The CHART reviewed the new data and determined that the areas are occupied and contain rearing PCEs (and likely spawning PCEs) which may require special management considerations or protection. Most of the streams are either tributary to or upstream extensions of other occupied habitat areas. In a few cases the survey data identified occupied stream reaches in three watersheds in the Clearwater subbasin previously thought to be unoccupied, specifically Upper Big Bear Creek, Upper Lapwai Creek, and Mission Creek. These areas are expanded accordingly and the resultant changes are summarized below under ''Summary of Revisions.''

ESU Specific Comments—Middle Columbia River Steelhead

Comment 85: In the proposed rule we requested comments on the potential designation of unoccupied upper reaches of Wilson and Naneum creeks and areas upstream of Bumping, Cle Elum, Keechelus, Kachess, and Tieton Dams. We noted that the CHART believed that these unoccupied areas may be essential for the conservation of this ESU. One commenter did not support designating critical habitat above these dams, citing concerns regarding the feasibility of providing passage and potential habitat limitations. In contrast, another commenter supported designations above all of the dams except Tieton Dam, citing the recovery potential afforded by these habitats. Two commenters believed that unoccupied areas above Pelton Dam in the Deschutes River basin should be designated as critical habitat for this ESU, citing agency statements regarding FERC relicensing at this project. Several commenters supported the designation of areas above Condit Dam on the Big White Salmon River (erroneously ascribed to the Lower Columbia ESU in our proposed rule) while one opposed it. One commenter requested that we designate critical habitat on the lower White Salmon River below Condit Dam, noting that this area provides cold-water refuge for summer-run steelhead migrating to areas within and upstream of this ESU.

Response: The CHART maintained their earlier findings that unoccupied areas in the upper reaches of Wilson and Naneum creeks and areas upstream of Bumping, Cle Elum, Kacheelus, Kachess, Tieton, and Condit Dams may be essential to the conservation of the ESU. The comment that did not support this conclusion did not provide compelling information that the CHART's conclusion was in error. Also, the CHART agreed with the comments that areas upstream of Pelton Dam may be essential for this ESU as well, citing recent efforts to re-establish steelhead into historical habitat above this dam. However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above these dams warrant designation as critical habitat.

The CHART agreed with the comments regarding the importance of the habitat areas downstream of Condit Dam and these occupied stream reaches are being designated as critical habitat for this ESU.

Comment 86: One commenter noted an error in the base map used to depict the location and confluence of several streams (Caribou Creek, Park Creek, and Cooke Creek) near their property in the Yakima River basin.

Response: We note the error, which is based on a separate hydrography data set from the State of Washington. The CHART concluded that the extent of steelhead distribution in Cooke Creek was accurate and noted that the confluence error cited did not affect the delineation of critical habitat in this stream.

Comment 87: One commenter questioned whether areas on the Little Klickitat River above a waterfall at RM 6.1 warrant designation as critical habitat, contending that PCEs are not present in this area.

Response: The CHART reviewed these comments, as well as its own observations of the falls, and concluded that it is not impassable to steelhead, although it acknowledges that it can be a partial barrier under certain flow conditions (*i.e.*, when flows are extremely low or high). They noted that the commenters acknowledge that steelhead might be able to pass under certain flow conditions and cited evidence of recent spawning activity above the falls to confirm the CHART's conclusion (NMFS, 2005a).

Comment 88: One commenter questioned whether areas on Swale Creek (a tributary to the Klickitat River) warrant designation as critical habitat, contending that PCEs are not present in this area due to warm water conditions.

Response: The CHART reviewed the information submitted by the commenter and agreed that at certain times the low flow and thermal conditions in this creek can make the PCEs unsuitable for steelhead. The CHART did not believe that this was always the case throughout the drainage but concluded that the PCEs could be considered nonexistent in the uppermost reaches, in particular above the upper end of Swale Canyon. Therefore, we have removed approximately 1 stream mile previously considered for designation. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 89: One commenter requested that we not designate critical habitat in the Sulphur Creek, Spring

Creek, Snipes Creek, and Corral Creek wasteways in the Yakima River/Spring Creek watershed, contending there is limited fish use and that PCEs are not suitable or present in these areas.

Response: The CHART reviewed these comments and maintained that these areas are occupied and contain PCEs, noting that the occupied lowermost portions of these tributaries provide important year-round thermal refugia for this ESU. However, the CHART also noted that PCEs in two of these streams are likely more limited than originally proposed for the reasons cited by the commenter, *e.g.*, substrate embeddedness and flow conditions. Therefore, we have revised our maps to reflect the lack of PCEs in Snipes and Sulphur creeks. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 90: One commenter questioned the designation of critical habitat in the McKay Creek watershed in the Umatilla River basin, contending there is limited fish use due to lack of fish passage and insufficient flows. This commenter also questioned the extent and quality of PCEs in the Stanfield Drain (Stage Gulch watershed). The commenter also suggested corrections to the list of management activities identified in the CHART report for this and other watersheds in the range of this ESU.

Response: The CHART reviewed and disagreed with these comments, noting that a weir at the river mouth is not an effective barrier for adults (*e.g.*, debris jams create passage) and cited evidence in a recent NMFS biological opinion regarding minimum flows in Mckay Creek (Confederated Tribes of the Umatilla Indian Reservation, 2001). The CHART also noted that cold water temperatures in this creek underscore its classification as a high conservation value HUC5. We appreciate the comments and corrections to the list of management activities and have made corresponding changes to the CHART report (NMFS, 2005a).

Comment 91: One commenter questioned whether Bachelor Creek, a side channel/irrigation conveyance to Ahtanum Creek, warranted designation as critical habitat since it had been screened to prevent fish access.

Response: The CHART reviewed this comment and, based on its own field observations of the site, agreed that this creek is not likely to be occupied by the ESU and that regardless, the PCEs would not likely be suitable here for steelhead. We have revised our maps accordingly and the resultant changes are summarized below under ''Summary of Revisions.''

Comment 92: One peer reviewer agreed with the designations identified in the John Day River basin, and another commenter recommended designating tributaries to the lower John Day River and identified several locations where ODFW biologists had recently identified additional occupied reaches in the Upper and North Fork John Day River subbasins.

Response: The CHART reviewed these data and determined that the areas are occupied and contain spawning and rearing PCEs which may require special management considerations or protection (NMFS, 2005a). All of the streams are either tributary to or upstream extensions of other occupied habitat areas. The CHART also concluded that in light of comments from ODFW, as well as the importance and uniqueness of low-elevation spawning habitat in tributaries to the lower John Day River, that two watersheds (Lower John Day River/Ferry Canyon and Lower John Day River/Scott Canyon) should be elevated from low to medium conservation value. The resultant changes are summarized below under ''Summary of Revisions.''

ESU Specific Comments—Lower Columbia River Steelhead

Comment 93: In the proposed rule we requested comments on the potential designation of unoccupied areas upstream of Bull Run, Condit, Merwin, Swift, and Yale Dams. We noted that the CHART believed that each of these unoccupied areas may be essential to the conservation of this ESU. One commenter opposed the designation of areas upstream of Bull Run Dam in the Sandy River basin. Four commenters supported the designation of areas above Merwin, Swift, and Yale Dams in the Lewis River basin while one opposed it.

Response: We note that in the proposed rule we erred in identifying Condit Dam as within the range of this ESU when in fact it should have been noted for the Middle Columbia River steelhead ESU. The CHART maintained that unoccupied areas above all of these dams, except Bull Run Dam, may be essential for the conservation of this ESU. In the latter case the CHART concurred with the information provided by the commenter and believed that these areas were not likely to be as important to the conservation of the ESU as unoccupied areas in the upper Lewis River above Merwin, Swift and Yale Dams. Moreover, the CHART noted that a recent interim recovery plan supports the reintroduction of fish to areas above the Lewis River dams (Lower Columbia Fish Recovery Board, 2004). However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above these dams warrant designation as critical habitat.

Comment 94: Two commenters disagreed with the exclusion of the lower Gorge tributaries noting that they were deemed important in a recent interim recovery plan for this region of the lower Columbia River (Lower Columbia Fish Recovery Board, 2004). Another commenter identified several locations where ODFW biologists had recently identified additional occupied reaches in the Columbia Gorge tributaries.

Response: The CHART reviewed these comments, as well as information contained in the cited interim recovery plan, and maintained that both watersheds in this area (*i.e.*, the Columbia Gorge Tributaries and Middle Columbia/Eagle Creek watersheds) were of medium conservation value relative to other watersheds in the range of this ESU. All habitat areas in both watersheds had been proposed for exclusion due to economic impacts, but only the former watershed still exceeds these thresholds (NMFS, 2005c). After reviewing these and other comments for this ESU received on the proposed rule, the CHART now concludes that excluding habitat areas in the Columbia Gorge Tributaries watershed would significantly impede the conservation of the ESU. As support for this conclusion the CHART noted that the interim recovery plan (Lower Columbia Fish Recovery Board, 2004) specifies that the lower Gorge tributaries winter-run population is targeted to achieve a high viability level, and there are a small number of demographically independent populations in this region and each will be important for recovery (McElhany *et al.*, 2003).

The CHART reviewed the data from ODFW and determined that the areas are occupied and contain spawning and rearing PCEs which may require special management considerations or protection. All of the streams are either tributary to or upstream extensions of other occupied habitat areas. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 95: One commenter disagreed with the exclusion of habitat areas in the Salmon Creek watershed.

Response: The CHART reviewed these comments as well as the information in the interim recovery plan for this area ((Lower Columbia Fish Recovery Board, 2004) and maintained that this watershed still warrants a medium conservation value and that exclusion would not significantly impede the conservation of the ESU. The CHART noted that this population is targeted for ''stabilizing,'' which underscores that it is not presently considered as high a conservation concern as others in this ESU. Given that finding and the relatively high economic impacts associated with this watershed, we conclude that exclusion is warranted for this watershed.

Comment 96: One commenter identified several locations where ODFW biologists had recently identified additional occupied reaches in the Lower, Upper and North Fork John Day River subbasins.

Response: The CHART reviewed these data and determined that the areas are occupied and contain spawning and rearing PCEs which may require special management considerations or protection (NMFS, 2005a). All of the streams are either tributary to or upstream extensions of other occupied habitat areas. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 97: One commenter noted mapping errors in Boody Creek and that natural barriers on their property prevent fish from occupying some areas proposed for designation on their property. This commenter noted that our data conflict with maps contained in the recent subbasin plan by the Lower Columbia River Fish Recovery Board (Lower Columbia Fish Recovery Board, 2004).

Response: The CHART reviewed the comments and maps and information in the cited report and concluded that the species' distribution was in error. The CHART noted that a gradient barrier does exist at the site indicated by the landowner/commenter. The resultant changes are summarized below under ''Summary of Revisions.''

Comment 98: One commenter disagreed with the designation of Riffe Lake in the Cowlitz River basin, contending that it is unoccupied by this ESU because fish are trapped and hauled around the lake, and the lake is not essential for recovery of the ESU.

Response: The CHART disagreed that Riffe Lake is unoccupied and noted a recent report (Tacoma Public Utilities, 2003) noting that juvenile fish do escape capture at the upstream dam and transit the lake on their downstream migration. Furthermore, the CHART underscored that the designation of Riffe Lake maintains the connectivity of a high value rearing and migration corridor for Chinook salmon spawning in five high-value watersheds upstream.

ESU Specific Comments—Upper Willamette River Steelhead

Comment 99: One commenter believed that unoccupied areas above Big Cliff, Detroit and Green Peter Dams should be designated as critical habitat for this ESU, noting that the TRT viability assessments indicate a relatively high risk of extinction for this ESU and thereby support designating, and regaining access to, unoccupied historical areas upstream of these dams as well as Green Peter Dam on the South Santiam River.

Response: The CHART concurred that areas above the North Santiam dams may be essential for the conservation of this ESU and agreed that the Willamette/Lower Columbia TRT's viability assessment (McElhany *et al.*, 2003) strongly suggests that these areas may warrant designation. The CHART also agreed that areas upstream of Green Peter Dam may be essential for the conservation of this ESU, especially given the limited number of populations in this ESU and the likely productivity of that historical habitat. However, as described in the general comments above (see ''Identification of Critical Habitat Areas'' section), at the present time we do not have information allowing us to determine that the specific areas within the geographical area occupied by the species are inadequate for conservation, such that we can make a determination that currently unoccupied areas above dams are essential for conservation. We will revise the designation if ongoing recovery planning indicates that specific areas above these dams warrant designation as critical habitat.

Comment 100: One peer reviewer agreed with the designations identified in the Willamette River basin. Another commenter disagreed with the designations identified in westside tributaries of the Willamette River basin, in particular the Luckiamute and Yamhill Rivers, noting that the CHART and TRT acknowledged that it was questionable whether these streams supported a historically independent population of steelhead.

Response: The CHART disagreed with these comments, noting that the information cited in the comments does not provide compelling evidence that these westside tributaries are unoccupied. The CHART acknowledged that there is some longstanding uncertainty regarding whether these tributaries ever supported a demographically independent population (Fulton, 1970; McElhany *et al.*, 2003; Myers *et al.*, 2003), and this factored into their conclusion that most westside watersheds were only of low conservation value to the ESU. However, the CHART maintained that the areas do contain PCEs that support steelhead (Fulton, 1970; ODFW, 1990 and 1995; and Busby *et al.*, 1996) and that the rearing habitat in these tributaries is important to juvenile fish from elsewhere in the Willamette River Basin because of the loss of rearing areas in the mainstem Willamette River. The CHART also noted that westside tributaries may be important to protect the ESU against catastrophes (*e.g.*, earthquake events, see McElhany *et al.* 2003) that would affect eastside populations. Given that concern, the CHART maintained that of the westside tributaries, the Luckiamute River, Upper Yamhill, and Gales Creek watersheds were of higher (medium) conservation value to this ESU, especially since they had habitat that was relatively widespread compared to other westside tributaries (NMFS, 2005a).

Comment 101: One commenter disagreed with the designation of the Spring Hill Pumping Station intake canal off of Gales Creek in the Tualatin River subbasin. This commenter contended that there was no biological basis for the designation and noted the CHART and TRT acknowledged that it was questionable whether this area supported a historically independent population of steelhead (Myers *et al.*, 2003). The commenter also asserted that the steelhead present are most likely non-listed hatchery fish.

Response: The CHART disagreed and maintained that the Gales Creek watershed is still of medium conservation value to this ESU and pointed out that data submitted by the commenter demonstrates that listed steelhead are known to spawn and rear in the Tualatin River drainage and to use this canal.

Comment 102: The CHART received and reviewed new information from the Molalla River basin indicating that its initial watershed ratings may need revision.

Response: The CHART received recent data from a watershed assessment underway in this basin (NMFS, 2005a). As a result, the CHART believed that the Abiqua Creek watershed should be elevated from a low to a medium conservation value, and the Butte Creek and Rock Creek watersheds should be

reduced from a medium to a low conservation. The CHART believed that these changes more accurately reflect the best scientific data available regarding the distribution, quality, and utilization of PCEs by steelhead in this subbasin.

III. Summary of Revisions

We evaluated the comments and new information received on the proposed rule to ensure that they represented the best scientific data available and made a number of general types of changes to the critical habitat designations, including:

(1) We revised habitat maps and related biological assessments based on a final CHART assessment (NMFS, 2005a) of information provided by commenters, peer reviewers, and agency biologists (including CHART members). We also evaluated watersheds to determine how well the conservation value rating corresponded to the benefit of designation, in particular the likelihood of a section 7 consultation occurring in that area and whether the consultation would yield conservation benefits if it was likely to occur. Where appropriate, we adjusted our consideration of these ''low section 7 leverage watersheds'' in the final 4(b)(2) analysis (NMFS, 2005c). In addition, we consulted with the DOD regarding the delineation of nearshore marine areas in Puget Sound and revised the designations to include a narrow nearshore zone within some Navy security/restricted zones.

(2) We revised our economic analysis based on information provided by commenters and peer reviewers as well as our own efforts as referenced in the proposed rule and described in the final economic analysis (NMFS, 2005d). Major changes included assessing new impacts associated with pesticide consultations, revising Federal land consultation costs to take into account wilderness areas, and modifying the analysis of Federal grazing land impacts to more accurately reflect the likely geographic extent of ESA section 7 implementation. We also documented the economic costs of changes in flow regimes for some hydropower projects.

(3) We conducted a new ESA section 4(b)(2) analysis based on economic impacts to take into account the above revisions. This resulted in the final exclusion of many of the same watersheds proposed for exclusion. It also resulted in some areas originally proposed for exclusion not being excluded and some areas proposed for designations now being excluded. The analysis is described further in the 4(b)(2) report (NMFS, 2005c).

(4) We conducted a 4(b)(2) analysis of lands covered by three approved HCPs—WDNR, Green Diamond Resources Company, and West Fork Timber Company. Our analysis concluded that the benefits of excluding these lands outweigh the benefits of designating them, based in part upon evidence received during the comment period that exclusion would strengthen our relationship with these landowners. Critical habitat within lands covered by these HCPs is excluded in the final designation. We did not receive sufficient information to make similar conclusions about the benefits of exclusion for other areas, beyond those proposed for exclusion in the proposed rule, with the modifications noted in number 3.

(5) In the regulations, we've removed reference to ''units'' to avoid possible confusion with the concept of ''recovery units'' as described in the agency's section 7 handbook.

The following sections summarize the ESU-specific changes to the proposed critical habitat rule. These changes are also reflected in final agency reports pertaining to the biological, economic, and policy assessments supporting these designations (NMFS, 2005a; NMFS, 2005c; and NMFS, 2005d). We conclude that these changes are warranted based on new information and analyses that constitute the best scientific data available.

ESU Specific Changes—Puget Sound Chinook Salmon

The CHART did not change conservation value ratings for any watershed or nearshore zone within the geographical area occupied by this ESU. However, based on public comments and new information reviewed by the CHART, we have identified changes to the delineation of occupied habitat areas in several watersheds. Also, after consulting with the DOD, we are now designating a narrow nearshore zone in some marine areas within Navy security/restricted zones (see *''Exclusions Based on National Security Impacts''* section). Additionally, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are excluding tributaries in one watershed that were previously proposed for designation and excluding habitat areas overlapping with the WDNR and Green Diamond Company HCP lands. Table 1 summarizes the specific changes made for this ESU (not including the HCP-related exclusions which are identified along with all other types of exclusions in Table 13).

TABLE 1.—ESU SPECIFIC CHANGES—PUGET SOUND CHINOOK SALMON

Subbasin	Watershed code	Watershed/Area name	Changes from Proposed Rule
Nooksack	1711000402	Middle Fork Nooksack	Added 12 miles (19.2 km) of occupied habitat areas.
Stillaguamish	1711000802	South Fork Stillaguamish	Added 47 miles (75.6 km) of occupied habitat areas.
Snoqualmie	1711001004	Lower Snoqualmie River	Removed 6 miles (9.6 km) of unoccupied stream reaches.
Lake Washington	1711001201	Cedar River	Added 12 miles (19.2 km) of occupied habitat areas.
Lake Washington	1711001203	Lake Washington	Excluded tributaries from final designation.
		Marine Nearshore Zones	Included the narrow nearshore zone from extreme high tide to mean lower low tide within several Navy security/restricted zones.

ESU Specific Changes—Lower Columbia River Chinook Salmon

The CHART did not change conservation value ratings for any watershed within the geographical area occupied by this ESU, and there were no changes to the delineation of occupied habitat areas. However, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are excluding tributary habitat areas in one watershed and all habitat areas in two watersheds that were previously proposed for designation. Also, we are designating occupied habitat areas in one watershed that were previously proposed for exclusion, designating the connectivity corridor in another (North Fork Toutle River—erroneously excluded in the proposed rule) and excluding habitat areas overlapping with the WDNR and West Fork Timber Company HCP lands. Table 2

summarizes the specific changes made for this ESU (not including the HCP-related exclusions which are identified along with all other types of exclusions in Table 14).

TABLE 2.—ESU SPECIFIC CHANGES—LOWER COLUMBIA CHINOOK SALMON

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Middle Columbia/Hood	1707010512	Middle Columbia/Grays Creek	Excluded tributaries from final designation.
Lower Columbia/Sandy	1708000106	Washougal River	Included all occupied habitat areas in final designation.
Cowlitz	1708000501	Tilton River	Excluded all habitat areas from final designation.
Cowlitz	1708000504	North Fork Toutle River	Excluded tributaries only from the final designation.

ESU Specific Changes—Upper Willamette River Chinook Salmon

The CHART changed the conservation value rating for one watershed within the geographical area occupied by this ESU, but there were no changes to the delineation of occupied habitat areas. Also, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are excluding tributary habitat areas in four watersheds and all habitat areas in two watersheds that were previously proposed for designation. Table 3 summarizes the specific changes made for this ESU.

TABLE 3.—ESU SPECIFIC CHANGES—UPPER WILLAMETTE CHINOOK SALMON

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Upper Willamette	1709000304	Oak Creek	Excluded tributaries from final designation.
Mckenzie	1709000406	Mohawk River	Excluded all habitat areas from final designation.
Middle Willamette	1709000701	Mill Creek/Willamette River	Excluded tributaries from final designation.
Molalla/Pudding	1709000901	Abiqua Creek/Pudding River	Changed conservation rating value from Low to Medium.
Molalla/Pudding	1709000902	Butte Creek/Pudding River	Excluded tributaries from final designation.
Molalla/Pudding	1709000903	Rock Creek/Pudding River	Excluded all habitat areas from final designation.
Molalla/Pudding	1709000904	Senecal Creek/Mill Creek	Excluded tributaries from final designation.

ESU Specific Changes—Upper Columbia River Spring-Run Chinook Salmon

The CHART changed the conservation value rating for one watershed within the geographical area occupied by this ESU, but there were no changes to the delineation of occupied habitat areas. Also, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we did not make any changes to the areas that were previously proposed for designation. Table 4 summarizes the specific changes made for this ESU.

TABLE 4.—ESU SPECIFIC CHANGES—UPPER COLUMBIA RIVER SPRING-RUN CHINOOK SALMON

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Chief Joseph	1702000505	Upper Columbia/Swamp Creek.	Changed conservation rating from Medium to High.

ESU Specific Changes—Hood Canal Summer-Run Chum Salmon

The CHART did not change conservation value ratings for any watershed or nearshore zone within the geographical area occupied by this ESU, and there were no changes to the delineation of occupied habitat areas. However, after consulting with the DOD, we are now designating a narrow nearshore zone in some marine areas within Navy security/restricted zones (see *''Exclusions Based on National Security Impacts''* section). Also, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are designating all occupied habitat areas in one watershed that were previously proposed for exclusion and excluding habitat areas overlapping with the WDNR HCP lands. Table 5 summarizes the specific changes made for this ESU (not including the HCP-related exclusions which are identified along with all other types of exclusions in Table 17).

TABLE 5.—ESU SPECIFIC CHANGES—HOOD CANAL SUMMER-RUN CHUM SALMON

Subbasin	Watershed code	Watershed/Area name	Changes from Proposed Rule
Skokomish	1711001701	Skokomish River	Included all occupied habitat areas.
		Marine Nearshore Zones	Included the narrow nearshore zone from extreme high tide to mean lower low tide within several Navy security/restricted zones.

ESU Specific Changes—Columbia River Chum Salmon

The CHART did not change conservation value ratings for any watershed within the geographical area occupied by this ESU, and there were no changes to the delineation of occupied habitat areas. However, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are excluding all habitat areas in one watershed that were previously proposed for designation and excluding habitat areas overlapping with the WDNR HCP lands. Table 6 summarizes the specific changes made for this ESU (not including the HCP-related exclusions which are identified along with all other types of exclusions in Table 18).

TABLE 6.—ESU SPECIFIC CHANGES—COLUMBIA RIVER CHUM SALMON

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Cowlitz	1708000505	Green River	Excluded all habitat areas from final designation.

ESU Specific Changes—Ozette Lake Sockeye Salmon

The CHART did not change the conservation value rating for the lone watershed within the geographical area occupied by this ESU, and there were only minor changes (approximately 4 miles (6.6 km)) to the delineation of occupied habitat areas based on new information submitted by the Makah Tribe. Also, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are now excluding habitat areas overlapping with the WDNR HCP lands (which are identified along with all other types of exclusions in Table 19).

ESU Specific Changes—Upper Columbia River Steelhead

The CHART changed the conservation value rating for one watershed within the geographical area occupied by this ESU. Additionally, based on public comments and new information reviewed by the CHART, we have identified changes to the delineation of occupied habitat areas in one watershed. Also, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are designating all habitat areas in one watershed that were previously proposed for exclusion. Table 7 summarizes the specific changes made for this ESU.

TABLE 7.—ESU SPECIFIC CHANGES—UPPER COLUMBIA RIVER STEELHEAD

Subbasin	Watershed cod	Watershed name	Changes from Proposed Rule
Chief Joseph	1702000504	Jordan/Tumwater	Included all habitat areas in final designation.
Chief Joseph	1702000505	Upper Columbia/Swamp Creek.	Changed conservation rating from Medium to High.
Wenatchee	1702001103	Nason/Tumwater	Removed 1 mile (1.6 km) of unoccupied stream reach.

ESU Specific Changes—Snake River Steelhead

The CHART changed the conservation value rating for one watershed within the geographical area occupied by this ESU. Additionally, based on public comments and new information reviewed by the CHART, we have identified changes to the delineation of occupied habitat areas (including reductions associated with areas lacking PCEs) in numerous watersheds and identified four watersheds that were previously considered to be unoccupied. As a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are designating habitat areas in two watersheds that were previously proposed for exclusion. Also, we are excluding habitat areas in four watersheds that were previously proposed for designation. Table 8 summarizes the specific changes made for this ESU.

TABLE 8.—ESU SPECIFIC CHANGES—SNAKE RIVER STEELHEAD

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Hells Canyon	1706010101	Snake River/Granite Creek	Added 1 mile (1.6 km) of occupied habitat areas.
Hells Canyon	1706010102	Snake River/Getta Creek	Added 1 mile (1.6 km) of occupied habitat areas.
Hells Canyon	1706010104	Snake River/Divide Creek	Added 1 mile (1.6 km) of occupied habitat areas.
Upper Grande Ronde River	1706010408	Phillips Creek/Willow Creek	Added 10 miles (16.1 km) of occupied habitat areas.
Lower Snake/Tucannon	1706010704	Flat Creek	Excluded all habitat areas from final designation.
Palouse River	1706010808	Lower Palouse River	Excluded all habitat areas from final designation.
Upper Salmon	1706020118	Salmon River/Fourth of July Creek.	Added 4 miles (6.4 km) of occupied habitat areas.
Upper Salmon	1706020132	Morgan Creek	Added 15 miles (24.1 km) of occupied habitat areas.
Middle Salmon-Panther	1706020321	Big Deer Creek	Included all habitat areas in final designation.
Lemhi	1706020404	Agency Creek	Excluded all habitat areas from final designation. Changed conservation rating from Low to Medium.
Lemhi	1706020408	Big Eight Mile Creek	Added 6 miles (9.6 km) of occupied habitat areas.
Lemhi	1706020412	Texas Creek	Added 14 miles (22.5 km) of occupied habitat areas. This watershed was considered to be unoccupied in the proposed designation.

TABLE 8.—ESU SPECIFIC CHANGES—SNAKE RIVER STEELHEAD—Continued

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Middle Salmon-Chamberlain	1706020702	Wind River	Included all habitat areas in final designation.
Lower Salmon	1706020911	Slate Creek	Added 1 mile (1.6 km) of occupied habitat areas.
Little Salmon	1706021001	Lower Little Salmon River	Added 3 miles (4.8 km) of occupied habitat areas.
South Fork Clearwater	1706030503	South Fork Clearwater River/ Peasley Creek.	Added 1 mile (1.6 km) of occupied habitat areas.
South Fork Clearwater	1706030507	Red River	Added 3 miles (4.8 km) of occupied habitat areas.
South Fork Clearwater	1706030508	Crooked River	Added 4 miles (6.4 km) of occupied habitat areas.
South Fork Clearwater	1706030510	John's Creek	Added 10 miles (16.1 km) of occupied habitat areas.
South Fork Clearwater	1706030511	Mill Creek	Added 8 miles (12.9 km) of occupied habitat areas.
South Fork Clearwater	1706030513	Cottonwood Creek	Added 11 miles (17.7 km) of occupied habitat areas.
Clearwater	1706030602	Clearwater River/Lower Potlatch River.	Added 11 miles (17.7 km) of occupied habitat areas.
Clearwater	1706030604	Lower Big Bear Creek	Added 22 miles (35.4 km) of occupied habitat areas.
Clearwater	1706030605	Upper Big Bear Creek	Added 12 miles (19.3 km) of occupied habitat areas. This watershed was considered to be unoccupied in the proposed designation.
Clearwater	1706030606	Potlatch River/Pine Creek	Added 5 miles (8.0 km) of occupied habitat areas.
Clearwater	1706030607	Upper Potlatch River	Added 7 miles (11.3 km) of occupied habitat areas.
Clearwater	1706030608	Clearwater River/Bedrock Creek.	Added 8 miles (12.9 km) of occupied habitat areas.
Clearwater	1706030610	Big Canyon Creek	Added 9 miles (14.5 km) of occupied habitat areas.
Clearwater	1706030613	Upper Orofino Creek	Excluded all habitat areas from final designation. Added 1 mile (1.6 km) of occupied habitat areas.
Clearwater	1706030614	Jim Ford Creek	Added 6 miles (9.6 km) of occupied habitat areas.
Clearwater	1706030615	Lower Lolo Creek	Added 1 mile (1.6 km) of occupied habitat areas.
Clearwater	1706030620	Clearwater River/Fivemile Creek.	Added 2 miles (3.2 km) of occupied habitat areas.
Clearwater	1706030623	Lower Lawyer Creek	Added 4 miles (6.4 km) of occupied habitat areas.
Clearwater	1706030627	Cottonwood Creek	Added 2 miles (3.2 km) of occupied habitat areas.
Clearwater	1706030628	Upper Lapwai Creek	Added 12 miles (19.3 km) of occupied habitat areas. This watershed was considered to be unoccupied in the proposed designation.
Clearwater	1706030629	Mission Creek	Added 14 miles (22.5 km) of occupied habitat areas. This watershed was considered to be unoccupied in the proposed designation.
Clearwater	1706030630	Upper Sweetwater Creek	Added 1 mile (1.6 km) of occupied habitat areas.
Clearwater	1706030801	Lower North Fork Clearwater River.	Removed 2 miles (3.2 km) of occupied stream reaches lacking PCEs.
Clearwater	1706030631	Lower Sweetwater	Added 2 miles (3.2 km) of occupied habitat areas.

ESU Specific Changes—Middle Columbia River Steelhead

The CHART changed the conservation value rating for two watersheds within the geographical area occupied by this ESU. Based on public comments and new information reviewed by the CHART, we have identified changes to the delineation of occupied habitat areas in several watersheds (including reductions associated with areas lacking PCEs). Also, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are including habitat areas in two watersheds that were previously proposed for exclusion. Additionally, we are excluding habitat areas in six watersheds that were previously proposed for designation. Table 9 summarizes the specific changes made for this ESU.

TABLE 9.—ESU SPECIFIC CHANGES—MIDDLE COLUMBIA RIVER STEELHEAD

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Upper Yakima	1703000102	Teanaway River	Added 6 miles (9.6 km) of occupied habitat areas.
Upper Yakima	1703000103	Middle Upper Yakima River	Added 1 mile (1.6 km) of occupied habitat areas.
Naches	1703000201	Little Naches	Added less than 1 mile (1.6 km) of occupied habitat areas.
Lower Yakima	1703000301	Ahtanum Creek	Removed 17 miles (27.4 km) of occupied stream reaches lacking PCEs.
Lower Yakima	1703000306	Yakima River/Spring Creek	Removed 23 miles (37.0 km) of occupied stream reaches lacking PCEs.
Walla Walla	1707010211	Lower Walla Walla River	Excluded tributaries from final designation.
Umatilla	1707010308	Stage Gulch	Exclude all habitat areas from final designation.
Umatilla	1707010310	Lower Butter Creek	Excluded all habitat areas from final designation.
Middle Columbia/Hood	1707010512	Middle Columbia/Grays Creek	Excluded tributaries from final designation.
Klickitat	1707010604	Little Klickitat River	Removed 1 mile (1.6 km) of occupied stream reaches lacking PCEs.

TABLE 9.—ESU SPECIFIC CHANGES—MIDDLE COLUMBIA RIVER STEELHEAD—Continued

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Upper John Day	1707020103	Middle South Fork John Day River.	Added 4 miles (6.4 km) of occupied habitat areas.
North Fork John Day	1707020201	Upper North Fork John Day River.	Added 2 miles (3.2 km) of occupied habitat areas.
North Fork John Day	1707020203	North Fork John Day River/Big Creek.	Added 2 miles (3.2 km) of occupied habitat areas.
North Fork John Day	1707020206	Lower Camas Creek	Added 15 miles (24.1 km) of occupied habitat areas.
North Fork John Day	1707020207	North Fork John Day River/ Potamus Creek.	Added 3 miles (4.8 km) of occupied habitat areas.
Middle Fork John Day	1707020305	Lower Middle Fork John Day River.	Excluded tributaries from final designation.
Lower John Day	1707020409	Lower John Day River/Ferry Canyon.	Included all habitat areas in final designation. Changed conservation rating from Low to Medium.
Lower John Day	1707020410	Lower John Day River/Scott Canyon.	Included all habitat areas in final designation. Changed conservation rating from Low to Medium.
Trout	1707030704	Mud Springs Creek	Excluded all habitat areas from final designation.

ESU Specific Changes—Lower Columbia River Steelhead

The CHART did not change conservation value ratings for any watershed within the geographical area occupied by this ESU. However, based on public comments and new information reviewed by the CHART, we have identified changes to the delineation of occupied habitat areas in two watersheds. As a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are designating habitat areas in two watersheds that were previously proposed for exclusion. Additionally, we are excluding all habitat areas in one watershed that were previously proposed for designation and excluding habitat areas overlapping with the WDNR and West Fork Timber Company HCP lands. Table 10 summarizes the specific changes made for this ESU (not including the HCP-related exclusions which are identified along with all other types of exclusions in Table 23).

TABLE 10.—ESU SPECIFIC CHANGES—LOWER COLUMBIA RIVER STEELHEAD

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Middle Columbia/Hood	1707010512	Middle Columbia/Grays Creek	Added 4 miles (6.4 km) of occupied habitat areas.
Middle Columbia/Hood	1707010513	Middle Columbia/Eagle Creek	Included all habitat areas in final designation.
Lower Columbia/Sandy	1708000107	Columbia Gorge Tributaries	Included all habitat areas in final designation.
Lewis	1708000206	Lower Lewis River	Removed 1 mile (1.6 km) of unoccupied stream reach.
Cowlitz	1708000501	Tilton River	Excluded all habitat areas from final designation.

ESU Specific Changes—Upper Willamette River Steelhead

The CHART changed conservation value ratings for three watersheds within the geographical area occupied by this ESU. There were no public comments or new information to indicate changes in the delineation of occupied habitat areas for this ESU. However, as a result of revised economic data for this ESU and our final 4(b)(2) assessment, we are designating habitat areas in one watershed that were previously proposed for exclusion. Also, we are excluding habitat areas in six watersheds that were previously proposed for designation. Table 11 summarizes the specific changes made for this ESU.

TABLE 11.—ESU SPECIFIC CHANGES—UPPER WILLAMETTE RIVER STEELHEAD

Subbasin	Watershed code	Watershed name	Changes from Proposed Rule
Middle Willamette	1709000701	Mill Creek/Willamette River	Excluded tributaries from final designation.
Yamhill	1709000803	Mill Creek/South Yamhill River	Excluded all habitat areas from final designation.
Yamhill	1709000804	Lower South Yamhill River	Excluded tributaries from final designation.
Molalla/Pudding	1709000901	Abiqua Creek/Pudding River	Included all habitat areas in final designation. Changed conservation rating from Low to Medium.
Molalla/Pudding	1709000902	Butte Creek/Pudding River	Excluded tributaries from final designation. Changed conservation rating from Medium to Low.
Molalla/Pudding	1709000903	Rock Creek/Pudding River	Excluded all habitat areas from final designation. Changed conservation rating from Medium to Low.
Molalla/Pudding	1709000904	Senecal Creek/Mill Creek	Excluded tributaries from final designation.

IV. Methods and Criteria Used To Designate Critical Habitat

The following sections describe the relevant definitions and guidance found in the ESA and our implementing regulations, and the key methods and criteria we used to make these final critical habitat designations after incorporating, as appropriate, comments and information received on the proposed rule. Section 4 of the ESA (16 U.S.C. 1533 (b)(2) and our regulations at 50 CFR 424.12(a) require that we designate critical habitat, and make revisions thereto, ''on the basis of the best scientific data available.''

Section 3 of the ESA (16 U.S.C. 1532(5)) defines critical habitat as ''(i) 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; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.'' Section 3 of the ESA (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean ''to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.''

Pursuant to our regulations, when identifying physical or biological features essential to conservation, we consider the following requirements of the species: (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 of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of the species (see 50 CFR 424.12(b)). In addition to these factors, we also focus on the known physical and biological features (primary constituent elements or PCEs) within the occupied areas that are essential to the conservation of the species. The regulations identify PCEs as including, but not limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.'' For an area containing PCEs to meet the definition of critical habitat, we must conclude that the PCEs in that area ''may require special management considerations or protection.'' Our regulations define special management considerations or protection as ''any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.'' Both the ESA and our regulations, in recognition of the divergent biological needs of species, establish criteria that are fact specific rather than a ''one size fits all'' approach.

Our regulations state that, ''[t]he Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species' (50 CFR 424.12(e)). Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Section 4 of the ESA (16 U.S.C. 1533 (b)(2)) requires that before designating critical habitat we must consider the economic impacts, impacts on national security and other relevant impacts of specifying any particular area as critical habitat, and the Secretary may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of designation, unless excluding an area from critical habitat will result in the extinction of the species. This exercise of discretion must be based upon the best scientific and commercial data. Once critical habitat for a salmon or steelhead ESU is designated, section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS, ensure that any action they authorize, fund or carry out is not likely to result in the destruction or adverse modification of critical habitat.

Salmon Life History

Pacific salmon are anadromous fish, meaning adults migrate from the ocean to spawn in freshwater lakes and streams where their offspring hatch and rear prior to migrating back to the ocean to forage until maturity. The migration and spawning times vary considerably across and within species and populations (Groot and Margolis, 1991). At spawning, adults pair to lay and fertilize thousands of eggs in freshwater gravel nests or ''redds'' excavated by females. Depending on lake/stream temperatures, eggs incubate for several weeks to months before hatching as ''alevins'' (a larval life stage dependent on food stored in a yolk sac). Following yolk sac absorption, alevins emerge from the gravel as young juveniles called ''fry'' and begin actively feeding. Depending on the species and location, juveniles may spend from a few hours to several years in freshwater areas before migrating to the ocean. The physiological and behavioral changes required for the transition to salt water result in a distinct ''smolt'' stage in most species. On their journey juveniles must migrate downstream through every riverine and estuarine corridor between their natal lake or stream and the ocean. For example, smolts from Idaho will travel as far as 900 miles (1,448 km) from the inland spawning grounds. En route to the ocean the juveniles may spend from a few days to several weeks in the estuary, depending on the species. The highly productive estuarine environment is an important feeding and acclimation area for juveniles preparing to enter marine waters.

Juveniles and subadults typically spend from 1 to 5 years foraging over thousands of miles in the North Pacific Ocean before returning to spawn. Some species, such as coho and Chinook salmon, have precocious life history types (primarily male fish known as ''jacks'') that mature and spawn after only several months in the ocean. Spawning migrations known as ''runs'' occur throughout the year, varying by species and location. Most adult fish return or ''home'' with great fidelity to spawn in their natal stream, although some do stray to non-natal streams. Salmon species die after spawning, except anadromous *O. mykiss* (steelhead), which may return to the ocean and make one or more repeat spawning migrations. This complex life cycle gives rise to complex habitat needs, particularly during the freshwater phase (see review by Spence *et al.*, 1996). Spawning gravels must be of a certain size and free of sediment to allow successful incubation of the eggs. Eggs also require cool, clean, and well-oxygenated waters for proper development. Juveniles need abundant food sources, including insects, crustaceans, and other small fish. They need places to hide from predators (mostly birds and bigger fish) in the stream, estuary and nearshore zone, such as under logs, root wads and boulders, and beneath overhanging vegetation. In the stream they also need places to seek refuge from periodic high

flows (side channels and off channel areas) and from warm summer water temperatures (coldwater springs and deep pools). In the estuary and nearshore zone, juveniles need freshwater mixing that allows them to make the transition from fresh to salt water. Returning adults generally do not feed in fresh water but instead rely on limited energy stores to migrate, mature, and spawn. Like juveniles, they also require cool water and places to rest and hide from predators. During all life stages salmon require cool water that is free of contaminants. They also require rearing and migration corridors with adequate passage conditions (water quality and quantity available at specific times) to allow access to the various habitats required to complete their life cycle.

The homing fidelity of salmon has created a metapopulation structure with distinct populations distributed among watersheds (McElhany *et al.*, 2000). Low levels of straying result in regular genetic exchange among populations, creating genetic similarities among populations in adjacent watersheds. Maintenance of the metapopulation structure requires a distribution of populations among watersheds where environmental risks (*e.g.*, from landslides or floods) are likely to vary. It also requires migratory connections among the watersheds to allow for periodic genetic exchange and alternate spawning sites in the case that natal streams are inaccessible due to natural events such as a drought or landslide. More detailed information describing life history characteristics of the ESUs and the requisite habitat needs is contained in the proposed rule (69 FR 74572; December 14, 2005), agency status reviews (Busby *et al.*, 1996; Gustafson, *et al.*, 1997; Johnson *et al.*, 1997; Myers *et al.*, 1998; NMFS, 2003), technical recovery team products (McElhany *et al.*, 2000; NMFS, 2001; Interior Columbia Basin Technical Recovery Team, 2003; McElhany *et al.*, 2003; Myers *et al.*, 2003; McClure *et al.*, 2005), and in a biological report supporting these designations (NMFS, 2005a).

Identifying the Geographical Area Occupied by the Species and Specific Areas Within the Geographical Area

In past critical habitat designations, we had concluded that the limited availability of species distribution data prevented mapping salmonid critical habitat at a scale finer than occupied river basins (65 FR 7764; February 16, 2000). Therefore, the 2000 designations defined the ''geographical area occupied by the species, at the time of listing'' as all accessible river reaches within the current range of the listed species.

In the proposed rule we described in greater detail that since the previous designations in 2000, we can now be more precise about the ''geographical area occupied by the species'' because Federal, state, and tribal fishery biologists have made progress documenting and mapping actual species distribution at the level of stream reaches. Moreover, much of the available data can now be accessed and analyzed using GIS to produce consistent and fine-scale maps (NMFS, 2005a; StreamNet, 2005). The current mapping documents fish presence by identifying occupied stream reaches where the species has been observed. It also identifies stream reaches where the species is presumed to occur based on the professional judgment of biologists familiar with the watershed (although in some cases there are streams classified as occupied based on professional judgment when in fact the species has been observed but the GIS data have not been updated). We made use of these finer-scale data for the current critical habitat designations, and we now believe that they enable a more accurate delineation of the ''geographical area occupied by the species'' referred to in the ESA definition of critical habitat. We received some comments on this approach, some in support and some against it. However, none of the latter describe a specific methodology that would yield a better approach than what we used.

We are now also able to identify ''specific areas'' (ESA section 3(5)(a)) and ''particular areas'' (ESA section 4(b)(2)) at a finer scale than in 2000. Since 2000, various Federal agencies have mapped fifth field hydrologic units (referred to as ''HUC5s'' or ''watersheds'') throughout the Pacific Northwest using U.S. Geological Survey (USGS) mapping conventions (Seaber *et al.*, 1986). This information is now generally available via the internet (NMFS, 2005a), and we have expanded our GIS resources to use these data. As in the 2000 designations (in which we used larger fourth field hydrologic units), we used the HUC5s to organize critical habitat information systematically and at a scale that is applicable to the spatial distribution of salmon. Organizing information at this scale is especially relevant to salmonids, since their innate homing ability allows them to return to the watersheds where they were born. Such site fidelity results in spatial aggregations of salmonid populations that generally correspond to the area encompassed by subbasins or HUC5 watersheds (Washington Department of Fisheries *et al.*, 1992; Kostow, 1995; McElhany *et al.*, 2000). As noted above regarding our use of finer scale data, none of the comments received provided us with a specific alternative methodology that would yield a better approach than the watershed-scale approach we adopted.

The USGS maps watershed units as polygons, bounding a drainage area from ridge-top to ridge-top, encompassing streams, riparian areas and uplands. Within the boundaries of any watershed, there are stream reaches not occupied by the species. Land areas within the HUC5 boundaries are also generally not ''occupied'' by the species (though certain areas such as flood plains or side channels may be occupied at some times of some years). We used the watershed boundaries as a basis for aggregating occupied stream reaches, for purposes of delineating ''specific'' areas at a scale that often corresponds well to salmonid population structure and ecological processes. Although we are designating only the streams and not the entire watershed, our documents frequently refer to the ''specific areas'' as ''watersheds'' because that is the term often used as a convenient shorthand. We also refer to the stream reaches as ''habitat areas.'' Each watershed was reviewed by the CHARTs to verify occupation, PCEs, and special management considerations (see ''Critical Habitat Analytical Review Teams'' section below).

The watershed-scale aggregation of stream reaches also allowed us to analyze the impacts of designating a ''particular area,'' as required by ESA section 4(b)(2). As a result of watershed processes, many activities occurring in riparian or upland areas and in non-fish-bearing streams may affect the physical or biological features essential to conservation in the occupied stream reaches. The watershed boundary thus describes an area in which Federal activities have the potential to affect critical habitat (Spence *et al.*, 1996). Using watershed boundaries for the economic analysis ensured that all potential economic impacts were considered. Section 3(5) defines critical habitat in terms of ''specific areas,'' and section 4(b)(2) requires the agency to consider certain factors before designating ''particular areas.'' In the case of West Coast salmon and steelhead, the biology of the species, the characteristics of its habitat, the nature of the impacts, and the limited information currently available at finer geographic scales made it appropriate to consider ''specific areas'' and ''particular areas'' as the same unit.

Occupied estuarine and marine areas were also considered in the context of defining ''specific areas.'' In our proposed rule we noted that estuarine areas are crucial for juvenile salmonids, given their multiple functions as areas for rearing/feeding, freshwater-saltwater acclimation, and migration (Simenstad *et al.*, 1982; Marriott *et al.*, 2002). In most cases estuaries fall within the boundaries of a HUC5 and so were assessed along with upstream freshwater habitats within the watershed. In the case of the Columbia River estuary (which was not part of an identified HUC5) we assessed it as part of a lower Columbia River habitat area extending from the mouth at the Pacific Ocean upstream to its confluence with the Sandy and Washougal rivers. In all occupied estuarine areas we were able to identify physical or biological features essential to the conservation of the species, and that may require special management considerations or protection. For those estuarine areas designated as critical habitat we are again delineating them in similar terms to our past designations, as being defined by a line connecting the furthest land points at the estuary mouth.

Marine areas also provide important habitat for rearing/feeding and migrating salmon and steelhead. As noted in our proposed rule, Puget Sound is a unique marine area in that it is a sheltered fjord containing abundant nearshore areas that are used year round by the listed ESUs. Specifically, we reviewed information regarding habitat use by Puget Sound Chinook and Hood Canal summer-run chum salmon (Bakkala, 1970; Healey, 1982; Simenstad *et al.*, 1982; Salo, 1991, as cited in Johnson *et al.*, 1997; Beamish *et al.*, 1998; Pacific Fishery Management Council, 1999; WDFW and Point No Point Treaty Tribes (PNPTT), 2000; Batelle Marine Sciences Laboratory *et al.*, 2001; Nightingale and Simenstad, 2001; Williams and Thom, 2001; Puget Sound Nearshore Ecosystem Restoration Program, 2003; Williams *et al.*, 2003; Brennan *et al.*, 2004; Washington State Conservation Commission, 1999–2003) within 19 nearshore marine zones (*i.e.*, areas beyond estuary mouths) adjacent to water resource inventory areas defined by the State of Washington (NMFS, 2005a; Washington Department of Ecology, 2004). Based on this review we determined that waters adjacent to the shoreline and extending out to the maximum depth of the photic zone (*i.e.*, from the line of extreme high tide out to a depth no greater than 30 m relative to the mean lower low water) are occupied and contain essential features that may require special management considerations or protection.

In previous designations of salmonid critical habitat we did not designate offshore marine areas (with the exception of deep waters in Puget Sound (65 FR 7764; February 16, 2000). In the Pacific Ocean, we concluded that there may be essential habitat features, but we could not identify any special management considerations or protection associated with them as required under section 3(5)(A)(i) of the ESA (65 FR 7776; February 16, 2000). Since that time we have carefully considered the best available scientific information, and related agency actions, such as the designation of Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act. We believe that forage species are a feature in the Pacific Ocean or deep water of Puget Sound that are essential for salmon conservation and that may require special management considerations or protection, at least for those forage species that are a target of human harvest. However, because salmonids are opportunistic feeders we could not identify ''specific areas'' beyond the nearshore marine zone where these or other essential features are found within this vast geographic area occupied by salmon and steelhead. Moreover, prey species move or drift great distances throughout the ocean and would be difficult to link to any ''specific'' areas. In contrast to estuarine and nearshore areas, we conclude that it is not possible to identify ''specific areas'' in the Pacific Ocean or deep water of Puget Sound that contain essential features for salmonids and, therefore, we are not designating critical habitat in offshore marine areas. We requested comment on this issue in our proposed rule but did not receive comments or information that would change our conclusion.

Primary Constituent Elements

In determining what areas are critical habitat, agency regulations at 50 CFR 424.12(b) require that we must ''consider those physical or biological features that are essential to the conservation of a given species * * *, including space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.'' The regulations further direct us to ''focus on the principal biological or physical constituent elements * * * that are essential to the conservation of the species,'' and specify that the ''known primary constituent elements shall be listed with the critical habitat description.'' The regulations identify primary constituent elements (PCEs) as including, but not limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.''

NMFS biologists developed a list of PCEs that are essential to the species' conservation and based on the unique life history of salmon and steelhead and their biological needs (Hart, 1973; Beauchamp *et al.*, 1983; Laufle *et al.*, 1986; Pauley *et al.*, 1986, 1988, and 1989; Groot and Margolis, 1991; Spence *et al.*, 1996). Guiding the identification of PCEs was a decision matrix we developed for use in ESA section 7 consultations (NMFS, 1996) which describes general parameters and characteristics of most of the essential features under consideration in this critical habitat designation. We identified these PCEs and requested comment on them in the ANPR (68 FR 55931; September 29, 2003) and proposed rule (69 FR 74636; December 14, 2005) but did not receive information to support changing them. The ESUs addressed in this final rule share many of the same rivers and estuaries and have similar life history characteristics and, therefore, many of the same PCEs. These PCEs include sites essential to support one or more life stages of the ESU (sites for spawning, rearing, migration and foraging). These sites in turn contain physical or biological features essential to the conservation of the ESU (for example, spawning gravels, water quality and quantity, side channels, forage species). The specific PCEs include:

1. Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development. These features are essential to conservation because without them the species cannot successfully spawn and produce offspring.

2. Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility; water quality and forage supporting juvenile development; and natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels,

and undercut banks. These features are essential to conservation because without them juveniles cannot access and use the areas needed to forage, grow, and develop behaviors (*e.g.*, predator avoidance, competition) that help ensure their survival.

3. Freshwater migration corridors free of obstruction with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival. These features are essential to conservation because without them juveniles cannot use the variety of habitats that allow them to avoid high flows, avoid predators, successfully compete, begin the behavioral and physiological changes needed for life in the ocean, and reach the ocean in a timely manner. Similarly, these features are essential for adults because they allow fish in a non-feeding condition to successfully swim upstream, avoid predators, and reach spawning areas on limited energy stores.

4. Estuarine areas free of obstruction with water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh-and saltwater; natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels; and juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation. These features are essential to conservation because without them juveniles cannot reach the ocean in a timely manner and use the variety of habitats that allow them to avoid predators, compete successfully, and complete the behavioral and physiological changes needed for life in the ocean. Similarly, these features are essential to the conservation of adults because they provide a final source of abundant forage that will provide the energy stores needed to make the physiological transition to fresh water, migrate upstream, avoid predators, and develop to maturity upon reaching spawning areas.

5. Nearshore marine areas free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels. As in the case with freshwater migration corridors and estuarine areas, nearshore marine features are essential to conservation because without them juveniles cannot successfully transition from natal streams to offshore marine areas. We have focused our designation on nearshore areas in Puget Sound because of its unique and relatively sheltered fjord-like setting (as opposed to the more open coastlines of Washington and Oregon).

6. Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation. These features are essential for conservation because without them juveniles cannot forage and grow to adulthood. However, for the reasons stated previously in this document, it is difficult to identify specific areas containing this PCE as well as human activities that may affect the PCE condition in those areas. Therefore, we have not designated any specific areas based on this PCE but instead have identified it because it is essential to the species' conservation and specific offshore areas may be identified in the future (in which case any designation would be subject to separate rulemaking).

The occupied habitat areas designated in this final rule contain PCEs required to support the biological processes for which the species use the habitat. The CHARTs verified this for each watershed/nearshore zone by relying on the best available scientific data (including species distribution maps, watershed analyses, and habitat surveys) during their review of occupied areas and resultant assessment of area conservation values (NMFS, 2005a). The contribution of the PCEs varies by site and biological function such that the quality of the elements may vary within a range of acceptable conditions. The CHARTs took this variation into account when they assessed the conservation value of an area. In this final designation we have identified some areas that, while occupied, have PCEs that are so severely degraded as to be non-existent. They therefore do not meet the statutory definition of critical habitat and are not being designated as critical habitat (see ''Summary of Revisions'').

Special Management Considerations or Protections

An occupied area meets the definition of critical habitat only if it contains physical and biological features that ''may require special management considerations or protection.'' Agency regulations at 50 CFR 424.02(j) define ''special management considerations or protection'' to mean ''any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.''

As part of the biological assessment described below under ''Critical Habitat Analytical Review Teams,'' teams of biologists examined each habitat area to determine whether the physical or biological features may require special management consideration. These determinations are identified for each area in the CHART report (NMFS, 2005a). In the case of salmon and steelhead, the CHARTs identified a variety of activities that threaten the physical and biological features essential to listed salmon and steelhead (see review by Spence *et al.*, 1996), including: (1) Forestry; (2) grazing; (3) agriculture; (4) road building/maintenance; (5) channel modifications/diking; (6) urbanization; (7) sand and gravel mining; (8) mineral mining; (9) dams; (10) irrigation impoundments and withdrawals; (11) river, estuary, and ocean traffic; (12) wetland loss/removal; (13) beaver removal; (14) exotic/invasive species introductions. In addition to these, the harvest of salmonid prey species (*e.g.*, forage fishes such as herring, anchovy, and sardines) may present another potential habitat-related management activity (Pacific Fishery Management Council, 1999). In response to our proposed designation we received one set of comments specific to the CHART determinations of activities (and based on the list above), and we have incorporated the needed revisions into the final CHART report (NMFS, 2005a).

Unoccupied Areas

ESA section 3(5)(A)(ii) defines critical habitat to include ''specific areas outside the geographical area occupied'' if the areas are determined by the Secretary to be ''essential for the conservation of the species.'' NMFS regulations at 50 CFR 424.12(e) emphasize that we ''shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' With one exception, we are not designating unoccupied areas at this time. For the Hood Canal summer-run chum salmon ESU, we are proposing approximately 8 miles (12.9 km) of unoccupied (but historically utilized) stream reaches determined to be essential for the conservation of this ESU. However, the CHARTs did identify several areas that may be essential for the conservation of specific ESUs, including:

- Areas upstream of Elwha Dam in Washington's Elwha River drainage (Puget Sound Chinook salmon ESU)
- Areas upstream of Merwin, Swift, and Yale Dams in Washington's Lewis River drainage (Lower Columbia River Chinook salmon and steelhead ESUs)
- Areas upstream of Condit Dam in Washington's White Salmon River drainage (Lower Columbia River Chinook salmon and Middle Columbia River steelhead ESUs)
- Areas upstream of Keechelus, Kachess, Cle Elum, Bumping, and Tieton Dams in Washington's Yakima River drainage (Middle Columbia River steelhead ESU)
- Areas upstream of Enloe Dam in Washington's Similkameen River drainage (Upper Columbia River steelhead ESU)
- Areas upstream of Pelton Dam in Oregon's Deschutes River drainage (Middle Columbia River steelhead ESU)
- Areas upstream of Big Cliff and Detroit Dams in Oregon's North Santiam River drainage (Upper Willamette River Chinook salmon and steelhead ESUs)
- Areas upstream of Green Peter Dam in Oregon's South Santiam River drainage (Upper Willamette River Chinook salmon and steelhead ESUs)
- Historically occupied areas in Washington's Wind River (Columbia River chum salmon ESU) and Wilson and Naneum Creeks (Middle Columbia River steelhead ESU)
- Historically occupied areas in Idaho's Lemhi River drainage (Snake River steelhead ESU)

While it is not possible to conclude at this time that any of these historically occupied areas warrant designation, we believe it is useful to signal to the public that these specific areas may be considered for possible designation in the future. Throughout the range of these ESUs a number of technical recovery teams are evaluating the conservation needs of these ESUs and providing guidance on what will be needed for their conservation. We will revise critical habitat designations as new information is developed through this process. Any designation of unoccupied areas would be based on the required determination that such area is essential for the conservation of an ESU and would be subject to separate rulemaking with the opportunity for notice and comment.

Lateral Extent of Critical Habitat

In past designations we have described the lateral extent of critical habitat in various ways, ranging from fixed distances to ''functional'' zones defined by important riparian functions (65 FR 7764; February 16, 2000). Both approaches presented difficulties, and this was highlighted in several comments (most of which requested that we focus on aquatic areas only) received in response to the ANPR (68 FR 55926; September 29, 2003). Designating a set riparian zone width will (in some places) accurately reflect the distance from the stream on which PCEs might be found, but in other cases may over- or understate the distance. Designating a functional buffer avoids that problem, but makes it difficult for Federal agencies to know in advance what areas are critical habitat. To address these issues we are proposing to define the lateral extent of designated critical habitat as the width of the stream channel defined by the ordinary high-water line as defined by the U.S. Army Corps of Engineers (COE) in 33 CFR 329.11. This approach is consistent with the specific mapping requirements described in agency regulations at 50 CFR 424.12(c). In areas for which ordinary high-water has not been defined pursuant to 33 CFR 329.11, the width of the stream channel shall be defined by its bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain (Rosgen, 1996) and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series (Leopold *et al.*, 1992). Such an interval is commensurate with nearly all of the juvenile freshwater life phases of most salmon and steelhead ESUs. Therefore, it is reasonable to conclude that for an occupied stream reach this lateral extent is regularly ''occupied''. Moreover, the bankfull elevation can be readily discerned for a variety of stream reaches and stream types using recognizable water lines (*e.g.*, marks on rocks) or vegetation boundaries (Rosgen, 1996).

As underscored in previous critical habitat designations, the quality of aquatic habitat within stream channels is intrinsically related to the adjacent riparian zones and floodplain, to surrounding wetlands and uplands, and to non-fish-bearing streams above occupied stream reaches. Human activities that occur outside the stream can modify or destroy physical and biological features of the stream. In addition, human activities that occur within and adjacent to reaches upstream (*e.g.*, road failures) or downstream (*e.g.*, dams) of designated stream reaches can also have demonstrable effects on physical and biological features of designated reaches.

In the relatively few cases where we are designating lake habitats (*e.g.*, Lake Ozette), we believe that the lateral extent may best be defined as the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of ordinary high water, whichever is greater. In estuarine and nearshore marine areas we believe that extreme high water is the best descriptor of lateral extent. For nearshore marine areas we focused particular attention on the geographical area occupied by the Puget Sound ESUs (Chinook and Hood Canal summer-run chum salmon) because of the unique ecological setting and well-documented importance of the area's nearshore habitats to these species. We are designating the area inundated by extreme high tide because it encompasses habitat areas typically inundated and regularly occupied during the spring and summer when juvenile salmon are migrating in the nearshore zone and relying heavily on forage, cover, and refuge qualities provided by these occupied habitats. As noted above for stream habitat areas, human activities that occur outside the area inundated by extreme or ordinary high water can modify or destroy physical and biological features of the nearshore habitat areas, and Federal agencies must be aware of these important habitat linkages as well.

Military Lands

The Sikes Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an INRMP. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. 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 ESA to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not

designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

To address this new provision we contacted the DOD and requested information on all INRMPs that might benefit salmon and steelhead. (In response to the ANPR (68 FR 55926; September 29, 2003) we had already received a letter from the U.S. Marine Corps regarding this and other issues associated with a possible critical habitat designation on its facilities in the range of the Southern California steelhead ESU, which is not addressed in this notice). The military services identified 16 installations in Washington, Oregon, and Idaho with INRMPs in place or under development. We determined that the following 11 facilities with final INRMPs overlap with habitat areas under consideration for critical habitat designation: (1) Naval Submarine Base, Bangor; (2) Naval Undersea Warfare Center, Keyport; (3) Naval Ordnance Center, Port Hadlock (Indian Island); (4) Naval Radio Station, Jim Creek; (5) Naval Fuel Depot, Manchester; (6) Naval Air Station Whidbey Island; (7) Naval Air Station, Everett; (8) Bremerton Naval Hospital; (9) Fort Lewis (Army); (10) Pier 23 (Army); and (11) Yakima Training Center (Army). The first ten facilities are located within the range of the Puget Sound chinook salmon ESU, and two of these sites—Bangor and Port Hadlock (Indian Island)—are also within the range of the Hood Canal summer-run chum salmon ESU. The Army's Yakima Training Center is located within the range of the Upper Columbia River steelhead ESU.

We identified habitat of value to listed salmonids in each INRMP and reviewed these plans, as well as other information available regarding the management of these military lands. Our review indicates that each of these INRMPs addresses habitat for salmonids, and all contain measures that provide benefits to ESA-listed salmon and steelhead (NMFS, 2005f). Examples of the types of benefits include actions that control erosion, protect riparian zones, minimize stormwater and construction impacts, reduce contaminants, and monitor listed species and their habitats. Also, we have received information from the DOD identifying national security impacts at all of their affected sites if designated as critical habitat. Our consideration of such impacts is separate from our assessment of INRMPs, but serves as an independent and sufficient basis for our determination not to designate critical habitats.

Critical Habitat Analytical Review Teams

To assist in the designation of critical habitat, we convened several CHARTs organized by major geographic domains that roughly correspond to salmon recovery planning domains. The CHARTs consisted of Federal biologists and habitat specialists from NMFS, the USFWS, USFS, and BLM, with demonstrated expertise regarding salmonid habitat and related protective efforts within the domain. The CHARTs were tasked with assessing biological information pertaining to areas under consideration for designation as critical habitat. The CHARTs also reconvened to review the public comments and any new information regarding the ESUs and habitat in their domain. Their work and determinations are documented in a final CHART report (NMFS, 2005a).

The CHARTs examined each habitat area within the watershed to determine whether the stream reaches or lakes occupied by the species contain the physical or biological features essential to conservation. As noted previously, the CHARTs also relied on their experience conducting ESA section 7 consultations and existing management plans and protective measures to determine whether these features may require special management considerations or protection.In addition to occupied areas, the definition of critical habitat also includes unoccupied areas if we determine the area is essential for conservation. Accordingly, the CHARTs were next asked whether there were any unoccupied areas within the historical range of the ESUs that may be essential for conservation. Where information was currently available to make this determination, the CHARTs identified those currently unoccupied areas essential for conservation (*i.e.*, in Hood Canal for the summer-run chum salmon ESU). In most cases, the CHARTs did not have information available that would allow them to draw that conclusion. Information important to making these determinations is currently being developed through the recovery planning processes. The CHARTs nevertheless identified several areas they believe may be determined essential through future recovery planning efforts (see ''Unoccupied Areas'' section above).

The CHARTs were next asked to determine the relative conservation value of each area for each ESU. The CHARTs scored each habitat area based on several factors related to the quantity and quality of the physical and biological features. They next considered each area in relation to other areas and with respect to the population occupying that area. Based on a consideration of the raw scores for each area, and a consideration of that area's contribution in relation to other areas and in relation to the overall population structure of the ESU, the CHARTs rated each habitat area as having a ''high,'' ''medium,'' or ''low'' conservation value. The preliminary CHART ratings were reviewed by several state and tribal comanagers in advance of the proposed rule, and the CHARTs made needed changes prior to that rule. State and tribal comanagers also evaluated our proposed rule and provided comments and new information which were also reviewed and incorporated as needed by the CHARTs in the preparation of the final designations.

The rating of habitat areas as having a high, medium or low conservation value provided information useful to inform the Secretary's exercise of discretion in determining whether the benefits of exclusion outweigh the benefits of designation in ESA section 4(b)(2). The higher the conservation value for an area, the greater the likely benefit of the ESA section 7 protections. We recognized that the ''benefit of designation'' would also depend on the likelihood of a consultation occurring and the improvements in species' conservation that may result from changes to proposed Federal actions. To address this concern, we asked the CHARTs to develop a profile for a ''low leverage'' watershed—that is, a watershed where it was unlikely there would be a section 7 consultation, or where a section 7 consultation, if it did occur, would yield few conservation benefits (cite CHART report). For watersheds not meeting the ''low leverage'' profile, we considered their conservation rating to be a fair assessment of the benefit of designation. For watersheds meeting the ''low leverage'' profile, we considered the benefit of designation to be an increment lower than the conservation rating. For example, a watershed with a ''high'' conservation value but ''low leverage'' was considered to have a ''medium'' benefit of designation, and so forth (NMFS, 2005a; NMFS, 2005c).

As discussed earlier, the scale chosen for the ''specific area'' referred to in section 3(5)(a) was a watershed, as delineated by USGS methodology.

There were some complications with this delineation that required us to adapt the CHARTs' approach for some areas. In particular, a large stream or river might serve as a rearing and migration corridor to and from many watersheds, yet be embedded itself in a watershed. In any given watershed through which it passes, the stream may have a few or several tributaries. For rearing/migration corridors embedded in a watershed, the CHARTs were asked to rate the conservation value of the watershed based on the tributary habitat. We assigned the rearing/migration corridor the rating of the highest-rated watershed for which it served as a rearing/migration corridor. The reason for this treatment of migration corridors is the role they play in the salmon's life cycle. Salmon are anadromous—born in fresh water, migrating to salt water to feed and grow, and returning to fresh water to spawn. Without a rearing/migration corridor to and from the sea, salmon cannot complete their life cycle. It would be illogical to consider a spawning and rearing area as having a particular conservation value and not consider the associated rearing/migration corridor as having a similar conservation value.

V. Application of ESA Section 4(b)(2) (16 U.S.C. 1533 (b)(2))

The foregoing discussion describes those areas that are eligible for designation as critical habitat—the specific areas that fall within the ESA section 3(5)(A) definition of critical habitat, minus those lands owned or controlled by the DOD, or designated for its use, that are covered by an INRMP that we have determined in writing provides a benefit to the species.

Specific areas eligible for designation are not automatically designated as critical habitat. Section 4(b)(2) of the ESA requires the Secretary to first consider the economic impact, impact on national security, and any other relevant impact of designation. The Secretary has the discretion to exclude an area from designation if he determines the benefits of exclusion (that is, avoiding the impact that would result from designation), outweigh the benefits of designation based upon best scientific and commercial data. The Secretary may not exclude an area from designation if exclusion will result in the extinction of the species. Because the authority to exclude is discretionary, exclusion is not required for any areas. In this rulemaking, the Secretary has applied his statutory discretion to exclude areas from critical habitat for several different reasons (NMFS, 2005c).

In this exercise of discretion, the first issue we must address is the scope of impacts relevant to the 4(b)(2) evaluation. As discussed in the Background and Previous Federal Action section, we are redesignating critical habitat for these 12 ESUs because the previous designations were vacated. (*National Association of Homebuilders* v. *Evans*, 2002 WL 1205743 No. 00–CV–2799 (D.D.C.) (*NAHB*)). The *NAHB* court had agreed with the reasoning of the Court of Appeals for the Tenth Circuit in *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001). In that decision, the Tenth Circuit stated ''[t]he statutory language is plain in requiring some kind of consideration of economic impact in the critical habitat designation phase.'' The court concluded that, given the USFWS' failure to distinguish between ''adverse modification'' and ''jeopardy'' in its 4(b)(2) analysis, the USFWS must analyze the full impacts of critical habitat designation, regardless of whether those impacts are coextensive with other impacts (such as the impact of the jeopardy requirement).

In redesignating critical habitat for these salmon ESUs, we have followed the Tenth Circuit Court's directive regarding the statutory requirement to consider the economic impact of designation. Areas designated as critical habitat are subject to ESA section 7 requirements, which provide that Federal agencies ensure that their actions are not likely to destroy or adversely modify critical habitat. To evaluate the economic impact of critical habitat we first examined our voluminous section 7 consultation record for these as well as other ESUs of salmon. (For thoroughness, we examined the consultation record for other ESUs to see if it shed light on the issues.) That record includes consultations on habitat-modifying Federal actions both where critical habitat has been designated and where it has not. We could not discern a distinction between the impacts of applying the jeopardy provision versus the adverse modification provision in occupied critical habitat. Given our inability to detect a measurable difference between the impacts of applying these two provisions, the only reasonable alternative seemed to be to follow the recommendation of the Tenth Circuit, approved by the *NAHB* court—to measure the coextensive impacts; that is, measure the entire impact of applying the adverse modification provision of section 7, regardless of whether the jeopardy provision alone would result in the identical impact.

The Tenth Circuit's opinion only addressed ESA section 4(b)(2)'s requirement that economic impacts be considered. The court did not address how ''other relevant impacts'' were to be considered, nor did it address the benefits of designation. Because section 4(b)(2) requires a consideration of other relevant impacts of designation, and the benefits of designation, and because our record did not support a distinction between impacts resulting from application of the adverse modification provision versus the jeopardy provision, we are uniformly considering coextensive impacts and coextensive benefits, without attempting to distinguish the benefit of a critical habitat consultation from the benefit that would otherwise result from a jeopardy consultation that would occur even if critical habitat were not designated. To do otherwise would distort the balancing test contemplated by section 4(b)(2).

The principal benefit of designating critical habitat is that Federal activities that may affect such habitat are subject to consultation pursuant to section 7 of the ESA. Such consultation requires every Federal agency to ensure that any action it authorizes, funds or carries out is not likely to result in the destruction or adverse modification of critical habitat. This complements the section 7 provision that Federal agencies ensure that their actions are not likely to jeopardize the continued existence of a listed species. Another benefit is that the designation of critical habitat can serve to educate the public regarding the potential conservation value of an area and thereby focus and contribute to conservation efforts by clearly delineating areas of high conservation value for certain species. It is unknown to what extent this process actually occurs, and what the actual benefit is, as there are also concerns, noted above, that a critical habitat designation may discourage such conservation efforts.

The balancing test in ESA section 4(b)(2) contemplates weighing benefits that are not directly comparable—the benefit associated with species conservation balanced against the economic benefit, benefit to national security, or other relevant benefit that results if an area is excluded from designation. Section 4(b)(2) does not specify a method for the weighing process. Agencies are frequently required to balance benefits of regulations against impacts; E.O. 12866 established this requirement for Federal agency regulation. Ideally such a balancing would involve first translating

the benefits and impacts into a common metric. Executive branch guidance from the OMB suggests that benefits should first be monetized (*i.e.*, converted into dollars). Benefits that cannot be monetized should be quantified (for example, numbers of fish saved). Where benefits can neither be monetized nor quantified, agencies are to describe the expected benefits (OMB, 2003).

It may be possible to monetize benefits of critical habitat designation for a threatened or endangered species in terms of willingness-to-pay (OMB, 2003). However, we are not aware of any available data that would support such an analysis for salmon. In addition, ESA section 4(b)(2) requires analysis of impacts other than economic impacts that are equally difficult to monetize, such as benefits to national security of excluding areas from critical habitat. In the case of salmon designations, impacts to Northwest tribes are an ''other relevant impact'' that also may be difficult to monetize.

An alternative approach, approved by OMB (OMB, 2003), is to conduct a cost-effectiveness analysis. A cost-effectiveness analysis ideally first involves quantifying benefits, for example, percent reduction in extinction risk, percent increase in productivity, or increase in numbers of fish. Given the state of the science, it would be difficult to quantify reliably the benefits of including particular areas in the critical habitat designation. Although it is difficult to monetize or quantify benefits of critical habitat designation, it is possible to differentiate among habitat areas based on their relative contribution to conservation. For example, habitat areas can be rated as having a high, medium, or low conservation value. The qualitative ordinal evaluations can then be combined with estimates of the economic costs of critical habitat designation in a framework that essentially adopts that of cost-effectiveness. Individual habitat areas can then be assessed using both their biological evaluation and economic cost, so that areas with high conservation value and lower economic cost might be considered to have a higher priority for designation, while areas with a low conservation value and higher economic cost might have a higher priority for exclusion. While this approach can provide useful information to the decision-maker, there is no rigid formula through which this information translates into exclusion decisions. Every geographical area containing habitat eligible for designation is different, with a unique set of ''relevant impacts'' that may be considered in the exclusion process. Regardless of the analytical approach, ESA section 4(b)(2) makes clear that what weight the agency gives various impacts and benefits, and whether the agency excludes areas from the designation, is discretionary.

Exclusions Based on Impacts to Tribes

The principal benefit of designating critical habitat is that Federal activities that may affect such habitat are subject to consultation pursuant to section 7 of the ESA. There is a broad array of activities on Indian lands that may trigger section 7. For this analysis, we considered what those activities may be and what the likely effect would be on conservation of each ESU if the activities were not subject to section 7 consultation. (We realize that the activities in question would still be subject to section 7 consultation and to the requirement that Federal agencies not jeopardize species' continued existence. However, as described above, because we cannot discern a difference in the application of the jeopardy and adverse modification requirements in our consultations for salmon and steelhead, we are considering coextensive impacts and coextensive benefits.) To determine the benefit of designation, we considered the number of stream miles within Indian lands, whether those stream miles were located in high, medium, or low conservation value areas, and the number of expected section 7 consultations in those areas (NMFS, 2005g).

In addition, in more than 20 letters to NMFS—several in response to the agency's ANPR (68 FR 55926; September 29, 2003) and proposed rule (69 FR 74572; December 14, 2004)—the tribes have documented how they are already working to address the habitat needs of the species on these lands as well as in the larger ecosystem, and are fully aware of the conservation value of their lands.

There are several benefits to excluding Indian lands. The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Pursuant to these authorities, Indian lands are recognized as unique and have been retained by Indian Tribes or have been set aside for tribal use. These lands are managed by Indian Tribes in accordance with tribal goals and objectives within the framework of applicable treaties and laws.

In addition to the distinctive trust relationship, for salmon and steelhead in the Northwest, there is a unique partnership between the Federal government and Indian tribes regarding salmon management. Northwest Indian tribes are regarded as ''co-managers'' of the salmon resource, along with Federal and state managers. This co-management relationship evolved as a result of numerous court decisions clarifying the tribes' treaty right to take fish in their usual and accustomed places.

The tribes have stated in letters and meetings that designation of Indian lands as critical habitat will undermine long-term working relationships and reduce the capacity of tribes to participate at current levels in the many and varied forums across four states addressing ecosystem management and conservation of fisheries resources.

The benefits of excluding Indian lands from designation include: (1) The furtherance of established national policies, our Federal trust obligations and our deference to the tribes in management of natural resources on their lands; (2) the maintenance of effective long-term working relationships to promote the conservation of salmonids on an ecosystem-wide basis across four states; (3) the allowance for continued meaningful collaboration and cooperation in scientific work to learn more about the conservation needs of the species on an ecosystem-wide basis; and (4) continued respect for tribal sovereignty over management of natural resources on Indian lands through established tribal natural resource programs.

We believe that the current co-manager process addressing activities on an ecosystem-wide basis across three states is currently beneficial for the conservation of the listed ESUs. Because the co-manager process provides for coordinated ongoing focused action through a variety of forums, we find the benefits of this process to be greater than the benefits of applying ESA section 7 to Federal activities on Indian lands (NMFS, 2005g). Additionally, we have determined that the exclusion of tribal lands will not result in the extinction of the species concerned. We also believe that maintenance of our

current co-manager relationship consistent with existing policies is an important benefit to continuation of our tribal trust responsibilities and relationship. Based upon our consultation with the Tribes, we believe that designation of Indian lands as critical habitat would adversely impact our working relationship and the benefits resulting from this relationship.

Based upon these considerations, we have decided to exercise agency discretion under ESA section 4(b)(2) and exclude Indian lands from the critical habitat designation for these ESUs of salmonids. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including: (1) Lands held in trust by the United States for the benefit of any Indian tribe; (2) land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation; (3) fee lands, either within or outside the reservation boundaries, owned by the tribal government; and (4) fee lands within the reservation boundaries owned by individual Indians. We have determined that these exclusions, together with the other exclusions described in this rule, will not result in extinction of the species (NMFS, 2005c).

Impacts to Landowners With Contractual Commitments to Conservation

Conservation agreements with non-Federal landowners (*e.g.*, HCPs) enhance species conservation by extending species' protections beyond those available through section 7 consultations. In the past decade we have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species' conservation on non-Federal land through such partnerships than we can through coercive methods (61 FR 63854; December 2, 1996).

Section 10(a)(1)(B) of the ESA authorizes us to issue to non-Federal entities a permit for the incidental take of endangered and threatened species. This permit allows a non-Federal landowner to proceed with an activity that is legal in all other respects, but that results in the incidental taking of a listed species (*i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). The ESA specifies that an application for an incidental take permit must be accompanied by a conservation plan, and specifies the content of such a plan. The purpose of such an HCP is to describe and ensure that the effects of the permitted action on covered species are adequately minimized and mitigated, and that the action does not appreciably reduce the survival and recovery of the species.

To date we have not excluded critical habitat on lands covered by an HCP, but we acknowledged in our proposed rule that this was an emerging issue and that the benefits of such exclusions may outweigh the benefits of designation (69 FR 74623; December 14, 2004). As described in greater detail above (see Comment 42) and in our assessment of HCPs associated with this final rulemaking (NMFS, 2005e), the analysis required for these types of exclusions requires careful consideration of the benefits of designation versus the benefits of exclusion to determine whether benefits of exclusion outweigh benefits of designation. The benefits of designation typically arise from additional section 7 protections as well as enhanced public awareness once specific areas are identified as critical habitat. The benefits of exclusion generally relate to relieving regulatory burdens on existing conservation partners, maintaining good working relationships with them, and encouraging the development of new partnerships.

Based on comments received on our proposed rule, we could not conclude that all landowners view designation of critical habitat as imposing a burden, and exclusion from designation as removing that burden and thereby strengthening the ongoing relationship. Where an HCP partner affirmatively requests designation, exclusion is likely to harm rather than benefit the relationship. Where an HCP partner has remained silent on the benefit of exclusion of its land, we do not believe the record supports a presumption that exclusion will enhance the relationship. Similarly, we do not believe it provides an incentive to other landowners to seek an HCP if our exclusions are not in response to an expressed landowner preference. We anticipate further rulemaking in the near future to refine these designations, for example, in response to developments in recovery planning. As part of future revisions, we will consider information we receive from those with approved HCPs regarding the effect of designation on our ongoing partnership. We did not consider pending HCPs for exclusion, both because we do not want to prejudge the outcome of the ongoing HCP process, and because we expect to have future opportunities to refine the designation and consider whether exclusion will outweigh the benefit of designation in a particular case.

During the comment period we received comments from only three landowners with current HCPs that they would consider exclusion as a benefit to our ongoing relationship—WDNR, Green Diamond Resources Company, and West Fork Timber Company. For those HCPs, we analyzed the activities covered by the HCPs, the protections afforded by the HCP agreement, and the Federal activities that are likely to occur on the affected lands. We considered the number of stream miles within these lands, whether those stream miles were located in high, medium, or low conservation value areas, and the number of expected section 7 consultations in those areas. From this information we determined the benefit of designation, which we then weighed against the benefit of exclusion. We concluded that the conservation benefits to the species outweigh the conservation benefits of designation and therefore have excluded lands covered by these agreements in this final designation. The analysis is described in further detail in NMFS (2005e). We have determined that these exclusions, together with the other exclusions described in this rule, will not result in extinction of the species (NMFS, 2005c).

Exclusions Based on National Security Impacts

As noted previously (see *Military Lands* section), we evaluated 11 DOD sites with draft or final INRMPs and determined that each INRMP provides a benefit to the listed salmon or steelhead ESUs under consideration at the site. Therefore, we conclude that those areas subject to final INRMPs are not eligible for designation pursuant to section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)). At the request of the DOD (and in the case that an INRMP might not provide a benefit to the species), we also assessed the impacts on national security that may result from designating these and other DOD sites as critical habitat.

We contacted the DOD by letter and requested information about the impacts to national security that may result from designating critical habitat at the following 24 military sites in Washington: (1) Naval Submarine Base, Bangor; (2) Naval Undersea Warfare Center, Keyport; (3) Naval Ordnance Center, Port Hadlock (Indian Island); (4) Naval Radio Station, Jim Creek; (5) Naval Fuel Depot, Manchester; (6) Naval Air Station Whidbey Island; (7) Naval Air Station, Everett; (8) Bremerton Naval Hospital; (9) Fort Lewis (Army); (10) Pier 23 (Army); (11) Yakima Training Center (Army); (12) Puget Sound Naval Shipyard; (13) Naval Submarine Base

Bangor security zone; (14) Strait of Juan de Fuca naval air-to-surface weapon range, restricted area; (15) Hood Canal and Dabob Bay naval non-explosive torpedo testing area; (16) Strait of Juan de Fuca and Whidbey Island naval restricted areas; (17) Admiralty Inlet naval restricted area; (18) Port Gardner Naval Base restricted area; (19) Hood Canal naval restricted areas; (20) Port Orchard Passage naval restricted area; (21) Sinclair Inlet naval restricted areas; (22) Carr Inlet naval restricted areas; (23) Dabob Bay/Whitney Point naval restricted area; and (24) Port Townsend/Indian Island/Walan Point naval restricted area. All of these sites overlap with habitat areas occupied by one or more of the 12 ESUs and under consideration for critical habitat designation. A number of other sites (primarily armories and small Army facilities) were also assessed and were determined to be outside the areas under consideration.

In response to our letter, both the Army and Navy provided information clarifying site locations and describing the types of military activities that occur at these sites. They also listed the potential changes in these activities and consequent national security impacts that critical habitat designation would cause in these areas. Both military agencies concluded that critical habitat designation at any of these sites would likely impact national security by diminishing military readiness. The possible impacts include: Preventing, restricting, or delaying training or testing exercises or access to such sites; restricting or delaying activities associated with vehicle/vessel/facility maintenance and ordnance loading; delaying response times for ship deployments and overall operations; and creating uncertainties regarding ESA consultation (*e.g.*, reinitiation requirements) or imposing compliance conditions that would divert military resources. Also, both military agencies cited their ongoing and positive consultation history with NMFS and underscored cases where they are implementing best management practices to reduce impacts on listed salmonids.

Most of the affected DOD sites overlap habitat areas in nearshore zones occupied by Puget Sound Chinook or Hood Canal summer-run chum salmon. The overlap consists of approximately 64 miles (103 km) of shoreline out of the 2,376 miles (3,824 km) of total occupied shoreline for these two ESUs. Freshwater and estuarine overlap areas include approximately 20 miles (32 km) of stream used by Puget Sound Chinook salmon and 10 miles (16 km) used by Upper Columbia River steelhead, representing less than one percent of the total freshwater and estuarine habitat area for these two ESUs. The CHARTs assessing conservation values for these overlap areas concluded that all of them were of high conservation value to the respective ESUs. However, the overlap areas are a small percentage of the total area for the affected ESUs. Designating these DOD sites will likely reduce the readiness capability of the Army and Navy, both of which are actively engaged in training, maintaining, and deploying forces in the current war on terrorism. Therefore we conclude that the benefits of exclusion outweigh the benefits of designation and are not designating these DOD sites as critical habitat.

Between the time of the proposed rule and this final rule we discussed with the DOD the importance of the nearshore areas to these ESUs (especially for juvenile chum and Chinook salmon) and asked whether national security impacts could still be avoided adjacent to Navy security zones in Puget Sound if critical habitat was confined to a narrow nearshore zone from the line of extreme high tide down to the line of mean lower low water (except in areas associated with an approved INRMP or in areas with related DOD easements or right-of-ways). The DOD concurred that limiting the designation in this way will avoid the national security concerns associated with these sites while retaining critical habitat in tidal areas important to juvenile salmon in areas with lesser security restrictions. The final designation accordingly includes these tidal areas. We have determined that these exclusions, together with the other exclusions described in this rule, will not result in extinction of the species (NMFS, 2005c).

Exclusions Based on Economic Impacts

Our assessment of economic impact generated considerable interest from commenters on the ANPR (68 FR 55926; September 29, 2003) and the proposed rule (69 FR 74572; December 14, 2004). Based on new information and comments received on the proposed rule we have updated our estimates of economic impacts of designating each of the particular areas found to meet the definition of critical habitat (NMFS, 2005d). This report is available from NMFS (see **ADDRESSES**).

The first step in the overall economic analysis was to identify existing legal and regulatory constraints on economic activity that are independent of critical habitat designation, such as Clean Water Act (CWA) requirements. Coextensive impacts of the ESA section 7 requirement to avoid jeopardy were not considered part of the baseline. Also, we have stated our intention to revisit the existing critical habitat designations for Snake River Chinook and sockeye salmon ESUs (58 FR 68543; December 28, 1993), if appropriate, following completion of related rulemaking (67 FR 6215; February 11, 2002). Given the uncertainty that these designations will remain in place in their current configuration, we decided not to consider them as part of the baseline for the ESA section 4(b)(2) analysis.

Next, from the consultation record, we identified Federal activities that might affect habitat and that might result in an ESA section 7 consultation. (We did not consider Federal actions, such as the approval of a fishery, that might affect the species directly but not affect its habitat.) We identified ten types of activities including: Hydropower dams; non-hydropower dams and other water supply structures; Federal lands management, including grazing (considered separately); transportation projects; utility line projects; instream activities, including dredging (considered separately); activities permitted under EPA's National Pollution Discharge Elimination System; sand & gravel mining; residential and commercial development; and agricultural pesticide applications. Based on our consultation record and other available information, we determined the modifications each type of activity was likely to undergo as a result of section 7 consultation (regardless of whether the modification might be required by the jeopardy or the adverse modification provision). We developed an expected direct cost for each type of action and projected the likely occurrence of each type of project in each watershed, using existing spatial databases (*e.g.*, the COE 404(d) permit database). Finally, we aggregated the costs from the various types of actions and estimated an annual impact, taking into account the probability of consultation occurring and the likely rate of occurrence of that project type.

This analysis allowed us to estimate the coextensive economic impact of designating each ''particular area'' (that is, each habitat area, or aggregated occupied stream reaches in a watershed). Expected annual economic impacts ranged from zero to $15.3 million per habitat area, with a median of $163.3 thousand. Where a watershed included both tributaries and a migration corridor that served other watersheds, we estimated the separate impacts of designating the tributaries and the migration corridor. We did this

by identifying those categories of activities most likely to affect tributaries and those most likely to affect larger migration corridors.

Because of the methods we selected and the data limitations, portions of our analysis both under-and over-estimate the coextensive economic impact of ESA section 7 requirements. For example, we lacked complete data on the likely impact on flows at non-Federal hydropower projects, which would increase economic impacts. In addition, operation and maintenance of the FCRPS has changed in response to ESA section 7 requirements. Federal agencies estimate direct costs of the FCRPS fish and wildlife program and other conservation measures have averaged almost $250 million annually over the period 1995–2004, while the power costs during that same period have averaged approximately $320 million annually. Many of these costs would occur without the requirements of section 7, but there is currently no estimate available of what portion of these costs are attributable to section 7. Finally, we did not have information about potential changes in irrigation flows associated with section 7 consultation. These impacts would increase the estimate of coextensive costs. On the other hand, we estimated an impact on all activities occurring within the geographic boundaries of a watershed, even though in some cases activities would be far removed from occupied stream reaches and so might not require modification (or even consultation).

In addition, we were unable to document significant costs of critical habitat designation that occur outside the section 7 consultation process, including costs resulting from state or local regulatory burdens imposed on developers and landowners as a result of a Federal critical habitat designation.

In determining whether the economic benefit of excluding a habitat area might outweigh the benefit of designation to the species, we took into account the many data limitations described above. The ESA requires that we make critical habitat designations within a short time frame ''with such data as may be available'' at the time. Moreover, the cost-effectiveness approach we adopted accommodated many of these data limitations by considering the relative benefits of designation and exclusion, giving priority to excluding habitat areas with a relatively lower benefit of designation and a relatively higher economic impact (NMFS, 2005c).

The circumstances of most of the listed ESUs seem well suited to a cost-effectiveness approach. West Coast salmon are wide-ranging species and occupy numerous habitat areas with thousands of stream miles. Not all occupied areas, however, are of equal importance to conserving an ESU. Within the currently occupied range there are areas that support highly productive populations, areas that support less productive populations, and areas that support production in only some years. Some populations within an ESU may be more important to long-term conservation of the ESU than other populations. Therefore, in many cases it may be possible to construct different scenarios for achieving conservation. Scenarios might have more or less certainty of achieving conservation, and more or less economic impact.

Our first step in constructing an exclusion scenario was to identify all areas we would consider for an economic exclusion, based on dollar thresholds. The next step was to examine the overall picture and consider whether any of the areas eligible for exclusion make an important contribution to conservation, in the context of what areas remained (that is, those areas not identified as eligible for exclusion). We did not consider habitat areas for exclusion if they had a high conservation value rating. Based on the rating process used by the CHARTs, we judged that all of the high value areas make an important contribution to conservation.

In developing criteria for the first step, we chose dollar thresholds that we anticipated would lead most directly to a cost-effective scenario. We considered for exclusion low value habitat areas with an economic impact greater than $85,000 and medium value habitat areas with an economic impact greater than $300,000. (These amounts were adjusted for habitat areas within the range of the Snake River steelhead ESU to account for the smaller-sized watersheds.)

The criteria we selected for identifying habitat areas eligible for exclusion do not represent an objective judgment that, for example, a low value area is worth a certain dollar amount and no more. The statute directs us to balance dissimilar values with a limited amount of time (and, therefore, information). It emphasizes the discretionary nature of the balancing task. Moreover, while our approach follows the Tenth Circuit's direction to consider coextensive economic impacts, we nevertheless must acknowledge that not all of the costs will be avoided by exclusion from designation. Finally, the cost estimates developed by our economic analysis do not have obvious break points that would lead to a logical division between ''high,'' ''medium,'' and ''low'' costs. Given these factors, a judgment that any particular dollar threshold is objectively ''right,'' would be neither necessary nor possible. Rather, what economic impact is ''high'' and, therefore, might outweigh the benefit of designating a medium or low value habitat area is a matter of discretion and depends on the policy context. The policy context in which we carry out this task led us to select dollar thresholds that would likely lead to a cost-effective designation in a limited amount of time with a relatively simple process.

In the second step of the process, we asked the CHARTs whether any of the habitat areas eligible for exclusion make an important contribution to conservation. The CHARTs considered this question in the context of all of the areas eligible for exclusion as well as the information they had developed in providing the initial conservation ratings. The following section describes the results of applying the two-step process to each ESU. The results are discussed in greater detail in a separate report that is available for public review and comment (NMFS, 2005c). We have determined that these exclusions, together with the other exclusions described in this rule, will not result in extinction of the species (NMFS, 2005c).

VI. Critical Habitat Designation

We are designating approximately 20,630 mi (33,201 km) of lake, riverine, and estuarine habitat in Washington, Oregon, and Idaho, and 2,312 mi (3,721 km) of nearshore marine habitat in Puget Sound within the geographical areas presently occupied by the 12 ESUs. Some of the areas designated overlap with two or more ESUs (Table 12), and approximately 906 mi (1,458 km) overlap with Indian lands. Some of these areas also overlap with military lands (described in the *Military Lands* section), which are not designated either because they are subject to INRMPs that benefit listed species (NMFS, 2005f) or were determined to have national security impacts that outweigh the benefit of designation. The annual net economic impacts (coextensive with ESA section 7) associated with the areas designated for all ESUs are estimated to be approximately $201.2 million.

TABLE 12.—APPROXIMATE QUANTITY OF HABITAT* AND OWNERSHIP WITHIN WATERSHEDS CONTAINING HABITAT AREAS DESIGNATED AS CRITICAL HABITAT.

ESU	Streams (mi) (km)	Lakes (sq mi) (sq km)	Nearshore Marine (m) (km)	Ownership (percent)			
				Federal	Tribal	State	Private
Puget Sound, Chinook Salmon	1,683 2,709	41 106	2,182 3,512	46.4	1.0	10.0	42.6
Lower Columbia, River Chinook, Salmon	1,311 2,110	33 85.5	.....	37.3	0.0	8.0	54.7
Upper Willamette, River Chinook, Salmon	1,472 2,369	18 46.6	.....	38.6	0.4	0.9	60.1
Upper Columbia, River Spring-run, Chinook Salmon	974 1,568	4 10.4	.....	53.4	0.0	7.3	39.2
Hood Canal, Summer-run Chum, Salmon	79 127	....	377 607	49.1	0.7	11.9	37.6
Columbia River, Chum Salmon	708 1,139	.....	.....	15.8	0.0	14.0	69.8
Ozette Lake, Sockeye Salmon	42 68	12 31	.....	19.0	1.2	7.0	71.5
Upper Columbia, River Steelhead	1,262 2,031	7 18.1	.....	45.3	5.7	8.3	40.7
Snake River Basin, Steelhead	8,049 12,954	4 10	.....	65.7	3.9	2.1	28.3
Middle Columbia, River Steelhead	5,815 9,358	.....	.....	26.0	13.2	3.7	57.1
Lower Columbia, River Steelhead	2,324 3,740	27 70	.....	44.5	0.5	5.9	49.2
Upper Willamette, River Steelhead	1,276 2,054	2 5.2	.....	9.7	0.3	1.9	88.1

*These estimates are the total amount for each ESU. They do not account for overlapping areas (e.g., the Columbia River corridor) designated for multiple ESUs.

These areas designated, summarized below by ESU, are either (1) occupied and contain physical and biological features essential to the conservation of the species and that may require special management considerations or protection, or (2) are not presently occupied but are considered essential for the conservation of the species.

Puget Sound Chinook Salmon

There are 61 watersheds within the range of this ESU. Twelve watersheds received a low rating, 9 received a medium rating, and 40 received a high rating of conservation value to the ESU (NMFS, 2005a). Nineteen nearshore marine areas also received a rating of high conservation value.

Habitat areas for this ESU include 2,216 mi (3,566 km) of stream and 2,376 mi (3,824 km) of nearshore marine areas. Of these, 19 stream miles (31 km) and 48 nearshore miles (175 km) are not being designated because they are within lands controlled by the military that contain qualifying INRMPs or they would result in national security impacts that outweigh the benefits of designation. Fifty-two miles (85 km) of stream and 146 mi (237 km) of nearshore marine areas are being excluded because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*). Also, we are excluding approximately 98 miles (158 km) of stream covered by two HCPs because the benefits of exclusion outweigh the benefits of designation.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 13. Of the habitat areas eligible for designation, approximately 377 stream miles (606 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $93.2 million. The exclusions identified in Table 13 would reduce the total estimated economic impact to $71.3 million (NMFS, 2005c).

TABLE 13.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE PUGET SOUND CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1711000201	Bellingham Bay	Entire watershed.
1711000202	Samish River	Entire watershed.
1711000204	Birch Bay	Entire watershed.
1711000401	Upper North Fork Nooksack River	WDNR HCP lands.
1711000402	Middle Fork Nooksack River	WDNR HCP lands.
1711000403	South Fork Nooksack River	WDNR HCP lands, Indian lands.
1711000404	Lower North Fork Nooksack River	WDNR HCP lands, Indian lands.
1711000405	Nooksack River	Indian lands.

TABLE 13.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE PUGET SOUND CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT—Continued

Watershed code	Watershed name	Area excluded
1711000506	Cascade River	WDNR HCP lands.
1711000507	Skagit River/Illabot Creek	WDNR HCP lands.
1711000508	Baker River	Entire watershed.
1711000603	Lower Suiattle River	WDNR HCP lands.
1711000604	Lower Sauk River	WDNR HCP lands, Indian lands.
1711000701	Middle Skagit River/Finney Creek	WDNR HCP lands.
1711000702	Lower Skagit River/Nookachamps Creek	WDNR HCP lands.
1711000801	North Fork Stillaguamish River	WDNR HCP lands.
1711000802	South Fork Stillagaumish River	DOD lands, WDNR HCP lands.
1711000901	Tye and Beckler Rivers	WDNR HCP lands.
1711000903	Skykomish River/Wallace River	WDNR HCP lands.
1711000904	Sultan River	WDNR HCP lands.
1711000905	Skykomish River/Woods Creek	WDNR HCP lands.
1711001003	Middle Fork Snoqualmie River	WDNR HCP lands.
1711001004	Lower Snoqualmie River	WDNR HCP lands.
1711001101	Pilchuck River	WDNR HCP lands.
1711001102	Snohomish River	Indian lands.
1711001202	Lake Sammamish	Entire watershed.
1711001203	Lake Washington	Tributaries only.
1711001204	Sammamish River	Entire watershed.
1711001301	Upper Green River	WDNR HCP lands.
1711001302	Middle Green River	WDNR HCP lands.
1711001303	Lower Green River	WDNR HCP lands.
1711001401	Upper White River	WDNR HCP lands.
1711001402	Lower White River	Indian lands.
1711001405	Lower Puyallup River	Indian lands.
1711001503	Lowland	DOD lands, Indian lands.
1711001601	Prairie	Entire watershed.
1711001602	Prairie	Entire watershed.
1711001701	Skokomish River	WDNR HCP lands, Green Diamond HCP lands, Indian lands.
1711001802	Lower West Hood Canal Frontal	Entire watershed.
1711001804	Duckabush River	WDNR HCP lands.
1711001806	Big Quilcene River	Entire watershed.
1711001808	West Kitsap	Entire watershed.
1711001900	Kennedy/Goldsborough	Entire watershed.
1711001901	Puget	Entire watershed.
1711001902	Prairie	Entire watershed.
1711001904	Puget Sound/East Passage	Entire watershed.
1711002003	Dungeness River	WDNR HCP lands.
1711002004	Port Angeles Harbor	Entire watershed.
1711002007	Elwha River	Indian lands.
N01	Nearshore Marine Area #1	Indian lands.
N03	Nearshore Marine Area #3	Indian lands.
N04	Nearshore Marine Area #4	Indian lands.
N05	Nearshore Marine Area #5	DOD lands.
N06	Nearshore Marine Area #6	DOD lands, Indian lands.
N09	Nearshore Marine Area #9	DOD lands, Indian lands.
N11	Nearshore Marine Area #11	DOD lands.
N13	Nearshore Marine Area #13	Indian lands.
N14	Nearshore Marine Area #14	DOD lands, Indian lands.
N15	Nearshore Marine Area #15	DOD lands, Indian lands.
N17	Nearshore Marine Area #17	Indian lands.
N18	Nearshore Marine Area #18	DOD lands.

Lower Columbia River Chinook Salmon ESU

There are 48 watersheds within the range of this ESU. Four watersheds received a low rating, 13 received a medium rating, and 31 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in one of the high value watersheds.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 14. Of the 1,655 miles (2,663 km) of habitat areas eligible for designation, approximately 228 stream miles (367 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 162 miles (261 km) of stream covered by one HCP because the benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $37.6 million. The exclusions identified in Table 14 would reduce the total estimated economic impact to $28.2 million (NMFS, 2005c).

TABLE 14.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE LOWER COLUMBIA RIVER CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1707010510	Little White Salmon River	Entire watershed.
1707010511	Wind River	WDNR HCP lands.
1707010512	Middle Columbia/Grays Creek	Tributaries only.
1708000106	Washougal River	WDNR HCP lands.
1708000109	Salmon Creek	Entire watershed.
1708000302	Beaver Creek/Columbia River	Entire watershed.
1708000304	Germany/Abernathy	Entire watershed.
1708000305	Skamokawa/Elochoman	WDNR HCP lands.
1708000403	Cowlitz Valley Frontal	WDNR and West Fork Timber. Company HCP lands.
1708000501	Tilton River	Entire watershed.
1708000504	North Fork Toutle River	Tributaries only.
1708000506	South Fork Toutle River	WDNR HCP lands.
1708000507	East Willapa	WDNR HCP lands.
1708000601	Youngs River	Entire watershed.
1708000603	Grays Bay	WDNR HCP lands.
1709000704	Abernethy Creek	Entire watershed.
1709001105	Eagle Creek	Entire watershed.

Upper Willamette River Chinook Salmon ESU

There are 60 watersheds within the range of this ESU. Nineteen watersheds received a low rating, 18 received a medium rating, and 23 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Willamette/Columbia River rearing/migration corridor downstream of the spawning range is also considered to have a high conservation value and is the only habitat designated in four of the high value watersheds.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 15. Of the 1,796 miles (2,890 km) of habitat areas eligible for designation, approximately 324 stream miles (521 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $32.2 million. The exclusions identified in Table 15 would reduce the total estimated economic impact to $25.6 million (NMFS, 2005c).

TABLE 15.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE UPPER WILLAMETTE RIVER CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1709000104	Salmon Creek	Entire watershed.
1709000201	Row River	Entire watershed.
1709000202	Mosby Creek	Entire watershed.
1709000203	Upper Coast Fork Willamette River	Entire watershed.
1709000205	Lower Coast Fork Willamette River	Entire watershed.
1709000301	Long Tom River	Entire watershed.
1709000302	Muddy Creek	Tributaries only.
1709000304	Oak Creek	Tributaries only.
1709000404	Blue River	Entire watershed.
1709000406	Mohawk River	Entire watershed.
1709000701	Mill Creek/Willamette River	Tributaries only.
1709000702	Rickreall Creek	Tributaries only.
0709000703	Willamette River/Chehalem Creek	Tributaries only.
1709000704	Abernethy Creek	Tributaries only.
1709000804	Lower South Yamhill River	Entire watershed.
1709000805	Salt Creek/South Yamhill River	Entire watershed.
1709000806	North Yamhill River	Entire watershed.
1709000807	Yamhill River	Entire watershed.
1709000901	Abiqua Creek/Pudding River	Entire watershed.
1709000902	Butter Creek/Pudding River	Tributaries only.
1709000903	Rock Creek/Pudding River	Entire watershed.
1709000904	Senecal Creek/Mill Creek	Tributaries only.
1709001105	Eagle Creek	Entire watershed.

Upper Columbia River Spring-Run Chinook Salmon ESU

There are 31 watersheds within the range of this ESU. Five watersheds received a medium rating and 26 received a high rating of conservation value to the ESU (NMFS, 2005a). The Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in 15 of the high value watersheds identified above.

As a result of the balancing process for economic impacts described above,

the Secretary is excluding from the designation the habitat areas shown in Table 16. Of the 1,002 miles (1,613 km) of habitat areas eligible for designation, approximately 28 stream miles (45 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $17.6 million. The exclusions identified in Table 16 would reduce the total estimated economic impact to $14.2 million (NMFS, 2005c).

TABLE 16.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE UPPER COLUMBIA RIVER SPRING-RUN CHINOOK SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1702000807	Lower Methow River	Tributaries only.
1702001002	Lake Entiat	Tributaries only.
1702001104	Icicle/Chumstick	Tributaries only.
1702001105	Lower Wenatchee River	Tributaries only.

Hood Canal Summer-Run Chum Salmon ESU

There are 12 watersheds within the range of this ESU. Three watersheds received a medium rating and nine received a high rating of conservation value to the ESU (NMFS, 2005a). Five nearshore marine areas also received a rating of high conservation value.

Habitat areas for this ESU include 88 mi (142 km) of stream and 402 mi (647 km) of nearshore marine areas. Of these, 16 nearshore miles (26 km) are not being designated because they are within lands controlled by the military that contain qualifying INRMPs or they would result in national security impacts that outweigh the benefits of designation. Four miles (6 km) of stream and 9 mi (14 km) of nearshore marine areas are being excluded because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*). Also, we are excluding approximately 5 miles (8 km) of stream covered by one HCP because the benefits of exclusion outweigh the benefits of designation.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 17. Total potential estimated economic impact, with no exclusions, would be $7.1 million. The exclusions identified in Table 17 would reduce the total estimated economic impact to $6.8 million (NMFS, 2005c).

TABLE 17.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE HOOD CANAL SUMMER-RUN CHUM SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1711001701	Skokomish River	Indian lands.
1711001802	Lower West Hood Canal Frontal	WDNR HCP lands.
1711001808	West Kitsap	WDNR HCP lands.
1711002003	Dungeness River	WDNR HCP lands.
N15	Nearshore Marine Area #15	DOD lands, Indian lands.
N17	Nearshore Marine Area #17	Indian lands.
N18	Nearshore Marine Area #18	DOD lands.

Columbia River Chum Salmon ESU

There are 20 watersheds within the range of this ESU. Three watersheds received a medium rating and 17 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in one of the high value watersheds identified above.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 18. Of the 725 miles (1,167 km) of habitat areas eligible for designation, approximately 3 stream miles (5 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 4 miles (6 km) of stream covered by one HCP because the benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $17.1 million. The exclusions identified in Table 18 would reduce the total estimated economic impact to $16.5 million (NMFS, 2005c).

TABLE 18.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE COLUMBIA RIVER CHUM SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1708000106	Washougal River	WDNR HCP lands.
1708000305	Skamokawa/Elochoman	WDNR HCP lands.
1708000504	North Fork Toutle River	Entire Watershed.
1708000505	Green River	Entire Watershed.
1708000507	East Willapa	WDNR HCP lands.
1708000603	Grays Bay	WDNR HCP lands.

Ozette Lake Sockeye Salmon ESU

There is one watershed supporting the Ozette Lake sockeye ESU and it was rated as having a high conservation value (NMFS, 2005a). As a result of the balancing process described above, no habitat is being excluded due to economic impacts. However, we are excluding approximately <1 mile (1.6 km) of stream because it overlaps with Indian lands (see *Government-to-Government Relationship With Tribes*). Also, we are excluding approximately 2 miles (3 km) of stream covered by one HCP because the benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $2.7 thousand. The exclusions identified in Table 19 would not reduce the total estimated economic impact (NMFS, 2005c).

TABLE 19.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE OZETTE LAKE SOCKEYE SALMON ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1710010102	Hoh/Quillayute	WDNR HCP lands, Indian Lands.

Upper Columbia River Steelhead ESU

There are 42 watersheds within the range of this ESU. Three watersheds received a low rating, 8 received a medium rating, and 31 received a high rating of conservation value to the ESU (NMFS, 2005a). The Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in 11 of the high value watersheds identified above.

Habitat areas for this ESU include 1,332 miles (2,144 km) of stream. Of these, 10 stream miles (17 km) are not being designated because they are within lands controlled by the military that contain qualifying INRMPs or they would result in national security impacts that outweigh the benefits of designation. Approximately 6 stream miles (10 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 54 miles (87 km) of stream because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*).

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 20. Total potential estimated economic impact, with no exclusions, would be $27.1 million. The exclusions identified in Table 20 would reduce the total estimated economic impact to $20.7 million (NMFS, 2005c).

TABLE 20.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE UPPER COLUMBIA RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1702000503	Foster Creek	Entire watershed.
1702000504	Jordan/Tumwater	Indian lands.
1702000505	Upper Columbia/Swamp Creek	Indian lands.
1702000603	Salmon Creek	Indian lands.
1702000604	Okanogan River/Omak Creek	Indian lands.
1702000605	Lower Okanogan River	Indian lands.
1702000903	Lower Chelan	Entire watershed.
1702001002	Lake Entiat	Tributaries only.
1702001004	Columbia River/Sand Hollow	DOD lands.
1702001204	Rattlesnake Creek	Entire watershed.
1702001604	Yakima River/Hanson Creek	DOD lands.

Snake River Basin Steelhead ESU

There are 289 watersheds within the range of this ESU. Fourteen watersheds received a low rating, 44 received a medium rating, and 231 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Snake/Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in 15 of the high value watersheds identified above.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 21. Of the 8,225 miles (13,237 km) of habitat areas eligible for designation, approximately 134 miles (216 km) of stream are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 39 miles (63 km) of stream because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*). Total potential estimated economic impact, with no exclusions, would be $30.0 million. The exclusions identified in Table 21 would reduce the total estimated economic impact to $29.2 million (NMFS, 2005c).

TABLE 21.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE SNAKE RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1706010402	Meadow Creek	Indian lands.
1706010704	Flat Creek	Entire watershed.

TABLE 21.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE SNAKE RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT—Continued

Watershed code	Watershed name	Area excluded
1706010705	Pataha Creek	Entire watershed.
1706010808	Lower Palouse River	Entire watershed.
1706020107	Road Creek	Entire watershed.
1706020202	Pahsimeroi River/Falls Creek	Entire watershed.
1706020319	Napias Creek	Entire watershed.
1706020404	Agency Creek	Entire watershed.
1706020707	Big Mallard Creek	Entire watershed.
1706020904	Salmon River/Cottonwood Creek	Indian lands.
1706020917	Rice Creek	Entire watershed.
1706030401	Middle Fork Clearwater River/Maggie Creek	Indian lands.
1706030402	Clear Creek	Indian lands.
1706030501	Lower South Fork Clearwater River	Indian lands.
1706030503	South Fork Clearwater River/Peasley Creek	Tributaries only.
1706030512	Three Mile Creek	Entire watershed.
1706030513	Cottonwood Creek	Indian lands.
1706030601	Lower Clearwater River	Tributaries only.
1706030602	Clearwater River/Lower Potlatch River	Indian lands.
1706030603	Potlatch River/Middle Potlatch Creek	Indian lands.
1706030608	Clearwater River/Bedrock Creek	Indian lands.
1706030610	Big Canyon Creek	Indian lands.
1706030613	Upper Orofino Creek	Entire watershed.
1706030614	Jim Ford Creek	Indian lands.
1706030620	Clearwater River/Fivemile Creek	Indian lands.
1706030621	Clearwater River/Sixmile Creek	Indian lands.
1706030622	Clearwater River/Tom Taha Creek	Indian lands.
1706030623	Lower Lawyer Creek	Indian lands.
1706030627	Cottonwood Creek	Indian lands.
1706030628	Upper Lapwai Creek	Indian lands.
1706030629	Mission Creek	Indian lands.
1706030630	Upper Sweetwater Creek	Indian lands.
1706030631	Lower Sweetwater Creek	Indian lands.

Middle Columbia River Steelhead ESU

There are 114 watersheds within the range of this ESU. Nine watersheds received a low rating, 24 received a medium rating, and 81 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in three of the high value watersheds identified above.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 22. Of the 6,529 miles (10,507 km) of habitat areas eligible for designation, approximately 115 miles (185 km) of stream are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 599 miles (964 km) of stream because they overlap with Indian lands (see *Government-to-Government Relationship With Tribes*). Total potential estimated economic impact, with no exclusions, would be $43.1 million. The exclusions identified in Table 22 would reduce the total estimated economic impact to $38.4 million (NMFS, 2005c).

TABLE 22.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE MIDDLE COLUMBIA RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1703000301	Ahtanum Creek	Indian lands.
1703000303	Upper Toppenish Creek	Indian lands.
1703000304	Lower Toppenish Creek	Indian lands.
1703000305	Satus Creek	Indian lands.
1703000306	Yakima River/Spring Creek	Indian lands.
1707010209	Pine Creek	Entire watershed.
1707010211	Lower Walla Walla River	Tributaries only.
1707010301	Upper Umatilla River	Indian lands.
1707010302	Meacham Creek	Indian lands.
1707010303	Umatilla River/Mission Creek	Indian lands.
1707010304	Wildhorse Creek	Entire watershed.
1707010308	Stage Gulch	Entire watershed.
1707010310	Lower Butter Creek	Entire watershed.
1707010502	Fifteenmile Creek	Indian lands.
1707010510	Little White Salmon River	Entire watershed.
1707010512	Middle Columbia/Grays Creek	Tributaries only
1707010601	Upper Klickitat River	Indian lands.

TABLE 22.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE MIDDLE COLUMBIA RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT—Continued

Watershed code	Watershed name	Area excluded
1707010602	Middle Klickitat River	Indian lands.
1707020305	Lower Middle Fork John Day River	Tributaries only.
1707020405	Lower John Day River/Clarno	Tributaries only.
1707020410	Lower John Day River/Scott Canyon	Indian lands.
1707020414	Lower John Day River/McDonald Ferry	Indian lands.
1707030603	Upper Deschutes River	Indian lands.
1707030604	Mill Creek	Indian lands.
1707030605	Beaver Creek	Indian lands.
1707030606	Warm Springs River	Indian lands.
1707030607	Middle Deschutes River	Indian lands.
1707030610	White River	Entire watershed.
1707030704	Mud Springs Creek	Entire watershed.
1707030705	Lower Trout Creek	Indian lands.

Lower Columbia River Steelhead ESU

There are 32 watersheds within the range of this ESU. Two watersheds received a low rating, 11 received a medium rating, and 29 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value and is the only habitat area designated in one of the high value watersheds identified above.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 23. Of the 2,673 miles (4,302 km) of habitat areas eligible for designation, approximately 227 stream miles (365 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 110 miles (177 km) of stream covered by one HCP because the benefits of exclusion outweigh the benefits of designation. Total potential estimated economic impact, with no exclusions, would be $36.6 million. The exclusions identified in Table 23 would reduce the total estimated economic impact to $29.3 million (NMFS, 2005c).

TABLE 23.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE LOWER COLUMBIA RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1707010511	Wind River	WDNR HCP lands.
1707010512	Middle Columbia/Grays Creek	Tributaries only.
1707010513	Middle Columbia/Eagle Creek	WDNR HCP lands.
1708000105	Bull Run River	Entire watershed
1708000106	Washougal River	WDNR HCP lands.
1708000107	Columbia Gorge Tributaries	WDNR HCP lands.
1708000109	Salmon Creek	Entire Watershed.
1708000205	East Fork Lewis River	WDNR HCP lands.
1708000206	Lower Lewis River	WDNR HCP lands.
1708000301	Kalama River	WDNR HCP lands.
1708000402	Upper Cowlitz River	WDNR HCP lands.
1708000403	Cowlitz Valley Frontal	WDNR HCP and West Fork Timber Company lands.
1708000501	Tilton River	Entire Watershed.
1708000503	Jackson Prairie	WDNR HCP lands.
1708000504	North Fork Toutle River	WDNR HCP lands.
1708000505	Green River	WDNR HCP lands.
1708000506	South Fork Toutle River	WDNR HCP lands.
1708000507	East Willapa	WDNR HCP lands.
1708000508	Coweeman	WDNR HCP lands.
1709000704	Abernethy Creek	Entire Watershed.

Upper Willamette River Steelhead ESU

There are 38 watersheds within the range of this ESU. Seventeen watersheds received a low rating, 6 received a medium rating, and 15 received a high rating of conservation value to the ESU (NMFS, 2005a). The lower Willamette/Columbia River rearing/migration corridor downstream of the spawning range is also considered to have a high conservation value and is the only habitat area designated in four of the high value watersheds identified above.

As a result of the balancing process for economic impacts described above, the Secretary is excluding from the designation the habitat areas shown in Table 24. Of the 1,830 miles (2,945 km) of habitat areas eligible for designation, approximately 545 stream miles (877 km) are being excluded because the economic benefits of exclusion outweigh the benefits of designation. Also, we are excluding approximately 11 miles (18 km) of stream because they overlap with Indian lands. (see *Government-to-Government Relationship With Tribes*). Total potential estimated economic impact, with no exclusions, would be $15.2 million. The exclusions identified in Table 24 would reduce the total

estimated economic impact to $10.7 million (NMFS, 2005c).

TABLE 24.—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF THE UPPER WILLAMETTE RIVER STEELHEAD ESU AND EXCLUDED FROM CRITICAL HABITAT

Watershed code	Watershed name	Area excluded
1709000701	Mill Creek/Willamette River	Tributaries only.
1709000702	Rickreall Creek	Tributaries only.
1709000703	Willamette River/Chehalem Creek	Tributaries only.
1709000704	Abernethy Creek	Tributaries only.
1709000801	Upper South Yamhill River	Indian lands.
1709000802	Willamina Creek	Entire watershed.
1709000803	Mill Creek/South Yamhill River	Entire watershed.
1709000804	Lower South Yamhill River	Tributaries only.
1709000805	Salt Creek/South Yamhill River	Entire watershed.
1709000806	North Yamhill River	Entire watershed.
1709000807	Yamhill River	Tributaries only.
1709000902	Butte Creek/Pudding River	Tributaries only.
1709000903	Rock Creek/Pudding River	Entire watershed.
1709000904	Senecal Creek/Mill Creek	Tributaries only.
1709001001	Dairy Creek	Entire watershed.
1709001003	Scoggins Creek	Entire watershed.
1709001004	Rock Creek/Tualatin River	Entire watershed.
1709001005	Lower Tualatin River	Entire watershed.

VII. Effects of Critical Habitat Designation

ESA Section 7 Consultation

Section 7(a) of the ESA requires Federal agencies, including NMFS, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this provision of the ESA are codified at 50 CFR 402. Section 7(a)(4) of the ESA requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species were listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, ESA section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, we would review actions to determine if they would destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we will also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that we believe would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect these ESUs or their critical habitat will require ESA section 7 consultation. Activities on private or state lands requiring a permit from a Federal agency, such as a permit from the COE under section 404 of the CWA, a section 10(a)(1)(B) permit from NMFS, or some other Federal action, including funding (*e.g.*, Federal Highway Administration (FHA) or Federal Emergency Management Agency (FEMA) funding), will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal and private lands that are not Federally funded, authorized, or permitted do not require section 7 consultation.

Activities Affected by Critical Habitat Designation

Section 4(b)(8) of the ESA requires that we evaluate briefly and describe, in any proposed or final regulation that designates critical habitat, those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. A wide variety of activities may affect critical habitat and, when carried out, funded, or authorized by a Federal agency, require that an ESA

section 7 consultation be conducted. Generally these include water and land management actions of Federal agencies (*e.g.*, USFS, BLM, COE, BOR, the FHA, NRCS, National Park Service (NPS), Bureau of Indian Affairs (BIA), and the Federal Energy Regulatory Commission (FERC)) and related or similar actions of other Federally regulated projects and lands, including livestock grazing allotments by the USFS and BLM; hydropower sites licensed by the FERC; dams built or operated by the COE or BOR; timber sales and other vegetation management activities conducted by the USFS, BLM, and BIA; irrigation diversions authorized by the USFS and BLM; road building and maintenance activities authorized by the FHA, USFS, BLM, NPS, and BIA; and mining and road building/maintenance activities authorized by the states of Washington, Oregon, and Idaho. Other actions of concern include dredge and fill, mining, diking, and bank stabilization activities authorized or conducted by the COE, habitat modifications authorized by the FEMA, and approval of water quality standards and pesticide labeling and use restrictions administered by the EPA.

The Federal agencies that will most likely be affected by this critical habitat designation include the USFS, BLM, BOR, COE, FHA, NRCS, NPS, BIA, FEMA, EPA, and the FERC. This designation will provide these agencies, private entities, and the public with clear notification of critical habitat designated for listed salmonids and the boundaries of the habitat. This designation will also assist these agencies and others in evaluating the potential effects of their activities on listed salmon and their critical habitat and in determining if ESA section 7 consultation with NMFS is needed.

As noted above, numerous private entities also may be affected by this critical habitat designation because of the direct and indirect linkages to an array of Federal actions, including Federal projects, permits, and funding. For example, private entities may harvest timber or graze livestock on Federal land or have special use permits to convey water or build access roads across Federal land; they may require Federal permits to armor stream banks, construct irrigation withdrawal facilities, or build or repair docks; they may obtain water from Federally funded and operated irrigation projects; or they may apply pesticides that are only available with Federal agency approval. These activities will need to be analyzed with respect to their potential to destroy or adversely modify critical habitat. In some cases, proposed activities may require modifications that may result in decreases in activities such as timber harvest and livestock and crop production. The transportation and utilities sectors may need to modify the placement of culverts, bridges and utility conveyances (*e.g.*, water, sewer and power lines) to avoid barriers to fish migration. Developments occurring in or near salmon streams (*e.g.*, marinas, residential, or industrial facilities) that require Federal authorization or funding may need to be altered or built in a manner that ensures that critical habitat is not destroyed or adversely modified as a result of the construction, or subsequent operation, of the facility. These are just a few examples of potential impacts, but it is clear that the effects will encompass numerous sectors of private and public activities. If you have questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat, contact NMFS (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

VIII. Required Determinations

Administrative Procedure Act

This rulemaking covers over 20,000 miles of streams across three states. Unlike the previous critical habitat designations it contains several thousand geographic points identifying the extent of the designations. The proposed rule generated substantial public interest. In addition to comments received during four public hearings we received a total of 5,230 written comments (5,111 of these in the form of email with nearly identical language). Many commenters expressed concerns about how the rule would be implemented. Additionally, our experience in implementing the 2000 critical habitat designations suggests that the Administrative Procedure Act (APA) and critical habitat regulations' minimum 30-day delay in effective date nor the 60-day delay required by the Congressional Review Act for a ''major rule'' such as this are sufficient for this rule. In view of the geographic scope of this rule, our prior experience with a rule of this scope, the current level of public interest in this rule, and in order to provide for efficient administration of the rule once effective, we are providing a 120-day delay in effective date. As a result this rule will be effective on January 2, 2006. This will allow us the necessary time to provide for outreach to and interaction with the public, to minimize confusion and educate the public about activities that may be affected by the rule, and to work with Federal agencies and applicants to provide for an orderly transition in implementing the rule.

Regulatory Planning and Review

In accordance with E.O. 12866, this document is a significant rule and has been reviewed by the OMB. As noted above, we have prepared several reports to support the exclusion process under section 4(b)(2) of the ESA. The economic costs of the critical habitat designations are described in our economic report (NMFS, 2005d). The benefits of the designations are described in the CHART report (NMFS, 2005a) and the 4(b)(2) report (NMFS, 2005c). The CHART report uses a biologically-based ranking system for gauging the benefits of applying section 7 of the ESA to particular watersheds. Because data are not available to express these benefits in monetary terms, we have adopted a cost-effectiveness framework, as outlined in the 4(b)(2) report (NMFS, 2005c). This approach is in accord with OMB's guidance on regulatory analysis (U.S. Office of Management and Budget. Circular A–4, Regulatory Analysis, September 17, 2003). By taking this approach, we seek to designate sufficient critical habitat to meet the biological goal of the ESA while imposing the least burden on society, as called for by E.O. 12866.

In assessing the overall cost of critical habitat designation for the 12 salmon and steelhead ESUs addressed in this rule, the annual total impact figures given in the final economic analysis (NMFS, 2005d) cannot be added together to obtain an aggregate annual impact. Because some watersheds are included in more than one ESU, a simple summation would entail duplication, resulting in an overestimate. Accounting for this duplication, the aggregate annual coextensive economic impact of the 12 critical habitat designations is $201.7 million (in contrast to a $243.6 million aggregate annual economic impact from designating *all* areas considered in the 4(b)(2) process for these ESUs). These amounts include impacts that are coextensive with the implementation of the jeopardy requirement of section 7 (NMFS, 2005d).

In addition, there are approximately $500–700 million in annual costs related to salmon and steelhead conservation borne by the FCRPS and other major hydropower projects in the Pacific Northwest. The proportion of these costs attributable to ESA section 7 implementation is unknown, but the share of incremental costs from critical habitat designation alone is unlikely to be significant.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). We have prepared a final regulatory flexibility analysis, and this document is available upon request (see **ADDRESSES**). This analysis estimates that the number of regulated small entities potentially affected by this rulemaking ranges from zero to 2,945 depending on the ESU. The estimated coextensive costs of section 7 consultation incurred by small entities is estimated to range from $2,375 to $59.4 million depending on the ESU. As described in the analysis, we considered various alternatives for designating critical habitat for these 12 ESUs. We considered and rejected the alternative of not designating critical habitat for any of the ESUs because such an approach did not meet the legal requirements of the ESA. We also examined and rejected an alternative in which all the potential critical habitat of the 12 salmon and steelhead ESUs is designated (*i.e.*, no areas are excluded) because many of the areas considered to have a low conservation value also had relatively high economic impacts that might be mitigated by excluding those areas from designation. A third alternative we examined and rejected would exclude all habitat areas with a low or medium conservation value. While this alternative furthers the goal of reducing economic impacts, we could not make a determination that the benefits of excluding all habitat areas with low and medium conservation value outweighed the benefits of designation. Moreover, for some habitat areas the incremental economic benefit from excluding that area is relatively small. Therefore, after considering these alternatives in the context of the section 4(b)(2) process of weighing benefits of exclusion against benefits of designation, we determined that the current approach to designation (*i.e.*, designating some but not all areas with low or medium conservation value) provides an appropriate balance of conservation and economic mitigation and that excluding the areas identified in this rulemaking would not result in extinction of the ESUs. It is estimated that small entities will save from zero to $18.0 million in compliance costs, depending on the ESU, due to the exclusions made in these final designations.

As noted above, we will continue to study alternative approaches in future rulemakings designating critical habitat. As part of that assessment, we will examine alternative methods for analyzing the economic impacts of designation on small business entities, which will inform our Regulatory Flexibility Analysis as well as our analysis under section 4(b)(2) of the ESA.

E.O. 13211

On May 18, 2001, the President issued an Executive Order (E.O.) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule may be a significant regulatory action under E.O. 12866. We have determined, however, that the energy effects of the regulatory action are unlikely to exceed the energy impact thresholds identified in E.O. 13211.

In the final rule we note that nine of the ESUs addressed in these critical habitat designations occupy the Columbia River and four of these migrate through one or more of the hydropower dams comprising the FCRPS, as well as through other major hydropower projects on the Columbia River. While the annual impacts of salmon and steelhead conservation measures on these projects is in the range of $500–700 million, the proper focus under E.O. 13211 is on the incremental impacts of critical habitat designation. The available data do not allow us to separate precisely these incremental impacts from the impacts of all conservation measures on energy production and costs. There is historical evidence, however, that the ESA section 7 jeopardy standard alone is capable of imposing all of these costs (NMFS, 2005h). While this evidence is indirect, it is sufficient to draw the conclusion that the designation of critical habitat for the 12 West Coast salmon and steelhead ESUs does not significantly affect energy supply, distribution, or use.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

(a) This final rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon state, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the state, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children 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 ESA, 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 to state governments.

(b) Due to current public knowledge of salmon protection and the prohibition against take of these species both within and outside of the designated areas, we do not anticipate that this final rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Takings

In accordance with E.O. 12630, this final rule does not have significant takings implications. A takings implication assessment is not required. The designation of critical habitat affects only Federal agency actions. This final rule will not increase or decrease the current restrictions on private property concerning take of salmon. As noted above, due to widespread public knowledge of salmon protection and the prohibition against take of the species both within and outside of the designated areas, we do not anticipate that property values will be affected by these critical habitat designations. While real estate market values may temporarily decline following designation, due to the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term (NMFS, 2005d). Additionally, critical habitat designation does not preclude development of HCPs and issuance of incidental take permits. Owners of areas that are included in the designated critical habitat will continue to have the opportunity to use their property in ways consistent with the survival of listed salmon.

Federalism

In accordance with E.O. 13132, this final rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of Commerce policies, we requested information from, and coordinated development of, this critical habitat designation with appropriate state resource agencies in Washington, Oregon, and Idaho. These designations may have some benefit to the states and local resource agencies in that the areas essential to the conservation of the species are more clearly defined, and the PCEs of the habitat necessary to the survival of the species are specifically identified. While making these clarifications does not alter where and what Federally sponsored activities may occur, it may assist local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

One commenter asserted that we failed to properly conduct and provide a Civil Justice Reform analysis pursuant to E.O. 12988, the Department of Commerce has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the E.O. We are designating critical habitat in accordance with the provisions of the ESA. This final rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of the 12 salmon and steelhead ESUs.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This final rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. This final rule will not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that we need not prepare environmental analyses as provided for under the NEPA of 1969 for critical habitat designations made pursuant to the ESA. See *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

Government-to-Government Relationship With Tribes

As a means of recognizing the responsibilities and relationship between the United States and Indian tribes, the Secretaries of Commerce and Interior issued the June 5, 1997, Secretarial Order entitled ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (Secretarial Order). The Secretarial Order clarifies the responsibilities of NMFS and the USFWS when carrying out authorities under the ESA and requires that they consult with, and seek participation of, the affected Indian tribes to the maximum extent practicable. The Secretarial Order further provides that the Services * * * ''shall consult with the affected Indian tribe(s) when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands, or the exercise of tribal rights. Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species.'' Pursuant to the Secretarial Order and in response to written and verbal comments provided by various tribes in Washington, Oregon, and Idaho, we met and corresponded with many of the affected tribes concerning the inclusion of Indian lands in final critical habitat designations. These discussions resulted in significant clarifications regarding the tribes' general position to exclude their lands, as well as specific issues regarding our interpretation of Indian lands under the Secretarial Order.

As described above (see Exclusions Based on Impacts to Tribes) and in our assessment of Indian lands associated with this final rulemaking (NMFS, 2005g), we have determined that Indian lands should be excluded from the final critical habitat designations for these 12 ESUs of salmon and steelhead. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including: (1) Lands held in trust by the United States for the benefit of any Indian tribe; (2) land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation; (3) fee lands, either within or outside the reservation boundaries, owned by the tribal government; and (4) fee lands within the reservation boundaries owned by individual Indians. We have determined that these exclusions, together with the other exclusions described in this rule, will not result in extinction of the species (NMFS, 2005c).

IX. References Cited

A complete list of all references cited in this rulemaking can be found on our website at *http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm* and is available upon request from the NMFS office in Portland, OR (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: August 12, 2005.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, we amend part 226, title 50 of the Code of Federal Regulations as set forth below:

PART 226–[AMENDED]

■ 1. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 2. Add § 226.212 to read as follows:

§ 226.212 Critical habitat for 12 Evolutionarily Significant Units (ESUs) of salmon and steelhead (Oncorhynchus spp.) in Washington, Oregon and Idaho.

Critical habitat is designated in the following states and counties for the following ESUs as described in paragraph (a) of this section, and as further described in paragraphs (b) through (g) of this section. The textual descriptions of critical habitat for each ESU are included in paragraphs (i) through (t) of this section, and these descriptions are the definitive source for determining the critical habitat boundaries. General location maps are provided at the end of each ESU description (paragraphs (i) through (t) of this section) and are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) Critical habitat is designated for the following ESUs in the following states and counties:

ESU	State—Counties
(1) Puget Sound chinook salmon	*WA*—Clallam, Jefferson, King, Mason, Pierce, Skagit, Snohomish, Thurston, and Whatcom.
(2) Lower Columbia River chinook salmon	(i) *OR*—Clackamas, Clatsop, Columbia, Hood River, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.
(3) Upper Willamette River chinook salmon	(i) *OR*—Benton, Clackamas, Clatsop, Columbia, Lane, Linn, Marion, Multnomah, Polk, and Yamhill. (ii) *WA*—Clark, Cowlitz, Pacific, and Wahkiakum.
(4) Upper Columbia River spring-run chinook salmon	(i) *OR*—Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Umatilla, and Wasco. (ii) *WA*—Benton, Chelan, Clark, Cowlitz, Douglas, Franklin, Grant, Kittitas, Klickitat, Okanogan, Pacific, Skamania, Wahkiakum, Walla Walla, and Yakima.
(5) Hood Canal summer-run chum salmon	*WA*—Clallam, Jefferson, Kitsap, and Mason.
(6) Columbia River chum salmon	(i) *OR*—Clatsop, Columbia, Hood River, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.
(7) Ozette Lake sockeye salmon	*WA*—Clallam.
(8) Upper Columbia River steelhead	(i) *OR*—Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Umatilla, and Wasco. (ii) *WA*—Adams, Benton, Chelan, Clark, Cowlitz, Douglas, Franklin, Grant, Kittitas, Klickitat, Okanogan, Pacific, Skamania, Wahkiakum, Walla Walla, and Yakima.
(9) Snake River Basin steelhead	(i) *ID*—Adams, Blaine, Clearwater, Custer, Idaho, Latah, Lemhi, Lewis, Nez Perce, and Valley. (ii) *OR*—Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, and Wasco. (iii) *WA*—Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Walla Walla, Wahkiakum, and Whitman.
(10) Middle Columbia River steelhead	(i) *OR*—Clatsop, Columbia, Crook, Gilliam, Grant, Hood River, Jefferson, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler. (ii) *WA*—Benton, Clark, Cowlitz, Columbia, Franklin, King, Kittitas, Klickitat, Lewis, Pacific, Pierce, Skamania, Wahkiakum, Walla Walla, and Yakima.
(11) Lower Columbia River steelhead	(i) *OR*—Clackamas, Clatsop, Columbia, Hood River, Marion, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.
(12) Upper Willamette River steelhead	(i) *OR*—Benton, Clackamas, Clatsop, Columbia, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill. (ii) *WA*—Clark, Cowlitz, Pacific, and Wahkiakum.

(b) *Critical habitat boundaries.* Critical habitat includes the stream channels within the designated stream reaches, and includes a lateral extent as defined by the ordinary high-water line (33 CFR 319.11). In areas where ordinary high-water line has not been defined, the lateral extent will be defined by the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series. Critical habitat in lake areas is defined by the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of ordinary high water, whichever is greater. In estuarine and nearshore marine areas critical habitat includes areas contiguous with the shoreline from the line of extreme high water out to a depth no greater than 30 meters relative to mean lower low water.

(c) *Primary constituent elements.* Within these areas, the primary constituent elements essential for the conservation of these ESUs are those sites and habitat components that support one or more life stages, including:

(1) Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development;

(2) Freshwater rearing sites with:

(i) Water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility;

(ii) Water quality and forage supporting juvenile development; and

(iii) Natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic

vegetation, large rocks and boulders, side channels, and undercut banks.

(3) Freshwater migration corridors free of obstruction and excessive predation with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival;

(4) Estuarine areas free of obstruction and excessive predation with:

(i) Water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater;

(ii) Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels; and

(iii) Juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.

(5) Nearshore marine areas free of obstruction and excessive predation with:

(i) Water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and

(ii) Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels.

(6) Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation.

(d) *Exclusion of Indian lands.* Critical habitat does not include habitat areas on Indian lands. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including:

(1) Lands held in trust by the United States for the benefit of any Indian tribe;

(2) Land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation;

(3) Fee lands, either within or outside the reservation boundaries, owned by the tribal government; and

(4) Fee lands within the reservation boundaries owned by individual Indians.

(e) *Land owned or controlled by the Department of Defense.* Critical habitat does not include any areas subject to an approved Integrated Natural Resource Management Plan or associated with Department of Defense easements or right-of-ways. In areas within Navy security zones identified at 33 CFR 334 that are outside the areas described above, critical habitat is only designated within a narrow nearshore zone from the line of extreme high tide down to the line of mean lower low water. The specific sites addressed include:

(1) Naval Submarine Base, Bangor;

(2) Naval Undersea Warfare Center, Keyport;

(3) Naval Ordnance Center, Port Hadlock (Indian Island);

(4) Naval Radio Station, Jim Creek;

(5) Naval Fuel Depot, Manchester;

(6) Naval Air Station Whidbey Island;

(7) Naval Air Station, Everett;

(8) Bremerton Naval Hospital;

(9) Fort Lewis (Army);

(10) Pier 23 (Army);

(11) Yakima Training Center (Army);

(12) Puget Sound Naval Shipyard;

(13) Naval Submarine Base Bangor security zone;

(14) Strait of Juan de Fuca naval air-to-surface weapon range, restricted area;

(15) Hood Canal and Dabob Bay naval non-explosive torpedo testing area;

(16) Strait of Juan de Fuca and Whidbey Island naval restricted areas;

(17) Admiralty Inlet naval restricted area;

(18) Port Gardner Naval Base restricted area;

(19) Hood Canal naval restricted areas;

(20) Port Orchard Passage naval restricted area;

(21) Sinclair Inlet naval restricted areas;

(22) Carr Inlet naval restricted areas;

(23) Dabob Bay/Whitney Point naval restricted area; and

(24) Port Townsend/Indian Island/Walan Point naval restricted area.

(f) *Land subject to the Washington Department of Natural Resources Habitat Conservation Plan.* Critical habitat is excluded on lands covered by the incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA to the Washington Department of Natural Resources.

(g) *Land subject to the Green Diamond Company Habitat Conservation Plan.* Critical habitat is excluded on lands covered by the incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA to the Green Diamond Resources Company (formerly Simpson Timber Company).

(h) *Land subject to the West Fork Timber Company Habitat Conservation Plan.* Critical habitat is excluded on lands covered by the incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA to the West Fork Timber Company (formerly Murray Pacific Corporation).

(i) Puget Sound Chinook Salmon (Oncorhynchus tshawytscha). Critical habitat is designated to include the areas defined in the following subbasins:

(1) Nooksack Subbasin 17110004—(i) *Upper North Fork Nooksack River Watershed 1711000401.* Outlet(s) = North Fork Nooksack River (Lat 48.9055, Long –121.9886) upstream to endpoint(s) in: Boyd Creek (48.8998, –121.8640); Canyon Creek (48.9366, –121.9451); Cascade Creek (48.8996, –121.8621); Cornell Creek (48.8882, –121.9594); Deadhorse Creek (48.9024, –121.8359); Gallop Creek (48.8849, –121.9447); Glacier Creek (48.8197, –121.8931); Hedrick Creek (48.8953, –121.9705); Thompson Creek (48.8837, –121.9028); Wells Creek (48.8940, –121.7976).

(ii) *Middle Fork Nooksack River Watershed 1711000402.* Outlet(s) = Middle Fork Nooksack River (Lat 48.8342, Long –122.1540) upstream to endpoint(s) in: Canyon Creek (48.8374, –122.1198); Clearwater Creek (48.7841, –122.0293); Middle Fork Nooksack River (48.7249, –121.8999); Porter Creek (48.7951, –122.1098); Sister Creek (48.7492, –121.9736); Unnamed (48.7809, –122.1157); Unnamed (48.7860, –122.1214); Warm Creek (48.7559, –121.9741).

(iii) *South Fork Nooksack River Watershed 1711000403.* Outlet(s) = South Fork Nooksack River (Lat 48.8095, Long –122.2026) upstream to endpoint(s) in: Black Slough (48.7715, –122.1931); Cavanaugh Creek (48.6446, –122.1094); Deer Creek (48.6041, –122.0912); Edfro Creek (48.6607, –122.1206); Fobes Creek (48.6230, –122.1139); Hard Scrabble Falls Creek (48.7601, –122.2273); Howard Creek (48.6118, –121.9639); Hutchinson Creek (48.7056, –122.1663); Jones Creek (48.7186, –122.2130); McCarty Creek (48.7275, –122.2188); Plumbago Creek (48.6088, –122.0949); Pond Creek (48.6958, –122.1651); Skookum Creek (48.6871, –122.1029); South Fork Nooksack River (48.6133, –121.9000); Standard Creek (48.7444, –122.2191); Sygitowicz Creek (48.7722, –122.2269); Unnamed (48.6048, –121.9143); Unnamed (48.6213, –122.1039); Unnamed (48.7174, –122.1815); Unnamed (48.7231, –122.1968); Unnamed (48.7843, –122.2188).

(iv) *Lower North Fork Nooksack River Watershed 1711000404.* Outlet(s) = Nooksack River (Lat 48.8711, Long –122.3227) upstream to endpoint(s) in: Anderson Creek (48.8088, –122.3410); Boulder Creek (48.9314, –122.0258); Coal Creek (48.8889, –122.1506); Kendall Creek (48.9251, –122.1455); Kenney Creek (48.8510, –122.1368); Macaulay Creek (48.8353, –122.2345); Maple Creek (48.9262, –122.0751); Mitchell Creek (48.8313, –122.2174); North Fork Nooksack River (48.9055, –121.9886); Racehorse Creek (48.8819,

–122.1272); Smith Creek (48.8439, –122.2544); Unnamed (48.8103, –122.1855); Unnamed (48.9002, –122.1205); Unnamed (48.9040, –122.0875); Unnamed (48.9131, –122.0127); Unnamed (48.9158, –122.0091); Unnamed (48.9162, –122.0615); Unnamed (48.9200, –122.0463); Wildcat Creek (48.9058, –121.9995); Deer Creek (48.8439, –122.4839).

(v) *Nooksack River Watershed 1711000405.* Outlet(s) = Lummi River (Lat 48.8010, Long –122.6582); Nooksack River (48.7737, –122.5986); Silver Creek (48.7786, –122.5635); Slater Slough (48.7759, –122.6029); Unnamed (48.7776, –122.5708); Unnamed (48.7786, –122.5677); Unnamed (48.7973, –122.6717); Unnamed (48.8033, –122.6771) upstream to endpoint(s) in: Fishtrap Creek (49.0025, –122.4053); Fourmile Creek (48.8890, –122.4213); Lummi River (48.8198, –122.6049); Nooksack River (48.8711, –122.3227); Pepin Creek (49.0024, –122.4724); Slater Slough (48.7778, –122.6041); Tenmile Creek (48.8457, –122.3661); Unnamed (48.8191, –122.5705); Unnamed (48.8453, –122.6071); Unnamed (48.8548, –122.4749); Unnamed (48.9609, –122.5312); Unnamed (48.9634, –122.3928); Unnamed (49.0024, –122.4730); Unnamed (49.0025, –122.5218).

(2) Upper Skagit Subbasin 17110005—(i) *Skagit River/Gorge Lake Watershed 1711000504.* Outlet(s) = Skagit River (Lat 48.6725, Long –121.2633) upstream to endpoint(s) in: Goodell Creek (48.6890, –121.2718); Skagit River (48.6763, –121.2404).

(ii) *Skagit River/Diobsud Creek Watershed 1711000505.* Outlet(s) = Skagit River (Lat 48.5218, Long –121.4315) upstream to endpoint(s) in: Bacon Creek (48.6456, –121.4244); Diobsud Creek (48.5761, –121.4309); Falls Creek (48.6334, –121.4258); Skagit River (48.6725, –121.2633).

(iii) *Cascade River Watershed 1711000506.* Outlet(s) = Cascade River (Lat 48.5218, Long –121.4315) upstream to endpoint(s) in: Found Creek (48.4816, –121.2437); Kindy Creek (48.4613, –121.2094); Marble Creek (48.5398, –121.2612); North Fork Cascade River (48.4660, –121.1641); South Fork Cascade River (48.4592, –121.1494).

(iv) *Skagit River/Illabot Creek Watershed 1711000507.* Outlet(s) = Skagit River (Lat 48.5333, Long –121.7370) upstream to endpoint(s) in: Illabot Creek (48.4498, –121.4551); Jackman Creek (48.5294, –121.6957); Skagit River (48.5218, –121.4315); Unnamed (48.5013, –121.6598).

(3) Sauk Subbasin 17110006—(i) *Upper Sauk River Watershed 1711000601.* Outlet(s) = Sauk River (Lat 48.1731, Long –121.4714) upstream to endpoint(s) in: Camp Creek (48.1559, –121.2909); North Fork Sauk River (48.0962, –121.3710); Owl Creek (48.1623, –121.2948); South Fork Sauk River (48.0670, –121.4088); Swift Creek (48.1011, –121.3975); Unnamed (48.1653, –121.3288); White Chuck River (48.1528, –121.2645).

(ii) *Upper Suiattle River Watershed 1711000602.* Outlet(s) = Suiattle River (Lat 48.2586, Long –121.2237) upstream to endpoint(s) in: Downey Creek (48.2828, –121.2083); Milk Creek (48.2207, –121.1634); Suiattle River (48.2211, –121.1609); Sulphur Creek (48.2560, –121.1773); Unnamed (48.2338, –121.1792).

(iii) *Lower Suiattle River Watershed 1711000603.* Outlet(s) = Suiattle River (Lat 48.3384, Long –121.5482) upstream to endpoint(s) in: Big Creek (48.3435, –121.4416); Buck Creek (48.2753, –121.3268); Circle Creek (48.2555, –121.3395); Lime Creek (48.2445, –121.2933); Straight Creek (48.2594;–121.4009); Suiattle River (48.2586, –121.2237); Tenas Creek (48.3371, –121.4304).

(iv) *Lower Sauk River Watershed 1711000604.* Outlet(s) = Sauk River (Lat 48.4821, Long –121.6060) upstream to endpoint(s) in: Dan Creek (48.2702, –121.5473); Sauk River (48.1731, –121.4714); Unnamed (48.2247, –121.5826); Unnamed (48.3187, –121.5480).

(4) Lower Skagit Subbasin 17110007—(i) *Middle Skagit River/Finney Creek Watershed 1711000701.* Outlet(s) = Skagit River (Lat 48.4891, Long –122.2178) upstream to endpoint(s) in: Alder Creek (48.5280, –121.9498); Day Creek (48.4689, –122.0216); Finney Creek (48.4655, –121.6858); Grandy Creek (48.5510, –121.8621); Hansen Creek (48.5600, –122.2069); Jims Slough (48.5274, –122.0227); Jones Creek (48.5418, –122.0494); Mannser Creek (48.5260, –122.0430); Muddy Creek (48.5278, –122.0007); Pressentin Creek (48.5099, –121.8449); Skagit River (48.5333, –121.7370); Sorenson Creek (48.4875, –122.1029); Unnamed (48.4887, –122.0747); Unnamed (48.5312, –122.0149); Wiseman Creek (48.5160, –122.1286).

(ii) *Lower Skagit River/Nookachamps Creek Watershed 1711000702.* Outlet(s) = Browns Slough (Lat 48.3305, Long –122.4194); Freshwater Slough (48.3109, –122.3883); Hall Slough (48.3394, –122.4426); Isohis Slough (48.2975, –122.3711); North Fork Skagit River (48.3625, –122.4689); South Fork Skagit River (48.2920, –122.3670); Unnamed (48.3085, –122.3868); Unnamed (48.3831, –122.4842) upstream to endpoint(s) in: Britt Slough (48.3935, –122.3571); Browns Slough (48.3411, –122.4127); East Fork Nookachamps Creek (48.4044, –122.1790); Hall Slough (48.3437, –122.4376); Mundt Creek (48.4249, –122.2007); Skagit River (48.4891, –122.2178); Unnamed (48.3703, –122.3081); Unnamed (48.3827, –122.1893); Unnamed (48.3924, –122.4822); Walker Creek (48.3778, –122.1899).

(5) Stillaguamish Subbasin 17110008—(i) *North Fork Stillaguamish River Watershed 1711000801.* Outlet(s) = North Fork Stillaguamish River (Lat 48.2037, Long –122.1256) upstream to endpoint(s) in: Ashton Creek (48.2545, –121.6708); Boulder River (48.2624, –121.8090); Deer Creek (48.2835, –121.9255); French Creek (48.2534, –121.7856); Furland Creek (48.2624, –121.6749); Grant Creek (48.2873, –122.0118); North Fork Stillaguamish River (48.3041, –121.6360); Rollins Creek (48.2908, –121.8441); Squire Creek (48.2389, –121.6374); Unnamed (48.2393, –121.6285); Unnamed (48.2739, –121.9948).

(ii) *South Fork Stillaguamish River Watershed 1711000802.* Outlet(s) = South Fork Stillaguamish River (Lat 48.2037, Long –122.1256) upstream to endpoint(s) in: Jim Creek (48.2230, –121.9483); North Fork Canyon Creek (48.1697, –121.8194); Siberia Creek (48.1731, –122.0377); South Fork Canyon Creek (48.1540, –121.7840); South Fork Stillaguamish River (48.0454, –121.4819); Unnamed (48.1463, –122.0162).

(iii) *Lower Stillaguamish River Waterhed 1711000803.* Outlet(s) = Stillaguamish River (Lat 48.2385, Long –122.3749); Unnamed (48.1983, –122.3579) upstream to endpoint(s) in: Armstrong Creek (48.2189, –122.1347); Pilchuck Creek (48.2983, –122.1672); Stillaguamish River (48.2037, –122.1256).

(6) Skykomish Subbasin 17110009—(i) *Tye and Beckler River Watershed 1711000901.* Outlet(s) = South Fork Skykomish River (Lat 47.7147, Long –121.3393) upstream to endpoint(s) in: East Fork Foss River (47.6522, –121.2792); Rapid River (47.8131, –121.2470) Tye River (47.7172, –121.2254) Unnamed (47.8241, –121.2979); West Fork Foss River (47.6444, –121.2972).

(ii) *Skykomish River Forks Watershed 1711000902.* Outlet(s) = North Fork Skykomish River (Lat 47.8133, Long –121.5782) upstream to endpoint(s) in: Bridal Veil Creek (47.7987, –121.5597);

Lewis Creek (47.8223, –121.5160); Miller River (47.7018, –121.3950); Money Creek (47.7208, –121.4062); North Fork Skykomish River (47.9183, –121.3073); South Fork Skykomish River (47.7147, –121.3393); Unnamed (47.7321, –121.4176); Unnamed (47.8002, –121.5548).

(iii) *Skykomish River/Wallace River Watershed 1711000903*. Outlet(s) = Skykomish River (Lat 47.8602, Long–121.8190) upstream to endpoint(s) in: Deer Creek (47.8191, –121.5805); Olney Creek (47.8796, –121.7163); Proctor Creek (47.8216, –121.6460); Skykomish River (47.8133, –121.5782); Unnamed (47.8507, –121.8010); Wagleys Creek (47.8674, –121.7972); Wallace River (47.8736, –121.6491).

(iv) *Sultan River Watershed 1711000904*. Outlet(s) = Sultan River (Lat 47.8602, Long –121.8190) upstream to endpoint(s) in: Sultan River (47.9598, –121.7951).

(v) *Skykomish River/Woods Creek Watershed 1711000905*. Outlet(s) = Skykomish River (Lat 47.8303, Long –122.0451) upstream to endpoint(s) in: Elwell Creek (47.8038, –121.8524); Skykomish River (47.8602, –121.8190); Unnamed (47.8890, –121.8637); West Fork Woods Creek (47.9627, –121.9707); Woods Creek (47.8953, –121.8742); Youngs Creek (47.8081, –121.8332).

(7) Snoqualmie Subbasin 17110010—(i) *Middle Fork Snoqualmie River Watershed 1711001003*. Outlet(s) = Snoqualmie River (Lat 47.6407, Long –121.9261) upstream to endpoint(s) in: Canyon Creek (47.5837, –121.9623); Deep Creek (47.4764, –121.8905); Griffin Creek (47.6164, –121.9014); Lake Creek (47.5036, –121.9035); Patterson Creek (47.6276, –121.9855); Raging River (47.4795, –121.8691); Snoqualmie River (47.5415, –121.8362); Tokul Creek (47.5563, –121.8285).

(ii) *Lower Snoqualmie River Watershed 1711001004*. Outlet(s) = Snoqualmie River (Lat 47.8303, Long –122.0451) upstream to endpoint(s) in: Cherry Creek (47.7465, –121.8953); Margaret Creek (47.7547, –121.8933); North Fork Tolt River (47.7060, –121.7957); Snoqualmie River (47.6407, –121.9261); South Fork Tolt River (47.6969, –121.7861); Tuck Creek (47.7442, –122.0032); Unnamed (47.6806, –121.9730); Unnamed (47.6822, –121.9770); Unnamed (47.7420, –122.0084); Unnamed (47.7522, –121.9745); Unnamed (47.7581, –121.9586).

(8) Snohomish Subbasin 17110011—(i) *Pilchuck River Watershed 1711001101*. Outlet(s) = Pilchuck River (Lat 47.9013, Long –122.0917) upstream to endpoint(s) in: Pilchuck River (48.0052, –121.7718).

(ii) *Snohomish River Watershed 1711001102*. Outlet(s) = Quilceda Creek (Lat 48.0556, Long –122.1908); Skykomish River (48.0173, –122.1877); Steamboat Slough (48.0365, –122.1814); Union Slough (48.0299, –122.1794); Unnamed (48.0412, –122.1723) upstream to endpoint(s) in: Allen Creek (48.0767, –122.1404); Quilceda Creek (48.1124, –122.1540); Skykomish River (47.8303, –122.0451); Unnamed (47.9545, –122.1969); Unnamed (47.9777, –122.1632); Unnamed (48.0019, –122.1283); Unnamed (48.0055, –122.1303); Unnamed (48.1330, –122.1472).

(9) Lake Washington Subbasin 17110012—(i) *Cedar River Watershed 1711001201*. Outlet(s) = Cedar River (Lat 47.5003, Long –122.2146) upstream to endpoint(s) in: Cedar River (47.4192, –121.7805); Rock Creek (47.3673, –122.0132); Unnamed (47.4092, –122.0358); Webster Creek (47.3857, –121.9845).

(ii) *Lake Washington Watershed 1711001203*. Outlet(s) = Lake Washington (Lat 47.6654, Long –122.3960) upstream to endpoint(s) in: Cedar River (47.5003, –122.2146); Sammamish River (47.7543, –122.2465).

(10) Duwamish Subbasin 17110013—(i) *Upper Green River Watershed 1711001301*. Outlet(s) = Green River (Lat 47.2234, Long –121.6081) upstream to endpoint(s) in: Friday Creek (47.2204, –121.4559); Intake Creek (47.2058, –121.4049); McCain Creek (47.2093, –121.5292); Sawmill Creek (47.2086, –121.4675); Smay Creek (47.2508, –121.5872); Snow Creek (47.2607, –121.4046); Sunday Creek (47.2587, –121.3659); Tacoma Creek (47.1875, –121.3630); Unnamed (47.2129, –121.4579).

(ii) *Middle Green River Watershed 1711001302*. Outlet(s) = Green River (Lat 47.2911, Long –121.9714) upstream to endpoint(s) in: Bear Creek (47.2774, –121.7990); Cougar Creek (47.2439, –121.6442); Eagle Creek (47.3051, –121.7219); Gale Creek (47.2644, –121.7085); Green River (47.2234, –121.6081); Piling Creek (47.2820, –121.7553); Sylvester Creek (47.2457, –121.6537); Unnamed (47.2360, –121.6333).

(iii) *Lower Green River Watershed 1711001303*. Outlet(s) = Duwamish River (Lat 47.5113, Long –122.2951) upstream to endpoint(s) in: Big Soos Creek (47.4191, –122.1599); Burns Creek (47.2779, –122.1087); Covington Creek (47.3341, –122.0399); Crisp Creek (47.2897, –122.0590); Green River (47.2911, –121.9714); Jenkins Creek (47.3791, –122.0899); Little Soos Creek (47.4031, –122.1235); Mill Creek (47.3263, –122.2455); Newaukum Creek (47.2303, –121.9518); Unnamed (47.2765, –121.9730); Unnamed (47.2891, –122.1557); Unnamed (47.3007, –122.1774); Unnamed (47.3250, –122.1961); Unnamed (47.3464, –122.2397); Unnamed (47.3751, –122.2648); Unnamed (47.4046, –122.2134); Unnamed (47.4525, –122.2354); Unnamed (47.4618, –122.2315); Unnamed (47.4619, –122.2554); Unnamed (47.4876, –122.2781).

(11) Puyallup Subbasin 17110014—(i) *Upper White River Watershed 1711001401*. Outlet(s) = White River (Lat 47.1588, Long –121.6587) upstream to endpoint(s) in: Greenwater River (47.1204, –121.5055); Huckleberry Creek (47.0612, –121.6033); Pinochle Creek (47.0478, –121.7043); Unnamed (46.9935, –121.5295); West Fork White River (47.0483, –121.6916); Wrong Creek (47.0403, –121.6999).

(ii) *Lower White River Watershed 1711001402*. Outlet(s) = White River (Lat 47.2001, Long –122.2579) upstream to endpoint(s) in: Boise Creek (47.1958, –121.9467); Camp Creek (47.1430, –121.7012); Clearwater River (47.0852, –121.7823); Unnamed (47.1509, –121.7236); Unnamed (47.2247, –122.1072); Unnamed (47.2307, –122.1079); Unnamed (47.2383, –122.2234); Unnamed (47.2498, –122.2346); White River (47.1588, –121.6587).

(iii) *Carbon River Watershed 1711001403*. Outlet(s) = Carbon River (Lat 47.1308, Long –122.2315) upstream to endpoint(s) in: Carbon River (46.9965, –121.9198); South Fork South Prairie Creek (47.1203, –121.9963); Voight Creek (47.0751, –122.1285); Wilkeson Creek (47.0972, –122.0245).

(iv) *Upper Puyallup River Watershed 1711001404*. Outlet(s) = Puyallup River (Lat 47.1308, Long –122.2315) upstream to endpoint(s) in: Deer Creek (46.8547, –121.9680); Kapowsin Creek (46.9854, –122.2008); Kellog Creek (46.9164, –122.0652); Mowich River (46.9209, –121.9739); Rushingwater Creek (46.8971, –121.9439); Unnamed (46.8867, –122.0194); Unnamed (46.8899, –121.9657).

(v) *Lower Puyallup River Watershed 1711001405*. Outlet(s) = Hylebos Creek (Lat 47.2611, Long –122.3591); Puyallup River (47.2501, –122.4131) upstream to endpoint(s) in: Canyonfalls Creek (47.1421, –122.2186); Clarks Creek (47.1757.–122.3168); Clear Creek (47.2187, –122.3727); Fennel Creek (47.1495, –122.1849); Puyallup River (47.1308, –122.2315); Unnamed (47.1779, –122.1992); Unnamed (47.1799, –122.3066); Unnamed (47.1928, –122.3371); Unnamed

(47.2723, –122.3216); West Hylebos Creek (47.2736, –122.3289).

(12) Nisqually Subbasin 17110015—(i) *Mashel/Ohop Watershed 1711001502.* Outlet(s) = Nisqually River (Lat 46.8646, Long –122.4776) upstream to endpoint(s) in: Little Mashel River (46.8504, –122.2724); Lynch Creek (46.8760, –122.2625); Mashel River (46.8431, –122.1205); Nisqually River (46.8303, –122.3225); Ohop Creek (46.9264, –122.2603); Powell Creek (46.8528, –122.4505); Tanwax Creek (46.8630, –122.4549); Twentyfive Mile Creek (46.9274, –122.2558).

(ii) *Lowland Watershed 1711001503.* Outlet(s) = McAllister Creek (Lat 47.1120, Long –122.7215); Nisqually River (47.1110, –122.7026); Unnamed (47.0071, –122.6556); Yelm Creek (46.9712, –122.6263) upstream to endpoint(s) in: Horn Creek (46.9042, –122.4776); McAllister Creek (47.0299, –122.7236); Nisqually River (46.8646, –122.4776); Unnamed (46.9108, –122.5032); Unnamed (47.0001, –122.6510); Unnamed (47.0055, –122.6520); Yelm Creek (46.9629, –122.6194). Excluded is that segment of the Nisqually River from Lat 47.0703, Long –122.7017, to Lat 46.9668, Long –122.5640.

(13) Skokomish Subbasin 17110017—*Skokomish River Watershed 1711001701.* Outlet(s) = Skokomish River (Lat 47.3543, Long –123.1122); Unnamed (47.3420, –123.1092); Unnamed (47.3471, –123.1275); Unnamed (47.3509, –123.1101) upstream to endpoint(s) in: Brown Creek (47.4238, –123.3052); Fir Creek (47.3363, –123.3016); McTaggert Creek (47.3749, –123.2318); North Fork Skokomish River (47.5197, –123.3329); Purdy Canyon (47.3021, –123.1803); Unnamed (47.3048, –123.1528); Unnamed (47.3077, –123.2012); Unnamed (47.3146, –123.1353); Unnamed (47.3209, –123.2212); Unnamed (47.3222, –123.3060); Unnamed (47.3237, –123.1467); Unnamed (47.3250, –123.1250); Vance Creek (47.3300, –123.3137); Weaver Creek (47.3097, –123.2384).

(14) Hood Canal Subbasin 17110018—(i) *Hamma Hamma River Watershed 1711001803.* Outlet(s) = Hamma Hamma River (Lat 47.5471, Long –123.0440) upstream to endpoint(s) in: Hamma Hamma River (47.5590, –123.0632); North Fork John Creek (47.5442, –123.0696)

(ii) *Duckabush River Watershed 1711001804.* Outlet(s) = Duckabush River (Lat 47.6502, Long –122.9348) upstream to endpoint(s) in: Duckabush River (47.6825, –123.0675).

(iii) *Dosewallips River Watershed 1711001805.* Outlet(s) = Dosewallips River (Lat 47.6881, Long –122.8945); Unnamed (47.6857, –122.8967) upstream to endpoint(s) in: Dosewallips River (47.7289, –123.1111); Rocky Brook (47.7212, –122.9405); Unnamed (47.6886, –122.8977).

(15) Dungeness/Elwha 17110020—(i) *Dungeness River Watershed 1711002003.* Outlet(s) = Dungeness River (Lat 48.1506, Long –123.1311); Unnamed (48.1537, –123.1267) upstream to endpoint(s) in: Dungeness River (47.9386, –123.0885); Gray Wolf River (47.9168, –123.2409); Matriotti Creek (48.1368, –123.1428); Unnamed (48.1514, –123.1216).

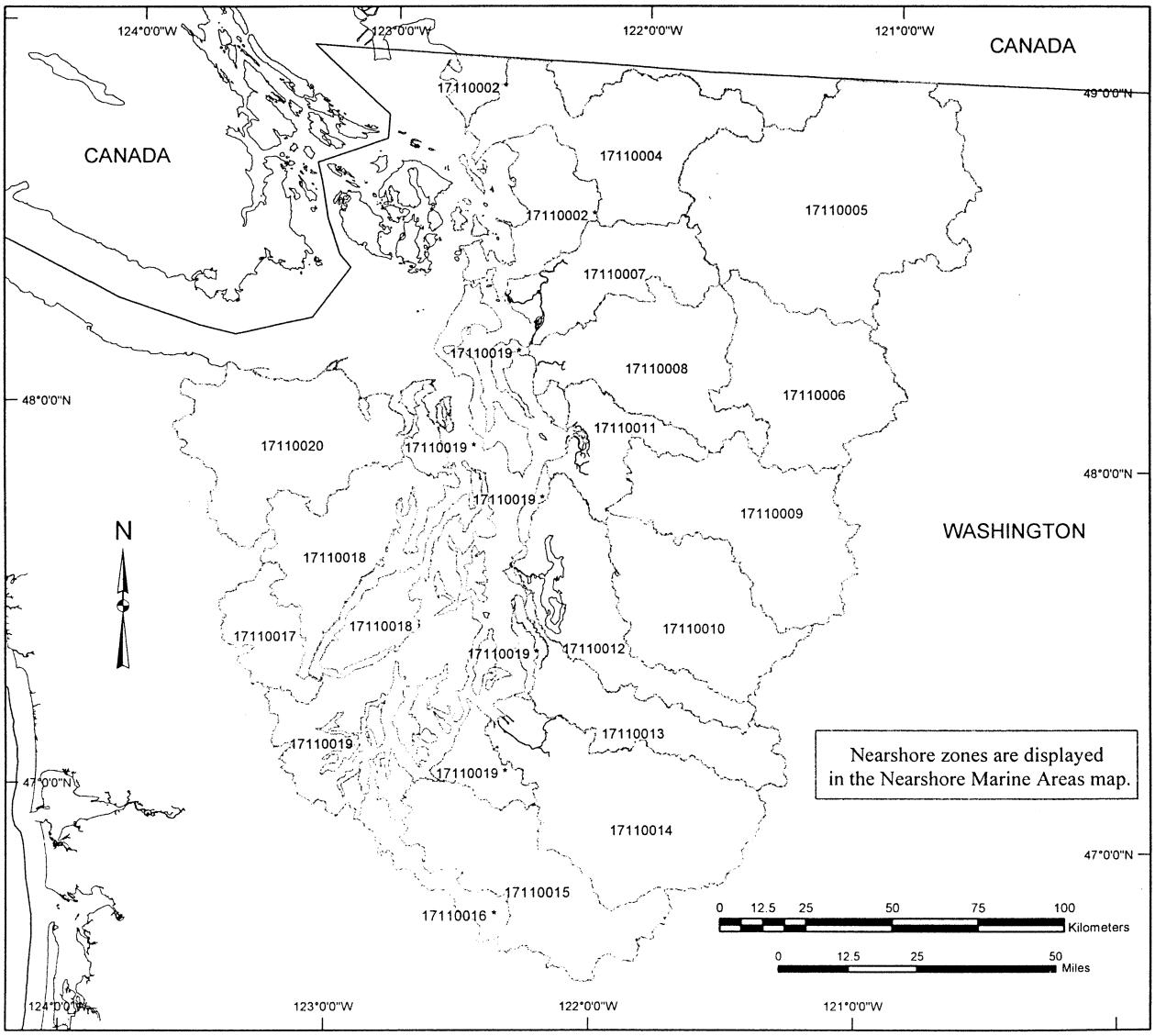
(ii) *Elwha River Watershed 1711002007.* Outlet(s) = Elwha River (Lat 48.1466, Long –123.5671); Unnamed (48.1483, –123.5599) upstream to endpoint(s) in: Elwha River (48.0927, –123.5614).

(16) Nearshore Marine Areas—Except as provided in paragraph (e) of this section, critical habitat includes all nearshore marine areas (including areas adjacent to islands) of the Strait of Georgia (south of the international border), Puget Sound, Hood Canal, and the Strait of Juan de Fuca (to the western end of the Elwha River delta) from the line of extreme high tide out to a depth of 30 meters.

(17) Maps of critical habitat for the Puget Sound chinook salmon ESU follow:

BILLING CODE 3510–22–P

Map of the Puget Sound Chinook Salmon ESU

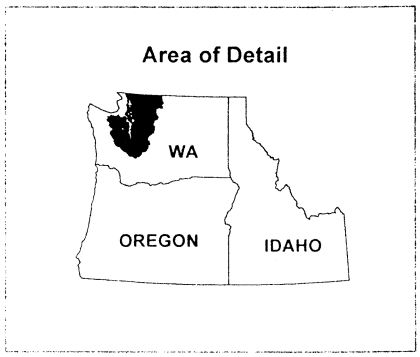


Legend

State Boundaries

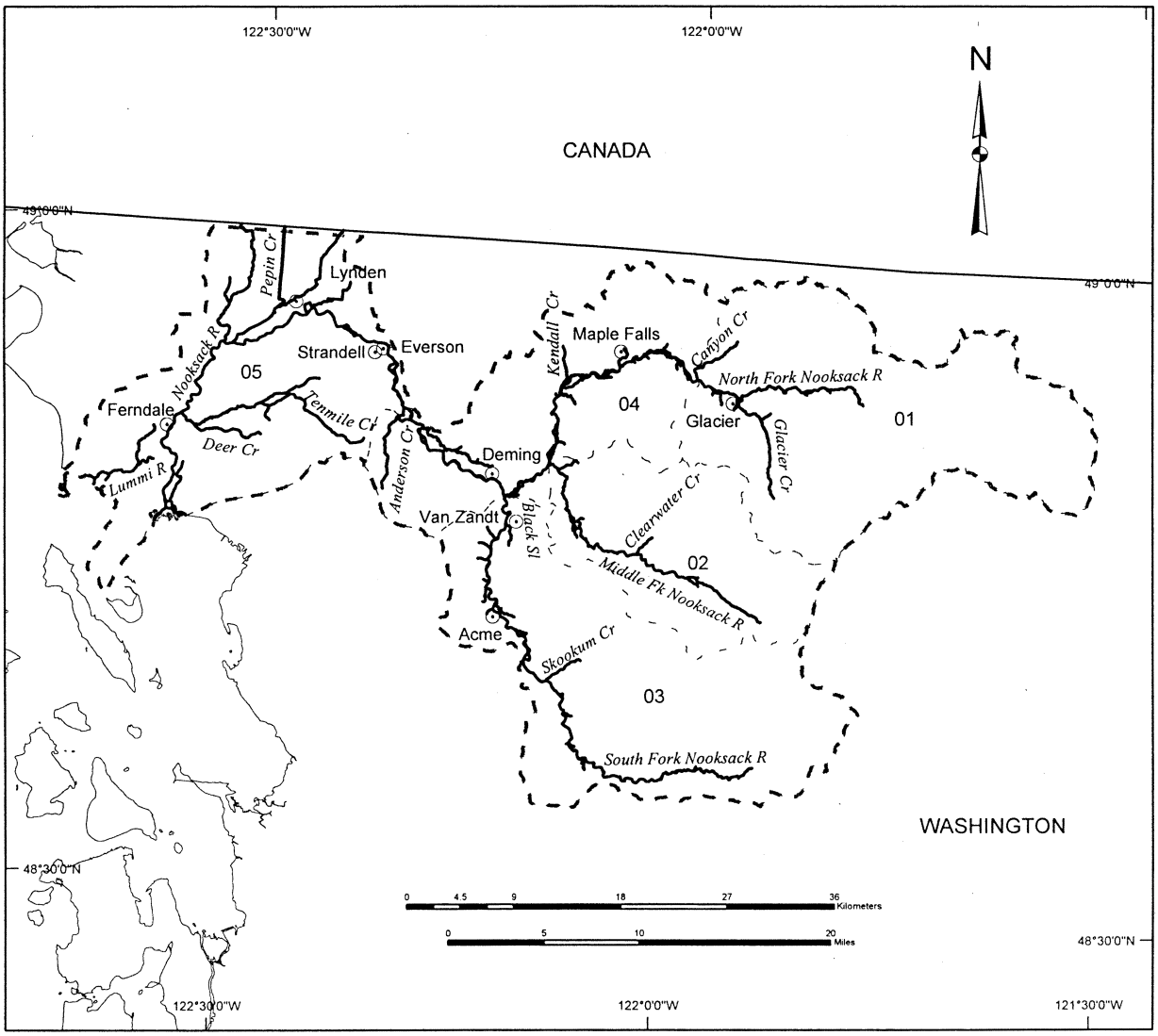
Subbasin Boundaries

* All habitat areas in subbasin are proposed for exclusion



Final Critical Habitat for the Puget Sound Chinook Salmon ESU

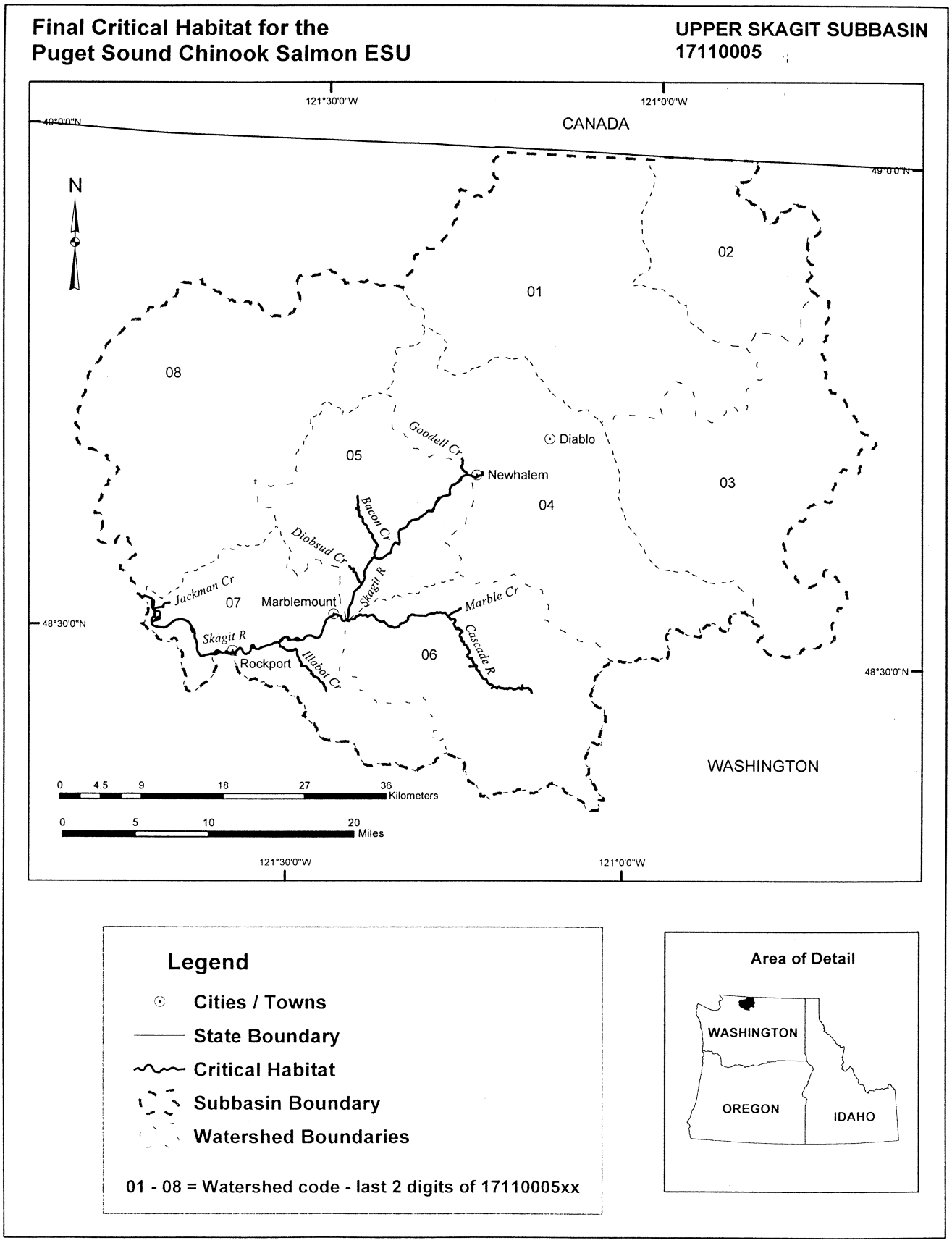
NOOKSACK SUBBASIN 17110004



Legend

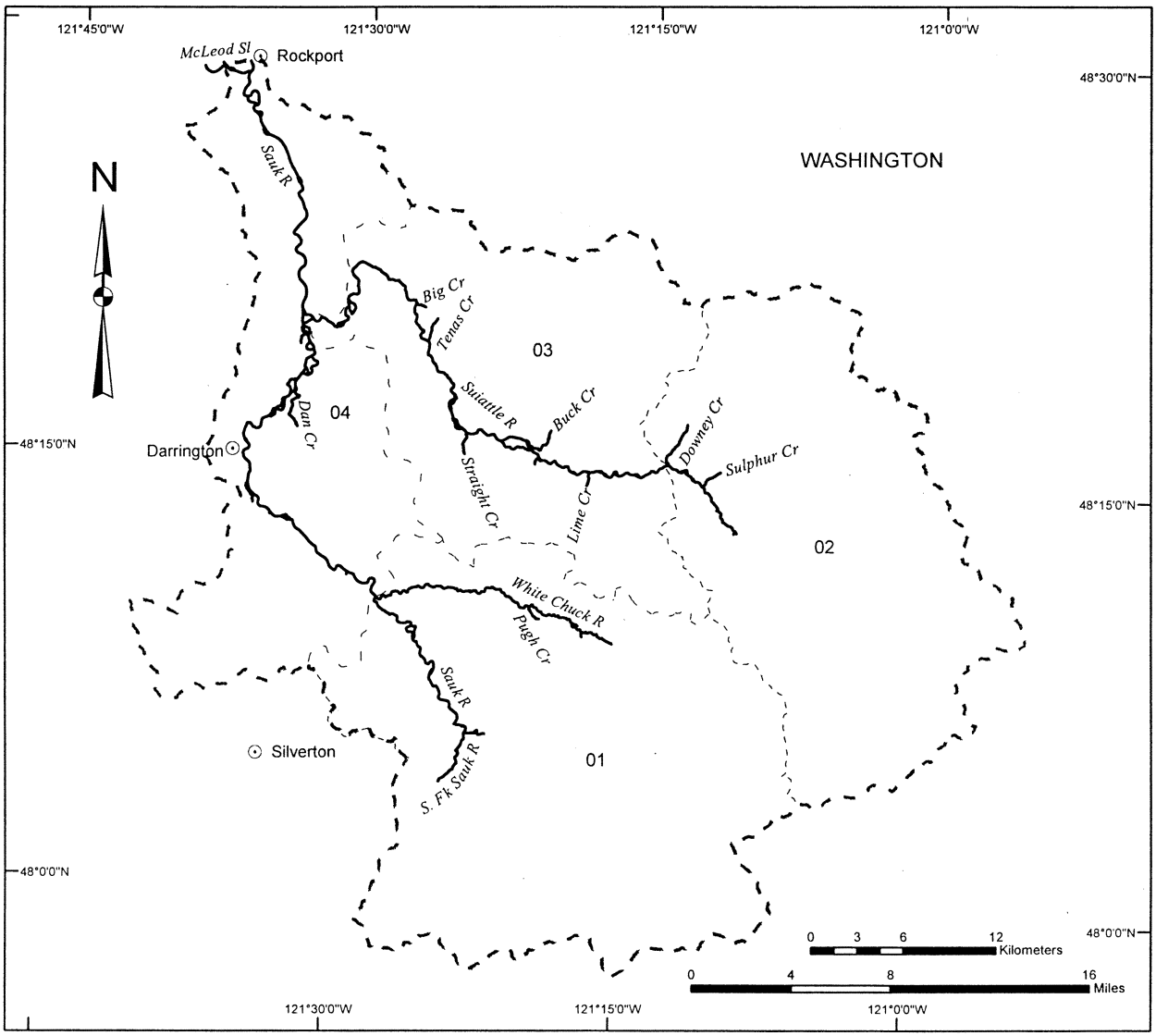
- Cities / Towns
- State Boundary
- Shoreline
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17110004xx


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
UPPER SKAGIT SUBBASIN
17110005
121°30'0"W
121°0'0"W
49°0'0"N
CANADA
N
01
02
03
04
05
06
07
08
Diablo
Newhalem
Goodell Cr
Bacon Cr
Diobsud Cr
Skagit R
Jackman Cr
Marblemount
Marble Cr
Cascade R
Rockport
Illabot Cr
48°30'0"N
WASHINGTON
0 4.5 9 18 27 36 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17110005xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Puget Sound Chinook Salmon ESU

SAUK SUBBASIN 17110006

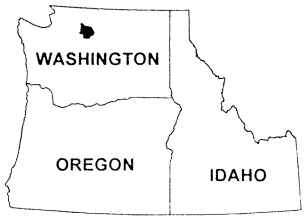


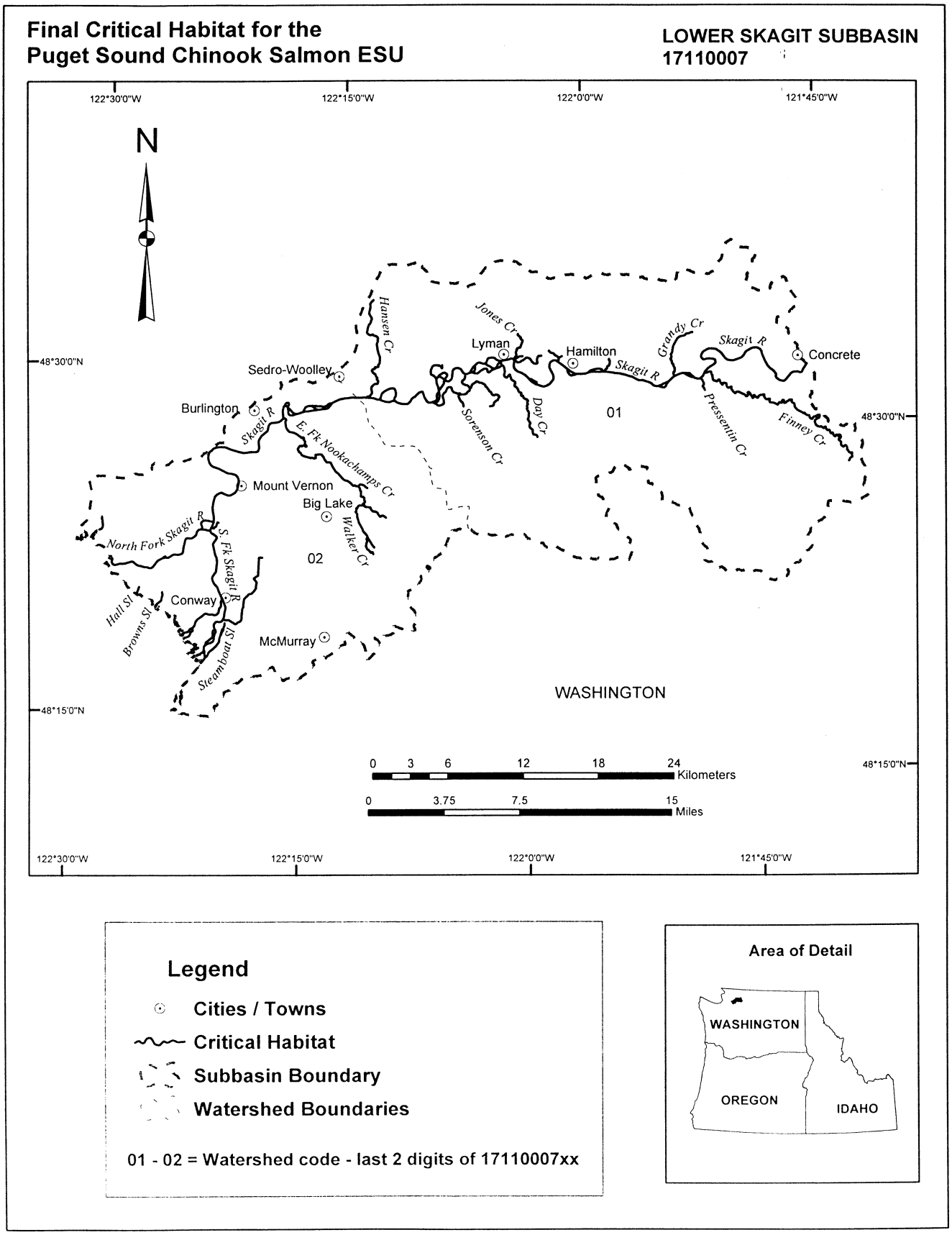
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 04 = Watershed code - last 2 digits of 17110006xx

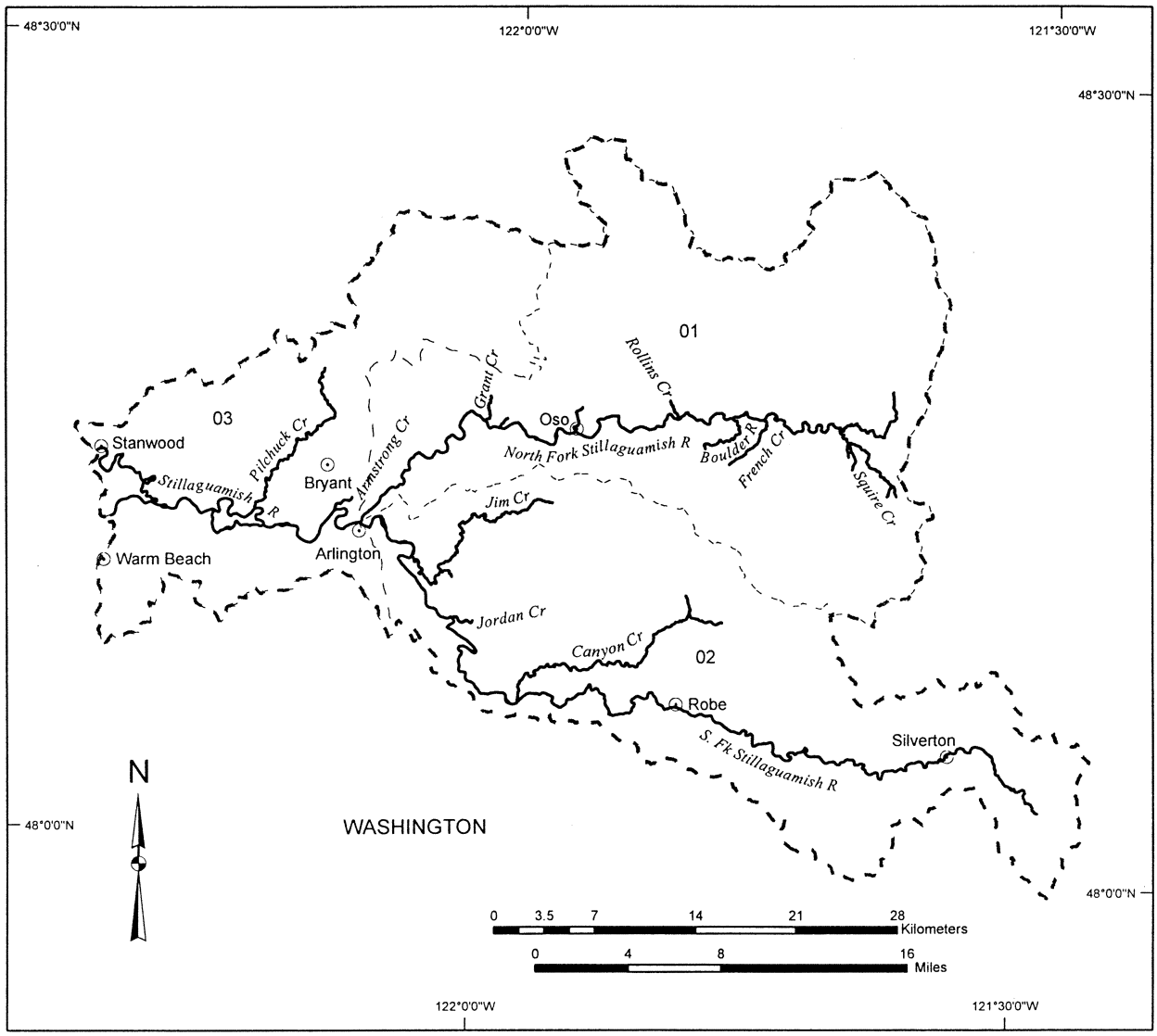
Area of Detail




Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
LOWER SKAGIT SUBBASIN
17110007
122°30'0"W
122°15'0"W
122°0'0"W
121°45'0"W
N
48°30'0"N
48°15'0"N
Hansen Cr
Jones Cr
Lyman
Hamilton
Grandy Cr
Skagit R
Concrete
Sedro-Woolley
Burlington
Skagit R
E. Fk Nookachamps Cr
Sorenson Cr
Day Cr
01
Pressentin Cr
Finney Cr
Mount Vernon
Big Lake
Walker Cr
North Fork Skagit R
S. Fk Skagit R
02
Hall Sl
Browns Sl
Conway
Steamboat Sl
McMurray
WASHINGTON
0 3 6 12 18 24 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02 = Watershed code - last 2 digits of 17110007xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Puget Sound Chinook Salmon ESU

STILLAGUAMISH SUBBASIN 17110008

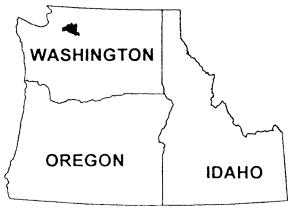


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

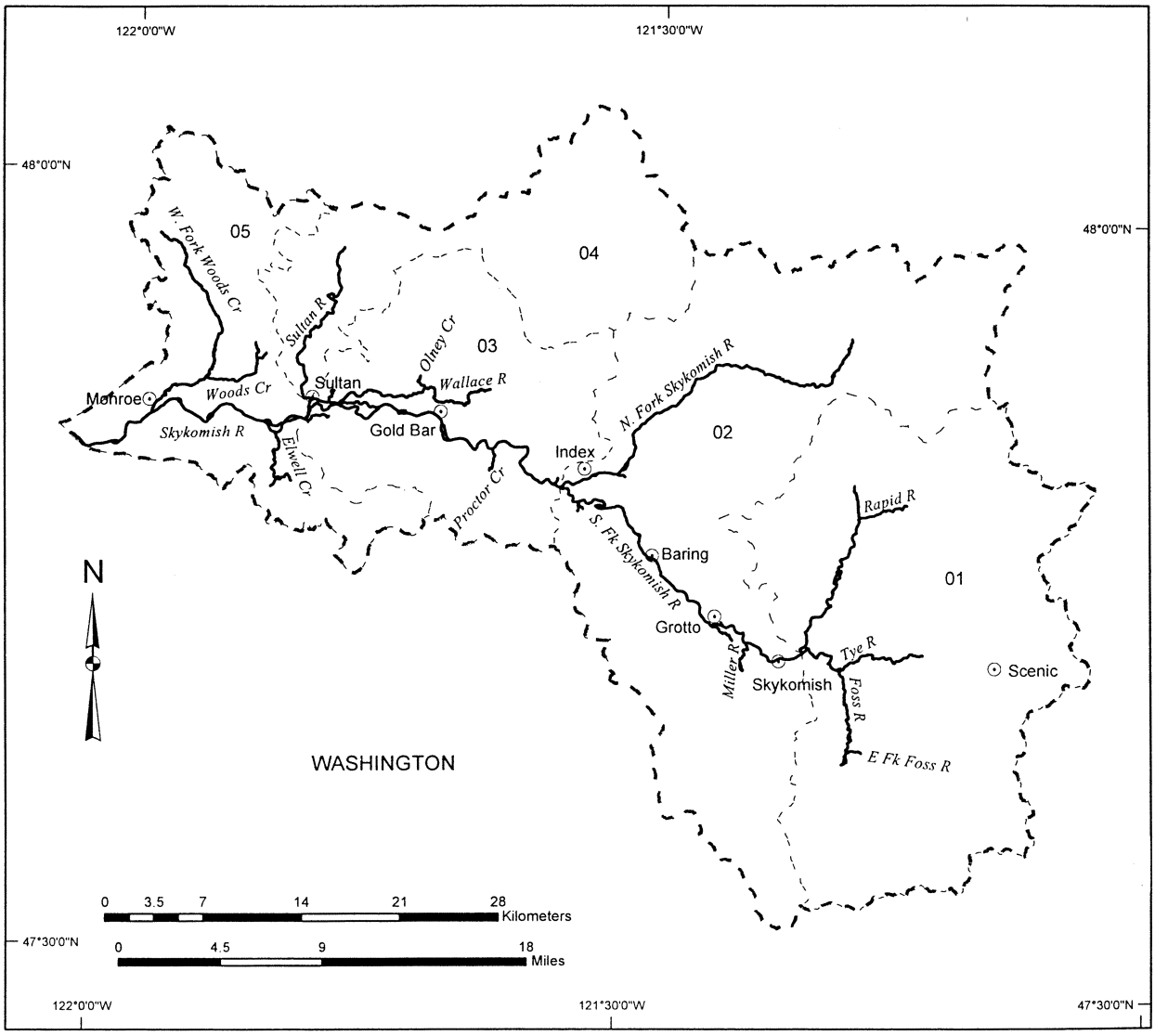
01 - 03 = Watershed code - last 2 digits of 17110008xx

Area of Detail



Final Critical Habitat for the Puget Sound Chinook Salmon ESU

SKYKOMISH SUBBASIN 17110009

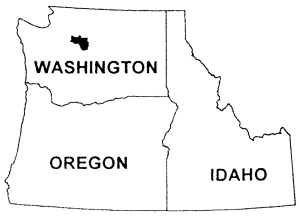


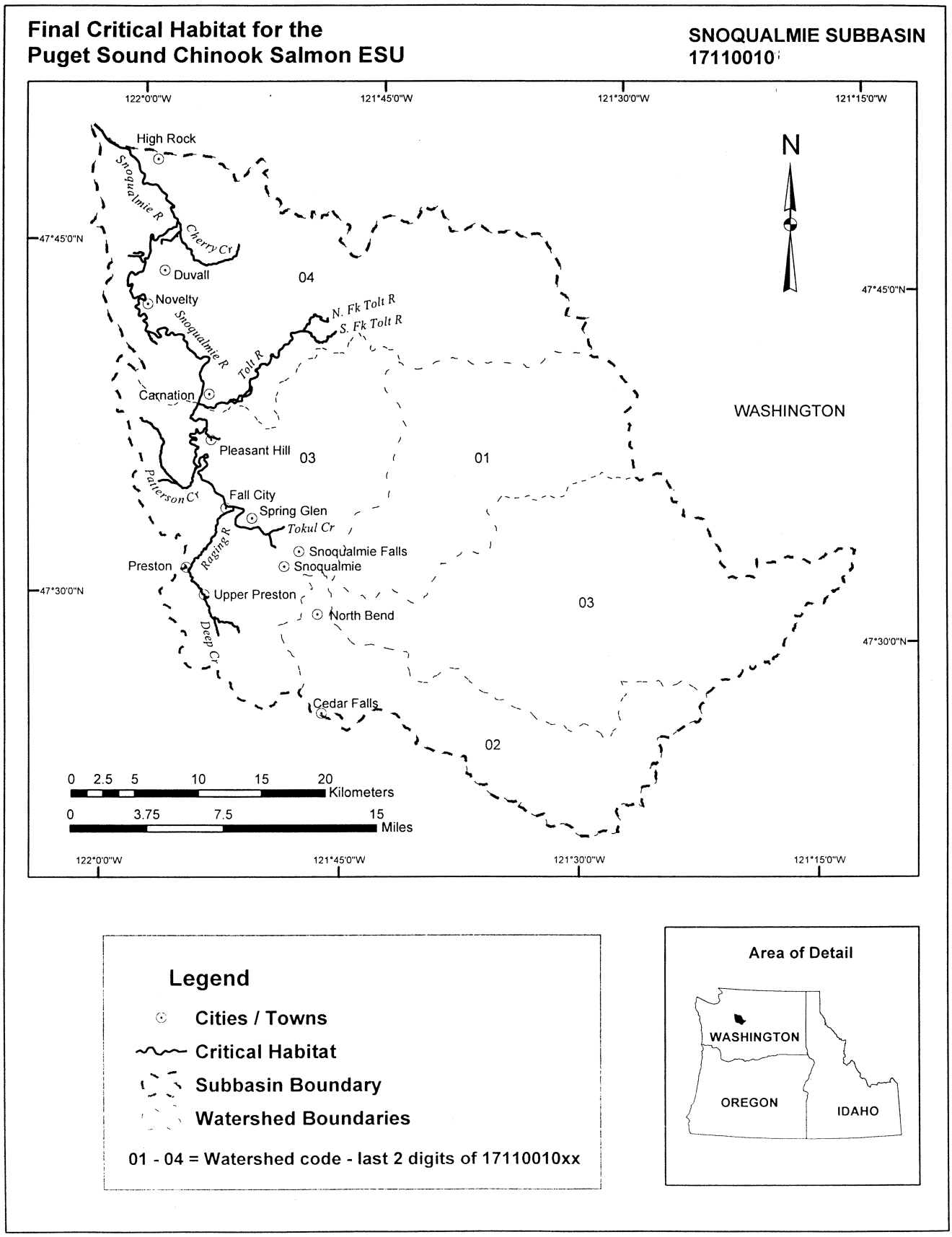
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17110009xx

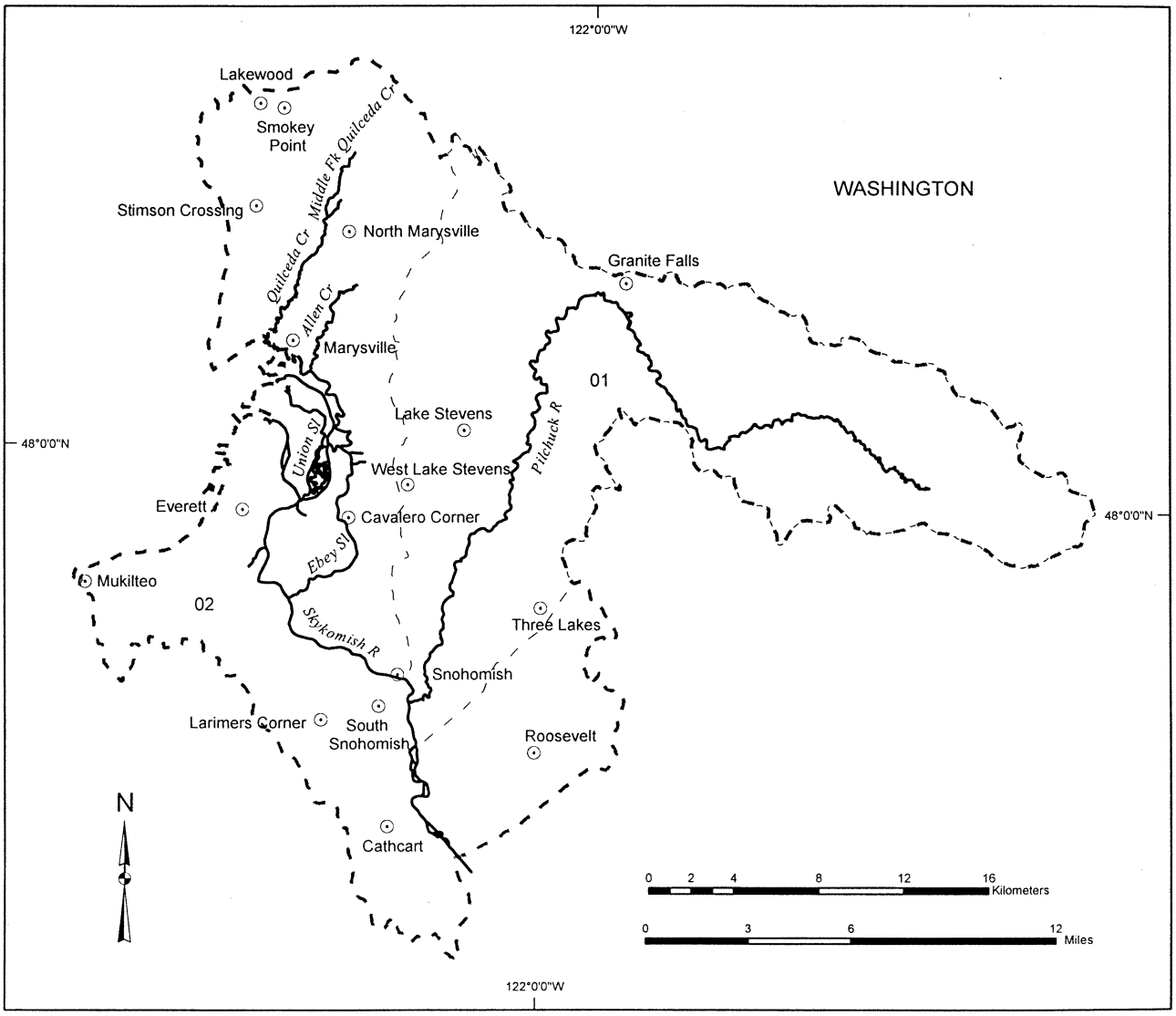
Area of Detail




Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
SNOQUALMIE SUBBASIN
17110010
122°0'0"W
121°45'0"W
121°30'0"W
121°15'0"W
47°45'0"N
47°30'0"N
N
High Rock
Snoqualmie R
Cherry Cr
Duvall
Novelty
Snoqualmie R
N. Fk Tolt R
S. Fk Tolt R
Tolt R
Carnation
Pleasant Hill
Patterson Cr
Fall City
Spring Glen
Tokul Cr
Raging R
Snoqualmie Falls
Snoqualmie
Preston
Upper Preston
North Bend
Deep Cr
Cedar Falls
04
03
01
03
02
WASHINGTON
0 2.5 5 10 15 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17110010xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Puget Sound Chinook Salmon ESU

SNOHOMISH SUBBASIN 17110011

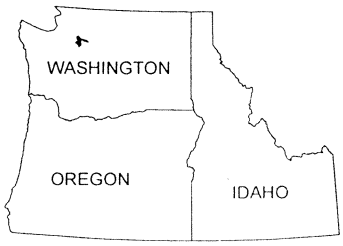


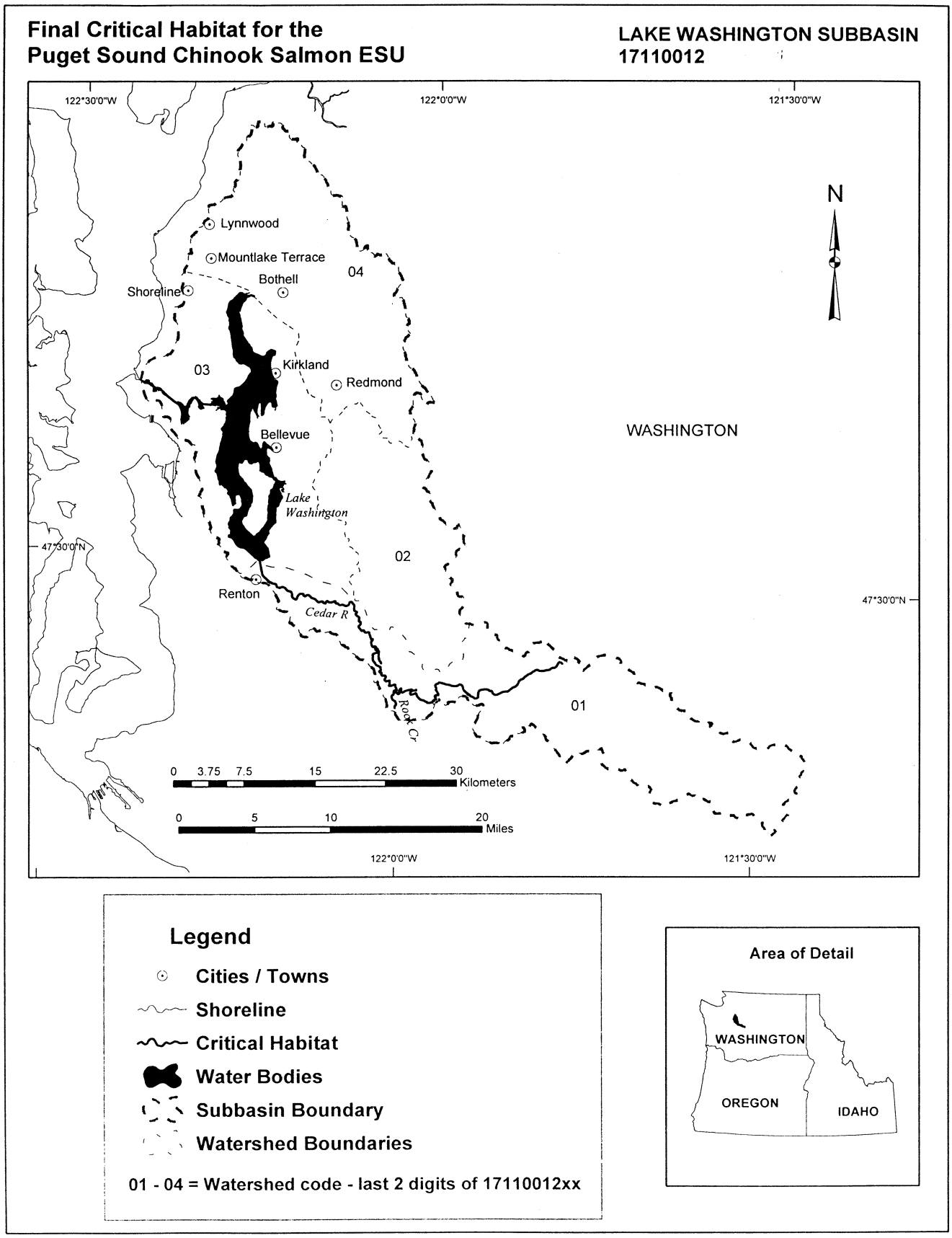
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 02 = Watershed code - last 2 digits of 17110011xx

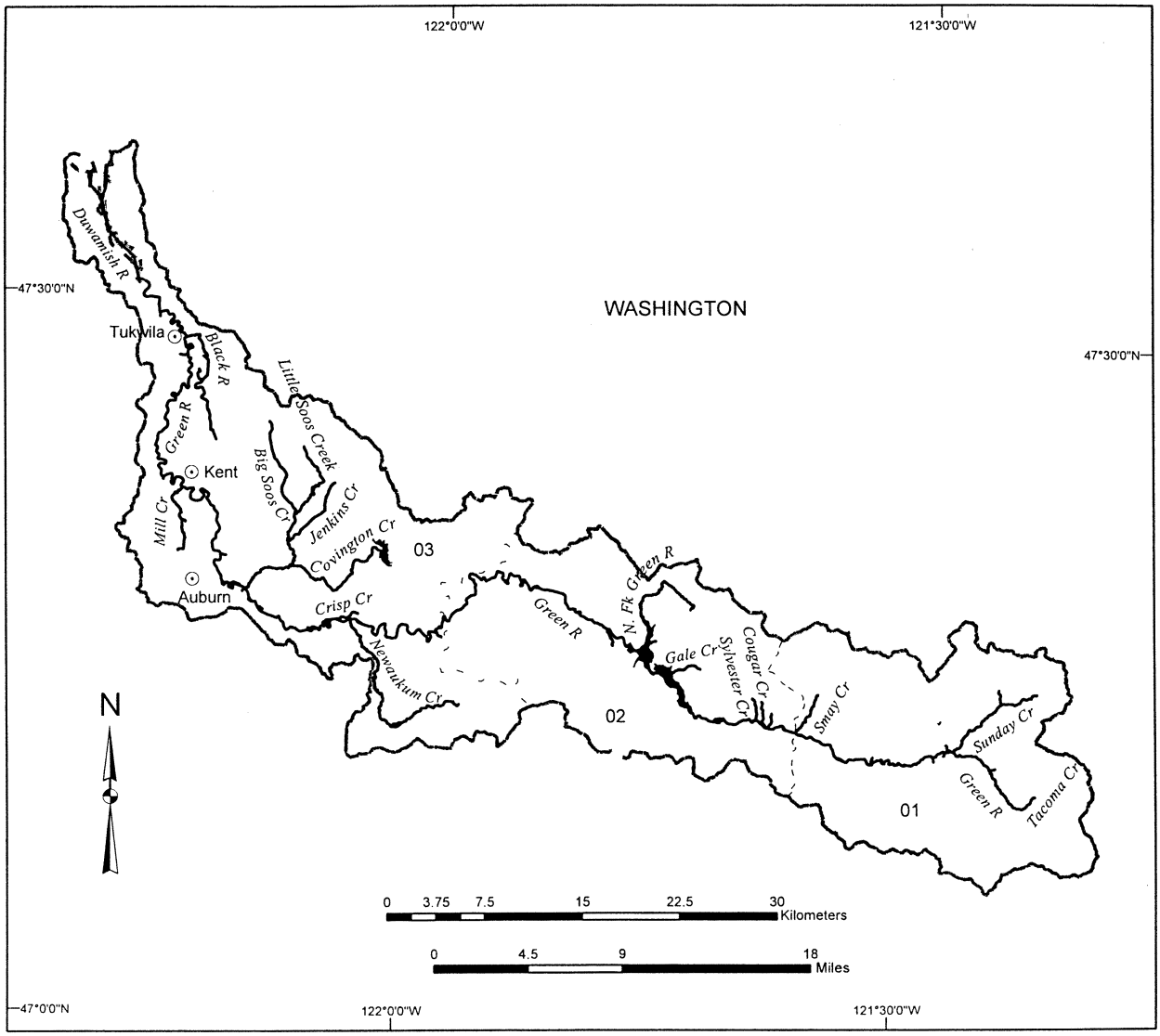
Area of Detail




Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
LAKE WASHINGTON SUBBASIN
17110012
122°30'0"W
122°0'0"W
121°30'0"W
N
Lynnwood
Mountlake Terrace
Bothell
Shoreline
04
03
Kirkland
Redmond
Bellevue
WASHINGTON
Lake Washington
47°30'0"N
02
Renton
Cedar R
Rock Cr
01
0 3.75 7.5 15 22.5 30 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Shoreline
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17110012xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Puget Sound Chinook Salmon ESU

DUWAMISH SUBBASIN 17110013

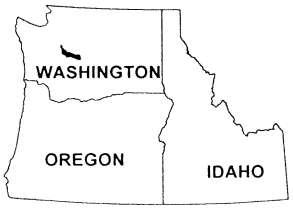


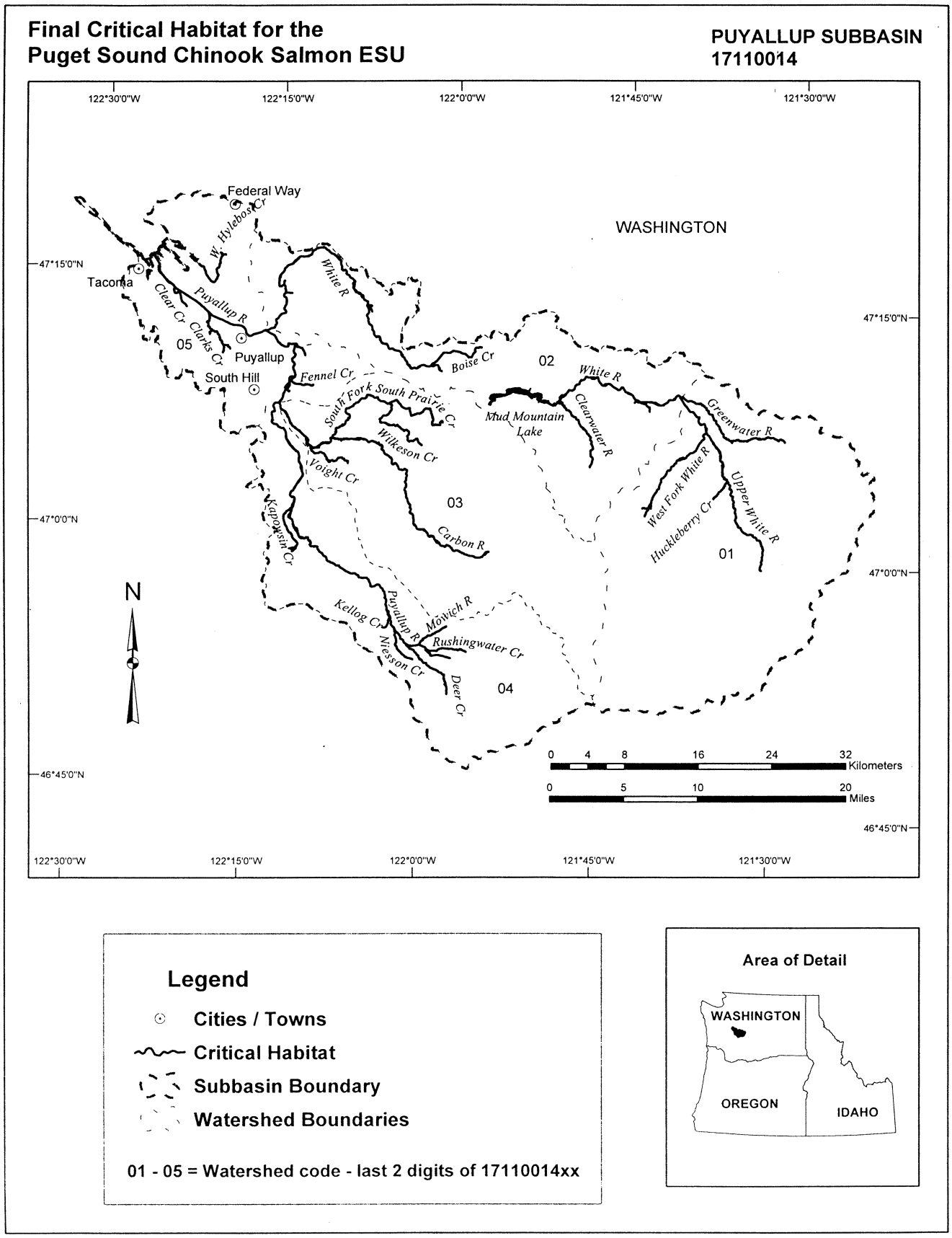
Legend

- Cities / Towns
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

01 - 03 = Watershed code - last 2 digits of 17110013xx

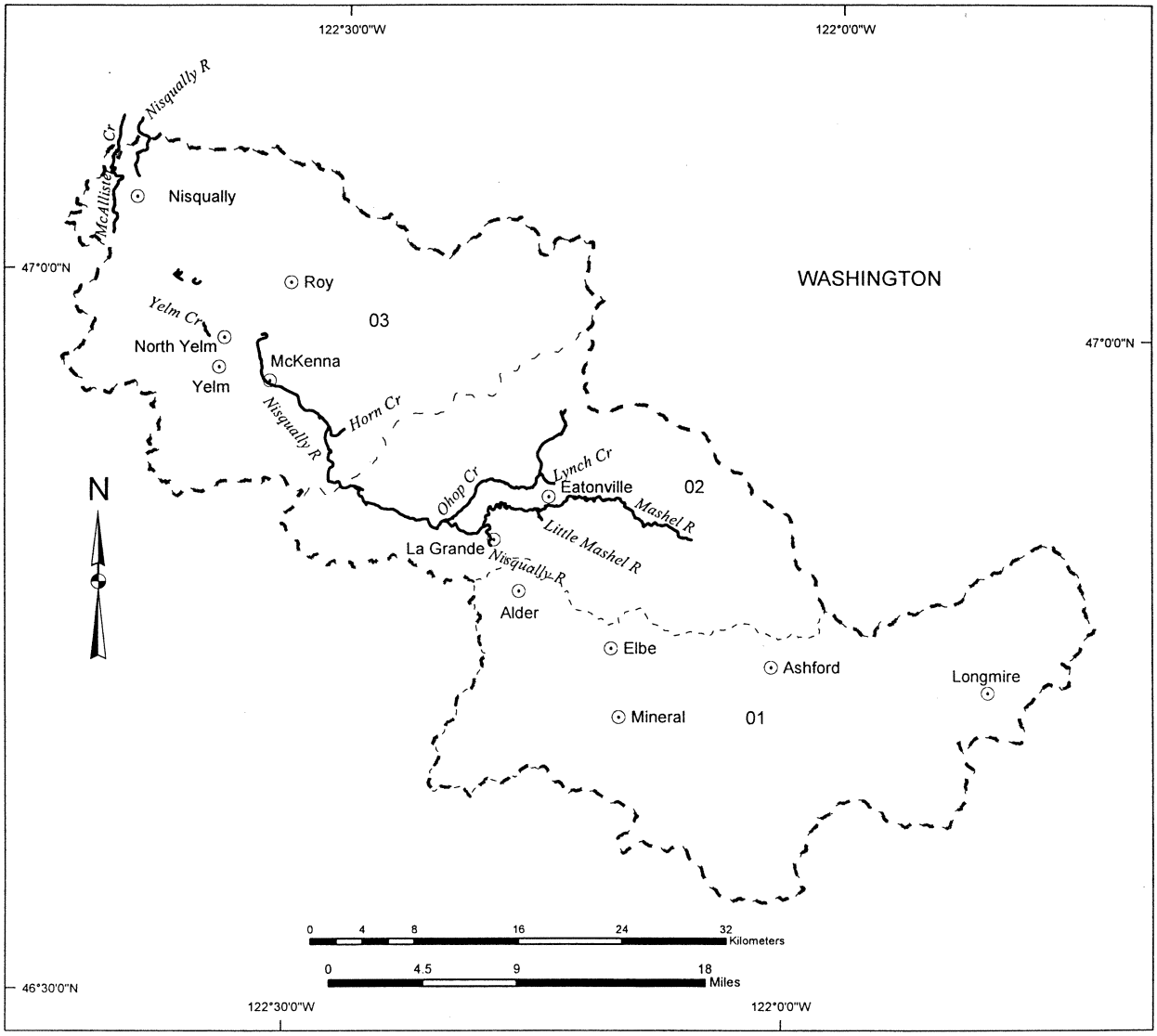
Area of Detail




Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
PUYALLUP SUBBASIN
17110014
122°30'0"W
122°15'0"W
122°0'0"W
121°45'0"W
121°30'0"W
47°15'0"N
47°0'0"N
46°45'0"N
Federal Way
W. Hylebos Cr
WASHINGTON
Tacoma
Clear Cr
Clarks Cr
Puyallup R
05
Puyallup
South Hill
White R
Boise Cr
02
White R
Fennel Cr
South Fork South Prairie Cr
Mud Mountain Lake
Clearwater R
Greenwater R
Wilkeson Cr
Voight Cr
03
West Fork White R
Huckleberry Cr
Upper White R
01
Kapowsin Cr
Carbon R
N
Kellog Cr
Puyallup R
Mowich R
Rushingwater Cr
Nesson Cr
Deer Cr
04
0 4 8 16 24 32 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17110014xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Puget Sound Chinook Salmon ESU

NISQUALLY SUBBASIN 17110015

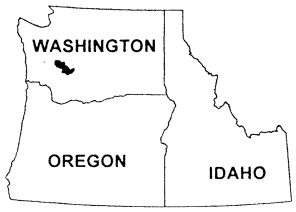


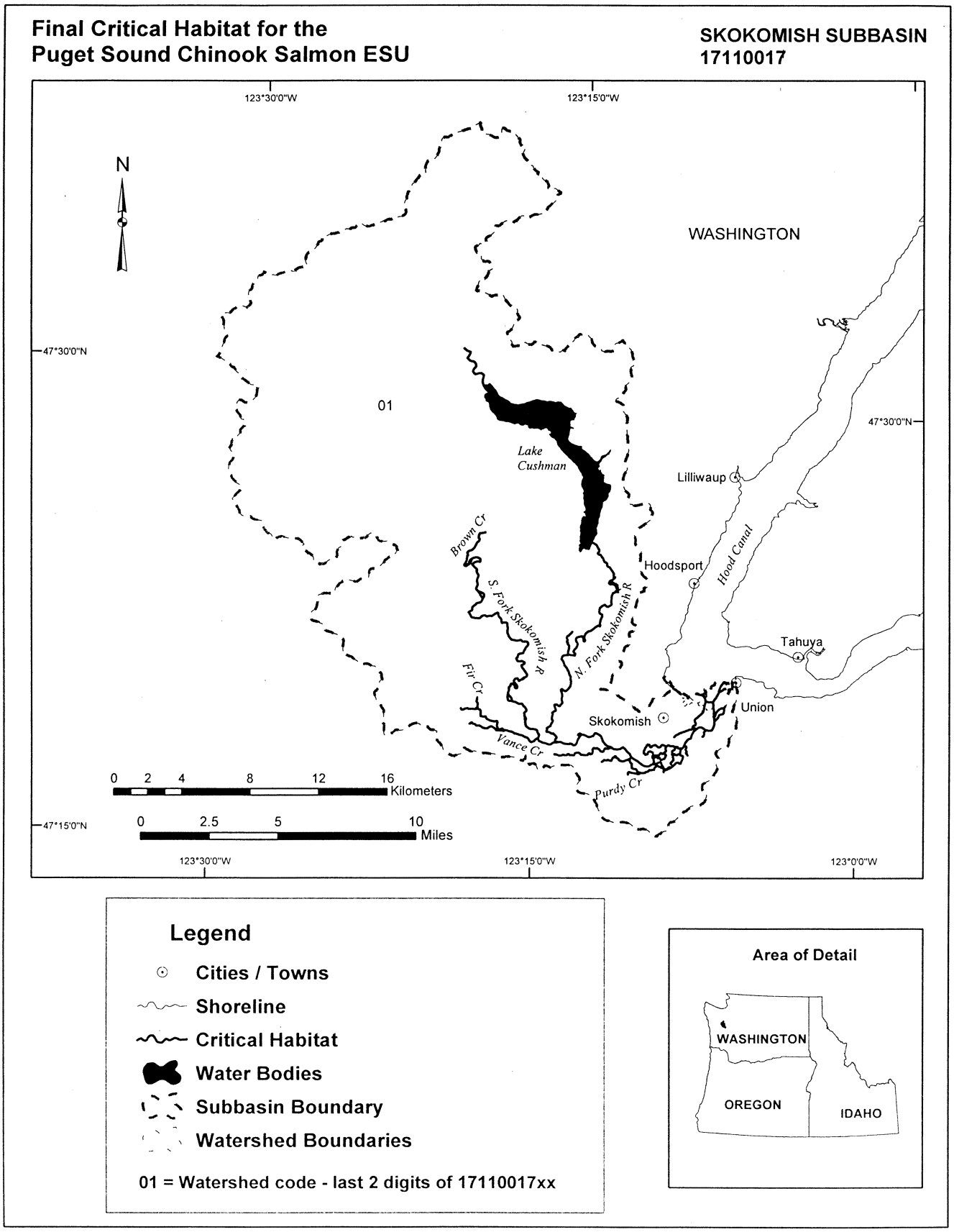
Legend

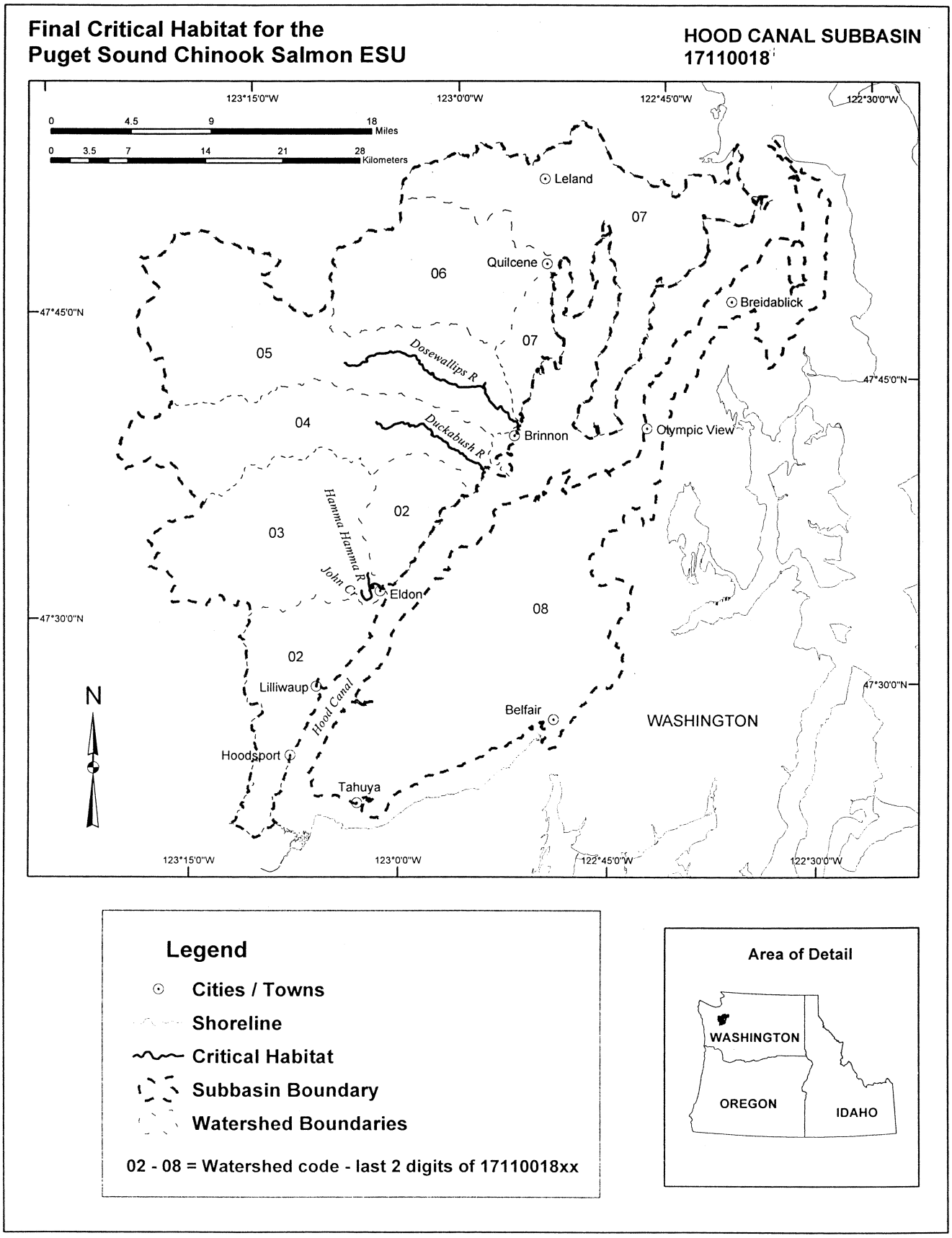
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

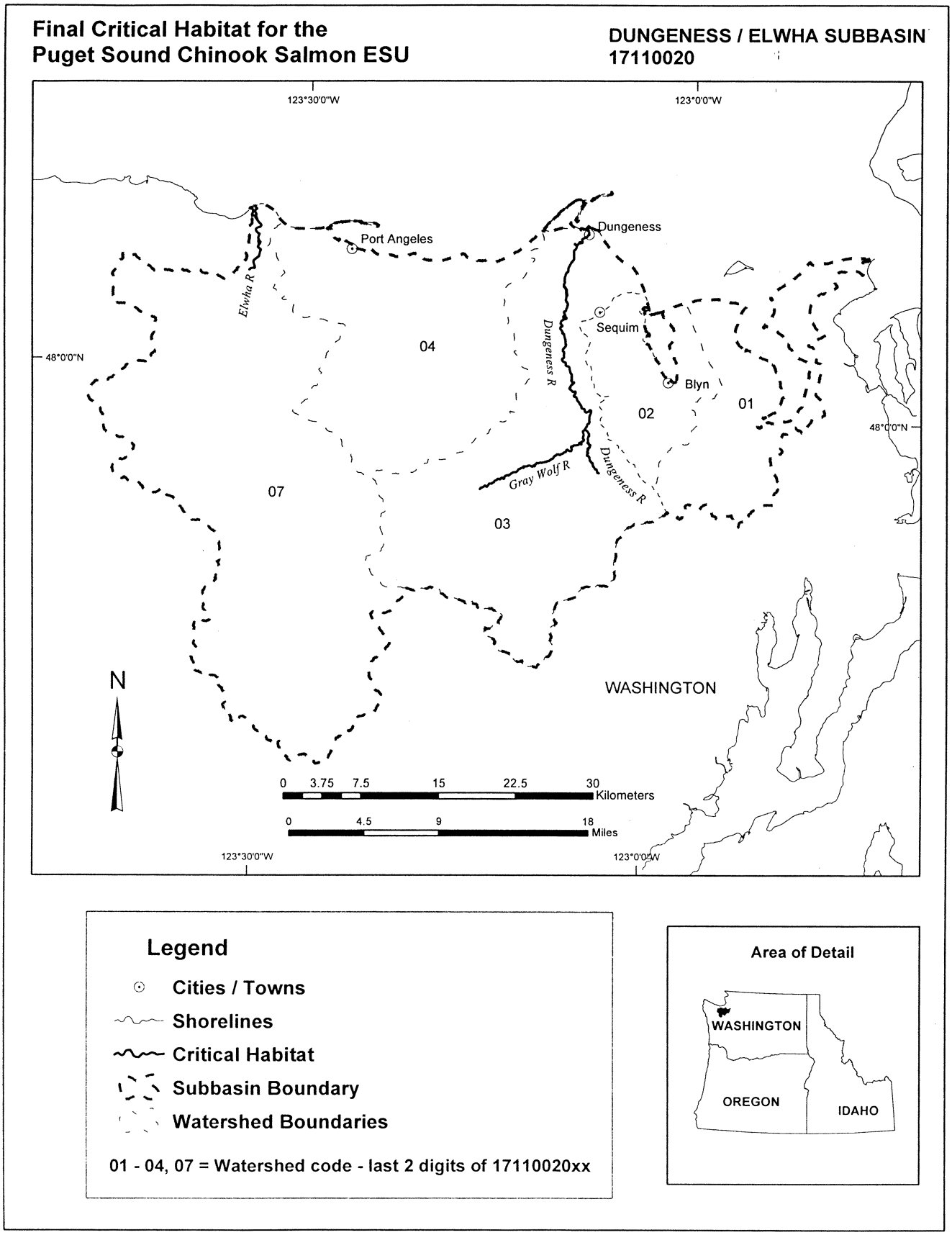
01 - 03 = Watershed code - last 2 digits of 17110015xx

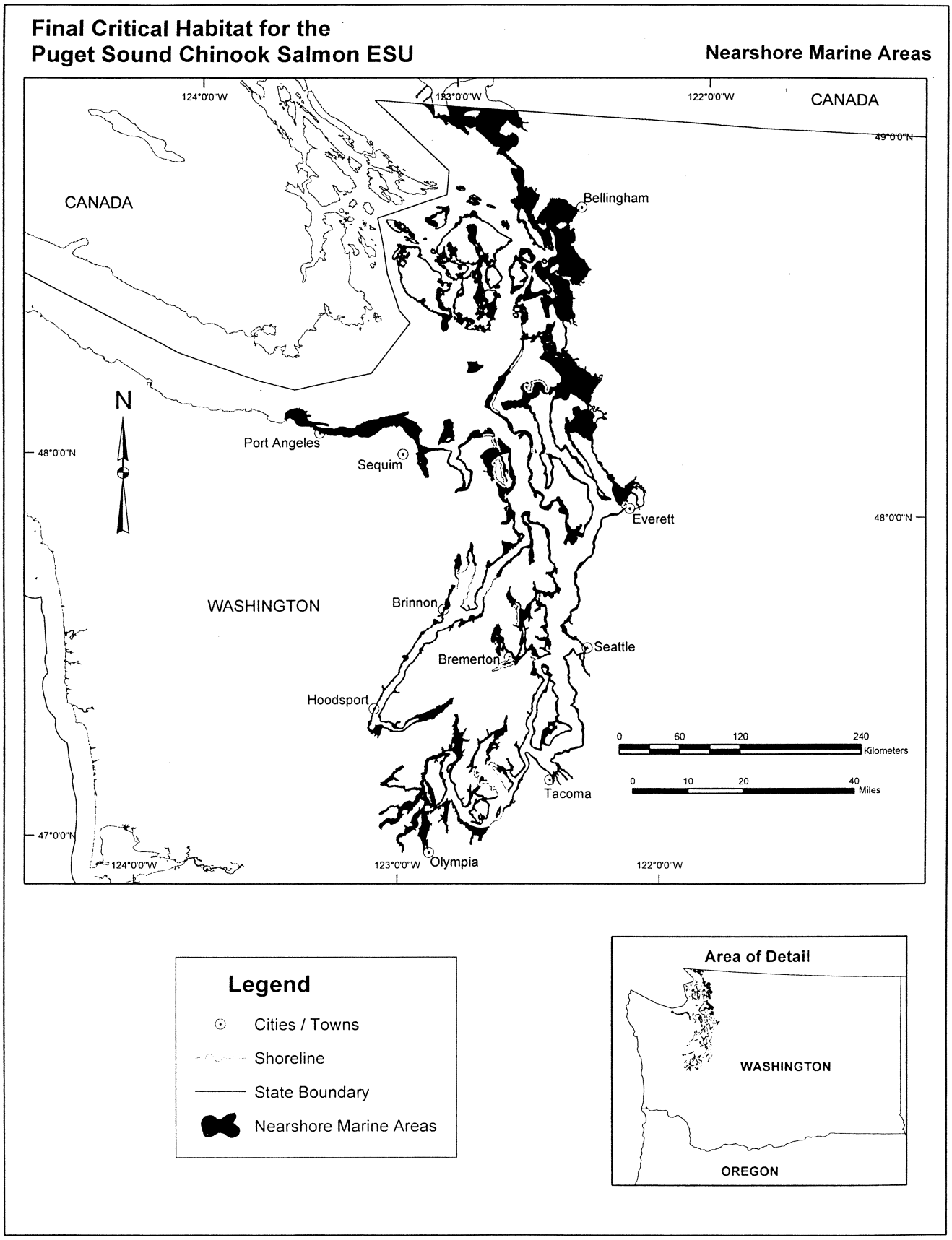
Area of Detail




Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
SKOKOMISH SUBBASIN
17110017
123°30'0"W
123°15'0"W
123°0'0"W
47°30'0"N
47°15'0"N
N
WASHINGTON
01
Lake Cushman
Lilliwaup
Hoodsport
Hood Canal
Tahuya
Union
Skokomish
Brown Cr
S. Fork Skokomish R
N. Fork Skokomish R
Fir Cr
Vance Cr
Purdy Cr
0 2 4 8 12 16 Kilometers
0 2.5 5 10 Miles
Legend
Cities / Towns
Shoreline
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 = Watershed code - last 2 digits of 17110017xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
HOOD CANAL SUBBASIN
17110018
123°15'0"W
123°0'0"W
122°45'0"W
122°30'0"W
47°45'0"N
47°30'0"N
0 4.5 9 18 Miles
0 3.5 7 14 21 28 Kilometers
Leland
Quilcene
Breidablick
Brinnon
Olympic View
Eldon
Lilliwaup
Belfair
Hoodsport
Tahuya
Dosewallips R
Duckabush R
Hamma Hamma R
John Cr
Hood Canal
WASHINGTON
02
03
04
05
06
07
08
N
Legend
Cities / Towns
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
02 - 08 = Watershed code - last 2 digits of 17110018xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
DUNGENESS / ELWHA SUBBASIN
17110020
123°30'0"W
123°0'0"W
48°0'0"N
Port Angeles
Dungeness
Sequim
Blyn
Elwha R
Dungeness R
Gray Wolf R
04
02
01
07
03
WASHINGTON
N
0 3.75 7.5 15 22.5 30 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Shorelines
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04, 07 = Watershed code - last 2 digits of 17110020xx
Area of Detail
WASHINGTON
OREGON
IDAHO



BILLING CODE 3510–22–C

(j) *Lower Columbia River Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia/Hood Subbasin 17070105—(i) *East Fork Hood River Watershed 1707010506.* Outlet(s) = Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Dog River (45.4655, –121.5656); East Fork Hood River (45.4665, –121.5669); Pinnacle Creek (45.4595, –121.6568); Tony Creek (45.5435, –121.6411).

(ii) *West Fork Hood River Watershed 1707010507.* Outlet(s) = West Fork Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Divers Creek (45.5457, –121.7447); Elk Creek (45.4277, –121.7889); Indian Creek (45.5375, –121.7857); Jones Creek (45.4629, –121.7942); Lake Branch (45.5083, –121.8485); McGee Creek (45.4179, –121.7675); No Name Creek (45.5347, –121.7929); Red Hill Creek (45.4720, –121.7705), Unnamed (45.5502, –121.7014).

(iii) *Hood River Watershed 1707010508.* Outlet(s) = Hood River (Lat 45.7205, Long –121.5055) upstream to endpoint(s) in: Hood River (45.6050, –121.6323).

(iv) *White Salmon River Watershed 1707010509.* Outlet(s) = White Salmon River (Lat 45.7226, Long –121.5214) upstream to endpoint(s) in: White Salmon River (45.7677, –121.5374).

(v) *Wind River Watershed 1707010511.* Outlet(s) = Wind River (Lat 45.7037, Long –121.7946) upstream to endpoint(s) in: Bear Creek (45.7620, –121.8293); Big Hollow Creek (45.9399, –121.9996); Dry Creek (45.9296, –121.9721); Falls Creek (45.9105, –121.9222); Little Wind River (45.7392, –121.7772); Ninemile Creek (45.8929, –121.9526); Paradise Creek (45.9527, –121.9408); Trapper Creek (45.8887, –122.0065); Trout Creek (45.8021, –121.9313); Wind River (45.9732, –121.9031).

(vi) *Middle Columbia/Grays Creek Watershed 1707010512.* Outlet(s) = Columbia River (Lat 45.7044, Long –121.7980) upstream to endpoint(s) in: Columbia River (45.7205, –121.5056).

(vii) *Middle Columbia/Eagle Creek Watershed 1707010513.* Outlet(s) = Columbia River (Lat 45.6447, Long –121.9395) upstream to endpoint(s) in: Camp Creek (45.6676, –121.8167); Carson Creek (45.7206, –121.8184); Columbia River (45.7044, –121.7980); Dry Creek (45.6717, –121.8732); Eagle Creek (45.6365, –121.9171); East Fork Herman Creek (45.6538, –121.8122); Herman Creek (45.6749, –121.8477); Rock Creek (45.6958, –121.8915); Unnamed (45.6654, –121.8164); Unnamed (45.6674, –121.8487); Unnamed (45.6689, –121.8444); Unnamed (45.6762, –121.9350); Unnamed (45.6902, –121.9034); Unnamed (45.6948, –121.9424).

(2) Lower Columbia/Sandy Subbasin 17080001—(i) *Salmon River Watershed 1708000101.* Outlet(s) = Salmon River (Lat 45.3768, Long –122.0293) upstream to endpoint(s) in: Cheeney Creek (45.3104, –121.9561); Copper Creek (45.2508, –121.9053); Salmon River (45.2511, –121.9025); South Fork Salmon River (45.2606, –121.9474); Unnamed (45.3434, –121.9920).

(ii) *Zigzag River Watershed 1708000102.* Outlet(s) = Zigzag River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Henry Creek (45.3328, –121.9110); Still Creek (45.2755, –121.8413); Unnamed (45.3019, –121.8202); Zigzag River (45.3092, –121.8642).

(iii) *Upper Sandy River Watershed 1708000103.* Outlet(s) = Sandy River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Clear Creek (45.3712, –121.9246); Clear Fork Sandy River (45.3994, –121.8525); Horseshoe Creek (45.3707, –121.8936); Lost Creek (45.3709, –121.8150); Sandy River (45.3899, –121.8620).

(iv) *Middle Sandy River Watershed 1708000104.* Outlet(s) = Sandy River (Lat 45.4464, Long –122.2459) upstream to endpoint(s) in: Alder Creek (45.3776, –122.0994); Bear Creek (45.3368, –121.9265); Cedar Creek (45.4087, –122.2617); North Boulder Creek (45.3822, –122.0168); Sandy River (45.3489, –121.9442).

(v) *Bull Run River Watershed 1708000105.* Outlet(s) = Bull Run River (Lat 45.4464, Long –122.2459) upstream to endpoint(s) in: Bull Run River (45.4455, –122.1561); Little Sandy Creek (45.4235, –122.1975).

(vi) *Washougal River (1708000106).* Outlet(s) = Washougal River (Lat 45.5795, Long –122.4022) upstream(s) to endpoint(s) in: Cougar Creek (45.6265, –122.2987); Dougan Creek (45.6770, –122.1522); Lacamas Creek (45.5972, –122.3933); Little Washougal River (45.6315, –122.3767); Washougal River (45.6729, –122.1524); West Fork Washougal River (45.6205, –122.2149).

(vii) *Columbia Gorge Tributaries Watershed 1708000107.* Outlet(s) = Columbia River (Lat 45.5735, Long –122.3945) upstream to endpoint(s) in: Bridal Veil Creek (45.5542, –122.1793); Columbia River (45.6447, –121.9395); Coopey Creek (45.5656, –122.1671); Government Cove (45.5948, –122.0630); Hamilton Creek (45.6414, –121.9764); Hardy Creek (45.6354, –121.9987); Horsetail Creek (45.5883, –122.0675); Latourell Creek (45.5388, –122.2173); McCord Creek (45.6115, –121.9929); Moffett Creek (45.6185, –121.9662); Multnomah Creek (45.5761, –122.1143), Oneonta Creek (45.5821, –122.0718); Tanner Creek (45.6264, –121.9522); Turnaft Creek (45.6101, –122.0284); Unnamed (45.5421, –122.2624); Unnamed (45.5488, –122.3504); Unnamed (45.6025, –122.0443); Unnamed (45.6055, –122.0392); Unnamed (45.6083, –122.0329); Unnamed (45.6118, –122.0216); Unnamed (45.6124, –122.0172); Unnamed (45.6133, –122.0055); Wahkeena Creek (45.5755, –122.1266); Young Creek (45.5480, –122.1997).

(viii) *Lower Sandy River Watershed 1708000108.* Outlet(s) = Sandy River (Lat 45.5680, Long –122.4023) upstream to endpoint(s) in: Beaver Creek (45.5258, –122.3822); Gordon Creek (45.4915, –122.2423); Sandy River (45.4464, –122.2459); Trout Creek (45.4844, –122.2785); Unnamed (45.5542, –122.3768); Unnamed (45.5600, –122.3650).

(3) Lewis Subbasin 17080002—(i) *East Fork Lewis River Watershed 1708000205.* Outlet(s) = East Fork Lewis River (Lat 45.8664, Long –122.7189) upstream to endpoint(s) in: East Fork Lewis River (45.8395, –122.4463).

(ii) *Lower Lewis River Watershed 1708000206.* Outlet(s) = Lewis River (Lat 45.8519, Long –122.7806) upstream to endpoint(s) in: Cedar Creek (45.9049, –122.3684); Chelatchie Creek (45.9169, –122.4130); Johnson Creek (45.9385, –122.6261); Lewis River (45.9570, –122.5550); Pup Creek (45.9391, –122.5440); Unnamed (45.8882, –122.7412); Unnamed (45.9153, –122.4362).

(4) Lower Columbia/Clatskanie Subbasin 17080003—(i) *Kalama River Watershed 1708000301.* Outlet(s) = Burris Creek (45.8926, –122.7892); Kalama River (46.0340, –122.8695) upstream to endpoint(s) in: Arnold Creek (46.0463, –122.5938); Burris Creek (45.9391, –122.7780); Elk Creek (46.0891, –122.5117); Gobar Creek (46.0963, –122.6042); Hatchery Creek (46.0459, –122.8027); Kalama River (46.1109, –122.3579); Little Kalama River (45.9970, –122.6939); North Fork Kalama River (46.1328, –122.4118); Wild Horse Creek (46.0626, –122.6367).

(ii) *Clatskanie River Watershed 1708000303.* Outlet(s) = Clatskanie River (Lat 46.1398, Long –123.2303) upstream to endpoint(s) in: Clatskanie River (46.0435, –123.0829); Merrill Creek (46.0916, –123.1727); Perkins Creek (46.0826, –123.1678).

(iii) *Skamokawa/Elochoman Watershed 1708000305.* Outlet(s) = Elochoman River (Lat 46.2269, Long –123.4040); Skamokawa Creek (46.2677,

–123.4562); Unnamed (46.2243, –123.3975) upstream to endpoint(s) in: Beaver Creek (46.2256, –123.3071); Elochoman River (46.3503, –123.2428); Falk Creek (46.2954, –123.4413); Left Fork Skamokawa Creek (46.3249, –123.4538); McDonald Creek (46.3398, –123.4116); Standard Creek (46.3292, –123.3999); West Fork Elochoman River (46.3211, –123.2605); West Fork Skamokawa Creek (46.2871, –123.4654); Wilson Creek (46.2970, –123.3434).

(iv) *Plympton Creek Watershed 1708000306.* Outlet(s) = Westport Slough (Lat 46.1434, Long –123.3816) upstream to endpoint(s) in: Plympton Creek (46.1261, –123.3842); Westport Slough (46.1195, –123.2797).

(5) Upper Cowlitz Subbasin 17080004—(i) *Headwaters Cowlitz River 1708000401.* Outlet(s) = Cowlitz River (Lat 46.6580, Lat –121.6032) upstream to endpoint(s) in: Clear Fork Cowlitz River (46.6858, –121.5668); Muddy Fork Cowlitz River (46.6994, –121.6169); Ohanapecosh River (46.6883, –121.5809).

(ii) *Upper Cowlitz River Watershed 1708000402.* Outlet(s) = Cowlitz River (Lat 46.5763, Long –121.7051) upstream to endpoint(s) in: Cowlitz River (46.6580, –121.6032).

(iii) *Cowlitz Valley Frontal Watershed 1708000403.* Outlet(s) = Cowlitz River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Cowlitz River (46.5763, –121.7051); Silver Creek (46.5576, –121.9178).

(iv) *Upper Cispus River Watershed 1708000404.* Outlet(s) = Cispus River (Lat 46.4449, Long –121.7954) upstream to endpoint(s) in: Cispus River (46.3410, –121.6709); East Canyon Creek (46.3454, –121.7031); North Fork Cispus River (46.4355, –121.654).

(v) *Lower Cispus River Watershed 1708000405.* Outlet(s) = Cispus River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Cispus River (46.4449, –121.7954); McCoy Creek (46.3892, –121.8190); Yellowjacket Creek (46.3871, –121.8335).

(6) Cowlitz Subbasin 17080005—(i) *Riffe Reservoir Watershed 1708000502.* Outlet(s) = Cowlitz River (Lat 46.5033, Long –122.5870) upstream to endpoint(s) in: Cowlitz River (46.4765, –122.0952).

(ii) *Jackson Prairie Watershed 1708000503.* Outlet(s) = Cowlitz River (Lat 46.3678, Long –122.9337) upstream to endpoint(s) in: Bear Creek (46.4215, –122.9224); Blue Creek (46.4885, –122.7253); Cowlitz River (46.5033, –122.5870); Lacamas Creek (46.5118, –122.8113); Mill Creek (46.4701, –122.8557); Mill Creek (46.5176;–122.6209); Otter Creek (46.4800, –122.6996); Salmon Creek (46.4237, –122.8400); Skook Creek (46.5035, –122.7556).

(iii) *North Fork Toutle River Watershed 1708000504.* Outlet(s) = North Fork Toutle River (Lat 46.3669, Long –122.5859) upstream to endpoint(s) in: North Fork Toutle River (46.3718, –122.5847).

(iv) *Green River Watershed 1708000505.* Outlet(s) = Green River (Lat 46.3718, Long –122.5847) upstream to endpoint(s) in: Cascade Creek (46.3924, –122.3530); Devils Creek (46.3875, –122.5113); Elk Creek (46.3929, –122.3224); Green River (46.3857, –122.1815); Miners Creek (46.3871, –122.2091); Shultz Creek (46.3744, –122.2987); Unnamed (46.3796, –122.3632).

(v) *South Fork Toutle River Watershed 1708000506.* Outlet(s) = South Fork Toutle River (Lat 46.3282, Long –122.7215) upstream to endpoint(s) in: Johnson Creek (46.3100, –122.6338); South Fork Toutle River (46.2306, –122.4439); Studebaker Creek (46.3044, –122.6777).

(vi) *East Willapa Watershed 1708000507.* Outlet(s) = Cowlitz River (Lat 46.2660, Long –122.9154) upstream to endpoint(s) in: Arkansas Creek (46.3275, –123.0123); Baxter Creek (46.3034, –122.9709); Brim Creek (46.4263, –123.0139); Campbell Creek (46.3756, –123.0401); Cowlitz River (46.3678, –122.9337); Delameter Creek (46.2495, –122.9916); Hemlock Creek (46.2585, –122.7269); Hill Creek (46.3724, –122.9211); King Creek (46.5076, –122.9885); Monahan Creek (46.2954, –123.0286); North Fork Toutle River (46.3669, –122.5859); Olequa Creek (46.5174, –122.9042); Stillwater Creek (46.3851, –123.0478); Sucker Creek (46.2628, –122.8116); Unnamed (46.5074, –122.9585); Unnamed (46.5405, –122.9090); Wyant Creek (46.3424, –122.6302).

(vii) *Coweeman Watershed 1708000508.* Outlet(s) = Cowlitz River (Lat 46.0977, Long –122.9141); Owl Creek (46.0771, –122.8676) upstream to endpoint(s) in: Baird Creek (46.1704, –122.6119); Coweeman River (46.1505, –122.5792); Cowlitz River (46.2660, –122.9154); Leckler Creek (46.2092, –122.9206); Mulholland Creek (46.1932, –122.6992); North Fork Goble Creek (46.1209, –122.7689); Ostrander Creek (46.2095, –122.8623); Owl Creek (46.0914, –122.8692); Salmon Creek (46.2547, –122.8839); South Fork Ostrander Creek (46.1910, –122.8600); Unnamed (46.0838, –122.7264).

(7) Lower Columbia Subbasin 17080006—(i) *Big Creek Watershed 1708000602.* Outlet(s) = Bear Creek (Lat 46.1719; Long –123.6642); Big Creek (46.1847, –123.5943); Blind Slough (46.2011, –123.5822); John Day River (46.1820, –123.7392) upstream to endpoint(s) in: Bear Creek (46.1181, –123.6388); Big Creek (46.1475, –123.5819); Gnat Creek (46.1614, –123.4813); John Day River (46.1763, –123.7474).

(ii) *Grays Bay Watershed 1708000603.* Outlet(s) = Crooked Creek (Lat 46.2962, Long –123.6795); Deep River (46.3035, –123.7092); Grays River (46.3035, –123.6867); Sisson Creek (46.3011, –123.7237); Unnamed (46.3042, –123.6870) upstream to endpoint(s) in: Crooked Creek (46.3033, –123.6222); East Fork Grays River (46.4425, –123.4081); Fossil Creek (46.3628, –123.5530); Grays River (46.4910, –123.4334); Hull Creek (46.3725, –123.5866); Johnson Canyon (46.3699, –123.6659); Klints Creek (46.3562, –123.5675); Malone Creek (46.3280, –123.6545); Mitchell Creek (46.4512, –123.4371) South Fork Grays River (46.3813, –123.4581); Sweigiler Creek (46.4195, –123.5375); Unnamed (46.3283, –123.7376); Unnamed (46.3651, –123.6839); Unnamed (46.4701, –123.4515); West Fork Grays River (46.4195, –123.5530).

(8) Clackamas Subbasin 17090011—(i) *Lower Clackamas River Watershed 1709001106.* Outlet(s) = Clackamas River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Clackamas River (45.2440, –122.2798); Clear Creek (45.3568, –122.4781); Deep Creek (45.3916, –122.4028); Richardson Creek (45.3971, –122.4712); Rock Creek (45.4128, –122.5043).

(ii) [Reserved]

(9) Lower Willamette Subbasin 17090012—(i) *Johnson Creek Watershed 1709001201.* Outlet(s) = Willamette River (Lat 45.4423, Long –122.6453) upstream to endpoint(s) in: Crystal Springs Creek (45.4770, –122.6403); Kellogg Creek (45.4344, –122.6314); Tryon Creek (45.4239, –122.6595); Unnamed (45.4002, –122.6423); Willamette River (45.3719, –122.6071).

(ii) *Scappoose Creek Watershed 1709001202.* Outlet(s) = Multnomah Channel (Lat 45.8577, Long –122.7919) upstream to endpoint(s) in: Cunningham Slough (45.8250, –122.8069); Multnomah Channel (45.6188, –122.7921); North Scappoose Creek (45.8014, –122.9340).

(iii) *Columbia Slough/Willamette River Watershed 1709001203.* Outlet(s) = Willamette River (Lat 45.6530, Long –122.7646) upstream to endpoint(s) in: Bybee/Smith Lakes (45.6189, –122.7333); Columbia Slough (45.5979, –122.7137); Willamette River (45.4423, –122.6453).

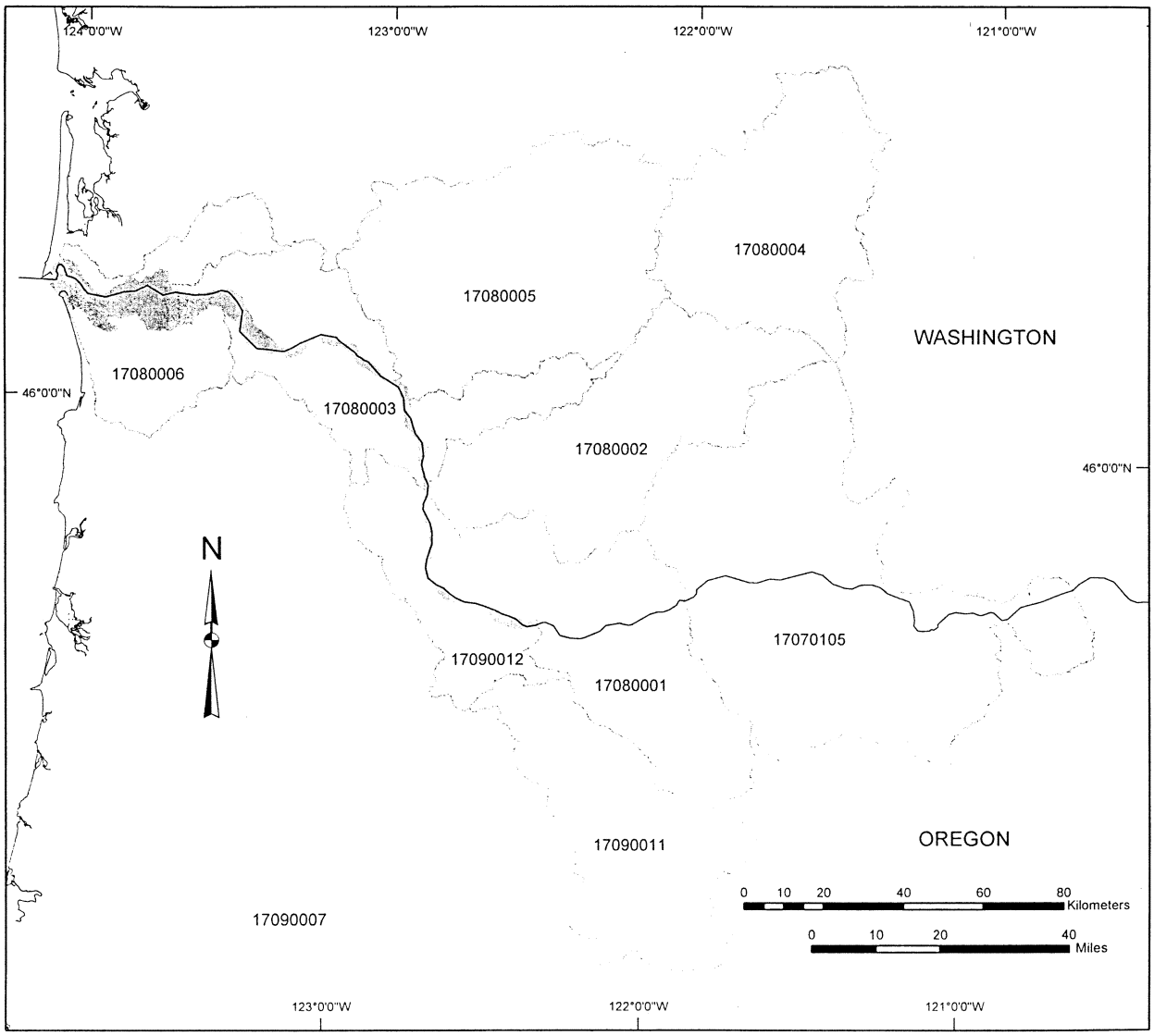
(10) Lower Columbia River Corridor—Lower Columbia River Corridor.

Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.5709, –122.4021).

(11) Maps of critical habitat for the Lower Columbia River chinook salmon ESU follow:

BILLING CODE 3510–22–P

Map of the Lower Columbia River Chinook Salmon ESU



Legend

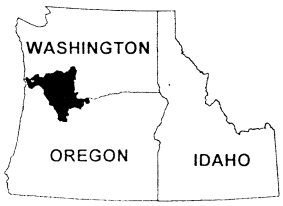
State Boundaries

Water Bodies

Subbasin Boundaries

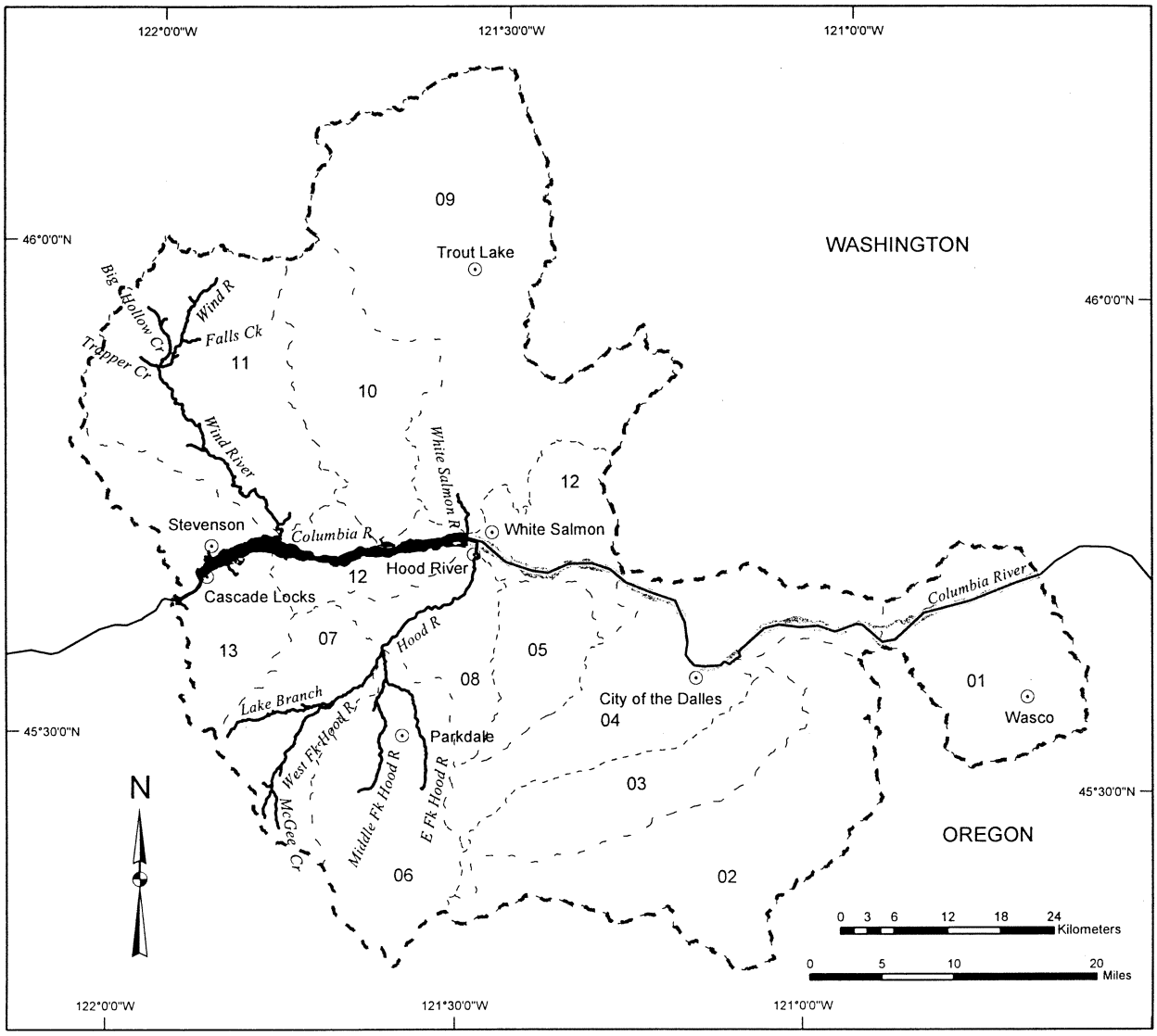
* All habitat areas in subbasin are excluded from designation

Area of Detail



Final Critical Habitat for the Lower Columbia River Chinook Salmon ESU

MIDDLE COLUMBIA / HOOD SUBBASIN 17070105

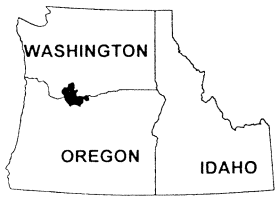


Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

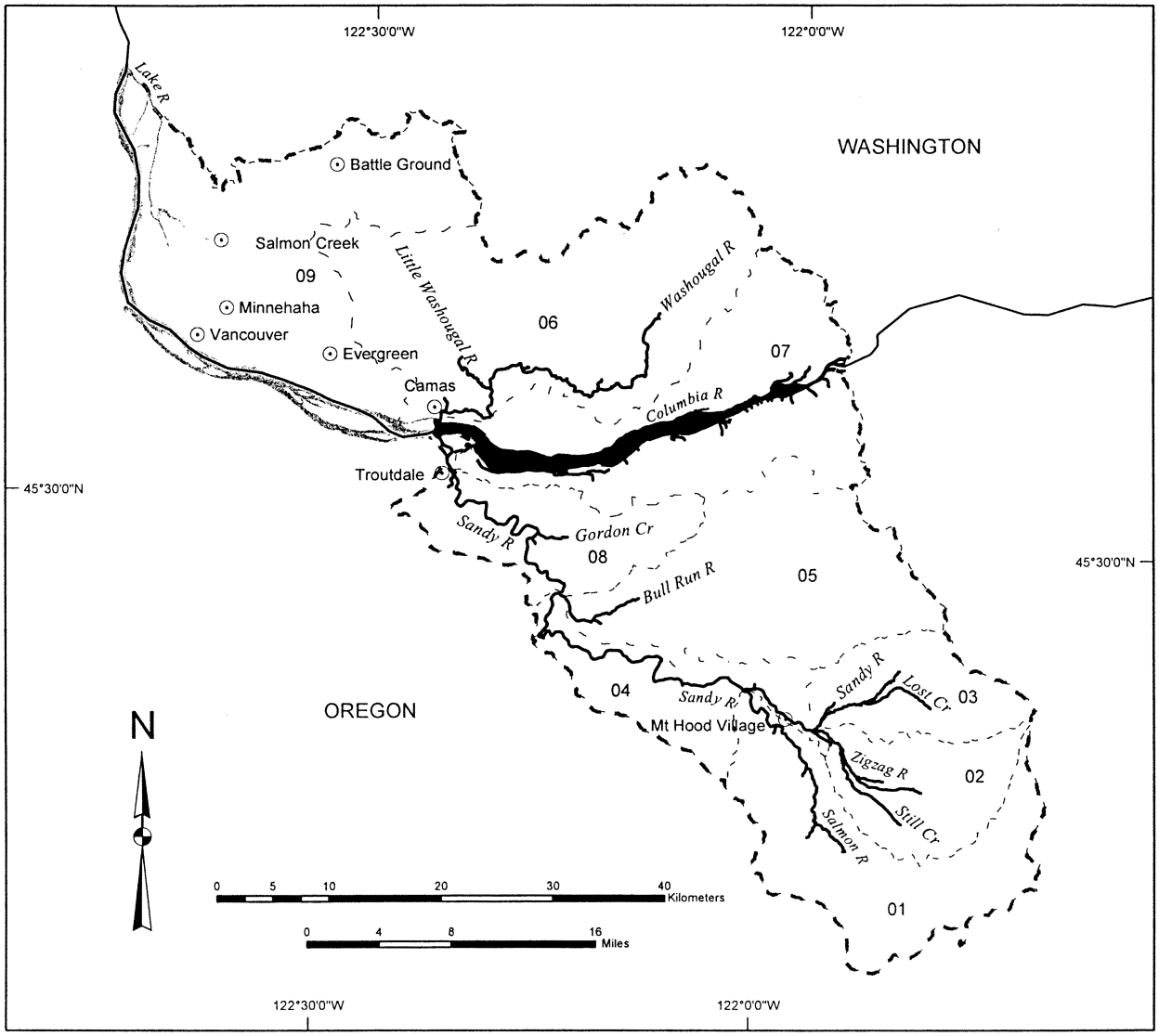
01 - 13 = Watershed code - last 2 digits of 17070105xx

Area of Detail



Final Critical Habitat for the Lower Columbia River Chinook Salmon ESU

LOWER COLUMBIA / SANDY SUBBASIN 17080001

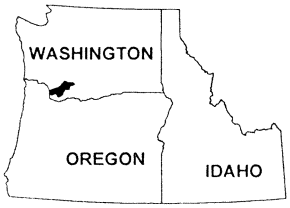


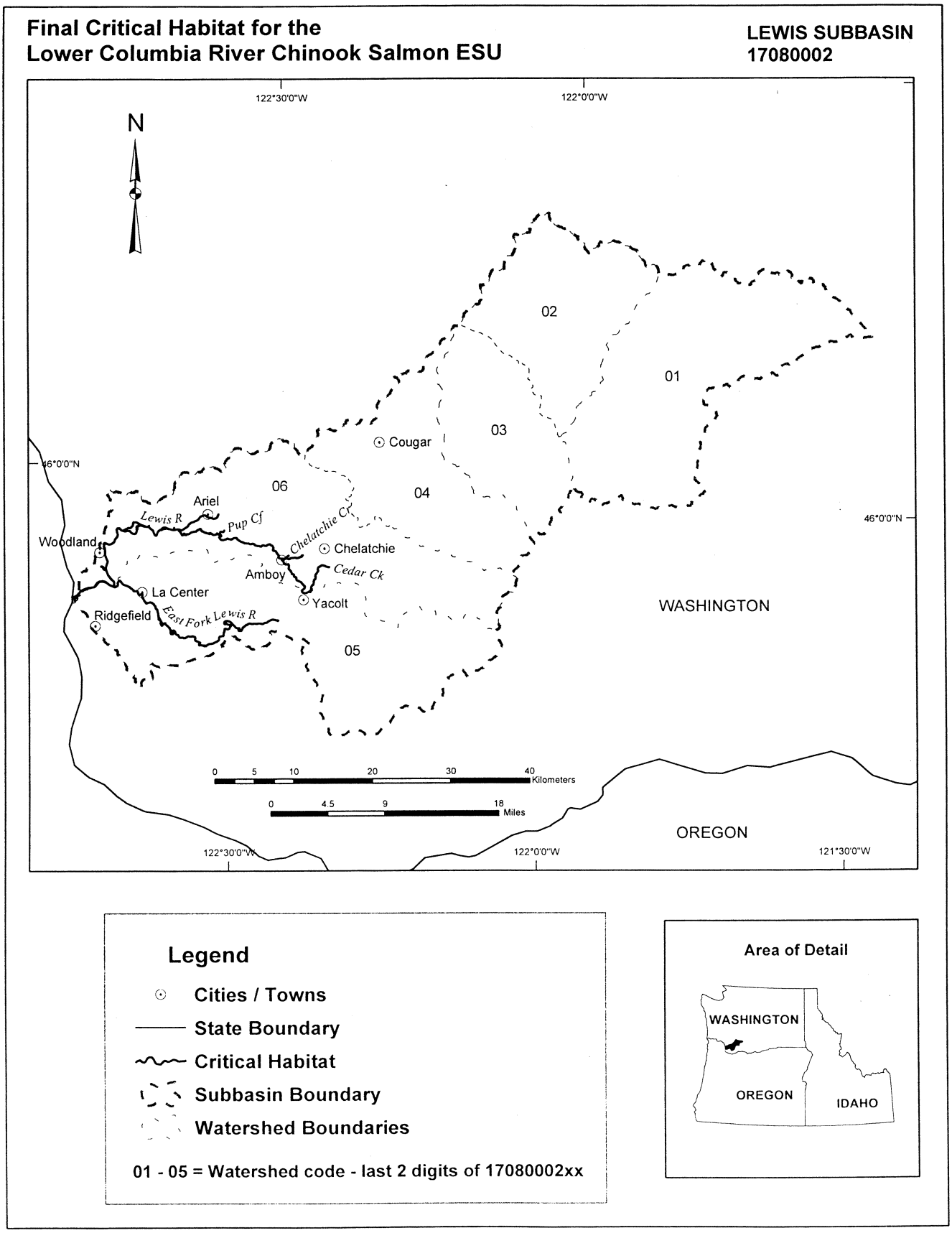
Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

01 - 09 = Watershed code - last 2 digits of 17080001xx

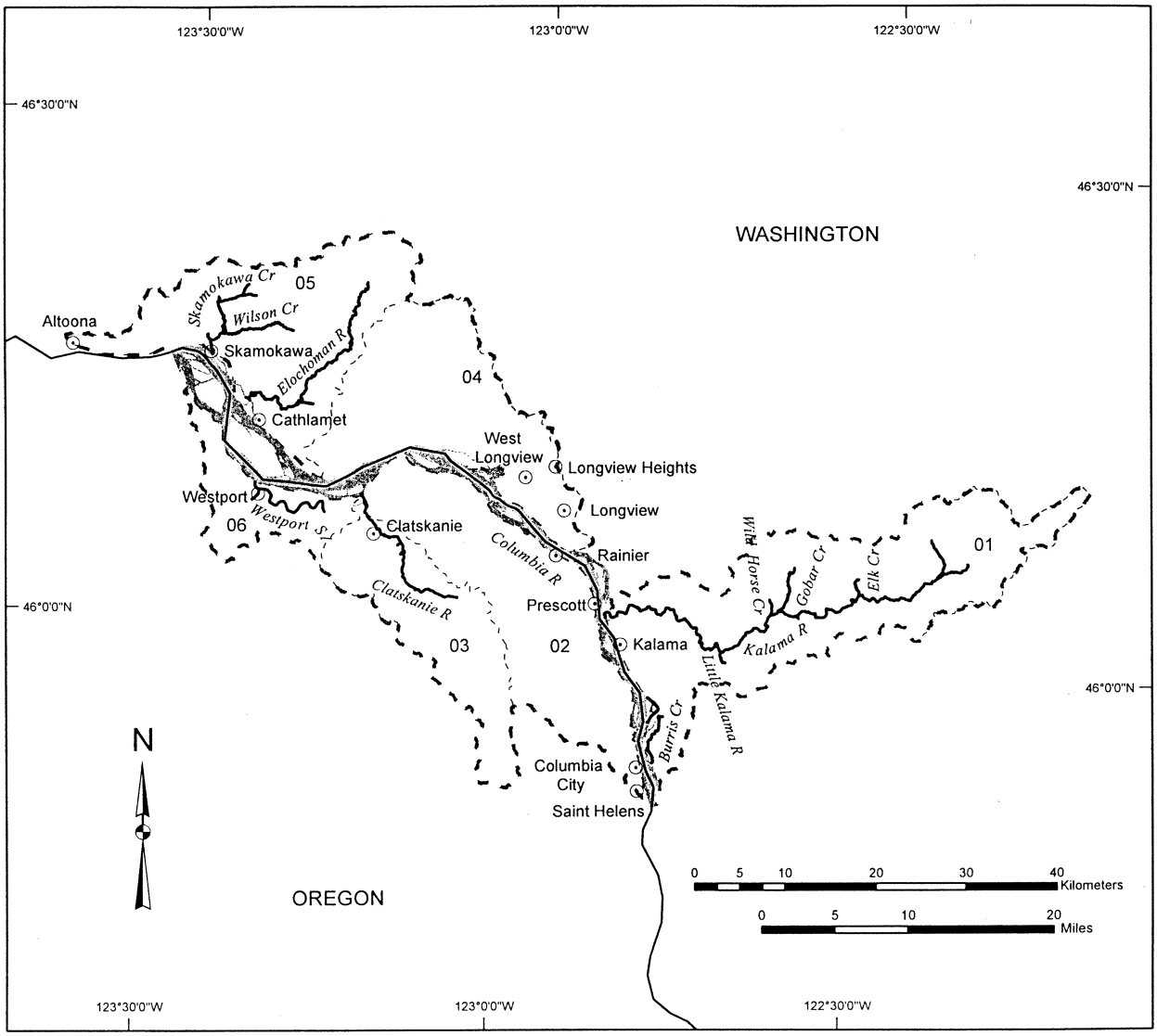
Area of Detail




Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LEWIS SUBBASIN
17080002
122°30'0"W
122°0'0"W
N
02
01
03
Cougar
46°0'0"N
06
04
Ariel
Lewis R
Pup Cf
Chelatchie Cr
Woodland
Chelatchie
Amboy
Cedar Ck
La Center
Yacolt
Ridgefield
East Fork Lewis R
WASHINGTON
05
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
OREGON
121°30'0"W
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Lower Columbia River Chinook Salmon ESU

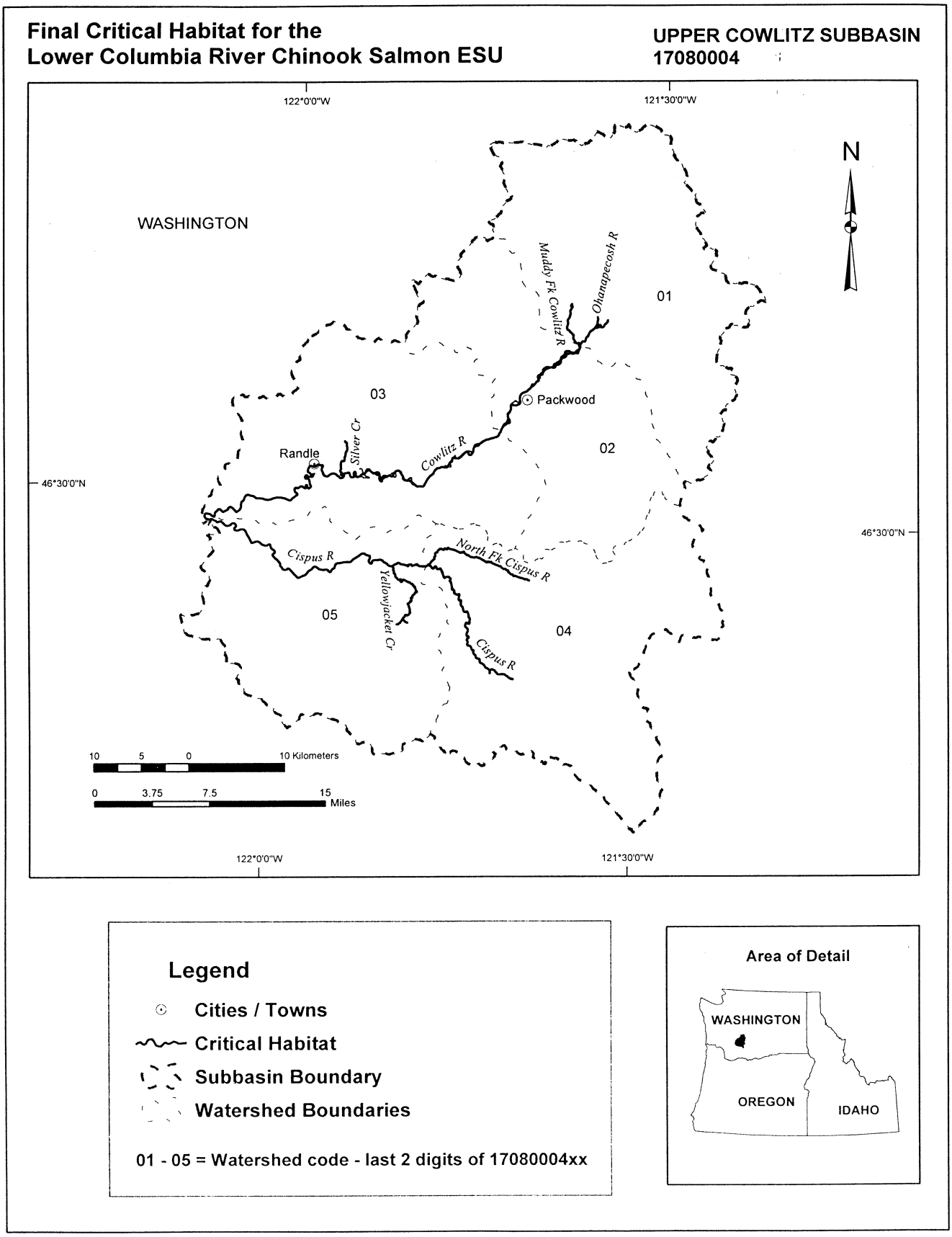
LOWER COLUMBIA / CLATSKANIE SUBBASIN 17080003



Legend

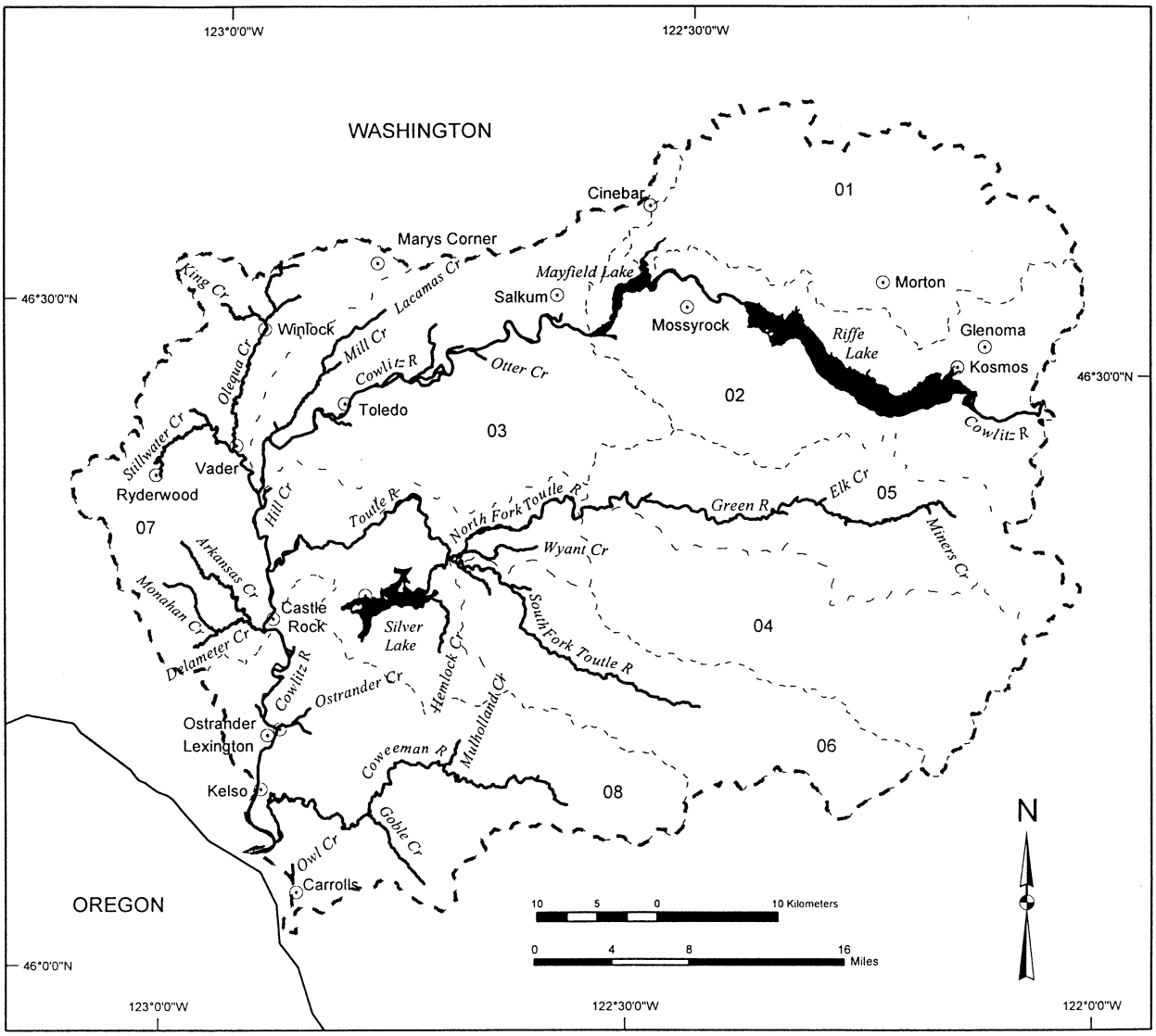
- Cities / Towns
- State Boundary
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundary

01 - 06 = Watershed code - last 2 digits of 17080003xx


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
UPPER COWLITZ SUBBASIN
17080004
122°0'0"W
121°30'0"W
N
WASHINGTON
Muddy Fk Cowlitz R
Ohanapecosh R
01
03
Packwood
Silver Cr
Randle
Cowlitz R
02
46°30'0"N
Cispus R
North Fk Cispus R
Yellowjacket Cr
05
04
Cispus R
10 5 0 10 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080004xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Lower Columbia River Chinook Salmon ESU

COWLITZ SUBBASIN 17080005

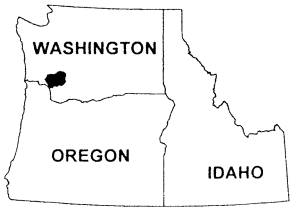


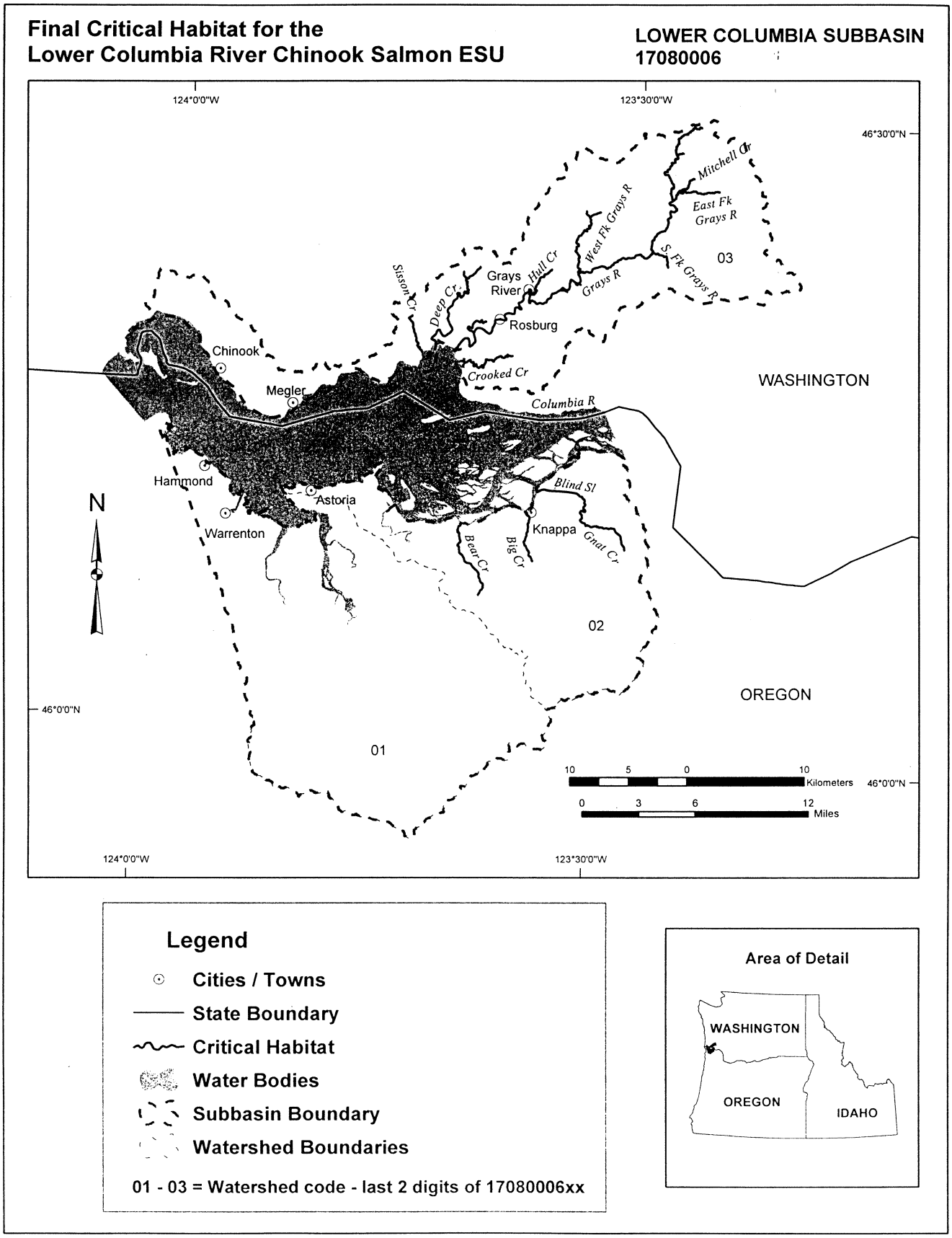
Legend

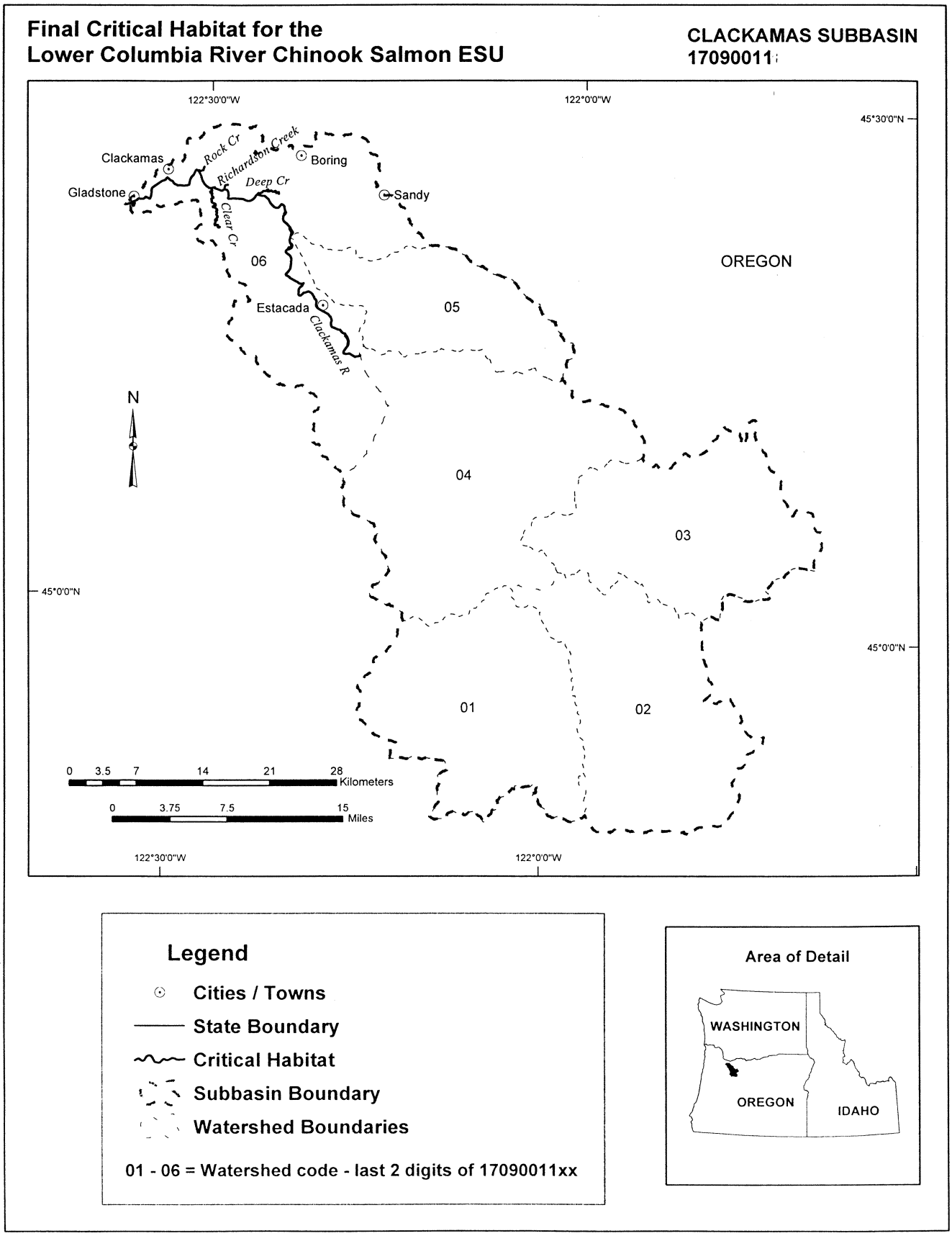
- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

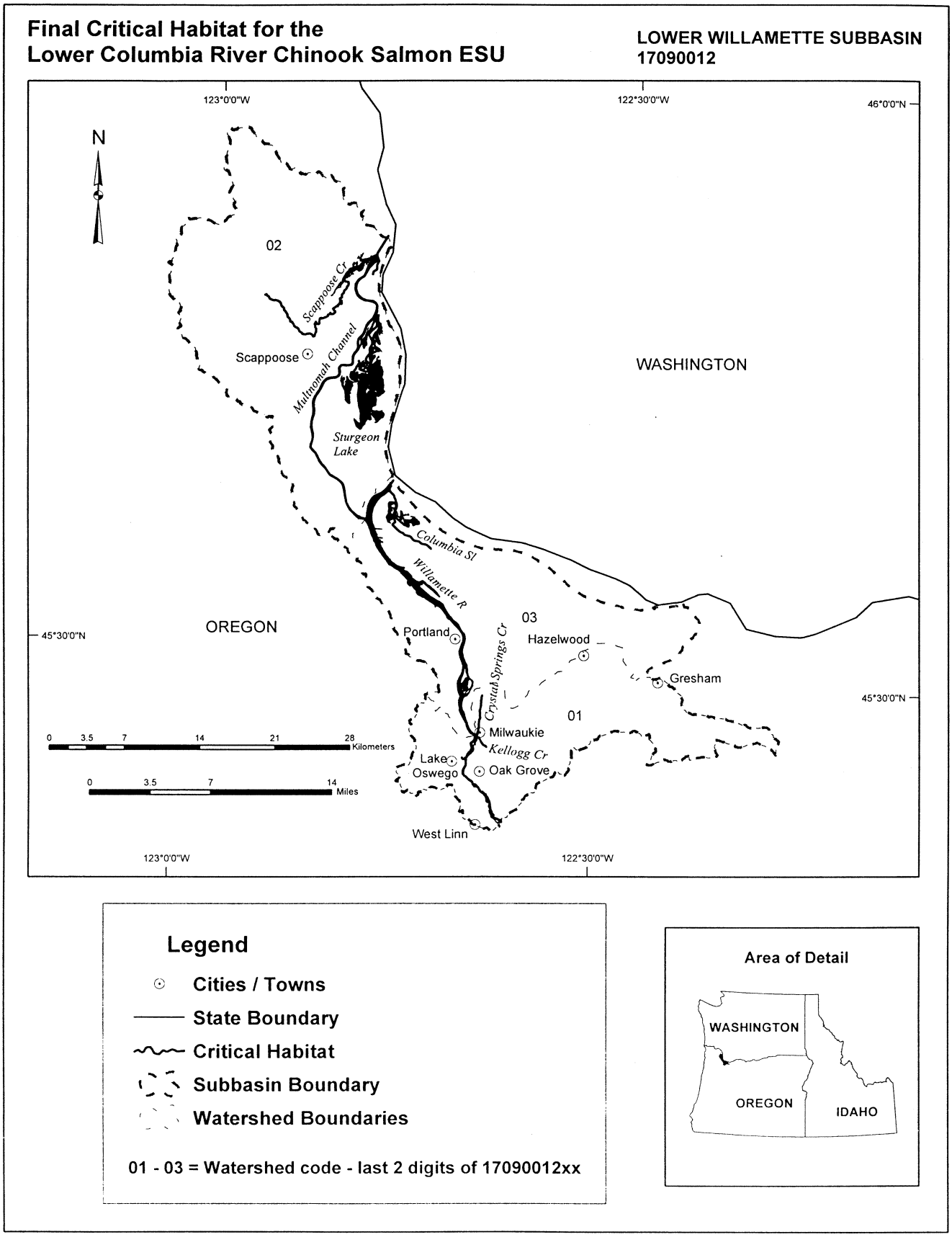
01 - 08 = Watershed code - last 2 digits of 17080005xx

Area of Detail

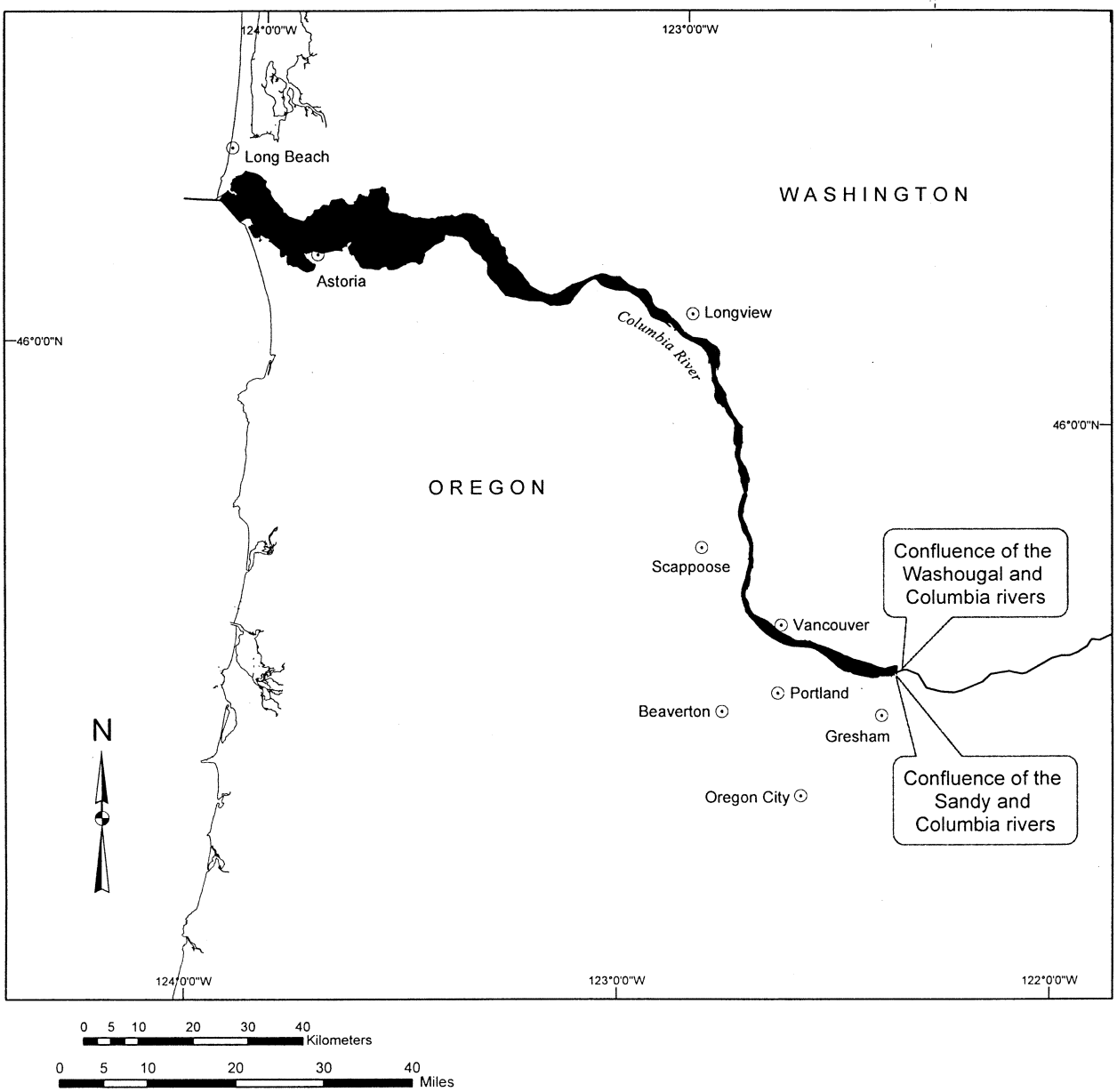



Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LOWER COLUMBIA SUBBASIN
17080006
124°0'0"W
123°30'0"W
46°30'0"N
46°0'0"N
Mitchell Cr
East Fk
Grays R
West Fk Grays R
S. Fk Grays R
Grays R
Hull Cr
Grays
River
Sisson Cr
Deep Cr
Rosburg
Chinook
Megler
Crooked Cr
Columbia R
WASHINGTON
Hammond
Astoria
Warrenton
Blind Sl
Knappa
Gnat Cr
Bear Cr
Big Cr
N
03
02
01
OREGON
10 5 0 10 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17080006xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
CLACKAMAS SUBBASIN
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Clackamas
Gladstone
Rock Cr
Richardson Creek
Boring
Deep Cr
Sandy
Clear Cr
06
05
OREGON
Estacada
Clackamas R
N
04
03
01
02
0 3.5 7 14 21 28 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090011xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LOWER WILLAMETTE SUBBASIN
17090012
123°0'0"W
122°30'0"W
46°0'0"N
45°30'0"N
N
02
Scappoose Cr
Scappoose
Multnomah Channel
Sturgeon Lake
WASHINGTON
Columbia Sl
Willamette R
OREGON
Portland
03
Hazelwood
Crystal Springs Cr
Gresham
01
Milwaukie
Kellogg Cr
Lake Oswego
Oak Grove
West Linn
0 3.5 7 14 21 28 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17090012xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Rearing / Migration Corridor for the Lower Columbia River Chinook Salmon ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Lower Columbia River Chinook ESU

Lower Columbia River Corridor
The lower Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to a line connecting the confluences of the Sandy River (Oregon) and Washougal River (Washington).

BILLING CODE 3510–22–C

(k) *Upper Willamette River Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is to include the areas defined in the following subbasins:

(1) Middle Fork Willamette Subbasin 17090001—(i) *Upper Middle Fork Willamette River Watershed 1709000101.* Outlet(s) = Middle Fork Willamette River (Lat 43.4961, Long –122.3989) upstream to endpoint(s) in: Echo Creek (43.4670, –122.3172); Found Creek (43.5048, –122.2831); Middle Fork Willamette River (43.4801, –122.2534); Noisy Creek (43.5083, –122.3016); Simpson Creek (43.5031, –122.3801); Skunk Creek (43.5069, –122.2866); Staley Creek (43.4527, –122.3650); Swift Creek (43.5438, –122.2431); Tumblebug Creek (43.4740, –122.2549); Unnamed (43.4967, –122.2645); Unnamed (43.4986, –122.2686); Unnamed (43.5020, –122.2764).

(ii) *Hills Creek Watershed 1709000102.* Outlet(s) = Hills Creek (Lat 43.7071, Long –122.4195) upstream to endpoint(s) in: Hills Creek (43.6718, –122.3502).

(iii) *Salt Creek/Willamette River Watershed 1709000103.* Outlet(s) = Salt Creek (Lat 43.7261, Long –122.4381) upstream to endpoint(s) in: Coyote Creek (43.6682, –122.2378); Eagle Creek (43.6795, –122.2293); Salt Creek (43.6204, –122.1413); South Fork Salt Creek (43.6518, –122.2261).

(iv) *Hills Creek Reservoir Watershed 1709000105.* Outlet(s) = Middle Fork Willamette River (Lat 43.7589, Long –122.5242) upstream to endpoint(s) in: Big Willow Creek (43.6341, –122.4139); Buck Creek (43.5945, –122.4272); Bull Creek (43.6598, –122.4014); Coal Creek (43.4882, –122.4246); Coffeepot Creek (43.6182, –122.4160); Gold Creek (43.5860, –122.4768); Indian Creek (43.5034, –122.4638); Larison Creek (43.6851, –122.4760); Middle Fork Willamette River (43.4961, –122.3989); Packard Creek (43.6516, –122.4904); Snake Creek (43.5388, –122.4554) Snow Creek (43.6061, –122.4585); Windfall Creek (43.5984, –122.4638).

(v) *North Fork of Middle Fork Willamette River Watershed 1709000106.* Outlet(s) = North Fork Middle Fork Willamette River (Lat 43.7589, Long –122.5242) upstream to endpoint(s) in: Cayuse Creek (43.8651, –122.1856); Chalk Creek (43.8750, –122.4044); Christy Creek (43.9079, –122.3796); Fisher Creek (43.8699, –122.1551); North Fork Middle Fork Willamette River (43.8671, –122.0711).

(vi) *Middle Fork Willamette/Lookout Point Watershed 1709000107.* Outlet(s) = Middle Fork Willamette River (Lat 43.9495, Long –122.8471) upstream to endpoint(s) in: Anthony Creek (43.8799, –122.8498); Bannister Creek (43.8743, –122.6538); Buckhead Creek (43.7753, –122.5253); Burnt Bridge Creek (43.7900, –122.5334); Carr Creek (43.8558, –122.8177); Deception Creek (43.7551, –122.5541); East Fork Minnow Creek (43.8902, –122.7342); Goodman Creek (43.8309, –122.6940); Gosage Creek (43.8446, –122.8129); Guiley Creek (43.8419, –122.7962); Hazel Creek (43.8637, –122.6891); Lost Creek (43.8427, –122.7781); Middle Creek (43.8624, –122.8323); Middle Fork Willamette River (43.7589, –122.5242); Minnow Creek (43.8872, –122.7458); North Creek (43.8247, –122.6236); Rolling Riffle Creek (43.8750, –122.7052); School Creek (43.8604, –122.6099); South Creek (43.8230, –122.6216); Unnamed (43.8329, –122.6775); Unnamed (43.8427, –122.6643); Unnamed (43.8433, –122.6950).

(vii) *Little Fall Creek Watershed 1709000108.* Outlet(s) = Little Fall Creek (Lat 43.9577, Long –122.8166) upstream to endpoint(s) in: Little Fall Creek (44.0579, –122.5440); Norton Creek (44.0006, –122.7044); Sturdy Creek (44.0196, –122.6475).

(viii) *Fall Creek Watershed 1709000109.* Outlet(s) = Fall Creek (Lat 43.9707, Long –122.8677) upstream to endpoint(s) in: Alder Creek (44.0000, –122.4993); Fall Creek (43.9922, –122.3758); Gold Creek (43.9772, –122.4051); Logan Creek (43.9447, –122.4504); Nelson Creek (43.9285, –122.6850); Portland Creek (43.9331, –122.4655); Sunshine Creek (43.9943, –122.4672); Winberry Creek (43.9142, –122.6890).

(ix) *Lower Middle Fork Willamette River Wateshed 1709000110.* Outlet(s) = Middle Fork Willamette River (Lat 44.0226, Long –123.0169) upstream to endpoint(s) in: Hills Creek (43.9945, –122.8651); Middle Fork Willamette River (43.9495, –122.8471); Mill Race (44.0407, –123.0004); Pudding Creek (44.0173, –122.9501); Rattlesnake Creek (43.9352, –122.8608); Wallace Creek (44.0074, –122.8984).

(2) Upper Willamette Subbasin 17090003—(i) *Muddy Creek Watershed 1709000302.* Outlet(s) = Willamette River (Lat 44.6400, Long –123.1096) upstream to endpoint(s) in: Willamette River (44.0226, –123.0169).

(ii) *Calapooia River Watershed 1709000303.* Outlet(s) = Calapooia River (Lat 44.5088, Long –123.1101) upstream to endpoint(s) in: Calapooia River (44.2354, –122.4128).

(iii) *Oak Creek Watershed 1709000304.* Outlet(s) = Willamette River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Calapooia River (44.5088, –123.1101); Willamette River (44.6400, –123.1096).

(iv) *Marys River Watershed 1709000305.* Outlet(s) = Marys River (Lat 44.5566, Long –123.2597) upstream to endpoint(s) in: Beaver Creek (44.4554, –123.3748); Marys River (44.5373, –123.3762); Oak Creek (44.5636, –123.2932).

(v) *Luckiamute River Watershed 1709000306.* Outlet(s) = Luckiamute River (Lat 44.7561, Long –123.1468) upstream to endpoint(s) in: Soap Creek (44.7317, –123.2151); Unnamed (44.7661, –123.2011).

(3) McKenzie Subbasin 17090004—(i) *Upper McKenzie River Watershed 1709000401.* Outlet(s) = McKenzie River (Lat 44.1721, Long –122.2058) upstream to endpoint(s) in: Deer Creek (44.2677, –122.0712); Frissell Creek (44.2288, –122.0699); Lost Creek (44.1729, –122.0401); McKenzie River (44.3109, –122.0199); Scott Creek (44.1981, –122.0195); Smith River (44.2824, –122.0506).

(ii) *Horse Creek Watershed 1709000402.* Outlet(s) = West Fork Horse Creek (Lat 44.1721, Long –122.2058) upstream to endpoint(s) in: Cedar Swamp Creek (44.1563, –122.1132); Horse Creek (44.0602, –122.0087); King Creek (44.1635, –122.1693); Separation Creek (44.1274, –122.0077).

(iii) *South Fork McKenzie River Watershed 1709000403.* Outlet(s) = South Fork McKenzie River (Lat 44.1595, Long –122.2946) upstream to endpoint(s) in: Augusta Creek (43.9562, –122.1632); Cougar Creek (44.1397, –122.2437); East Fork South Fork McKenzie (44.0850, –122.0997); Elk Creek (43.9455, –122.0384); French Pete Creek (44.0402, –122.1854); Hardy Creek (44.0345, –122.2047); Rebel Creek (44.0167, –122.1505); Roaring River (43.9479, –122.0811); South Fork McKenzie River (43.9533, –121.9995).

(iv) *McKenzie River/Quartz Creek Watershed 1709000405.* Outlet(s) = McKenzie River (Lat 44.1112, Long –122.4209) upstream to endpoint(s) in: Cone Creek (44.1528, –122.3649); McKenzie River (44.1721, –122.2058); Quartz Creek (44.0188, –122.3015); Wycoff Creek (44.0846, –122.3143).

(v) *Lower McKenzie River Watershed 1709000407.* Outlet(s) = McKenzie River (Lat 44.1255, Long –123.1059) upstream to endpoint(s) in: Boulder Creek (44.0601, –122.7825); Camp Creek (44.0896, –122.8544); Deer Creek (44.0895, –122.4234); Ennis Creek (44.0804, –122.3754); Finn Creek (44.1471, –122.5972); Forest Creek (44.0861, –122.7153); Haagen Creek (44.0880, –122.7126); Hatchery Creek (44.1449, –122.6056); Holden Creek

(44.1056, –122.7061); Indian Creek (44.1526, –122.5816); Lane Creek (44.0928, –122.7323); Marten Creek (44.1075, –122.5046); McKenzie River (44.1112, –122.4209); North Fork Gate Creek (44.1718, –122.5248); Osborn Creek (44.0565, –122.7880); Ritchie Creek (44.1028, –122.6567); South Fork Gate Creek (44.1667, –122.4980); Taylor Creek (44.0783, –122.7481); Toms Creek (44.1316, –122.5586); Unnamed (44.0646, –122.9399); Walterville Canal (44.0765, –122.7537).

(4) North Santiam Subbasin 17090005—(i) *Middle North Santiam River Watershed 1709000504.* Outlet(s) = North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Mad Creek (44.7453, –122.3898); North Santiam River (44.7510, –122.2821); Rock Creek (44.7077, –122.4171); Snake Creek (44.7477, –122.4905).

(ii) *Little North Santiam River Watershed 1709000505.* Outlet(s) = Little North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Elkhorn Creek (44.8134, –122.3561); Little North Santiam River (44.8390, –122.3364); Little Sinker Creek (44.8191, –122.4111); Sinker Creek (44.8166, –122.4174).

(iii) *Lower North Santiam River Watershed 1709000506.* Outlet(s) = Santiam River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Bear Branch (44.7559, –122.7974); Cold Creek (44.7522, –122.8848); Morgan Creek (44.7500, –123.0376); North Santiam River (44.7852, –122.6079); Salem Ditch (44.8000, –122.8120); Smallman Creek (44.7300, –122.9098); Stout Creek (44.7930, –122.6177); Trask Creek (44.7725, –122.6152); Unnamed (44.7672, –123.0517); Valentine Creek (44.8013, –122.7176).

(5) South Santiam Subbasin 17090006—(i) *Hamilton Creek/South Santiam River Watershed 1709000601.* Outlet(s) = South Santiam River (Lat 44.6869, Long –123.0052) upstream to endpoint(s) in: Hamilton Creek (44.5037, –122.7667); McDowell Creek (44.4580, –122.7128); Mill Creek (44.6750, –122.9721); Noble Creek (44.4519, –122.7976); South Santiam River (44.4163, –122.6693); Spring Branch (44.6821, –122.9811); Unnamed (44.6703, –122.9870); Unnamed (44.6801, –122.9786).

(ii) *Crabtree Creek Watershed 1709000602.* Outlet(s) = Crabtree Creek (Lat 44.6756, Long –122.9557) upstream to endpoint(s) in: Bald Peter Creek (44.5682, –122.5825); Beaver Creek (44.6271, –122.8504); Crabtree Creek (44.6058, –122.5405); Roaring River (44.6251, –122.7283); South Fork Crabtree Creek (44.5741, –122.5744).

(iii) *Thomas Creek Watershed 1709000603.* Outlet(s) = Thomas Creek (Lat 44.6778, Long –122.9654) upstream to endpoint(s) in: Jordan Creek (44.7531, –122.6595); Mill Creek (44.7055, –122.7842); Neal Creek (44.7101, –122.6912); South Fork Neal Creek (44.7033, –122.7078); Thomas Creek (44.6776, –122.4650).

(iv) *South Santiam River Watershed 1709000606.* Outlet(s) = South Santiam River (Lat 44.3977, Long –122.4491) upstream to endpoint(s) in: Falls Creek (44.4007, –122.3828); South Santiam River (44.3980, –122.2610).

(v) *South Santiam River/Foster Reservoir Watershed 1709000607.* Outlet(s) = South Santiam River (Lat 44.4163, Long –122.6693) upstream to endpoint(s) in: Middle Santiam River (44.4498, –122.5479); South Santiam River (44.3977, –122.4491).

(vi) *Wiley Creek Watershed 1709000608.* Outlet(s) = Wiley Creek (Lat 44.4140, Long –122.6752) upstream to endpoint(s) in: Little Wiley Creek (44.3673, –122.5916); Wiley Creek (44.3488, –122.5900).

(6) Middle Willamette Subbasin 17090007—(i) *Mill Creek/Willamette River Watershed 1709000701.* Outlet(s) = Mill Creek (Lat 44.9520, Long –123.0381) upstream to endpoint(s) in: Mill Creek (44.8255, –122.8226).

(ii) *Rickreall Creek Watershed 1709000702.* Outlet(s) = Willamette River (Lat 44.9288, Long –123.1124) upstream to endpoint(s) in: Willamette River (44.7504, –123.1421).

(iii) *Willamette River/Chehalem Creek Watershed 1709000703.* Outlet(s) = Willamette River (Lat 45.2552, Long –122.8806) upstream to endpoint(s) in: Willamette River (44.9288, –123.1124).

(iv) *Abernethy Creek Watershed 1709000704.* Outlet(s) = Willamette River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Willamette River (45.2552, –122.8806).

(7) Molalla/Pudding Subbasin 17090009—(i) *Butte Creek/Pudding River Watershed 1709000902.* Outlet(s) = Pudding River (Lat 45.1907, Long –122.7527) upstream to endpoint(s) in: Pudding River (45.0740, –122.8525).

(ii) *Senecal Creek/Mill Creek Watershed 1709000904.* Outlet(s) = Pudding River (Lat 45.2843, Long –122.7149) upstream to endpoint(s) in: Pudding River (45.1907, –122.7527).

(iii) *Upper Molalla River Watershed 1709000905.* Outlet(s) = Molalla River (Lat 45.1196, Long –122.5342) upstream to endpoint(s) in: Molalla River (44.9124, –122.3228); North Fork Molalla River (45.0872, –122.3849); Table Rock Fork Molalla River (44.9876, –122.2741).

(iv) *Lower Molalla River Watershed 1709000906.* Outlet(s) = Molalla River (Lat 45.2979, Long –122.7141) upstream to endpoint(s) in: Gribble Creek (45. 2146, –122.6988); Milk Creek (45.2278, –122.5670); Molalla River (45.1196, –122.5342).

(8) Clackamas Subbasin 17090011—(i) *Collawash River Watershed 1709001101.* Outlet(s) = Collawash River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Blister Creek (44.9594, –122.1590); Collawash River (44.9507, –122.0350); Hot Springs Fk Collawash River (44.9385, –122.1721); Nohorn Creek (44.9442, –122.1957).

(ii) *Upper Clackamas River 1709001102.* Outlet(s) = Clackamas River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Cabin Creek (45.0087, –121.8958); Clackamas River (44.8966, –121.8800); Cub Creek (44.8969, –121.8876); Granite Creek (45.0184, –121.9885); Hunter Creek (44.9086, –121.8929); Last Creek (44.9715, –121.8547); Lowe Creek (44.9487, –121.8983); Pot Creek (45.0149, –121.9084); Unnamed (44.9469, –121.8691); Wall Creek (44.9555, –121.8843).

(iii) *Oak Grove Fork Clackamas River Watershed 1709001103.* Outlet(s) = Oak Grove Fork Clackamas River (Lat 45.0746, Long –122.0520) upstream to endpoint(s) in: Oak Grove Fork Clackamas River (45.0822, –121.9859).

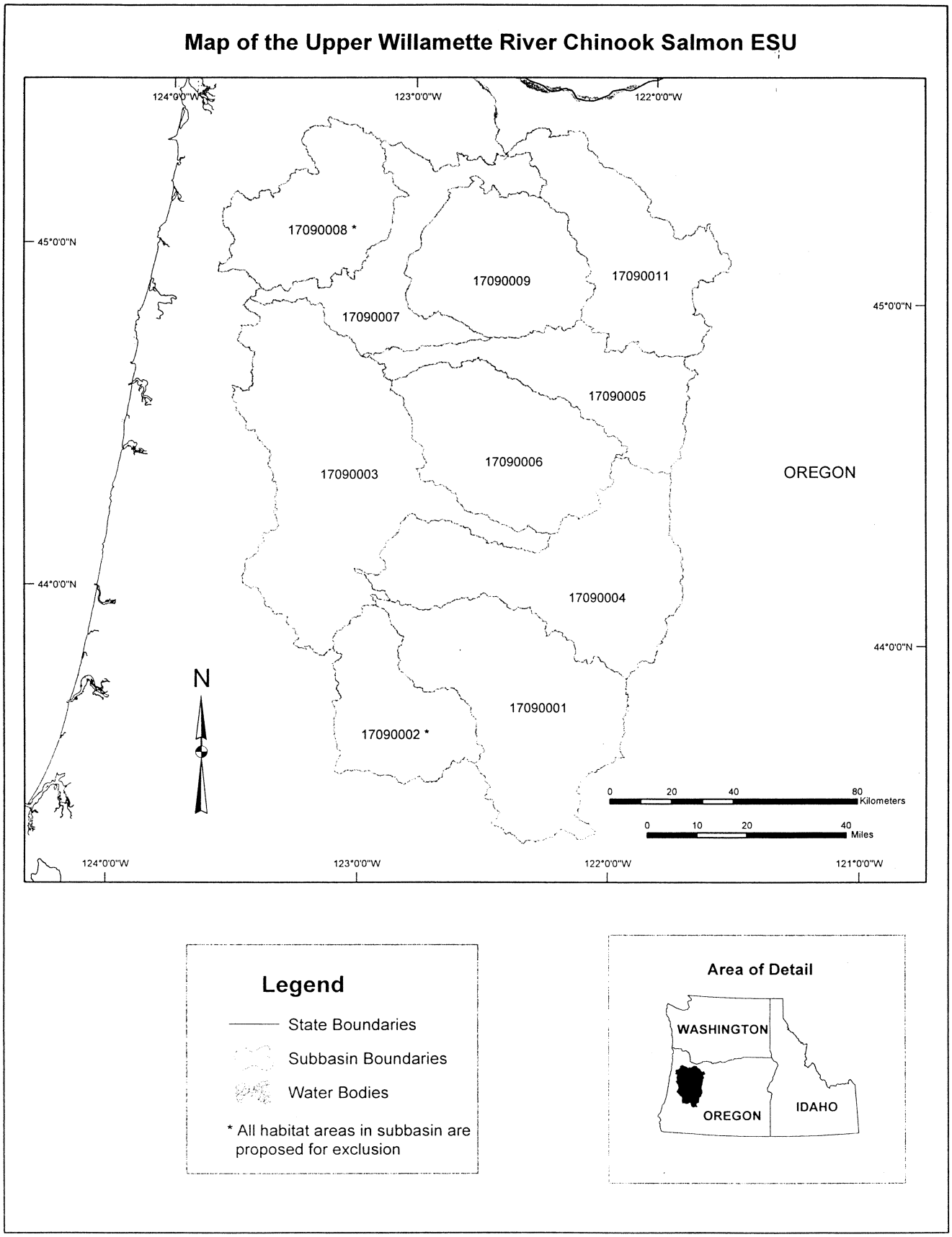
(iv) *Middle Clackamas River Watershed 1709001104.* Outlet(s) = Clackamas River (Lat 45.2440, Long –122.2798) upstream to endpoint(s) in: Clackamas River (45.0321, –122.0600); Fish Creek (45.0962, –122.1683); North Fork Clackamas River (45.2361, –122.2186); Roaring River (45.1773, –122.0650); South Fork Clackamas River (45.1939, –122.2257); Tag Creek (45.0607, –122.0512); Tar Creek (45.0494, –122.0570).

(v) *Lower Clackamas River Watershed 1709001106.* Outlet(s) = Clackamas River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Clackamas River (45.2440, –122.2798); Clear Creek (45.3568, –122.4781); Deep Creek (45.3937, –122.4095); Richardson Creek (45.3971, –122.4712).

(9) Lower Willamette/Columbia River Corridor—*Lower Willamette/Columbia River Corridor.* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Willamette River (45.3719, –122.6071).

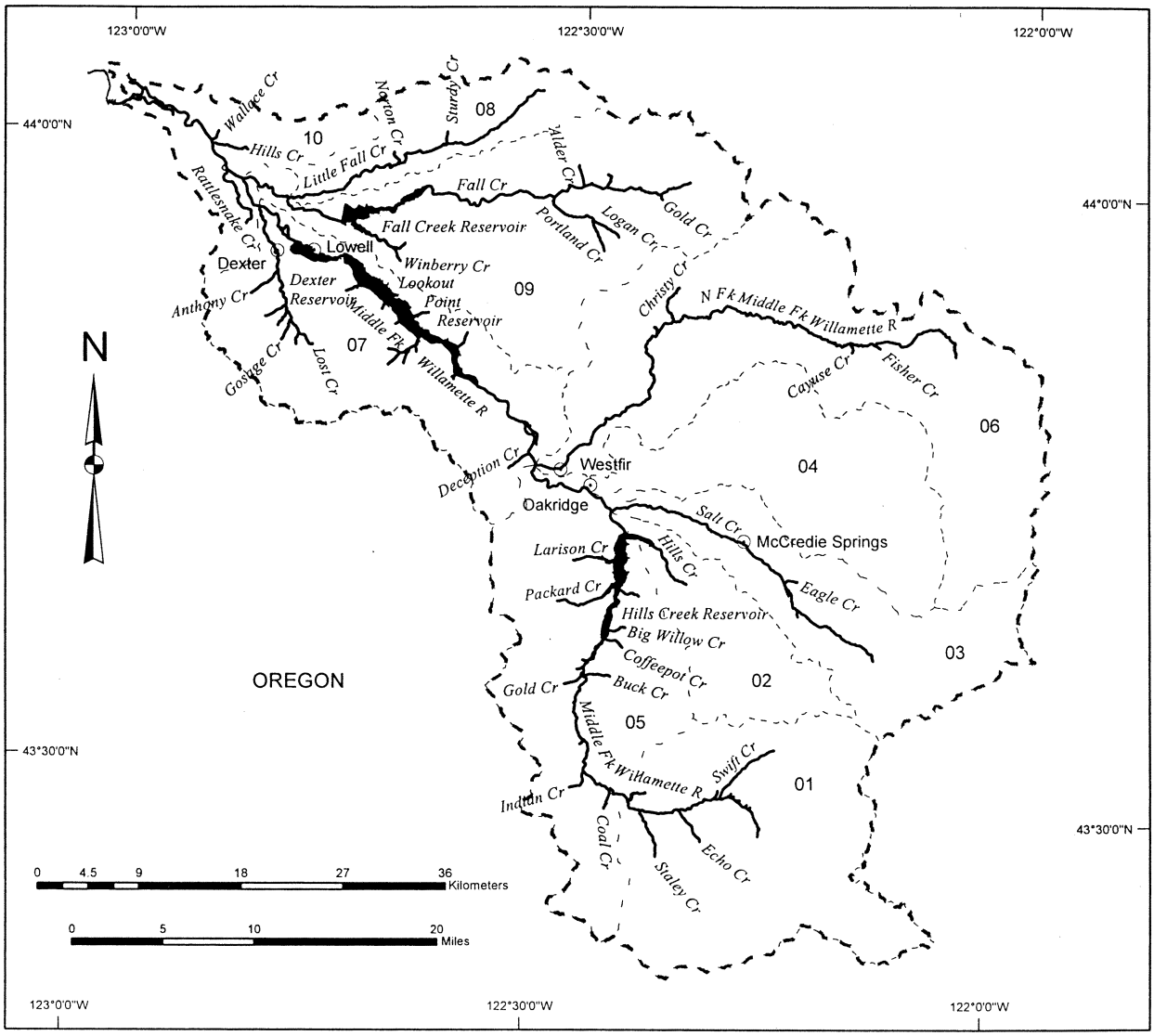
(10) Maps of critical habitat for the Upper Willamette River chinook salmon ESU follow:

BILLING CODE 3510–22–P


Map of the Upper Willamette River Chinook Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
121°0'0"W
45°0'0"N
44°0'0"N
17090008 *
17090009
17090011
17090007
17090005
17090006
17090003
17090004
17090001
17090002 *
OREGON
N
0 20 40 80 Kilometers
0 10 20 40 Miles
Legend
State Boundaries
Subbasin Boundaries
Water Bodies
* All habitat areas in subbasin are proposed for exclusion
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

MIDDLE FORK WILLAMETTE SUBBASIN 17090001

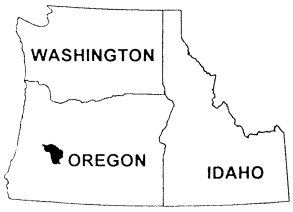


Legend

- Cities / Towns
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

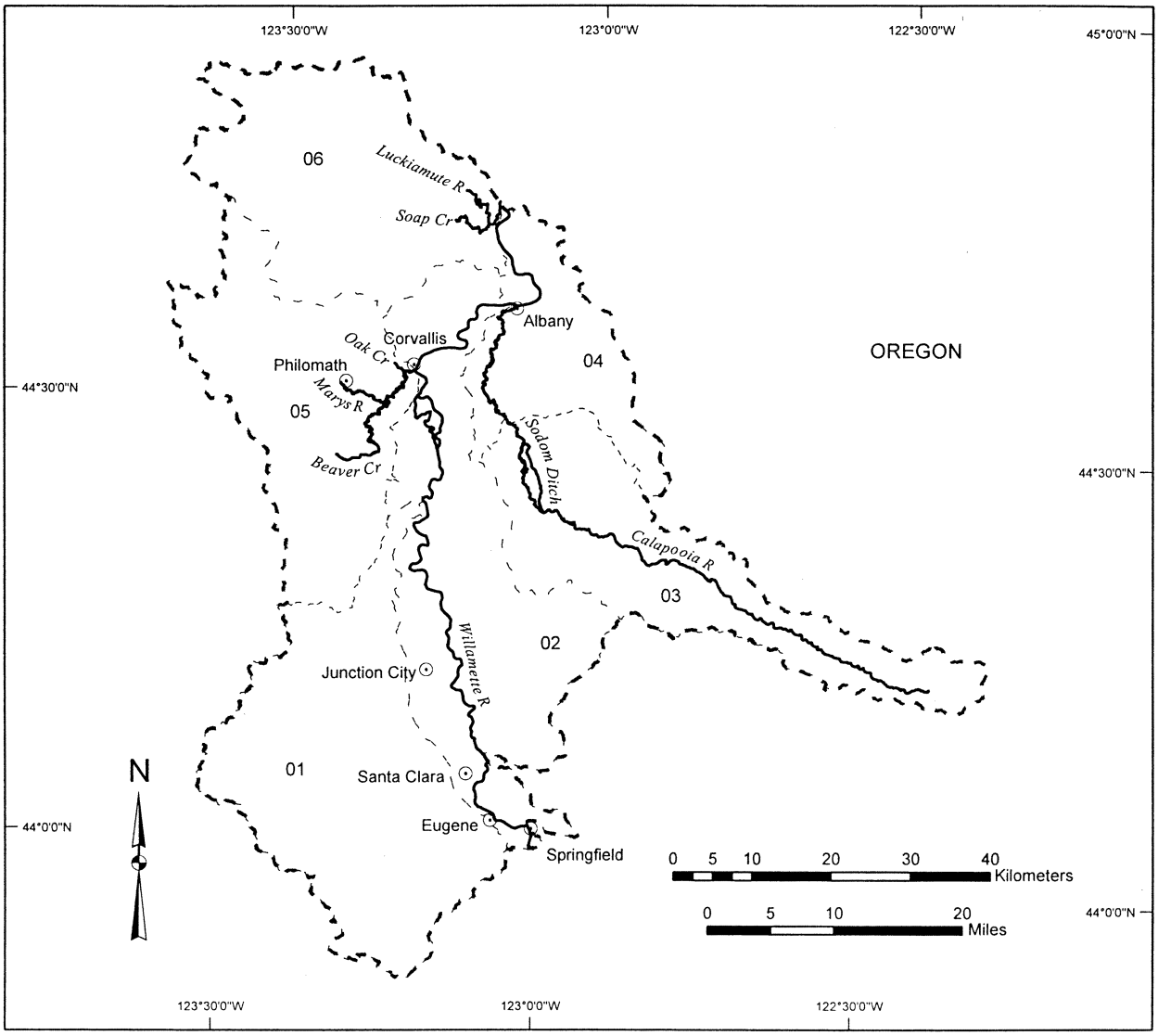
01 - 10 = Watershed code - last 2 digits of 17090001xx

Area of Detail



Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

UPPER WILLAMETTE SUBBASIN 170900003

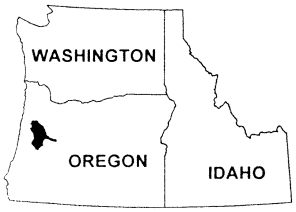


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

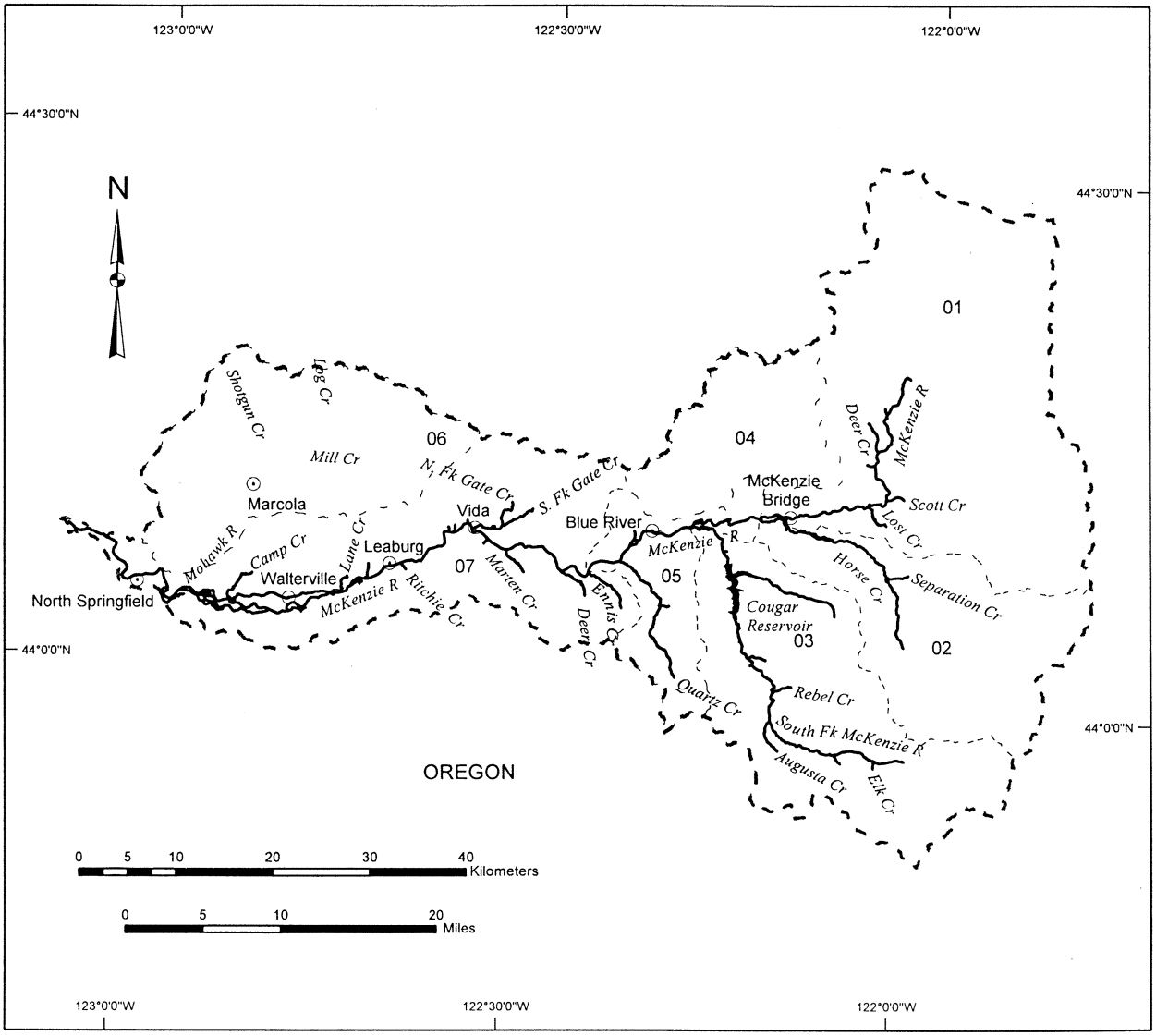
01 - 06 = Watershed code - last 2 digits of 17090003xx

Area of Detail



Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

MCKENZIE SUBBASIN 17090004

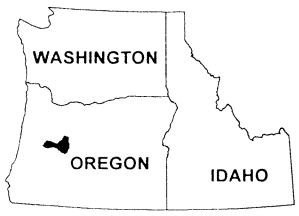


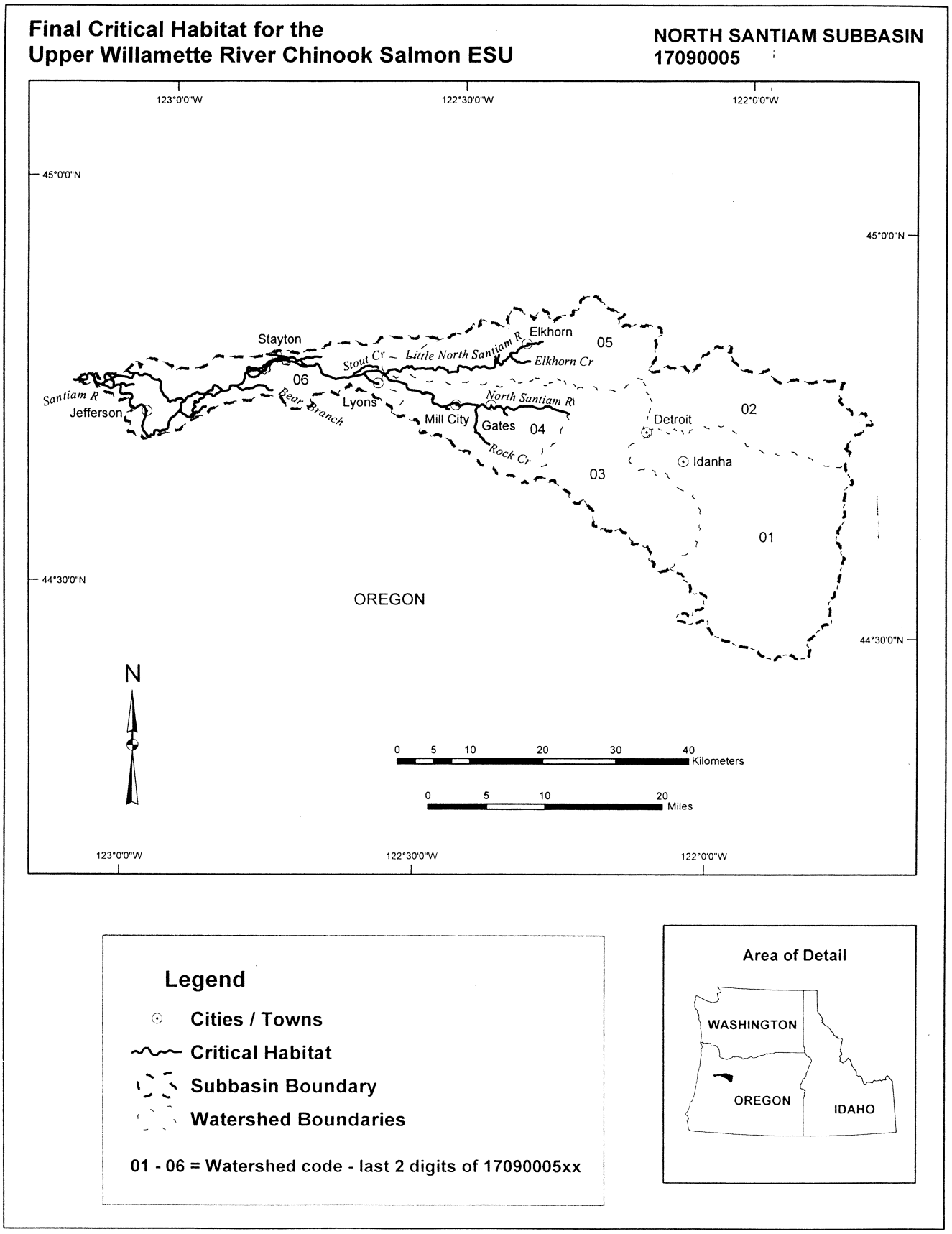
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 07 = Watershed code - last 2 digits of 17090004xx

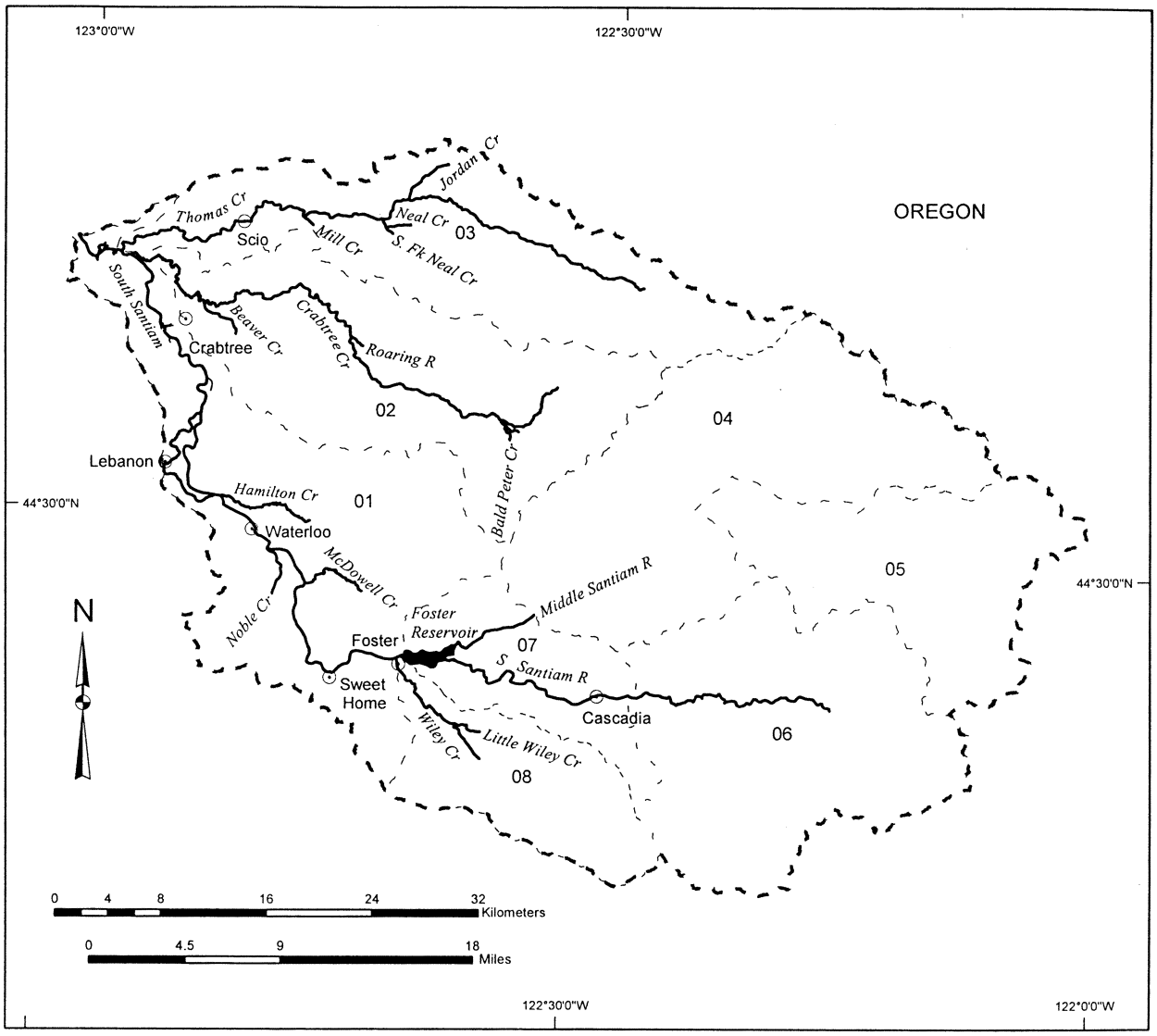
Area of Detail




Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
NORTH SANTIAM SUBBASIN
17090005
123°0'0"W
122°30'0"W
122°0'0"W
45°0'0"N
44°30'0"N
Stayton
Elkhorn
05
Stout Cr
Little North Santiam R
Elkhorn Cr
06
Santiam R
Jefferson
Rear Branch
Lyons
North Santiam R
Mill City
Gates
04
Detroit
02
Rock Cr
Idanha
03
01
OREGON
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090005xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

SOUTH SANTIAM SUBBASIN 17090006, Unit 6

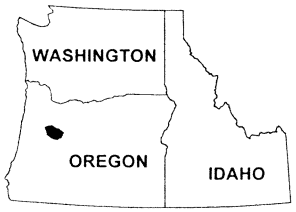


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

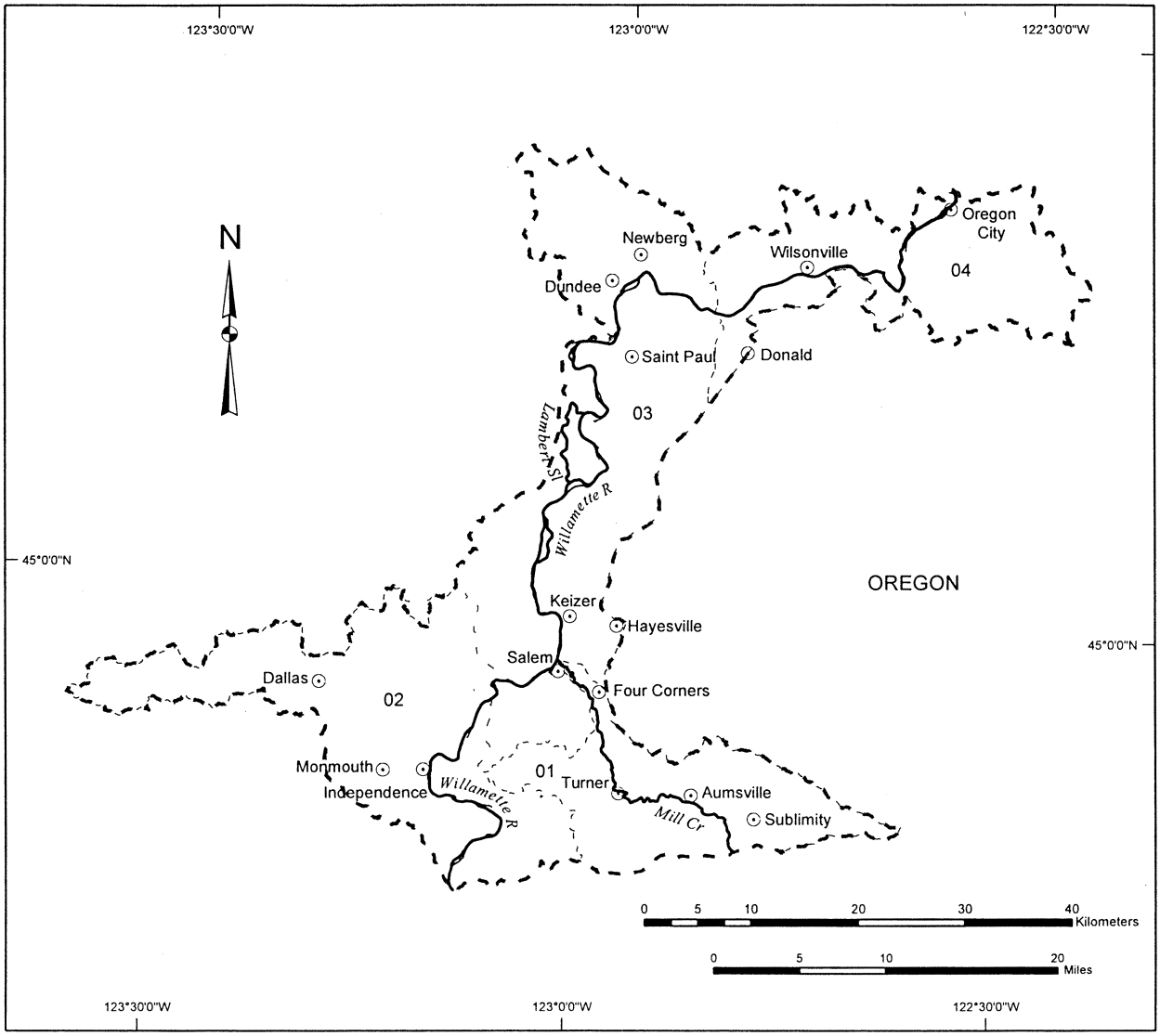
01 - 08 = Watershed code - last 2 digits of 17090006xx

Area of Detail



Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

MIDDLE WILLAMETTE SUBBASIN 17090007

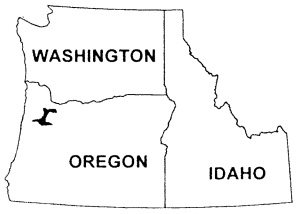


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

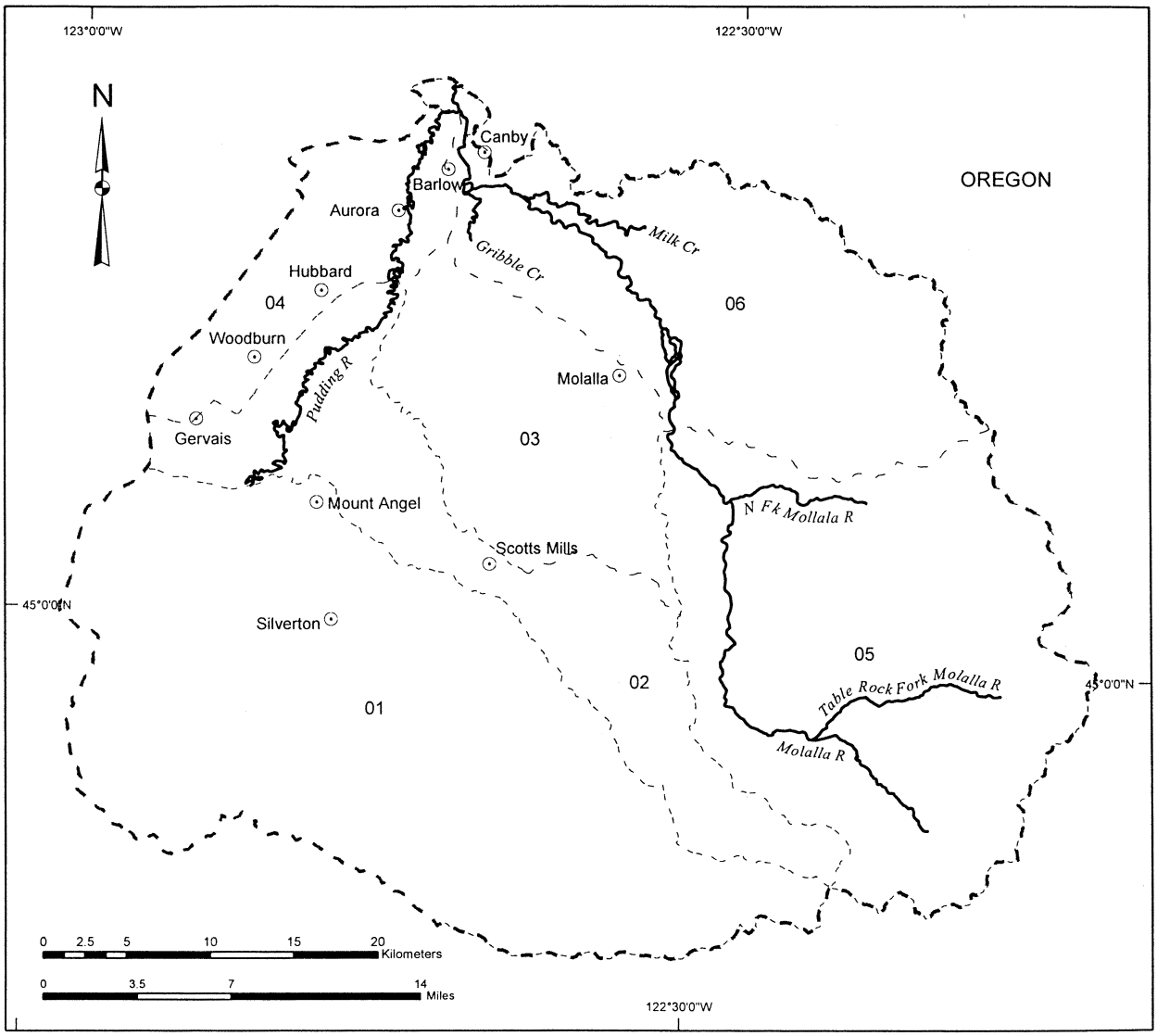
01 - 04 = Watershed code - last 2 digits of 17090007xx

Area of Detail



Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

MOLALLA / PUDDING SUBBASIN 17090009

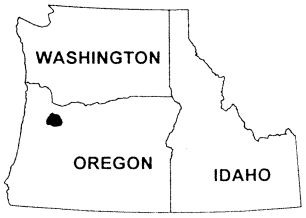


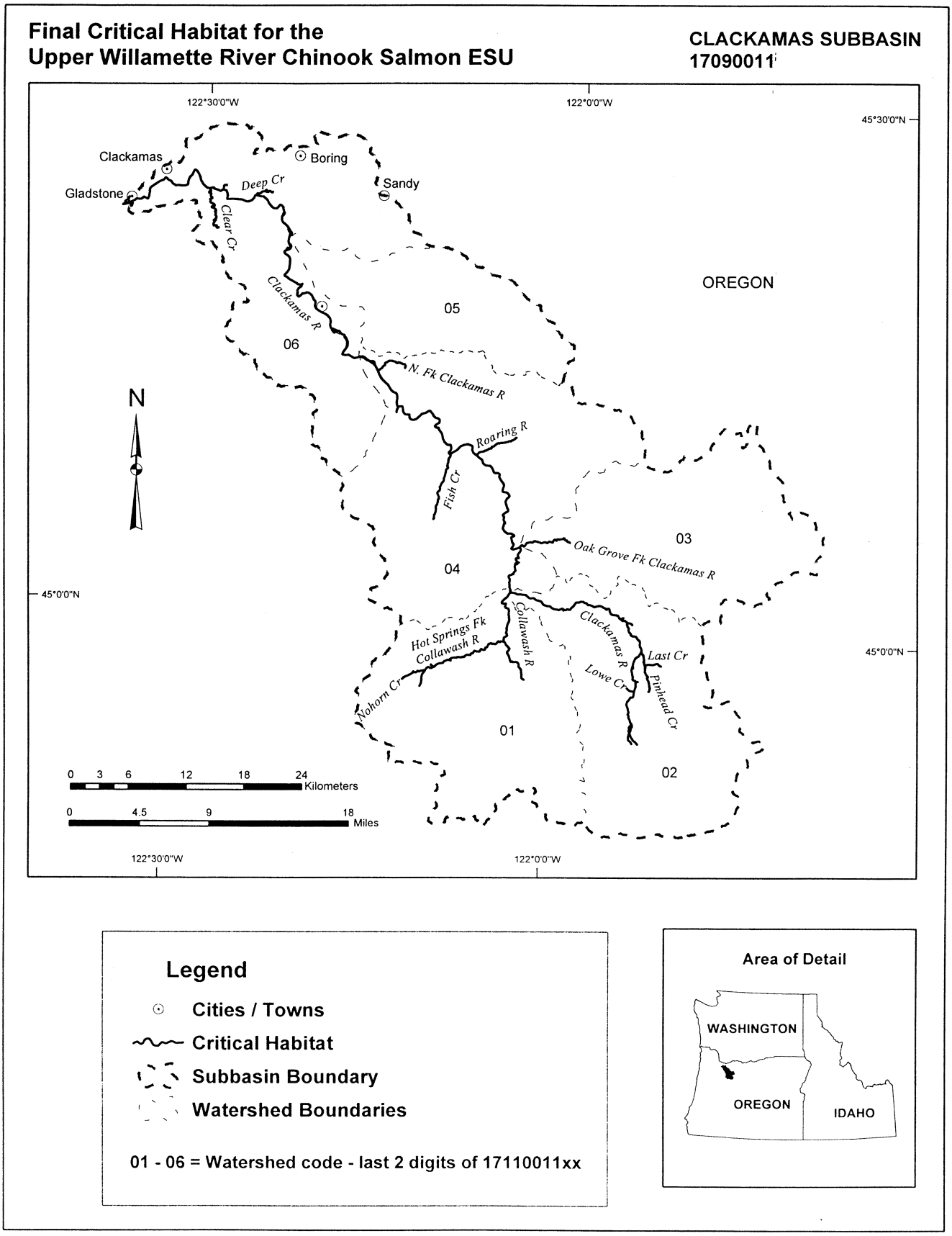
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

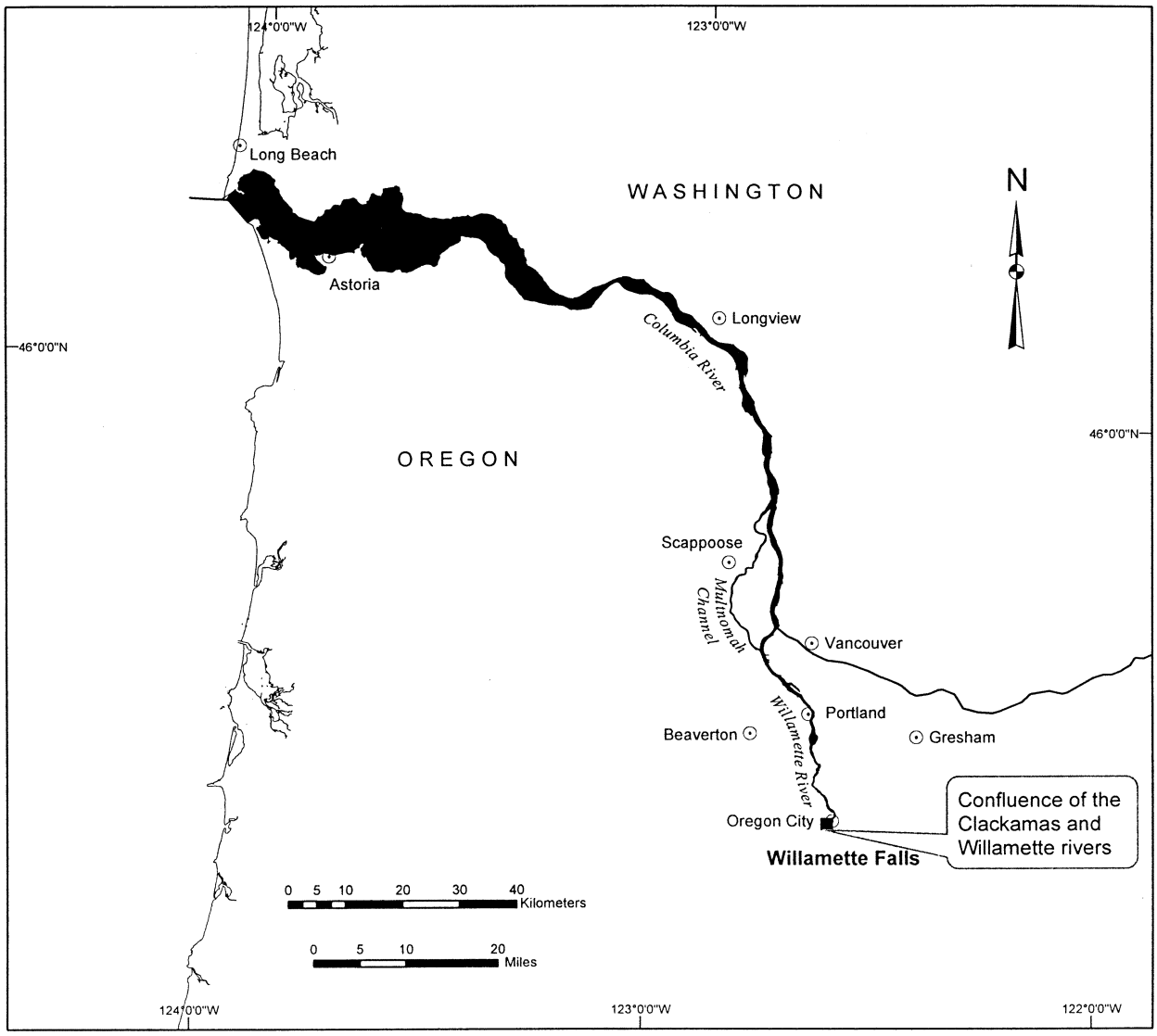
01 - 06 = Watershed code - last 2 digits of 17090009xx

Area of Detail




Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
CLACKAMAS SUBBASIN
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Clackamas
Boring
Gladstone
Deep Cr
Sandy
Clear Cr
Clackamas R
OREGON
05
06
N. Fk Clackamas R
N
Roaring R
Fish Cr
03
Oak Grove Fk Clackamas R
04
Hot Springs Fk
Collawash R
Collawash R
Clackamas R
Last Cr
Lowe Cr
Pinhead Cr
Mohorn Cr
01
02
0 3 6 12 18 24 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17110011xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Rearing / Migration Corridor for the Upper Willamette River Chinook Salmon ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Upper Willamette River Chinook ESU

Lower Willamette / Columbia River Corridor
The lower Willamette / Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to the confluence of the Clackamas and Willamette rivers, including the Multnomah Channel portion of the lower Willamette River.

BILLING CODE 3510–22–C

(l) *Upper Columbia River Spring Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is to

include the areas defined in the following subbasins:

(1) Chief Joseph Subbasin 17020005—*Upper Columbia/Swamp Creek Watershed 1702000505.* Outlet(s) = Columbia River (Lat 47.8077, Long –119.9754) upstream to endpoint(s) in: Columbia River (48.0502, –119.8942).

(2) Methow Subbasin 17020008—(i) *Lost River Watershed 1702000801* Outlet(s) = Lost River Gorge (Lat 48.6501, Long –120.5103) upstream to endpoint(s) in: Eureka Creek (48.7020, –120.4986); Lost River Gorge (48.7324, –120.4475).

(ii) *Upper Methow River Watershed 1702000802.* Outlet(s) = Methow River (Lat 48.6015, Long –120.4376) upstream to endpoint(s) in: Early Winters Creek (48.5999, –120.5840); Methow River (48.6417, –120.6150); Rattlesnake Creek (48.6523, –120.5733); Robinson Creek (48.6680, –120.5394); South Fork Trout Creek (48.6448, –120.6030).

(iii) *Upper Chewuch River Watershed 1702000803.* Outlet(s) = Chewuch River (Lat 48.7501, Long –120.1356) upstream to endpoint(s) in: Andrews Creek (48.7855, –120.1087); Chewuch River (48.8614, –120.0288); Dog Creek (48.8218, –120.0151); Lake Creek (48.8258, –120.1996); Thirtymile Creek (48.8109, –120.0199).

(iv) *Lower Chewuch River Watershed 1702000804.* Outlet(s) = Chewuch River (Lat 48.4751, Lat –120.1790) upstream to endpoint(s) in: Boulder Creek (48.5797, –120.1538); Chewuch River (48.7501, –120.1356); Cub Creek (48.5513, –120.1899); Eightmile Creek (48.6071, –120.1775); Lake Creek (48.4926, –120.1629); Twentymile Creek (48.7029, –120.1117).

(v) *Twisp River Watershed 1702000805.* Outlet(s) = Twisp River (Lat 48.3682, Long –120.1176) upstream to endpoint(s) in: Buttermilk Creek (48.3528, –120.3239); Eagle Creek (48.3584, –120.3914); North Creek (48.4587, –120.5595); Poorman Creek (48.3674, –120.1997); South Creek (48.4330, –120.5431); Twisp River (48.4615, –120.5764); War Creek (48.3649, –120.4030).

(vi) *Middle Methow River Watershed 1702000806.* Outlet(s) = Methow River (Lat 48.2495, Long –120.1156) upstream to endpoint(s) in: Bear Creek (48.4527, –120.1423); Goat Creek (48.5888, –120.3705); Little Boulder Creek (48.5700, –120.3797); Methow River (48.6015, –120.4376); Wolf Creek (48.4776, –120.2840) Unnamed (48.4896, –120.2116).

(vii) *Lower Methow River Watershed 1702000807.* Outlet(s) = Methow River (Lat 48.0502, Long –119.8942) upstream to endpoint(s) in: Methow River (48.2495, –120.1156).

(3) Upper Columbia/Entiat Subbasin 17020010—(i) *Entiat River Watershed 1702001001.* Outlet(s) = Entiat River (Lat 47.6585, Long –120.2194) upstream to endpoint(s) in: Entiat River (47.9855, –120.5749); Hornet Creek (47.7714, –120.4403); Mad River (47.7804, –120.4403); Tillicum Creek (47.7295, –120.4304).

(ii) *Lake Entiat Watershed 1702001002.* Outlet(s) = Columbia River (Lat 47.3438, Long –120.0929) upstream to endpoint(s) in: Columbia River (47.8077, –119.9754).

(4) Wenatchee Subbasin 17020011—(i) *White River Watershed 1702001101.* Outlet(s) = White River (Lat 47.8088, Long –120.7159) upstream to endpoint(s) in: Little Wenatchee River (47.8526, –120.9541); Napeequa River (47.9285, –120.8829); Panther Creek (47.9355, –120.9482); White River (47.9535, –120.9380).

(ii) *Chiwawa River Watershed 1702001102.* Outlet(s) = Chiwawa River (Lat 47.7880, Long –120.6589) upstream to endpoint(s) in: Alder Creek (47.8483, –120.6587); Chikamin Creek (47.9785, –120.7194); Chiwawa River (48.1048, –120.8773); Goose Creek (47.8392, –120.6461); Minnow Creek (47.9137, –120.7182); Phelps Creek (48.0794, –120.8400); Unnamed (48.0366, –120.7615).

(iii) *Nason/Tumwater Watershed 1702001103.* Outlet(s) = Wenatchee River (Lat 47.5801, Long –120.6660) upstream to endpoint(s) in: Chiwaukum Creek (47.7039, –120.7791); Nason Creek (47.7769, –120.9103); Skinney Creek (47.6894, –120.7351).

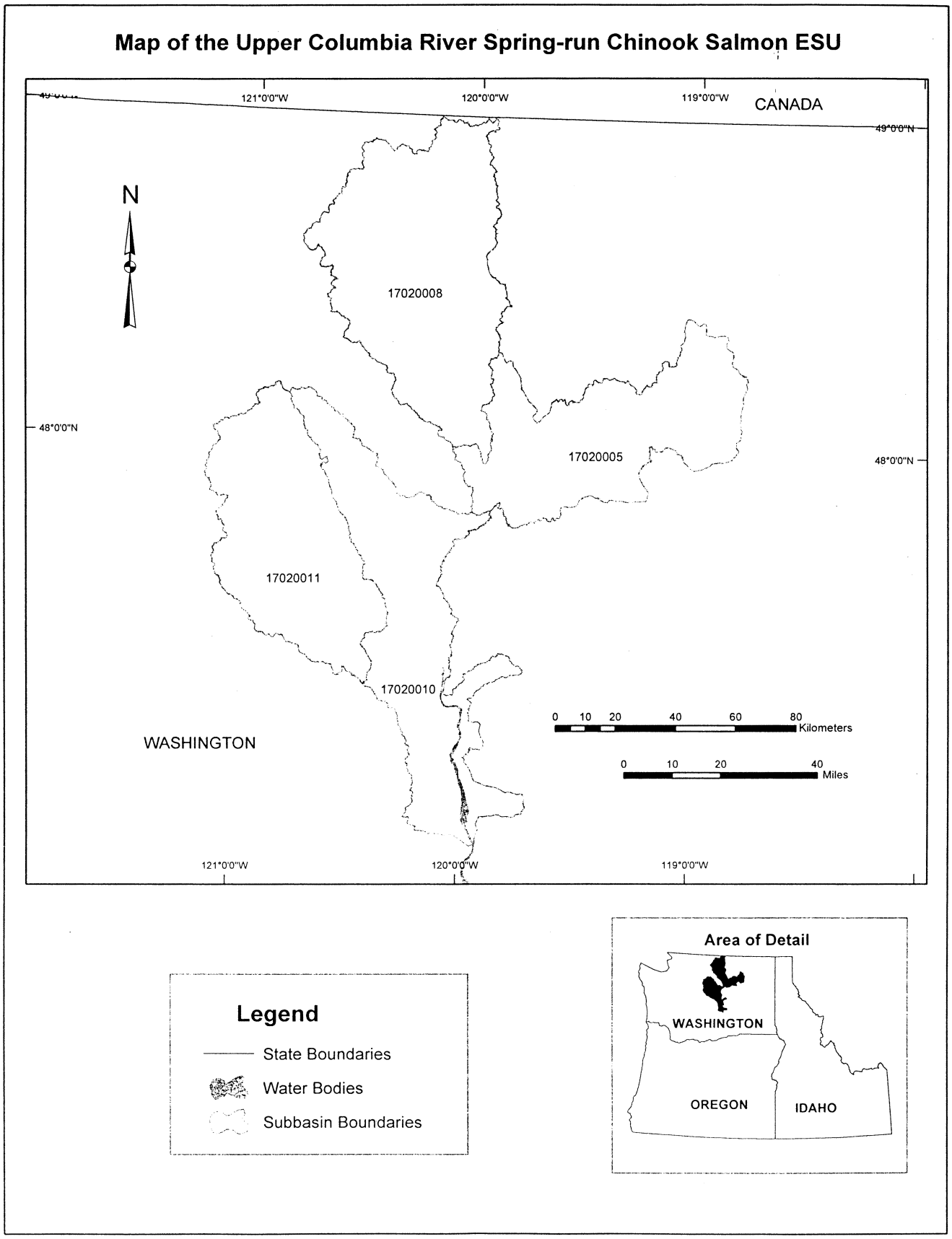
(iv) *Icicle/Chumstick Watershed 1702001104.* Outlet(s) = Wenatchee River (Lat 47.5575, Long –120.5729) upstream to endpoint(s) in: Wenatchee River (47.5801, –120.6660).

(v) *Lower Wenatchee River Watershed 1702001105.* Outlet(s) = Wenatchee River (Lat 47.4553, Long –120.3185) upstream to endpoint(s) in: Wenatchee River (47.5575, –120.5729).

(5) Columbia River Corridor—*Columbia River Corridor* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (47.3438, –120.0929).

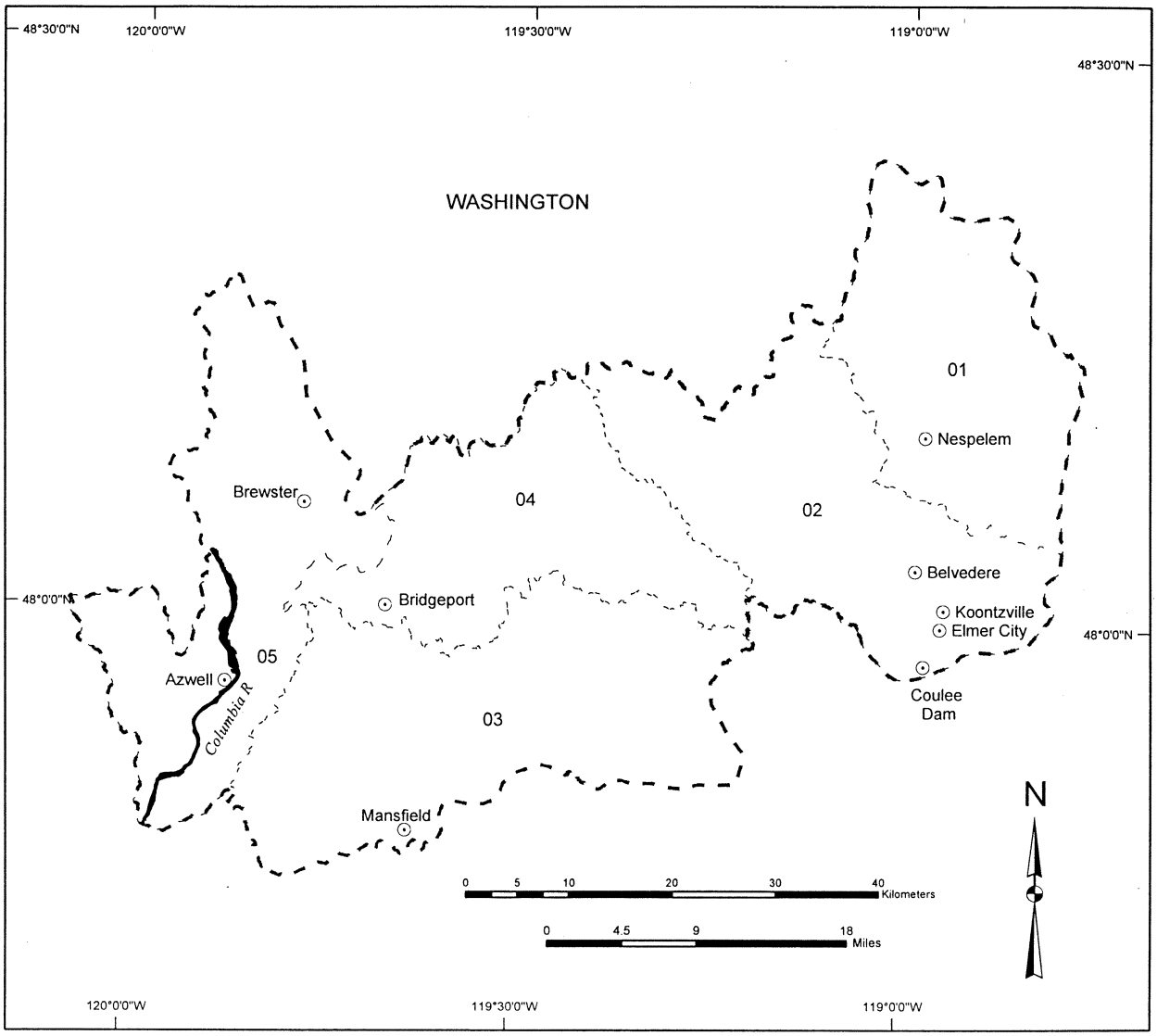
(6) Maps of critical habitat for the Upper Columbia River Spring-run chinook salmon ESU follow:

BILLING CODE 3510–22–P


Map of the Upper Columbia River Spring-run Chinook Salmon ESU
121°0'0"W
120°0'0"W
119°0'0"W
CANADA
49°0'0"N
N
17020008
48°0'0"N
17020005
48°0'0"N
17020011
17020010
WASHINGTON
0 10 20 40 60 80 Kilometers
0 10 20 40 Miles
121°0'0"W
120°0'0"W
119°0'0"W
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Columbia River Spring-run Chinook Salmon ESU

CHIEF JOSEPH SUBBASIN 17020005

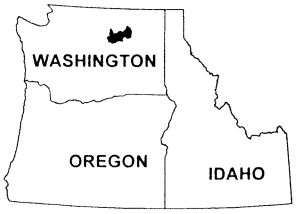


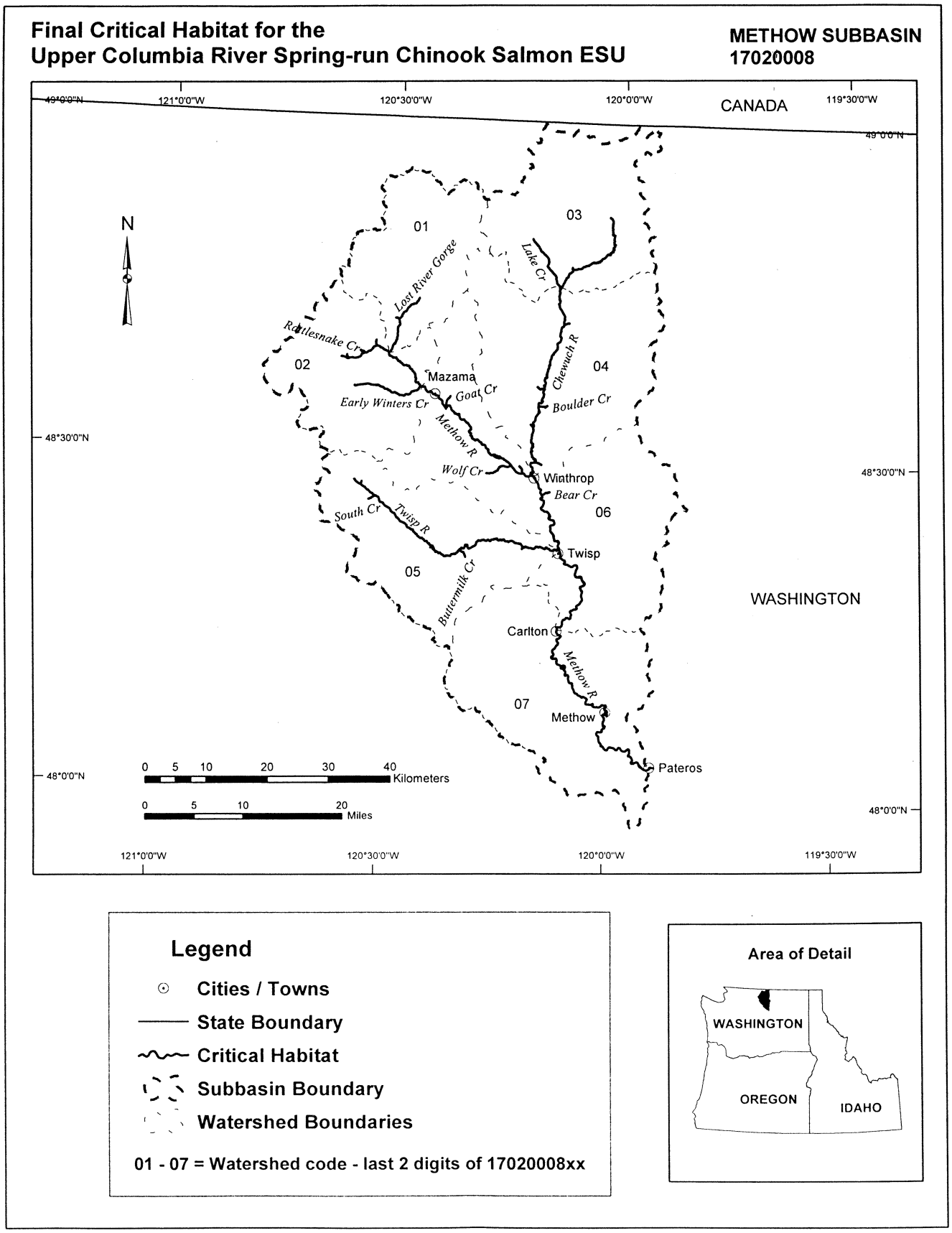
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17020005xx

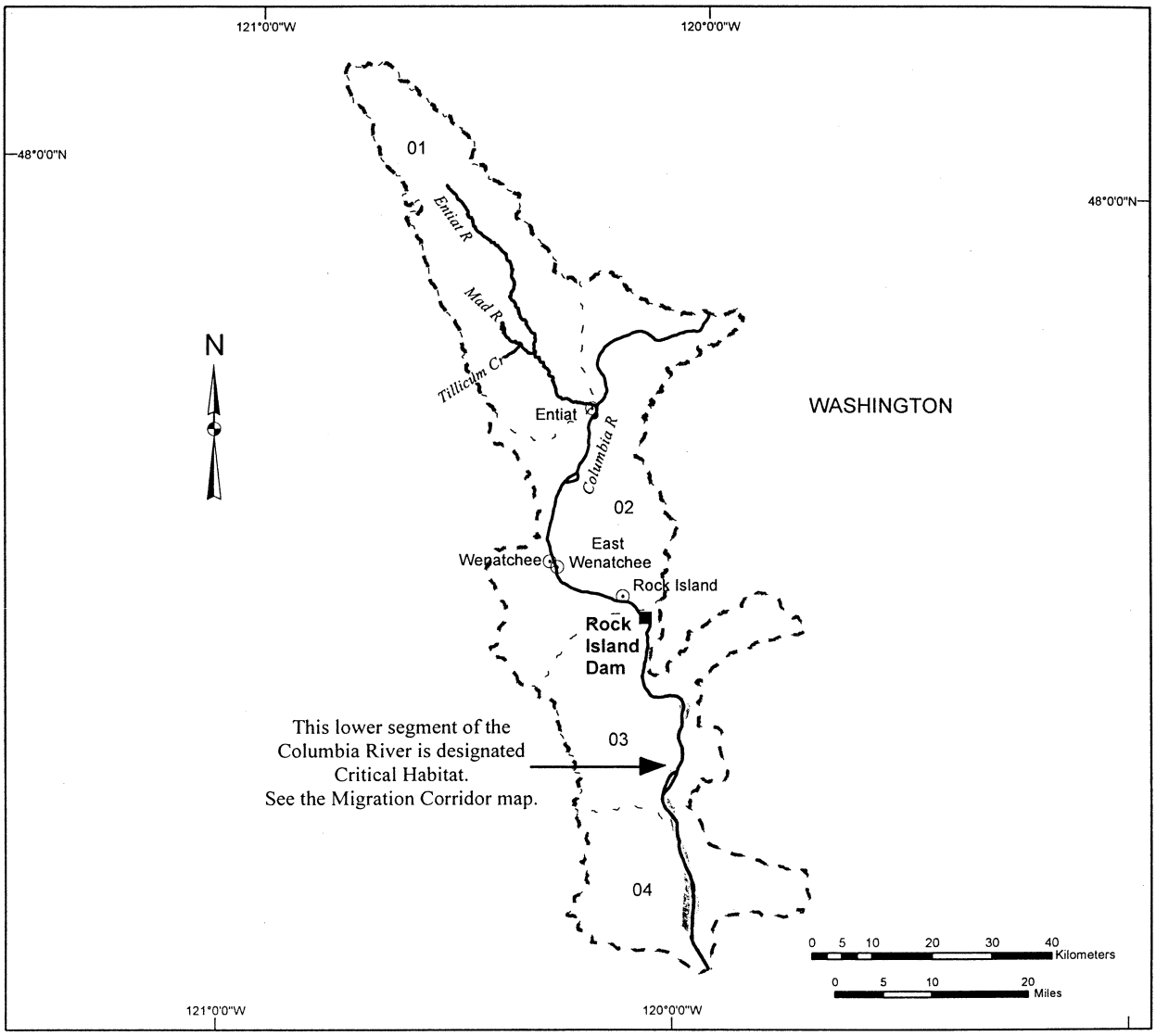
Area of Detail




Final Critical Habitat for the
Upper Columbia River Spring-run Chinook Salmon ESU
METHOW SUBBASIN
17020008
CANADA
WASHINGTON
N
01
02
03
04
05
06
07
Lost River Gorge
Lake Cr
Rattlesnake Cr
Chewuch R
Mazama
Goat Cr
Early Winters Cr
Boulder Cr
Methow R
Wolf Cr
Winthrop
Bear Cr
South Cr
Twisp R
Twisp
Buttermilk Cr
Carlton
Methow R
Methow
Pateros
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
49°0'0"N
48°30'0"N
48°0'0"N
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17020008xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Columbia River Spring-run Chinook Salmon ESU

UPPER COLUMBIA / ENTIAT SUBBASIN 17020010

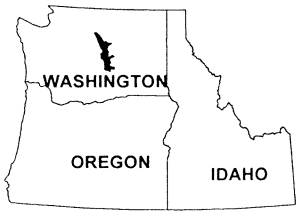


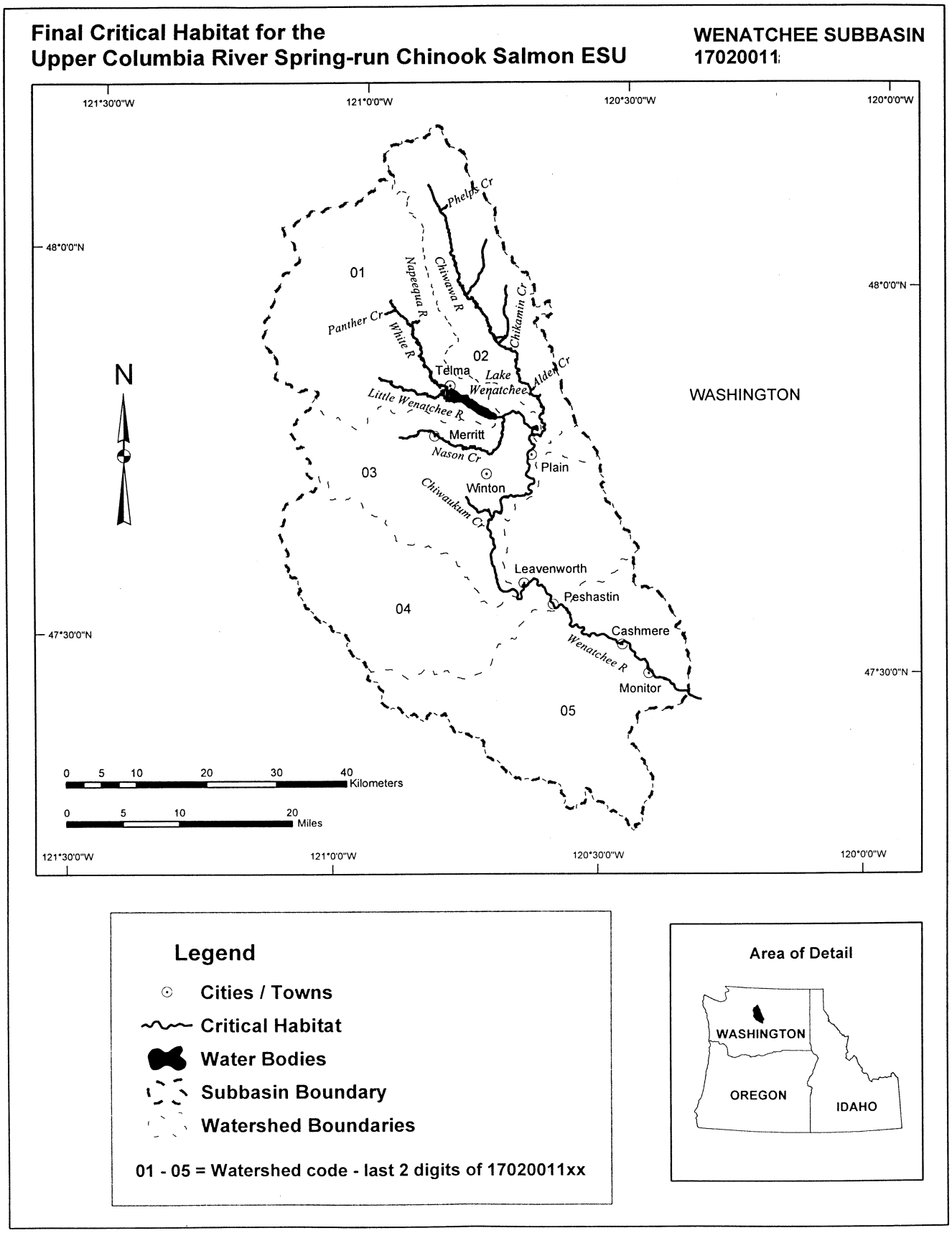
Legend

- Cities / Towns
- Critical Habitat
- Water Body
- Subbasin Boundary
- Watershed Boundaries

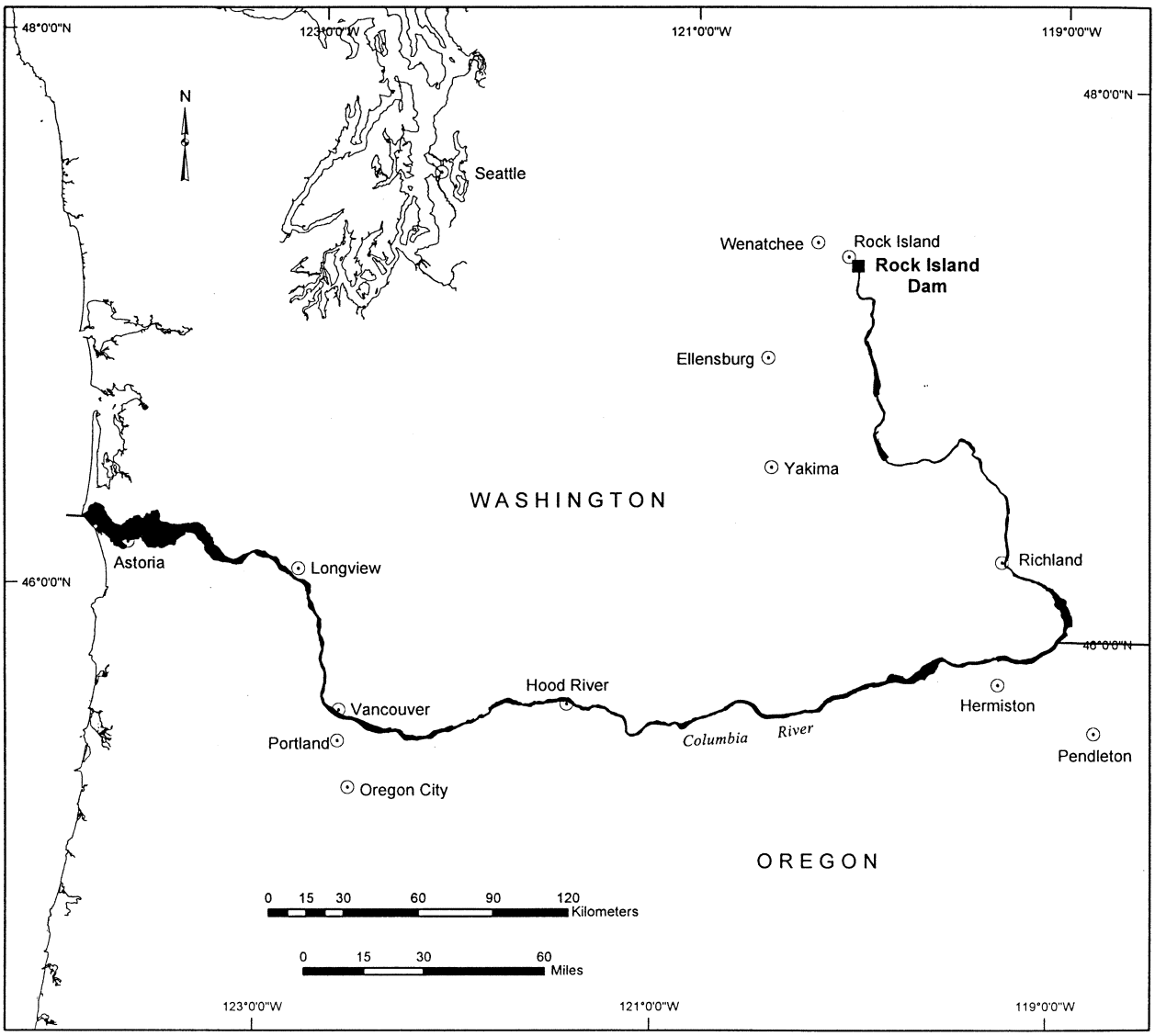
01 - 04 = Watershed code - last 2 digits of 17020010xx

Area of Detail




Final Critical Habitat for the
Upper Columbia River Spring-run Chinook Salmon ESU
WENATCHEE SUBBASIN
17020011
121°30'0"W
121°0'0"W
120°30'0"W
120°0'0"W
48°0'0"N
47°30'0"N
N
01
02
03
04
05
Phelps Cr
Napeequa R
Chiwawa R
Chikamin Cr
Panther Cr
White R
Alder Cr
Telma
Lake Wenatchee
Little Wenatchee R
Merritt
Nason Cr
Plain
Winton
Chiwaukum Cr
Leavenworth
Peshastin
Cashmere
Wenatchee R
Monitor
WASHINGTON
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17020011xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Rearing / Migration Corridor for the Upper Columbia River Spring-run Chinook Salmon ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Upper Columbia River Spring Chinook ESU

Columbia River Corridor
The Columbia River Corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to Rock Island Dam.

BILLING CODE 3510–22–C

(m) *Hood Canal Summer-run Chum Salmon (Oncorhynchus keta).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Skokomoish Subbasin 17110017—*Skokomish River 1711001701.* Outlet(s) = Skokomish River (Lat 47.3543, Long –123.1122), Unnamed (47.3420, –123.1092), Unnamed (47.3471, –123.1275), Unnamed (47.3509. –123.1101) upstream to endpoint(s) in: Mussel Sheel Creek (47.3039, –123.1590); Skokomish (47.3199, –123.2198); Unnamed (47.3209, –123.2211).

(2) Hood Canal Subbasin 17110018—(i) *Lower West Hood Canal Frontal Watershed 1711001802.* Outlet(s)= Eagle Creek (Lat 47.4849, Long –123.0766); Finch Creek (47.4067, –123.1377); Fulton Creek (47.6183, –122.9736); Jorsted Creek (47.5263, –123.0489); Lilliwaup Creek (47.4689, –123.1136); Unnamed (47.4576, –123.1117) upstream to endpoint(s) in: Eagle Creek (47.4905, –123.0830); Finch Creek (47.4076, –123.1586); Fulton Creek (47.6275, –122.9805); Jorsted Creek (47.5246, –123.0649); Lilliwaup Creek (47.4704, –123.1166); Unnamed (47.4585, –123.1186).

(ii) *Hamma Hamma River Watershed 1711001803.* Outlet(s) = Hamma Hamma River (Lat 47.5471, Long –123.0440) upstream to endpoint(s) in: Hamma Hamma River (47.5547, –123.0623); John Creek (47.5369, –123.0619).

(iii) *Duckabush River Watershed 1711001804.* Outlet(s) = Duckabush River (Lat 47.6502, Long –122.9348) upstream to endpoint(s) in: Duckabush River (47.6654, –122.9728).

(iv) *Dosewallips River Watershed 1711001805.* Outlet(s) = Dosewallips River (Lat 47.6880, Long –122.8949) upstream to endpoint(s) in: Dosewallips River (47.7157, –122.9396).

(v) *Big Quilcene River Watershed 1711001806.* Outlet(s) = Big Quilcene River (Lat 47.8188, Long –122.8605) upstream to endpoint(s) in: Big Quilcene River (47.8102, –122.9119).

(vi) *Upper West Hood Canal Frontal Watershed 1711001807.* Outlet(s) = Little Quilcene River (Lat 47.8266; Long –122.8608) upstream to endpoint(s) in: Little Quilcene River (47.8374, –122.8854).

(vii) *West Kitsap Watershed 1711001808.* Outlet(s) = Anderson Creek (Lat 47.5670, Long –122.9664); Big Beef Creek (47.6521, –122.7823); Dewatto River (47.4538, –123.0474); Little Anderson Creek (47.6653, –122.7554); Tahuya River (47.3767, –123.0355); Union River (47.4484, –122.8368); Unnamed (47.3767, –123.0372); Unnamed (47.4537, –123.0474) upstream to endpoint(s) in: Anderson Creek (47.5596, –122.9354); Bear Creek (47.4980, –122.8074); Big Beef Creek (47.6385, –122.7868); Dewatto River (47.4937, –122.9914); East Fork Union River (47.5056, –122.7897); Hazel Creek (47.5170, –122.7945); Little Anderson Creek (47.6606, –122.7543); North East Fork Union River (47.4954, –122.7819); Tahuya River (47.4510, –122.9597); Union River (47.5273, –122.7846); Unnamed (47.4492, –122.9229); Unnamed (47.4527, –122.8294); Unnamed (47.4553, –122.8301); Unnamed (47.4594, –122.8396); Unnamed (47.4700, –122.8300); Unnamed (47.4852, –122.8313); Unnamed (47.4966, –122.8393); Unnamed (47.4971, –122.8315); Unnamed (47.6600, –122.7559); Unnamed (47.6642, –122.7534).

(3) Puget Sound Subbasin 17110019—*Port Ludlow/Chimacum Creek Watershed 1711001908.* Outlet(s) = Chimacum Creek (Lat 48.0507, Long –122.7832) upstream to endpoint(s) in: Chimacum Creek (47.9743, –122.7764).

(4) Dungeness/Elwha Subbasin 17110020—(i) *Discovery Bay Watershed 1711002001.* Outlet(s) = Salmon Creek (Lat 47.9895, Long –122.8879); Snow Creek (47.9900, –122.8834) upstream to endpoint(s) in: Salmon Creek (47.9775, –122.9191); Snow Creek (47.9638, –122.8827).

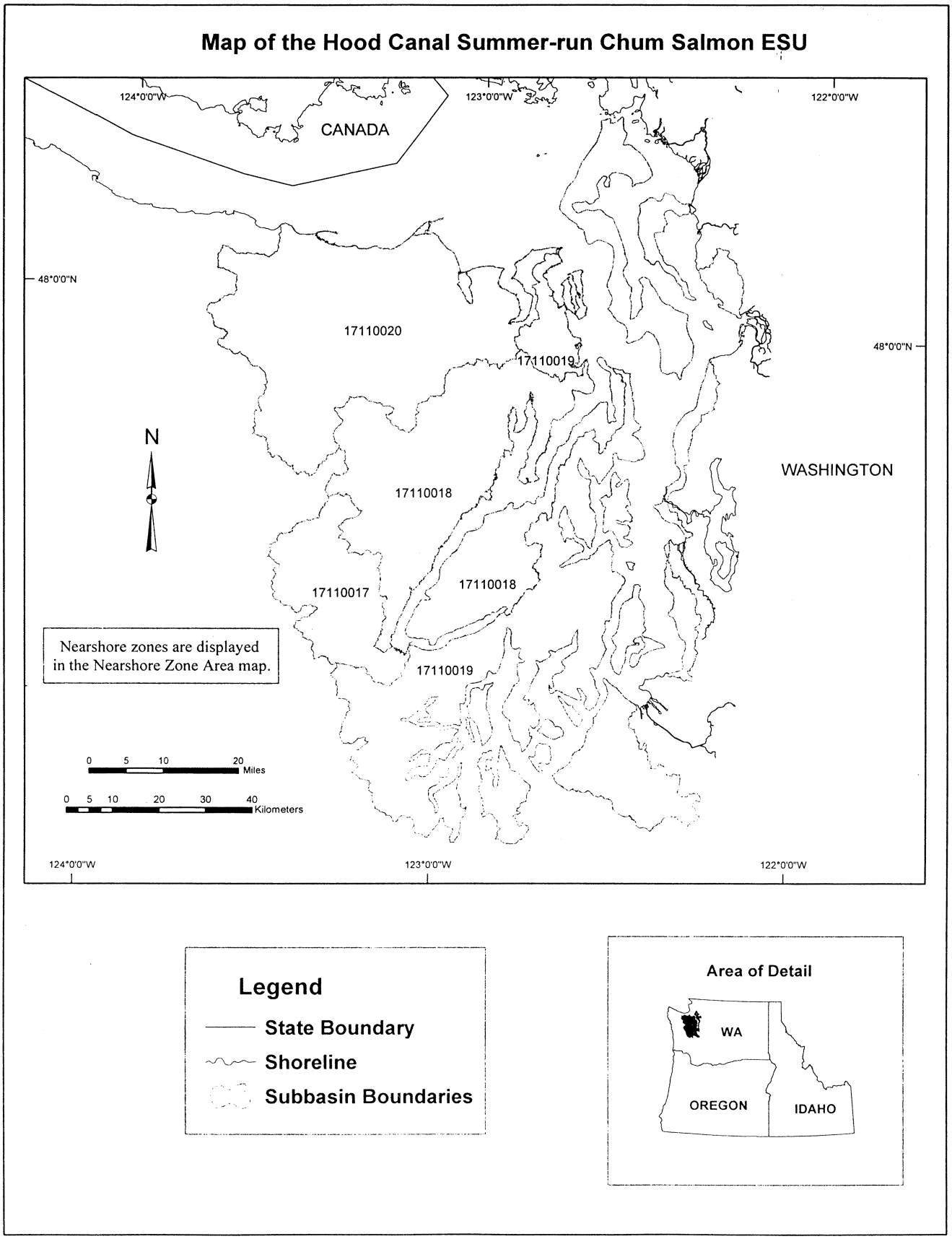
(ii) *Sequim Bay Watershed 1711002002.* Outlet(s) = Jimmycomelately Creek (Lat 48.0235, Long –123.0039) upstream to endpoint(s) in: Jimmycomelately Creek (48.0125, –123.0026).

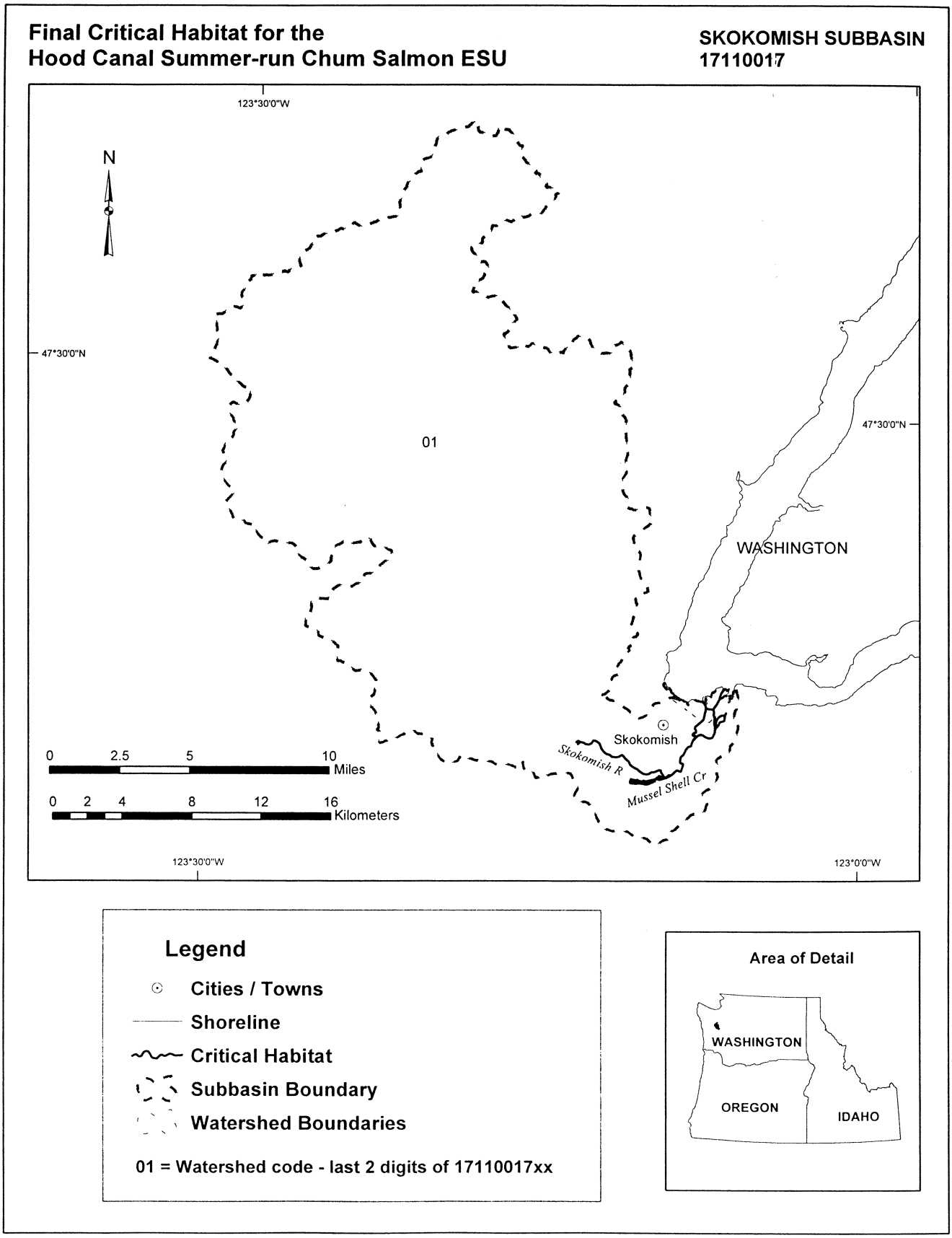
(iii) *Dungeness River Watershed 1711002003.* Outlet(s) = Dungeness River (Lat 48.1506, Long –123.1311); Unnamed (48.1537, –123.1267) upstream to endpoint(s) in: Dungeness River (48.0258, –123.1358); Matriotti Creek (48.1369, –123.1488); Unnamed (48.1167, –123.1403); Unnamed (48.1514, –123.1216).

(5) Nearshore Marine Areas—Except as provided in paragraph (e) of this section, critical habitat includes all nearshore marine areas (including areas adjacent to islands) of Hood Canal and the Strait of Juan de Fuca (to Dungeness Bay) from the line of extreme high tide out to a depth of 30 meters.

(6) Maps of critical habitat for the Hood Canal summer-run chum salmon ESU follow:

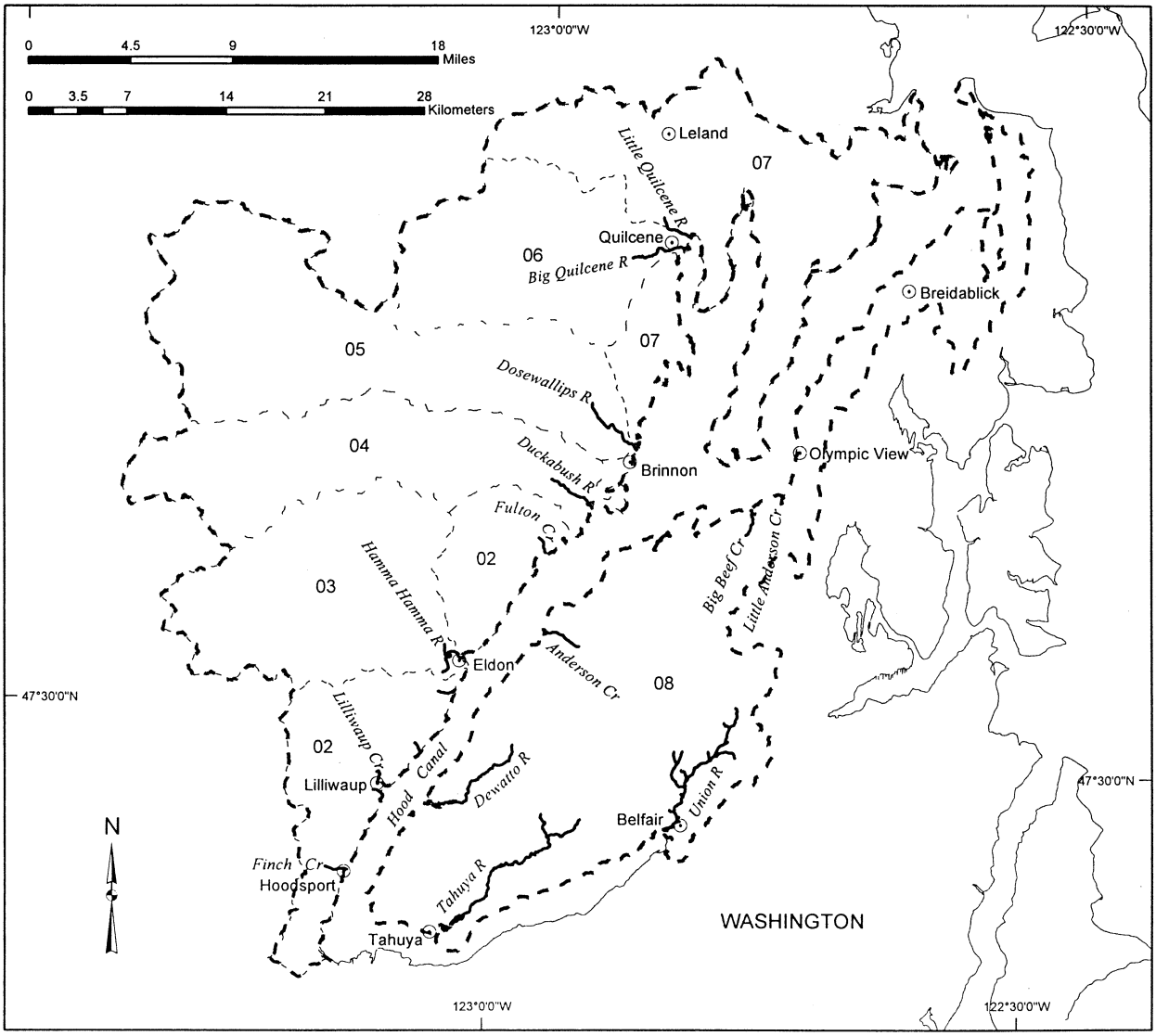
BILLING CODE 3510–22–P


Map of the Hood Canal Summer-run Chum Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
CANADA
48°0'0"N
17110020
17110019
WASHINGTON
N
17110018
17110017
17110018
17110019
Nearshore zones are displayed in the Nearshore Zone Area map.
0 5 10 20 Miles
0 5 10 20 30 40 Kilometers
Legend
State Boundary
Shoreline
Subbasin Boundaries
Area of Detail
WA
OREGON
IDAHO


Final Critical Habitat for the
Hood Canal Summer-run Chum Salmon ESU
SKOKOMISH SUBBASIN
17110017
123°30'0"W
N
47°30'0"N
01
WASHINGTON
Skokomish
Skokomish R
Mussel Shell Cr
0 2.5 5 10 Miles
0 2 4 8 12 16 Kilometers
123°0'0"W
Legend
Cities / Towns
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 = Watershed code - last 2 digits of 17110017xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Hood Canal Summer-run Chum Salmon ESU

HOOD CANAL SUBBASIN 17110018

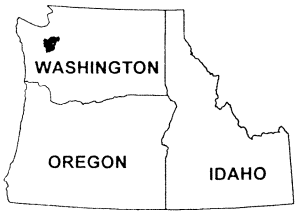


Legend

- Cities / Towns
- Shoreline
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

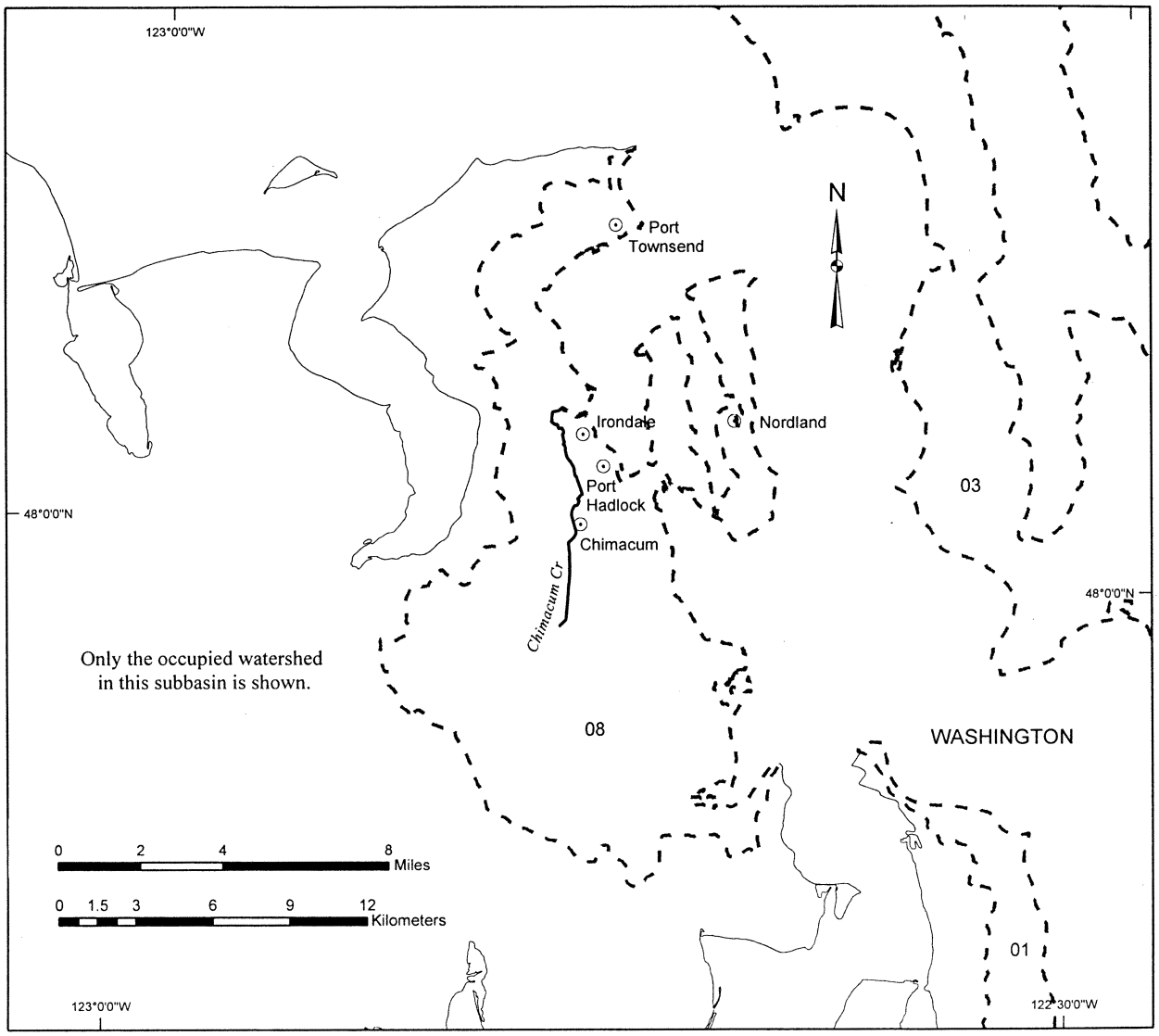
02 - 08 = Watershed code - last 2 digits of 17110018xx

Area of Detail



Final Critical Habitat for the Hood Canal Summer-run Chum Salmon ESU

PUGET SOUND / KITSAP SUBBASIN 17110019

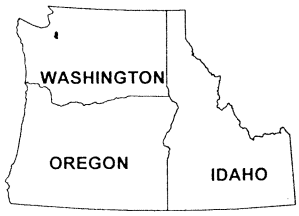


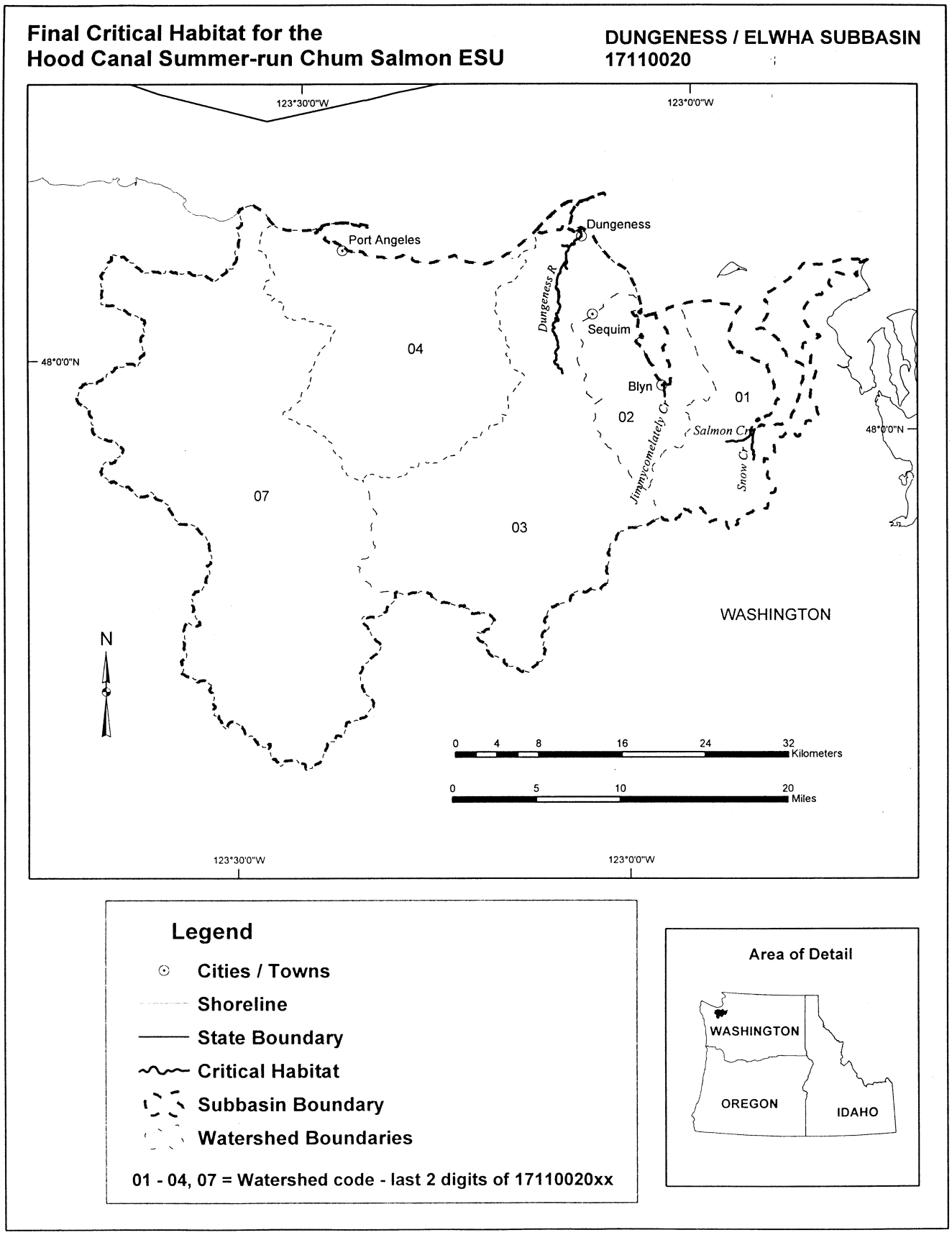
Legend

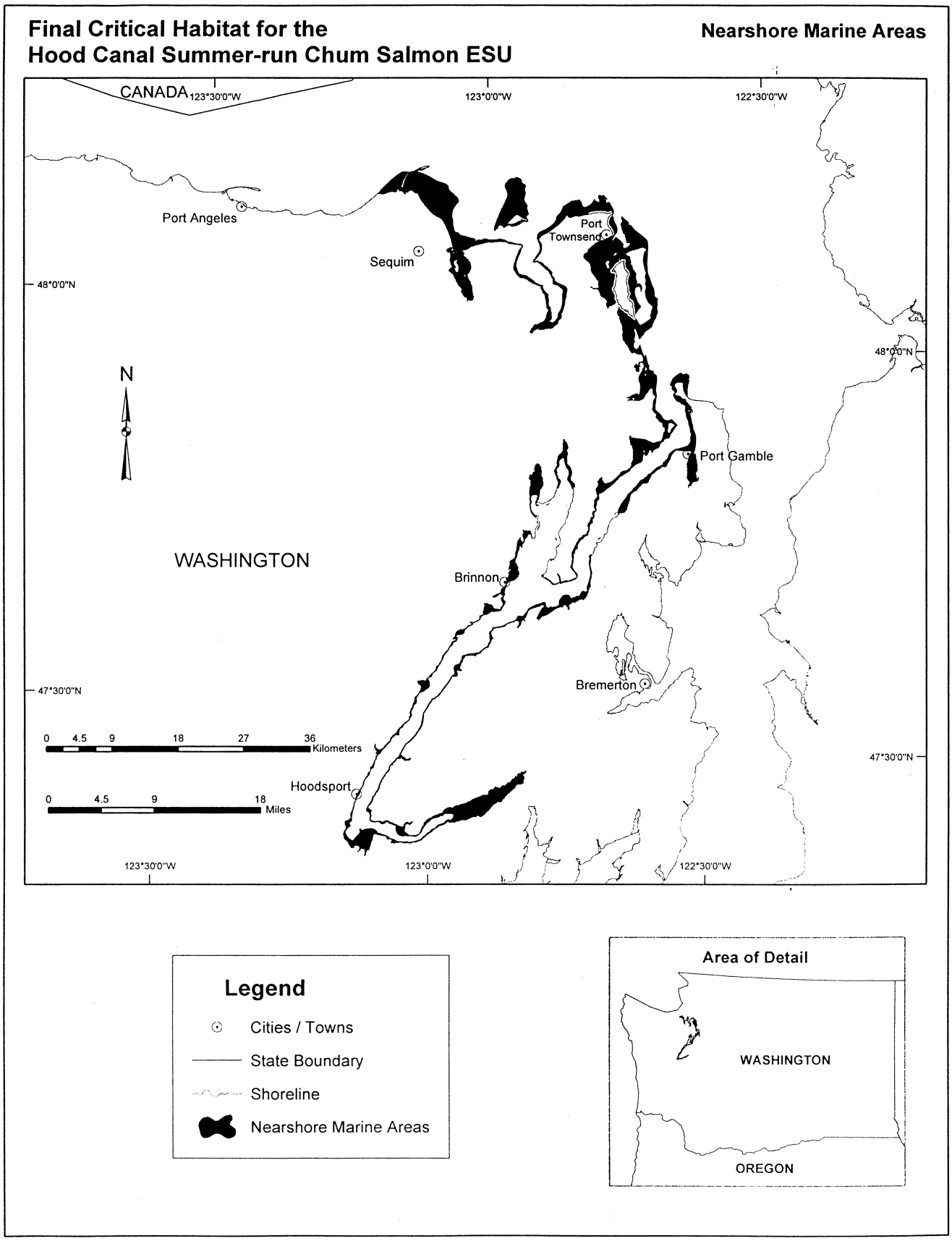
- Cities / Towns
- Shoreline
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 06, 08 = Watershed code - last 2 digits of 17110019xx

Area of Detail




Final Critical Habitat for the
Hood Canal Summer-run Chum Salmon ESU
DUNGENESS / ELWHA SUBBASIN
17110020
123°30'0"W
123°0'0"W
48°0'0"N
Port Angeles
Dungeness
Dungeness R
Sequim
Blyn
Jimmycomelately Cr
Salmon Cr
Snow Cr
04
01
02
07
03
WASHINGTON
N
0 4 8 16 24 32 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Shoreline
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04, 07 = Watershed code - last 2 digits of 17110020xx
Area of Detail
WASHINGTON
OREGON
IDAHO



BILLING CODE 3510–22–C

(n) *Columbia River Chum Salmon (Oncorhynchus keta).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia/Hood Subbasin 17070105—(i) *White Salmon River Watershed 1707010509.* Outlet(s) = White Salmon River (Lat 45.7267, Long –121.5209) upstream to endpoint(s) in: White Salmon River (45.7677, –121.5374).

(ii) *Middle Columbia/Grays Creek Watershed 1707010512.* Outlet(s) = Columbia River (Lat 45.7074, Long –121.7965) upstream to endpoint(s) in: Columbia River (45.7267, –121.5209).

(iii) *Middle Columbia/Eagle Creek 1707010513.* Outlet(s) = Columbia River (Lat 45.6453, Long –121.9395) upstream to endpoint(s) in: Columbia River (45.7074, –121.7965).

(2) Lower Columbia/Sandy Subbasin 17080001—(i) *Washougal River Watershed 1708000106.* Outlet(s) = Unnamed (Lat 45.5812, Long –122.4077); Washougal River (45.5795, –122.4023) upstream to endpoint(s) in: Lacamas Creek (45.5972, –122.3933); Little Washougal River (45.6210, –122.3750); Unnamed (45.5861, –122.4083); Washougal River (45.6232, –122.2738).

(ii) *Columbia Gorge Tributaries Watershed 1708000107.* Outlet(s) = Columbia River (Lat 45.5709, Long –122.4020) upstream to endpoint(s) in: Columbia River (45.6453, –121.9395); Duncan Creek (45.6136, –122.0539); Gibbons Creek (45.5710, –122.3147); Greenleaf Creek (45.6548, –121.9569); Hamilton Creek (45.6535, –121.9879); Hardy Creek (45.6354, –121.9987); Indian Mary Creek (45.6066, –122.0716); Lawton Creek (45.5746, –122.2501); Unnamed (45.5673, –122.3033); Unnamed (45.6017, –122.1106); Unnamed (45.6017, –122.1087); Unnamed (45.6483, –121.9725); Unnamed (45.6509, –121.9502); Walton Creek (45.5757, –122.2618).

(iii) *Salmon Creek Watershed 1708000109.* Outlet(s) = Lake River (Lat 45.8437, Long –122.7800); Love Creek (45.5976, –122.5443); Unnamed (45.5867, –122.5015); Unnamed (45.5919, –122.5241); Unnamed (45.5952, –122.5366) upstream to endpoint(s) in: Love Creek (45.5981, –122.5444); Salmon Creek (45.7089, –122.6480); Unnamed (45.5873, –122.5015); Unnamed (45.5924, –122.5242); Unnamed (45.5955, –122.5360).

(3) Lewis Subbasin 17080002—(i) *East Fork Lewis River Watershed 1708000205.* Outlet(s) = East Fork Lewis River (Lat 45.8664, Long –122.7189); Gee Creek (45.8462, –122.7803) upstream to endpoint(s) in: Brezee Creek (45.8622, –122.6667); East Fork Lewis River (45.8395, –122.4463); Gee Creek (45.8264, –122.7458); Lockwood Creek (45.8578, –122.6259); Mason Creek (45.8410, –122.5919); McCormick Creek (45.8521, –122.6907); Riley Creek (45.8663, –122.6349); Unnamed (45.8076, –122.5878); Unnamed (45.8076, –122.6286); Unnamed (45.8090, –122.6089); Unnamed (45.8111, –122.5860); Unnamed (45.8149, –122.5654); Unnamed (45.8201, –122.5991); Unnamed (45.8241, –122.6380); Unnamed (45.8280, –122.6431); Unnamed (45.8292, –122.6040); Unnamed (45.8389, –122.6456); Unnamed (45.8439, –122.6478); Unnamed (45.8439, –122.6605).

(ii) *Lower Lewis River Watershed 1708000206.* Outlet(s) = Lewis River (Lat 45.8519, Long –122.7806) upstream to endpoint(s) in: Cedar Creek (45.9383, –122.5818); Colvin Creek (45.9400, –122.6081); Houghton Creek (45.9395, –122.6478); Johnson Creek (45.9385, –122.6261); Lewis River (45.9570, –122.5550); Ross Creek (45.9340, –122.7076).

(4) Lower Columbia/Clatskanie Subbasin 17080003—(i) *Kalama River Watershed 1708000301.* Outlet(s) = Kalama River (Lat 46.0340, Long –122.8696) upstream to endpoint(s) in: Kalama River (46.0449, –122.8034).

(ii) *Germany/Abernathy Watershed 1708000304.* Outlet(s) = Abernethy Creek (Lat 46.1908, Long –123.1661); Germany Creek (46.1895, –123.1244); Mill Creek (46.1888, –123.1745) upstream to endpoint(s) in: Abernethy Creek (46.2263, –123.1467); Germany Creek (46.2221, –123.1353); Mill Creek (46.1932, –123.1834).

(iii) *Skamokawa/Elochoman Watershed 1708000305.* Outlet(s) = Elochoman River (Lat 46.2269, Long –123.4039); Jim Crow Creek (46.2662, –123.5511); Skamokawa Creek (46.2677, –123.4562); Unnamed (46.2243, –123.3975) upstream to endpoint(s) in: Beaver Creek (46.2262, –123.3239); Brooks Slough (46.2502, –123.4094); Clear Creek (46.2611, –123.2996); Duck Creek (46.2517, –123.3159); Eggman Creek (46.3248, –123.4951); Elochoman River (46.2615, –123.2965); Indian Jack Slough (46.2371, –123.3955); Jim Crow Creek (46.2891, –123.5553); Kelly Creek (46.3109, –123.4797); Left Fork Skamokawa Creek (46.3331, –123.4610); Quarry Creek (46.3292, –123.4241); Skamokawa Creek (46.3277, –123.4236); Unnamed (46.2338, –123.3282); Unnamed (46.3293, –123.4534); West Fork Skamokawa Creek (46.3119, –123.4889); West Valley Creek (46.2981, –123.4698); Wilson Creek (46.3006, –123.3787).

(5) Lower Cowlitz Subbasin 17080005—(i) *Jackson Prairie Watershed 1708000503.* Outlet(s) = Cowlitz River (Lat 46.3678, Long –122.9337) upstream to endpoint(s) in: Bear Creek (46.4544, –122.9187); Blue Creek (46.4885, –122.7253); Coon Creek (46.4272, –122.9109); Cowlitz River (46.5033, –122.5871); Lacamas Creek (46.5564, –122.6878); Mill Creek (46.5025, –122.8017); Salmon Creek (46.4130, –122.8165); Skook Creek (46.4708, –122.7594); Unnamed (46.4191, –122.8205); Unnamed (46.4205, –122.8662); Unnamed (46.4280, –122.8380); Unnamed (46.4707, –122.7713); Unnamed (46.4885, –122.8068); Unnamed (46.5076, –122.6675); Unnamed (46.5311, –122.8194); Unnamed (46.5432, –122.7466).

(ii) *South Fork Toutle River Watershed 1708000506.* Outlet(s) = South Fork Toutle River (Lat 46.3282, Long –122.7215) upstream to endpoint(s) in: Johnson Creek (46.3102, –122.6444); South Fork Toutle River (46.2817, –122.6420).

(iii) *East Willapa Watershed 1708000507.* Outlet(s) = Cowlitz River (Lat 46.2660, Long –122.9154) upstream to endpoint(s) in: Arkansas Creek (46.3032, –122.9801); Cowlitz River (46.3678, –122.9337); Delameter Creek (46.2598, –122.9679); Hill Creek (46.3704, –122.9267); McMurphy Creek (46.4082, –122.9520); Monahan Creek (46.2636, –122.9727); North Fork Toutle River (46.3669, –122.5859); Olequa Creek (46.4324, –122.9688); Unnamed (46.2606, –122.9551); Unnamed (46.2642, –122.9291); Unnamed (46.2689, –122.9589); Unnamed (46.2880, –122.9051); Unnamed (46.2892, –122.9626); Unnamed (46.3294, –122.9085); Unnamed (46.3371, –122.8922); Unnamed (46.3491, –122.7052); Unnamed (46.3571, –122.7684); Unnamed (46.3587, –122.7478); Unnamed (46.3683, –122.7503); Unnamed (46.3814, –122.6091); Wyant Creek (46.3314, –122.6768).

(iv) *Coweeman Watershed 1708000508.* Outlet(s) = Cowlitz River (Lat 46.0977, Long –122.9141); Owl Creek (46.0768, –122.8679) upstream to endpoint(s) in: Baird Creek (46.1789, –122.5822); Butler Creek (46.1491, –122.5170); Cowlitz River (46.2660, –122.9154); Goble Creek (46.1074, –122.7068);Leckler Creek (46.2164, –122.9325); Mulholland Creek (46.2004, –122.6484); Nineteen Creek (46.1593, –122.6095); North Fork Goble Creek (46.1208, –122.7691); Owl Creek (46.0914, –122.8692); Salmon Creek (46.2547, –122.8839); Sandy Bend Creek (46.2318, –122.9143); Skipper Creek

(46.1625, –122.5915); Turner Creek (46.1167, –122.8150); Unnamed (46.0719, –122.8607); Unnamed (46.0767, –122.8604); Unnamed (46.0897, –122.7355); Unnamed (46.1295, –122.8993); Unnamed (46.1369, –122.8034); Unnamed (46.1441, –122.5816); Unnamed (46.1478, –122.8649); Unnamed (46.1516, –122.8749); Unnamed (46.1558, –122.7803); Unnamed (46.1727, –122.7716); Unnamed (46.1753, –122.7657); Unnamed (46.1940, –122.7068); Unnamed (46.2021, –122.6941); Unnamed (46.2416, –122.8869).

(6) Lower Columbia Subbasin 17080006—(i) *Big Creek Watershed 1708000602.* Outlet(s) = Big Creek (Lat 46.1848, Long –123.5943) upstream to endpoint(s) in: Big Creek (46.1476, –123.5820); Little Creek (46.1510, –123.6007).

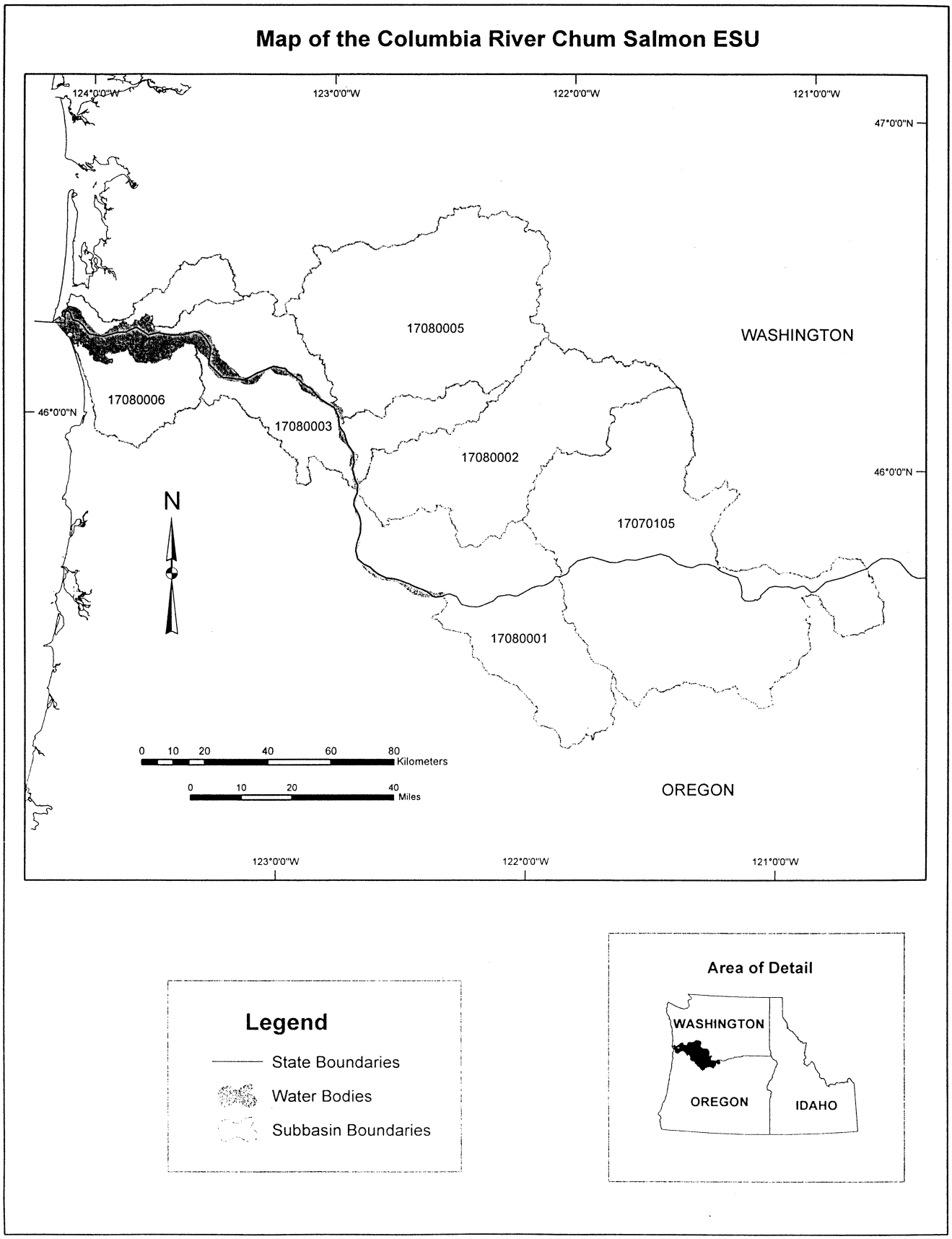
(ii) *Grays Bay Watershed 1708000603.* Outlet(s) = Deep River (Lat 46.3035, Long –123.7092); Grays River (46.3035, –123.6867); Unnamed (46.2419, –123.8842); Unnamed (46.3026, –123.9702) upstream to endpoint(s) in: Alder Creek (46.4279, –123.4621); Blaney Creek (46.3957, –123.4607); Campbell Creek (46.3435, –123.7087); Chinook River (46.2685, –123.9233); Deep River (46.3480, –123.6865); East Fork Grays River (46.4424, –123.4120); Fossil Creek (46.3612, –123.5217); Grays River (46.4628, –123.4602); Johnson Creek (46.4544, –123.4732); Kessel Creek (46.3336, –123.5850); King Creek (46.3444, –123.5774); Lassila Creek (46.3343, –123.7108); Mitchell Creek (46.4512, –123.4269); South Fork Grays River (46.3836, –123.4592); Thadbar Creek (46.3331, –123.6092); Unnamed (46.2502, –123.8833); Unnamed (46.2847, –123.9402); Unnamed (46.2901, –123.9368); Unnamed (46.3605, –123.5228); Unnamed (46.3838, –123.5454); Unnamed (46.4328, –123.4444); West Fork Grays River (46.3942, –123.5611).

(7) Lower Columbia River Corridor—*Lower Columbia River Corridor*

Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.5709, –122.4020).

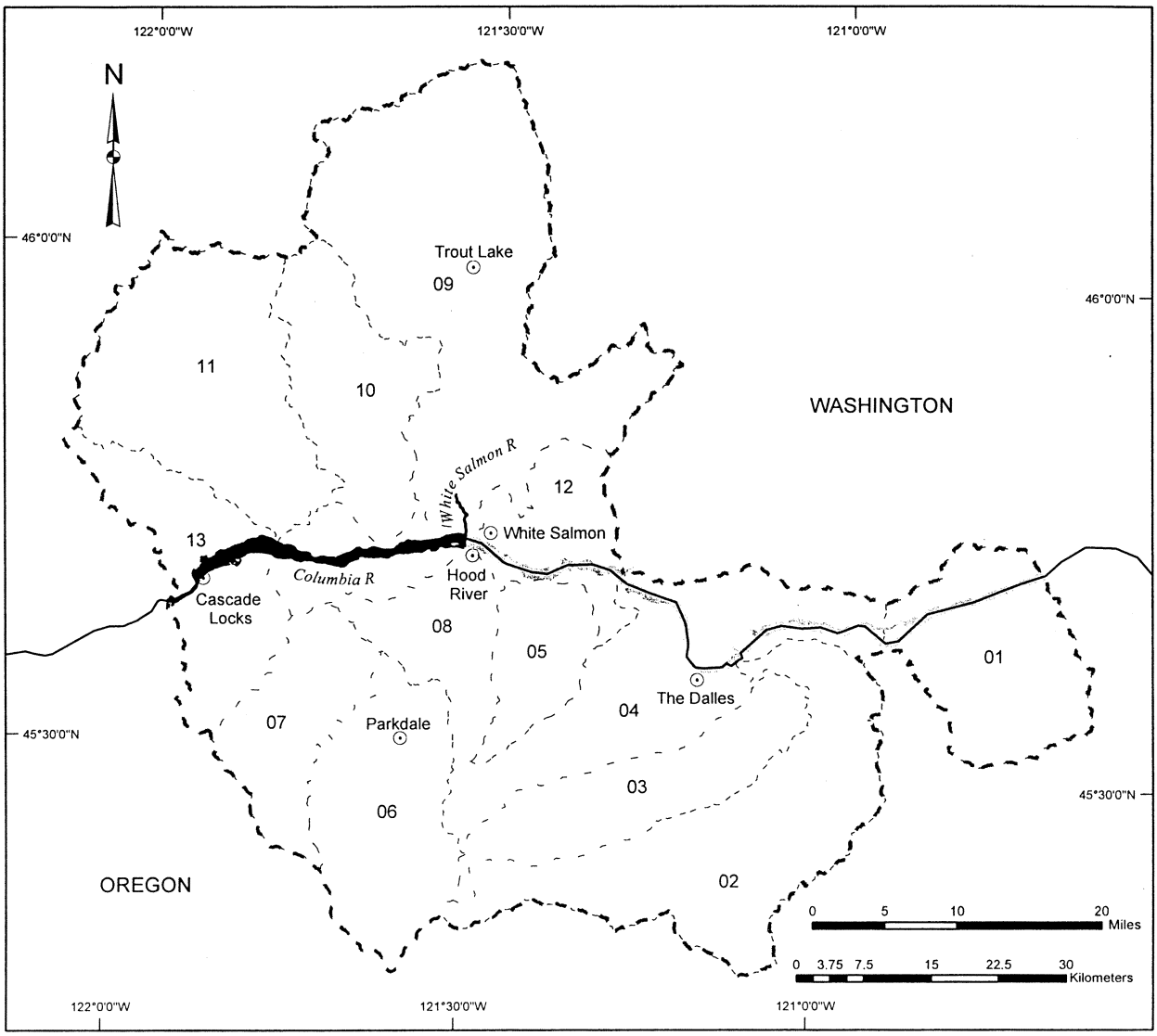
(8) Maps of critical habitat for the Columbia River chum salmon ESU follow:

BILLING CODE 3510–22–P


Map of the Columbia River Chum Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
121°0'0"W
47°0'0"N
46°0'0"N
17080005
WASHINGTON
17080006
17080003
17080002
17070105
17080001
N
0 10 20 40 60 80 Kilometers
0 10 20 40 Miles
OREGON
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Columbia River Chum Salmon ESU

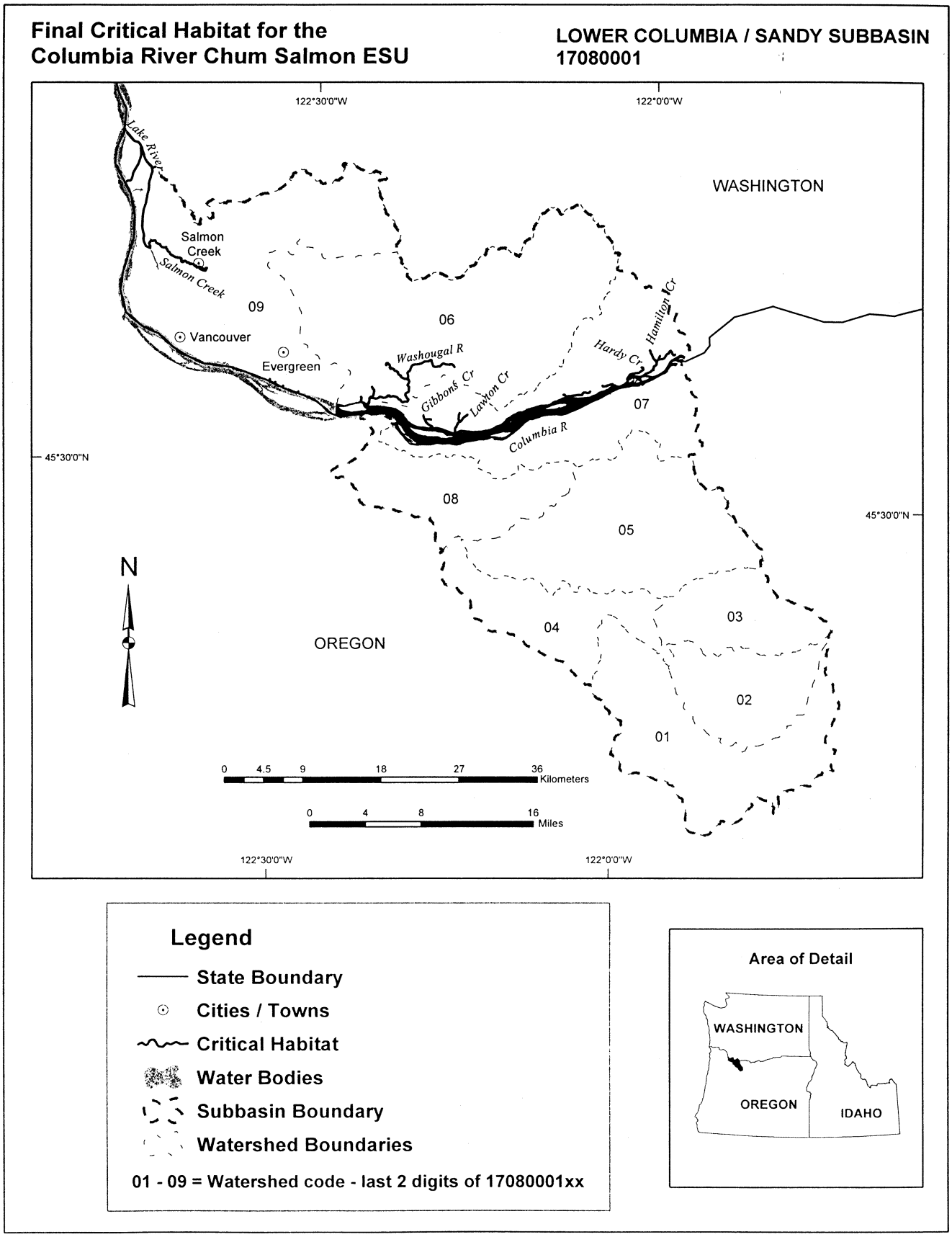
MIDDLE COLUMBIA / HOOD SUBBASIN 17070105

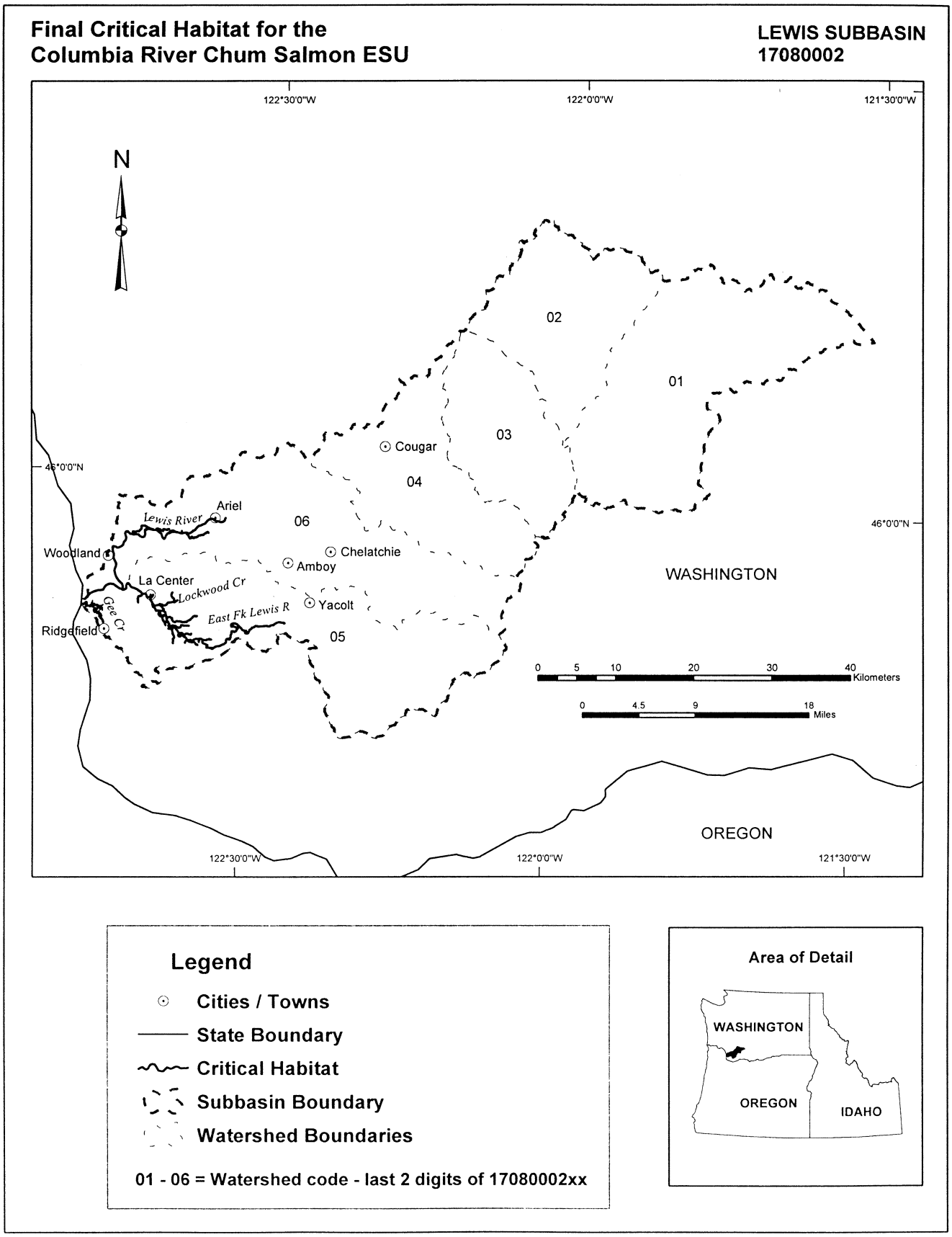


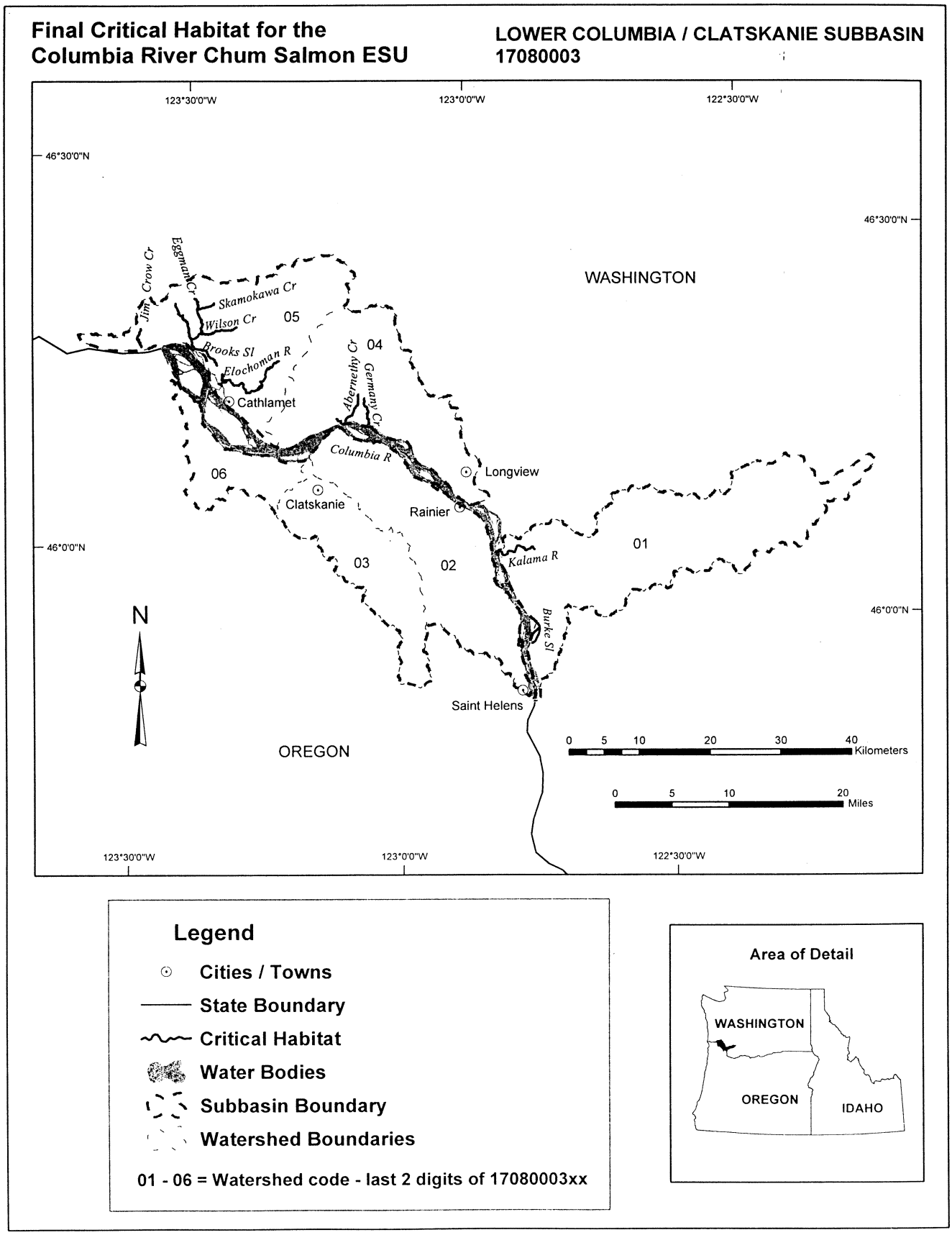
Legend

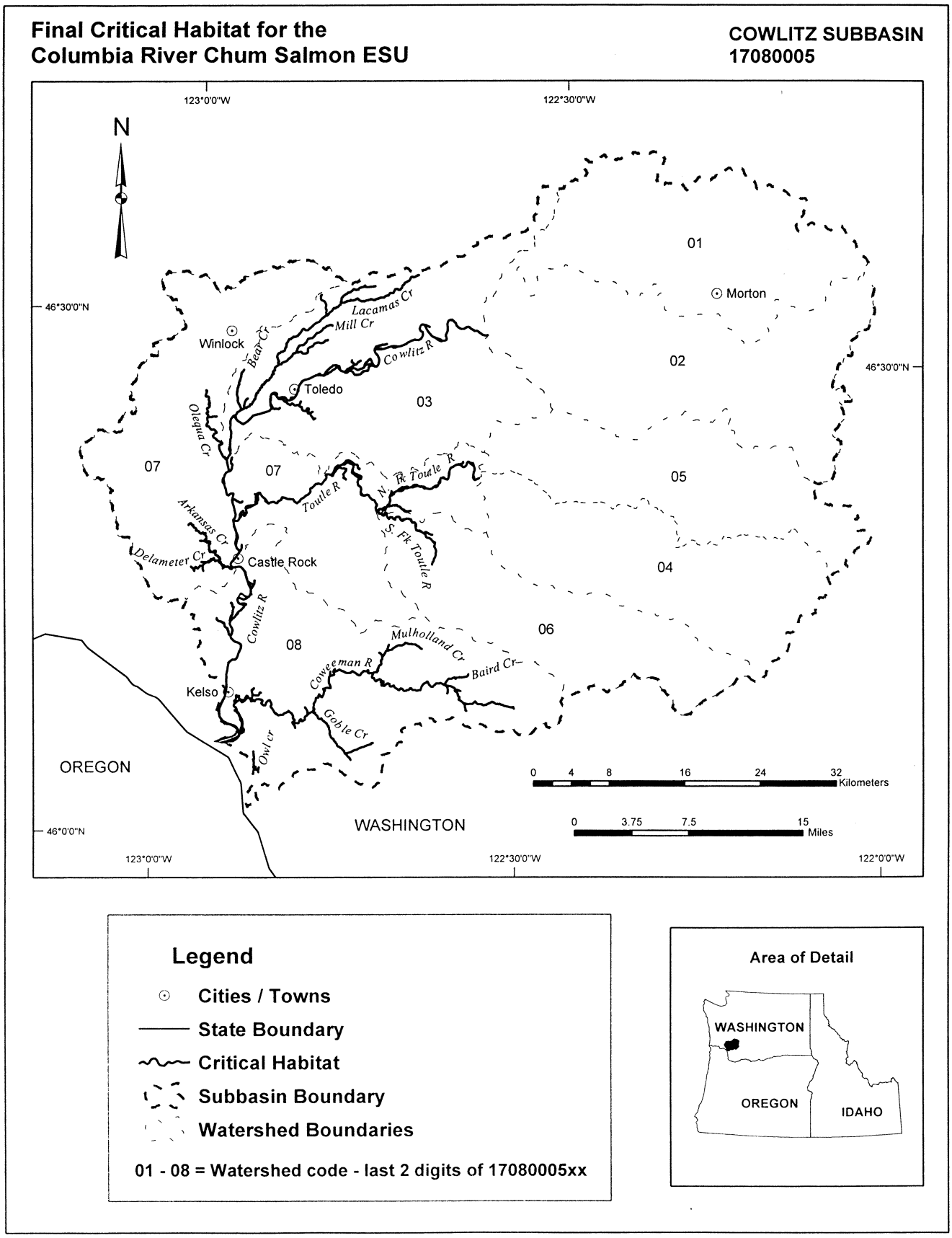
- Cities / Towns
- State Boundary
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

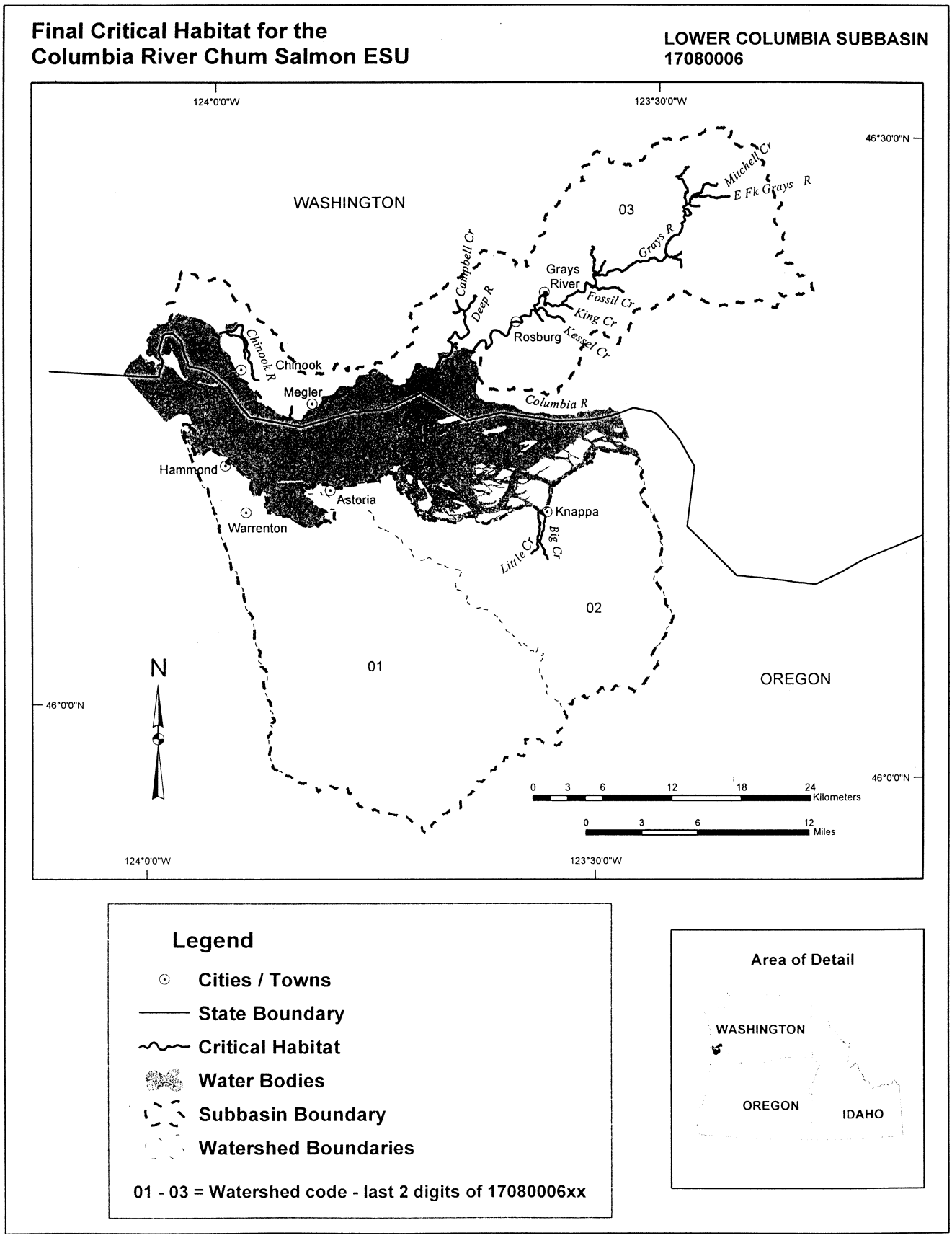
01 - 13 = Watershed code - last 2 digits of 17070105xx


Final Critical Habitat for the
Columbia River Chum Salmon ESU
LOWER COLUMBIA / SANDY SUBBASIN
17080001
122°30'0"W
122°0'0"W
45°30'0"N
Lake River
Salmon Creek
Salmon Creek
Vancouver
Evergreen
Washougal R
Gibbons Cr
Lawton Cr
Columbia R
Hardy Cr
Hamilton Cr
WASHINGTON
OREGON
09
06
07
08
05
04
03
02
01
N
0 4.5 9 18 27 36 Kilometers
0 4 8 16 Miles
Legend
State Boundary
Cities / Towns
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17080001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

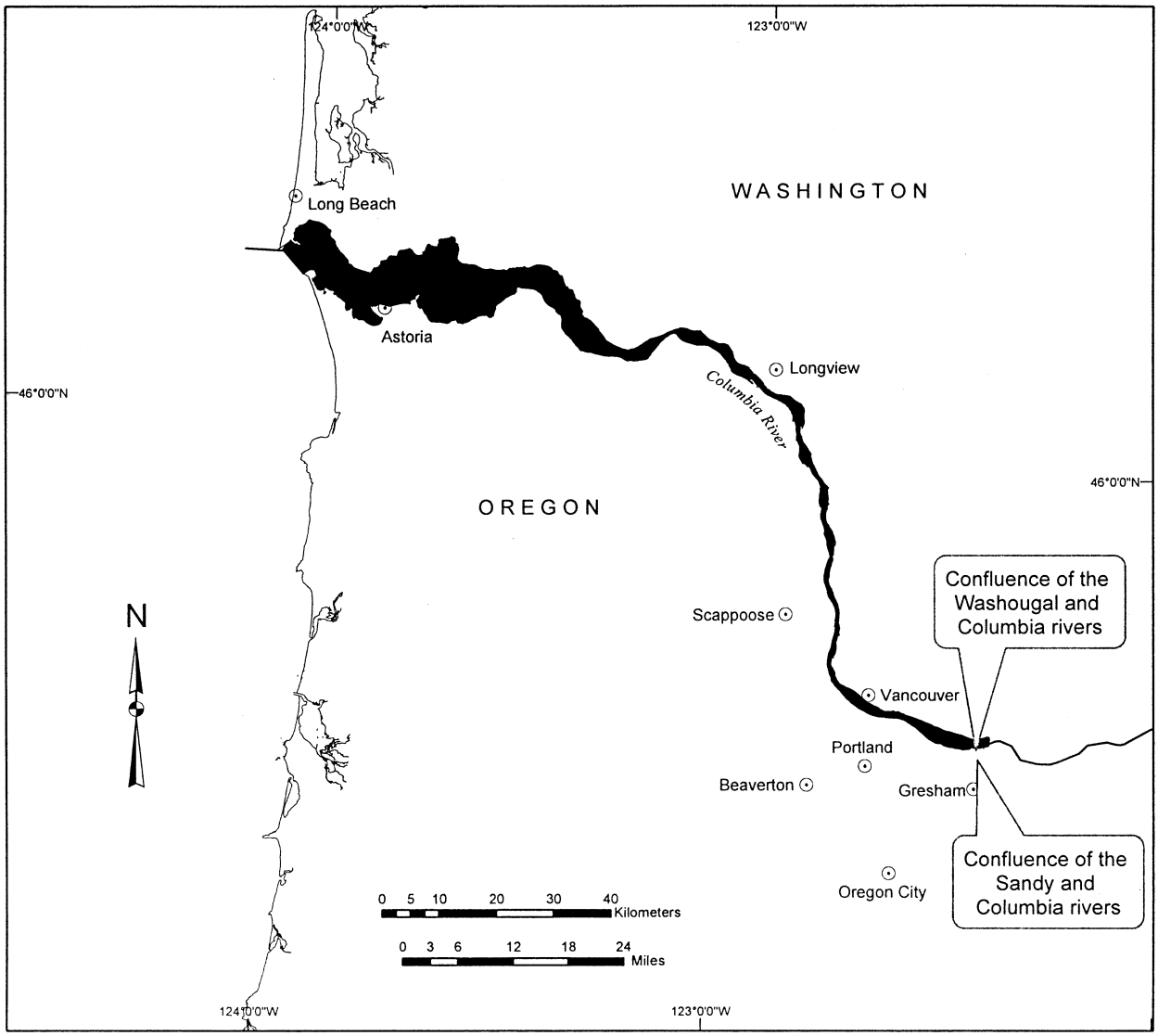

Final Critical Habitat for the
Columbia River Chum Salmon ESU
LEWIS SUBBASIN
17080002
122°30'0"W
122°0'0"W
121°30'0"W
46°0'0"N
N
02
01
03
04
06
05
Cougar
Ariel
Lewis River
Woodland
Chelatchie
Amboy
La Center
Lockwood Cr
Gee Cr
Yacolt
East Fk Lewis R
Ridgefield
WASHINGTON
OREGON
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the Columbia River Chum Salmon ESU
LOWER COLUMBIA / CLATSKANIE SUBBASIN 17080003
123°30'0"W
123°0'0"W
122°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
Jim Crow Cr
Eggman Cr
Skamokawa Cr
Wilson Cr
Brooks Sl
Elochoman R
Abernethy Cr
Germany Cr
Columbia R
Kalama R
Burke Sl
Cathlamet
Clatskanie
Longview
Rainier
Saint Helens
01
02
03
04
05
06
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080003xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Columbia River Chum Salmon ESU
COWLITZ SUBBASIN
17080005
123°0'0"W
122°30'0"W
N
46°30'0"N
46°0'0"N
122°0'0"W
01
02
03
04
05
06
07
07
08
Morton
Winlock
Toledo
Castle Rock
Kelso
Lacamas Cr
Mill Cr
Bear Cr
Cowlitz R
Olequa Cr
Toutle R
N. Fk Toutle R
S. Fk Toutle R
Arkansas Cr
Delameter Cr
Cowlitz R
Mulholland Cr
Coweeman R
Baird Cr
Goble Cr
Owl cr
OREGON
WASHINGTON
0 4 8 16 24 32 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17080005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Columbia River Chum Salmon ESU
LOWER COLUMBIA SUBBASIN
17080006
124°0'0"W
123°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
03
02
01
Mitchell Cr
E Fk Grays R
Grays R
Grays River
Fossil Cr
King Cr
Kessel Cr
Rosburg
Campbell Cr
Deep R
Chinook R
Chinook
Megler
Columbia R
Hammond
Asteria
Warrenton
Knappa
Little Cr
Big Cr
N
0 3 6 12 18 24 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17080006xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Rearing / Migration Corridor for the Columbia River Chum Salmon ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Columbia River Chum ESU

Lower Columbia River Corridor

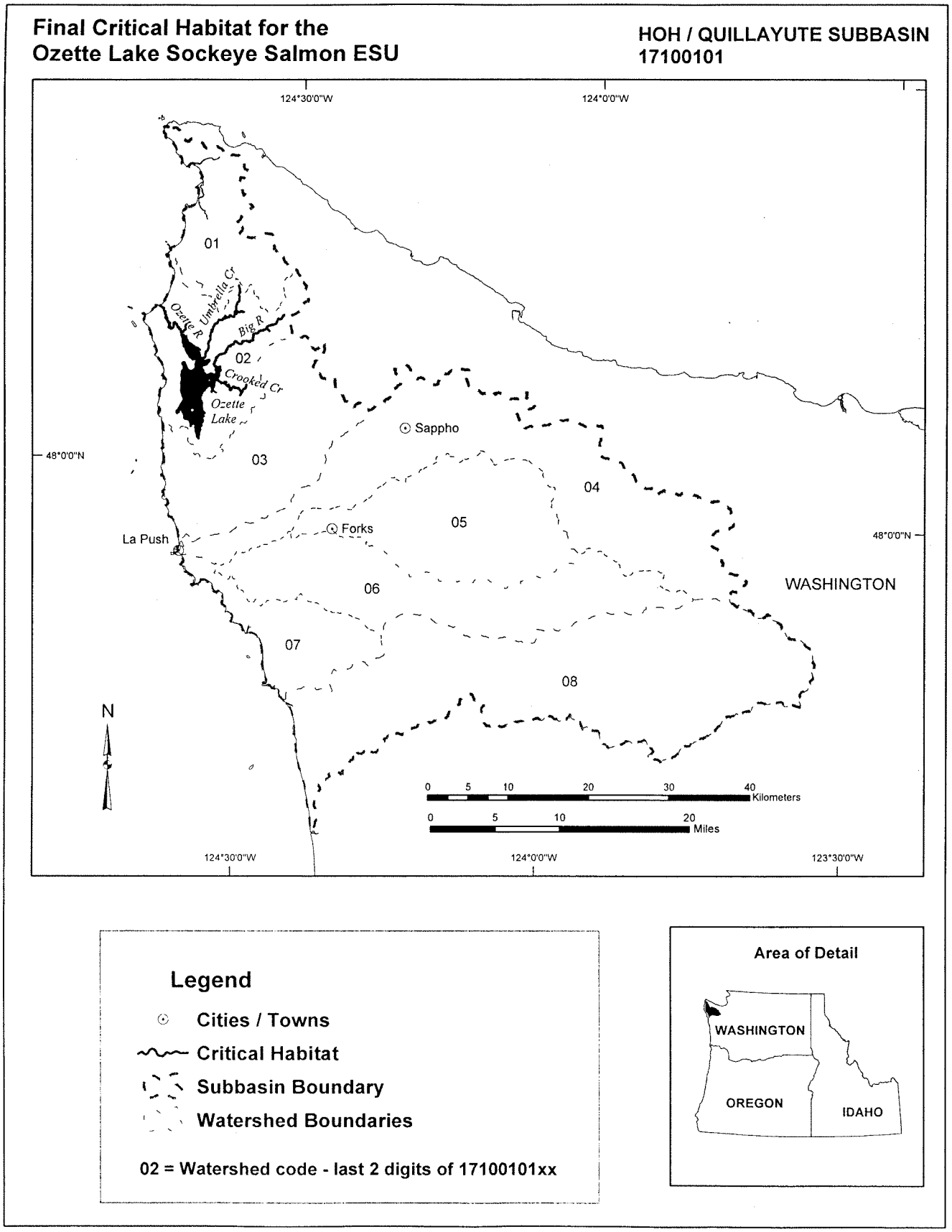
The lower Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to a line connecting the confluences of the Sandy River (Oregon) and Washougal River (Washington).

(o) Ozette Lake Sockeye Salmon (Oncorhynchus nerka). Critical habitat is designated to include the areas defined in the following subbasin:

(1) Hoh/Quillayute Subbasin 17100101—(i) Ozette Lake Watershed 1710010102. Outlet(s) = Ozette River (Lat 48.1818, Long –124.7076) upstream to endpoints in: Big River (48.1844, –124.4987); Coal Creek (48.1631, –124.6612); East Branch Umbrella Creek (48.1835, –124.5659); North Fork Crooked Creek (48.1020, –124.5507); Ozette River (48.0370, –124.6218); South Fork Crooked Creek (48.0897, –124.5597); Umbrella Creek (48.2127, –124.5787); Unnamed (48.1771, –124.5967); Unnamed (48.1740, –124.6005); Unnamed (48.1649, –124.5208).

(ii) [Reserved]

(2) A map of critical habitat for the Ozette Lake sockeye salmon ESU follows:



BILLING CODE 3510–22–P

(p) *Upper Columbia River Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Chief Joseph Subbasin 17020005—*Upper Columbia/Swamp Creek Watershed 1702000505.* Outlet(s) = Columbia River (Lat 47.8077, Long –119.9754) upstream to endpoint(s) in: Columbia River (48.0828, –119.7062).

(2) Okanogan Subbasin 17020006—(i) *Upper Okanogan River Watershed 1702000601.* Outlet(s) = Okanogan River (Lat 48.7350, Long –119.4280) upstream to endpoint(s) in: Antoine Creek (48.7474, –119.3655); Ninemile Creek (48.9755, –119.3834); Okanogan River (49.0002, –119.4409); Similkameen River (48.9345, –119.4411); Tomasket Creek (48.9502, –119.3618); Whitestone Creek (48.7773, –119.4170).

(ii) *Okanogan River/Bonaparte Creek Watershed 1702000602.* Outlet(s) = Okanogan River (Lat 48.5612, Long –119.4863) upstream to endpoint(s) in: Aeneas Creek (48.6629, –119.4953); Bonaparte Creek (48.6824, –119.3947); Okanogan River (48.7350, –119.4280); Tunk Creek (48.5644, –119.4718).

(iii) *Salmon Creek Watershed 1702000603.* Outlet(s) = Salmon Creek (Lat 48.3593, Long –119.5805) upstream to endpoint(s) in: Salmon Creek (48.5374, –119.7465).

(iv) *Okanogan River/Omak Creek Watershed 1702000604.* Outlet(s) = Okanogan River (Lat 48.3593, Long –119.5805) upstream to endpoint(s) in: Okanogan River (48.5612, –119.4863); Omak Creek (48.3698, –119.4365); Unnamed (48.3802, –119.4915).

(v) *Lower Okanogan River Watershed 1702000605.* Outlet(s) = Okanogan River (Lat 48.0976, Long –119.7352) upstream to endpoint(s) in: Chiliwist Creek (48.2643, –119.7304); Loup Loup Creek (48.3080, –119.7128); Okanogan River (48.3593, –119.5805).

(3) Similkameen Subbasin 17020007—*Lower Similkameen River Watershed 1702000704.* Outlet(s) = Similkameen River (Lat 48.9345, Long –119.4411) upstream to endpoint(s) in: Similkameen River (48.9657, –119.5009).

(4) Methow Subbasin 17020008—(i) *Lost River Watershed 1702000801.* Outlet(s) = Lost River Gorge (Lat 48.6501, Long –120.5103) upstream to endpoint(s) in: Lost River Gorge (48.7324, –120.4475).

(ii) *Upper Methow River Watershed 1702000802.* Outlet(s) = Methow River (Lat 48.6015, Long –120.4376) upstream to endpoint(s) in: Early Winters Creek (48.5889, –120.4711); Methow River (48.6597, –120.5368).

(iii) *Upper Chewuch River Watershed 1702000803.* Outlet(s) = Chewuch River (Lat 48.7501, Long –120.1356) upstream to endpoint(s) in: Andrews Creek (48.7855, –120.1087); Chewuch River (48.8614, –120.0288); Lake Creek (48.8258, –120.1996).

(iv) *Lower Chewuch River Watershed 1702000804.* Outlet(s) = Chewuch River (Lat 48.4751, Long –120.1790) upstream to endpoint(s) in: Boulder Creek (48.5804, –120.1521); Chewuch River (48.7501, –120.1356); Eightmile Creek (48.6167, –120.1975); Twentymile Creek (48.7025, –120.1087).

(v) *Twisp River Watershed 1702000805.* Outlet(s) = Twisp River (Lat 48.3682, Long –120.1176) upstream to endpoint(s) in: Buttermilk Creek 48.3414, –120.3034); Eagle Creek (48.3579, –120.3953); Little Bridge Creek (48.4289, –120.3552); South Creek (48.4329, –120.5434); Twisp River (48.4545, –120.5621); War Creek (48.3626, –120.4106).

(vi) *Middle Methow River Watershed 1702000806.* Outlet(s) = Methow River (Lat 48.2495, Long –120.1156) upstream to endpoint(s) in: Goat Creek (48.6101, –120.3692); Hancock Creek (48.5338, –120.3310); Little Boulder Creek (48.5569, –120.3847); Methow River (48.6015, –120.4376); North Fork Beaver Creek (48.4340, –120.0228); Wolf Creek (48.4777, –120.2844).

(vii) *Lower Methow River Watershed 1702000807.* Outlet(s) = Methow River (Lat 48.0502, Long –119.8942) upstream to endpoint(s) in: Black Canyon Creek (48.0721, –120.0168); Foggy Dew Creek (48.1869, –120.2344); Gold Creek (48.2113, –120.2021); Libby Creek (48.2548, –120.1653); Methow River (48.2495, –120.1156); South Fork Gold Creek (48.1468, –120.1650).

(5) Upper Columbia/Entiat Subbasin 17020010—(i) *Entiat River Watershed 1702001001.* Outlet(s) = Entiat River (Lat 47.6585, Long –120.2194) upstream to endpoint(s) in: Entiat River (47.9855, –120.5749); Mad River (47.8254, –120.5301); Potato Creek (47.7944, –120.3889); Roaring Creek (47.6795, –120.4163); Stormy Creek (47.8246, –120.4125); Tamarack Creek (47.6699, –120.4041); Tillicum Creek (47.7295, –120.4303).

(ii) *Lake Entiat Watershed 1702001002.* Outlet(s) = Columbia River (Lat 47.3539, Long –120.1105) upstream to endpoint(s) in: Columbia River (47.8077, –119.9754).

(iii) *Columbia River/Lynch Coulee Watershed 1702001003.* Outlet(s) = Columbia River (Lat 47.0494, Long –120.0241) upstream to endpoint(s) in: Brushy Creek (47.1316, –120.1493); Colockum Creek (47.2919, –120.1592); Columbia River (47.3539, –120.1105); Lynch Coulee (47.2320, –119.9943); Quilomene Creek (47.1105, –120.0379); Tarpiscan Creek (47.2264, –120.0922); Tekison Creek (47.1816, –120.0206).

(iv) *Columbia River/Sand Hollow Watershed 1702001004.* Outlet(s) = Columbia River (Lat 46.8159, Long –119.9255) upstream to endpoint(s) in: Columbia River (47.0494, –120.0241); Sand Hollow (46.9296, –119.9365); Whiskey Dick Creek (47.0302, –120.0331).

(6) Wenatchee Subbasin 17020011—(i) *White River Watershed 1702001101.* Outlet(s) = White River (Lat 47.8088, Long –120.7159) upstream to endpoint(s) in: Little Wenatchee River (47.8526, –120.9541); Napeequa River (47.9359, –120.8712); Panther Creek (47.9375, –120.9408); White River (47.9535, –120.9380).

(ii) *Chiwawa River Watershed 1702001102.* Outlet(s) = Chiwawa River (Lat 47.7880, Long –120.6589) upstream to endpoint(s) in: Alder Creek (47.8565, –120.6564); Alpine Creek (48.0823, –120.8683); Buck Creek (48.1045, –120.8815); Chikamin Creek (47.9111, –120.7165); Chiwawa River (48.1140, –120.8775); Clear Creek (47.8016, –120.6210); James Creek (48.0748, –120.8598); Phelps Creek (48.0743, –120.8484); Unnamed (47.9727, –120.7878).

(iii) *Nason/Tumwater Watershed 1702001103.* Outlet(s) = Wenatchee River (Lat 47.5801, Long –120.6660) upstream to endpoint(s) in: Beaver Creek (47.7649, –120.6553); Chiwaukum Creek (47.7038, –120.7788); Coulter Creek (47.7594, –120.7969); Gill Creek (47.7716, –120.8237); Kahler Creek (47.7691, –120.7558); Mill Creek (47.7744, –121.0117); Nason Creek (47.7825, –121.0464); Roaring Creek (47.7572, –120.8203); Skinney Creek (47.7247, –120.7370).

(iv) *Icicle/Chumstick Watershed 1702001104.* Outlet(s) = Wenatchee River (Lat 47.5575, Long –120.5729) upstream to endpoint(s) in: Chumstick Creek (47.6785, –120.6385); Derby Canyon (47.6036, –120.5623); Eagle Creek (47.6342, –120.6261); Icicle Creek (47.6460, –120.9833); Wenatchee River (47.5801, –120.6660).

(v) *Lower Wenatchee River Watershed 1702001105.* Outlet(s) = Wenatchee River (Lat 47.4553, Long –120.3185) upstream to endpoint(s) in: Brender Creek (47.5214, –120.4844); Ingalls Creek (47.4612, –120.6776); King Canyon (47.3522, –120.4423); Mill Creek (47.5139, –120.6724); Mission Creek (47.3289, –120.4771); Peshastin Creek (47.4380, –120.6590); Sand Creek (47.4321, –120.5307); Wenatchee River (47.5575, –120.5729).

(7) Lower Crab Subbasin 17020015—*Lower Crab Creek Watershed 1702001509.* Outlet(s) = Lower Crab

Creek (Lat 46.8159, Long –119.9255) upstream to endpoint(s) in: Hayes Creek (46.8821, –119.2703); Lower Crab Creek (46.9028, –119.2785); Unnamed (46.8157, –119.4326); Unnamed (46.8243, –119.4429); Unnamed (46.8353, –119.3750); Unnamed (46.8658, –119.3757); Unnamed (46.8770, –119.5863).

(8) Upper Columbia/Priest Rapids Subbasin 17020016—(i) *Yakima River/Hanson Creek Watershed 1702001604.* Outlet(s) = Columbia River (Lat 46.7159, Long –119.5294) upstream to endpoint(s) in: Columbia River (46.8159, –119.9255).

(ii) *Middle Columbia/Priest Rapids Watershed 1702001605.* Outlet(s) = Columbia River (Lat 46.5091, Long –119.2661) upstream to endpoint(s) in: Columbia River (46.7159, –119.5294).

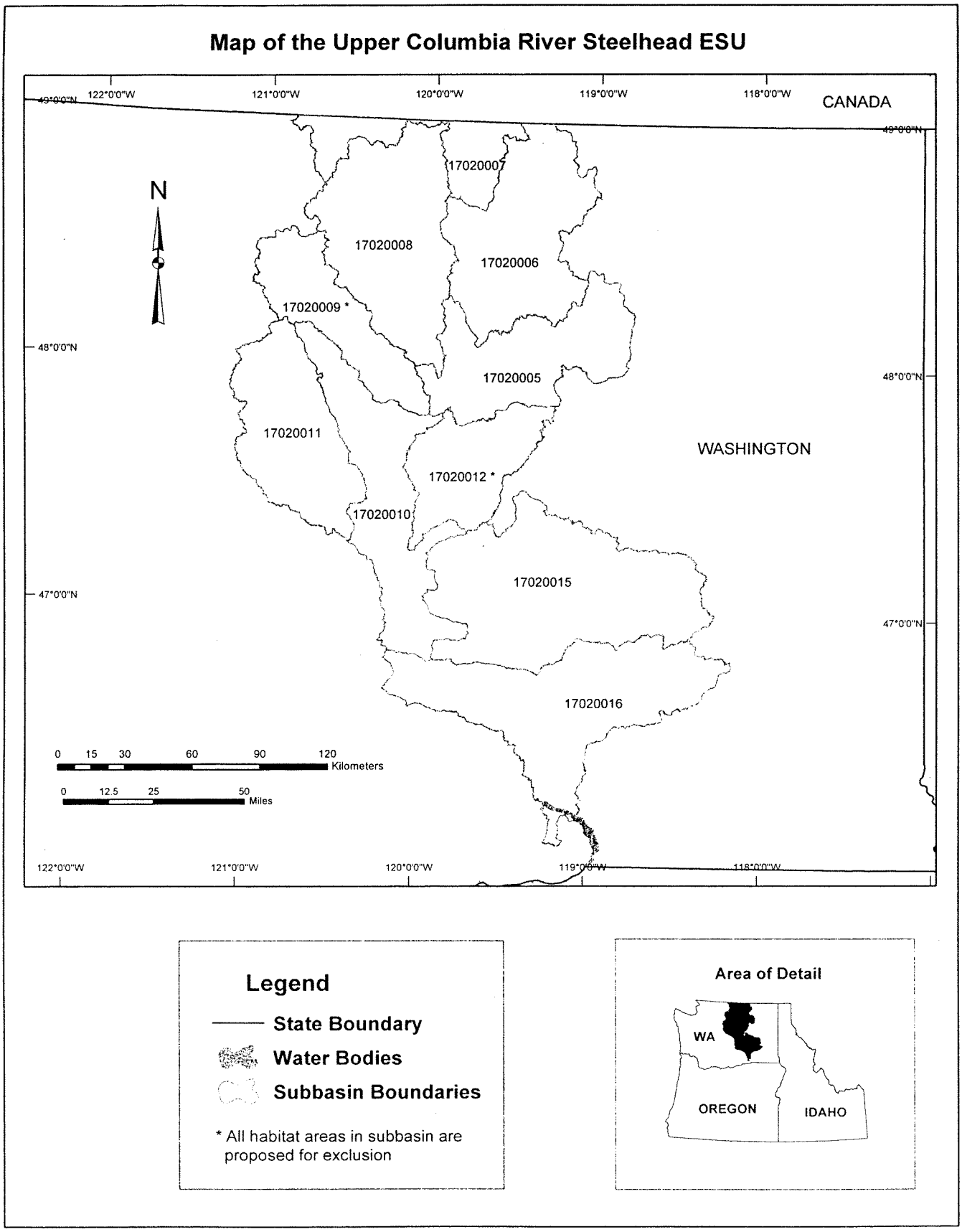
(iii) *Columbia River/Zintel Canyon Watershed 1702001606.* Outlet(s) = Columbia River (Lat 46.2534, Long –119.2268) upstream to endpoint(s) in: Columbia River (46.5091, –119.2661).

(9) Columbia River Corridor—*Columbia River Corridor*

Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (46.2534, –119.2268).

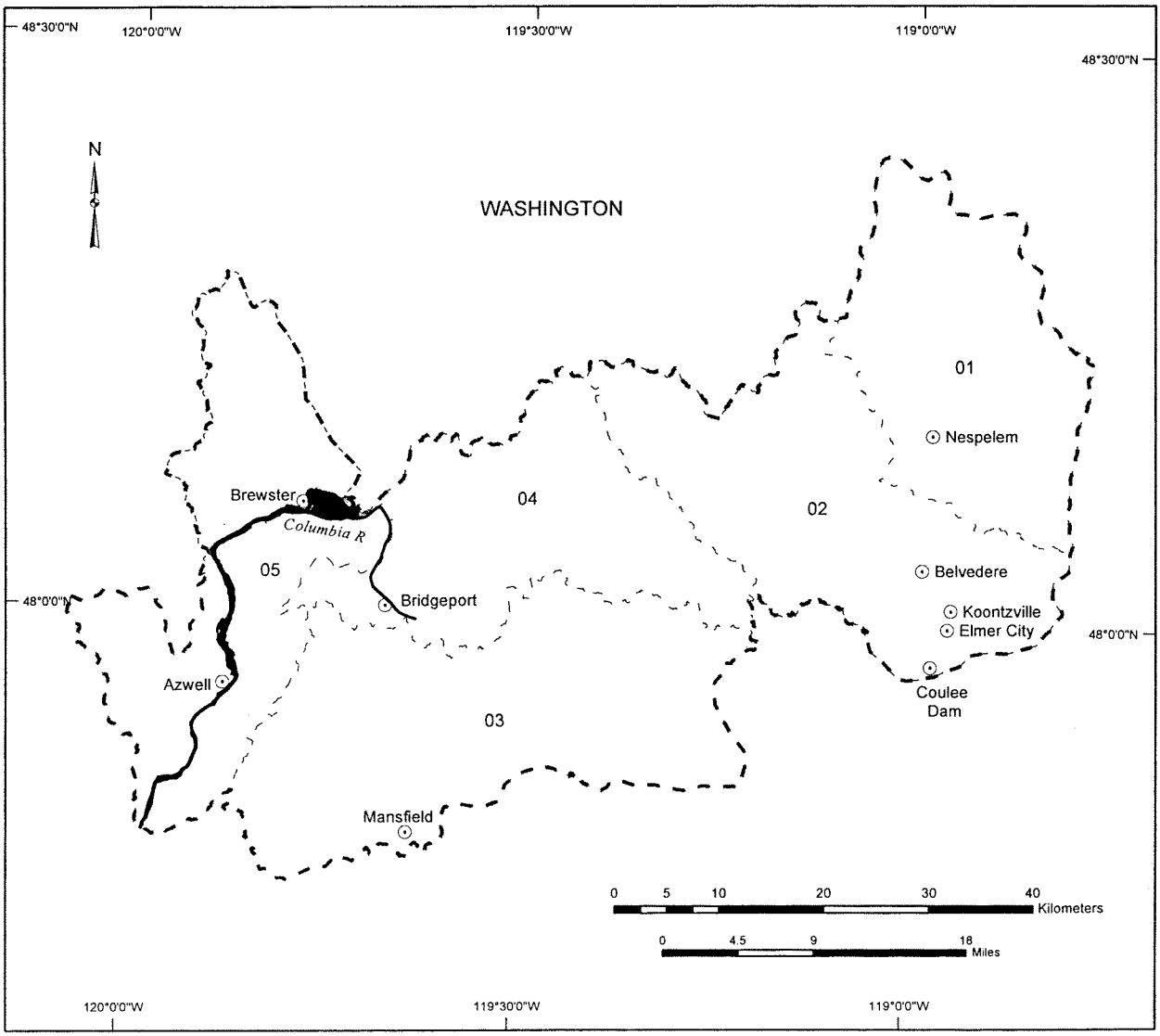
(10) Maps of critical habitat for the Upper Columbia River Steelhead ESU follow:

BILLING CODE 3510–22–P


Map of the Upper Columbia River Steelhead ESU
CANADA
WASHINGTON
N
17020007
17020008
17020006
17020009 *
17020005
17020011
17020012 *
17020010
17020015
17020016
122°0'0"W
121°0'0"W
120°0'0"W
119°0'0"W
118°0'0"W
49°0'0"N
48°0'0"N
47°0'0"N
0 15 30 60 90 120 Kilometers
0 12.5 25 50 Miles
Legend
State Boundary
Water Bodies
Subbasin Boundaries
* All habitat areas in subbasin are proposed for exclusion
Area of Detail
WA
OREGON
IDAHO

Final Critical Habitat for the Upper Columbia River Steelhead ESU

CHIEF JOSEPH SUBBASIN 17020005

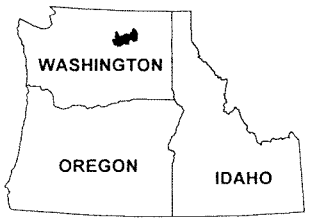


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

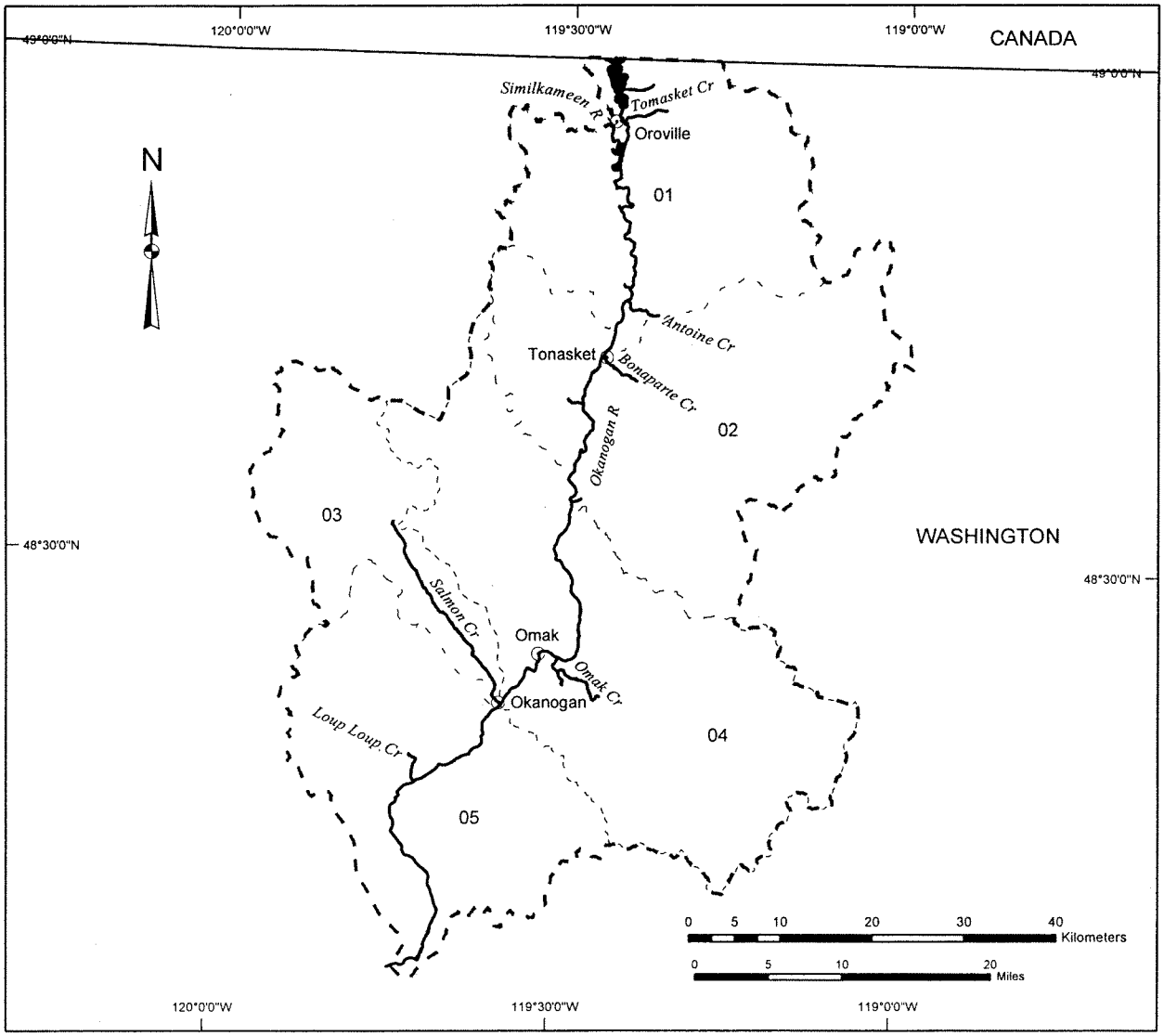
01 - 05 = Watershed code - last 2 digits of 17020005xx

Area of Detail



Final Critical Habitat for the Upper Columbia River Steelhead ESU

OKANOGAN SUBBASIN 17020006

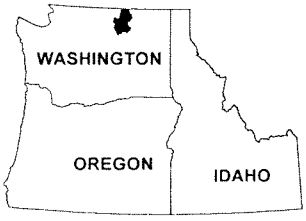


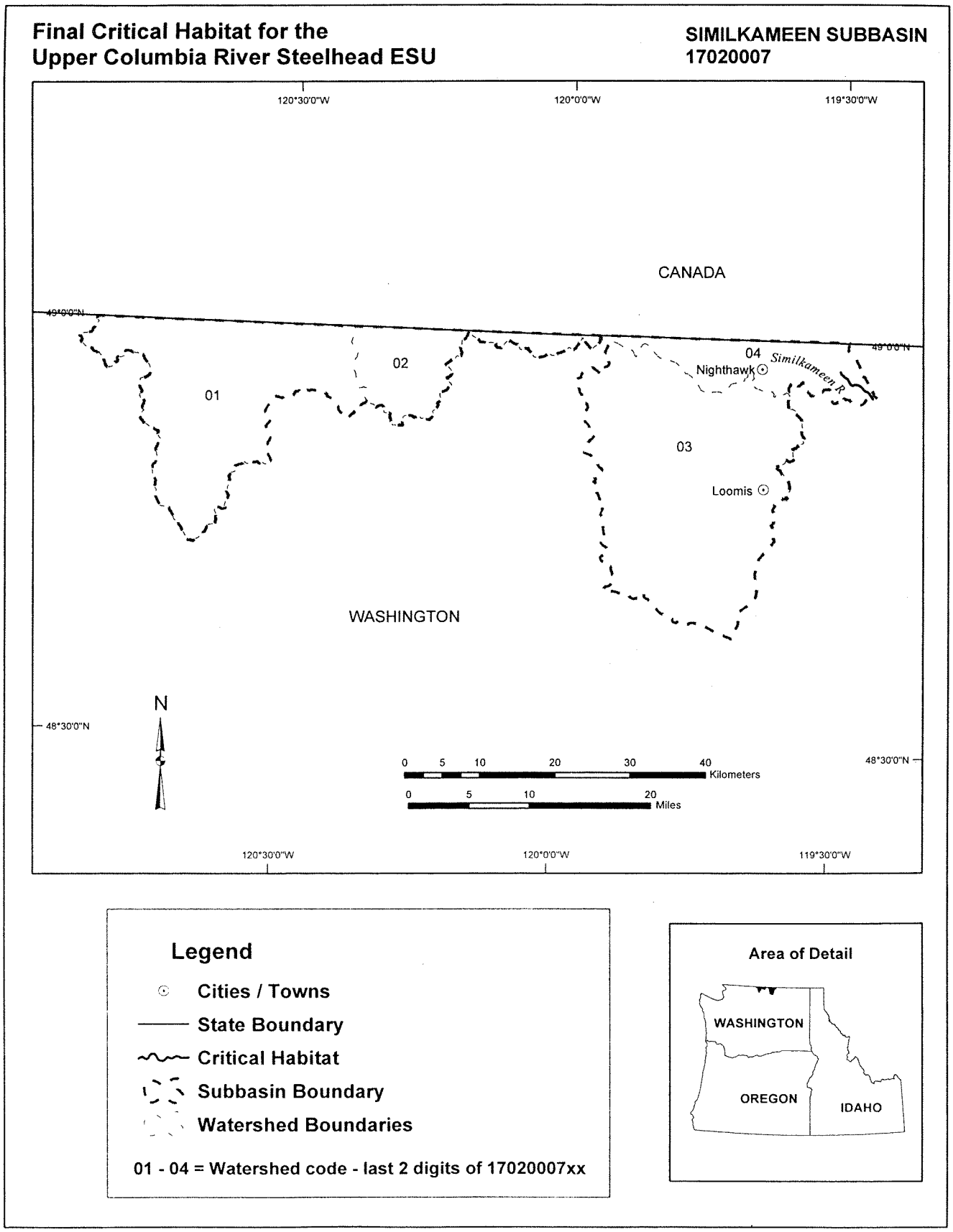
Legend

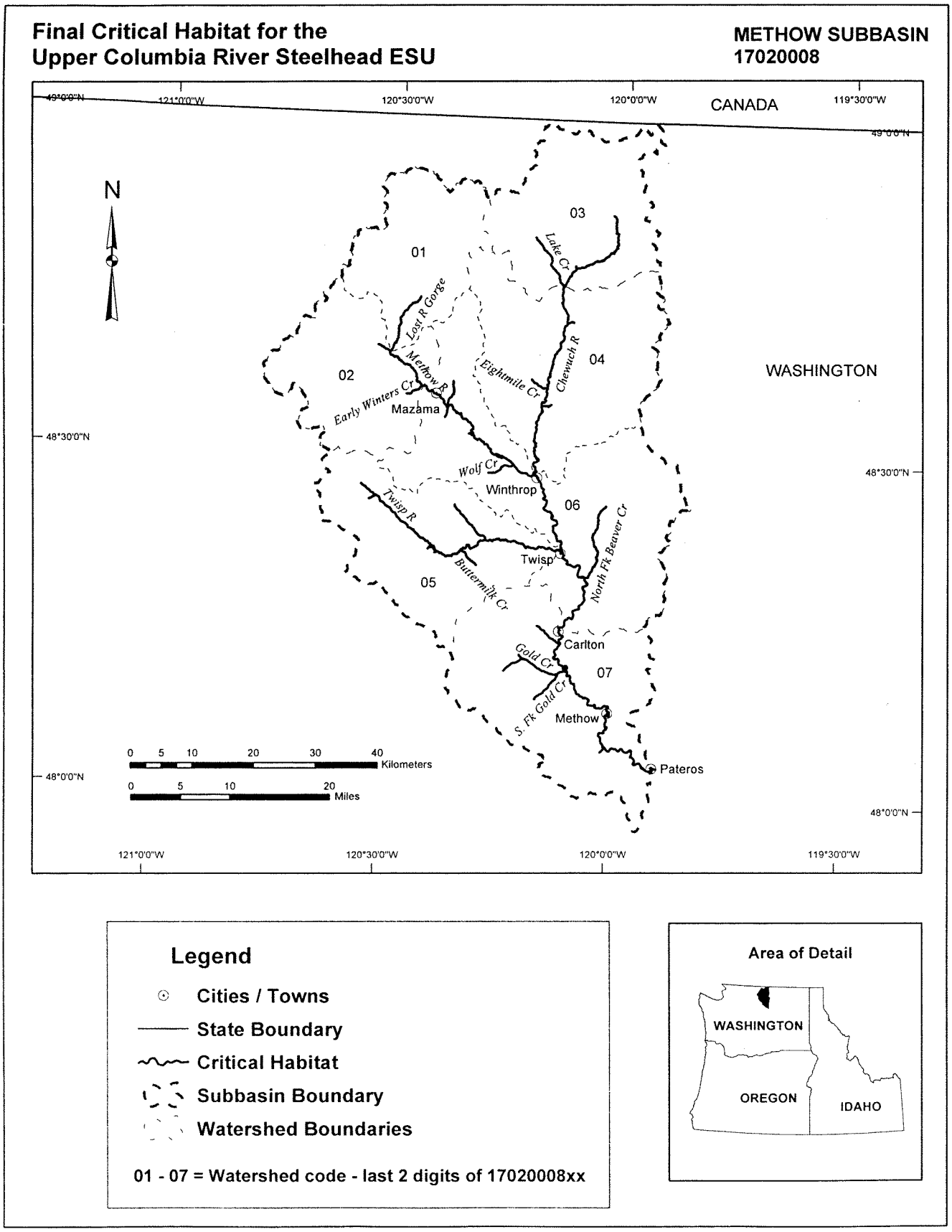
- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17020006xx

Area of Detail

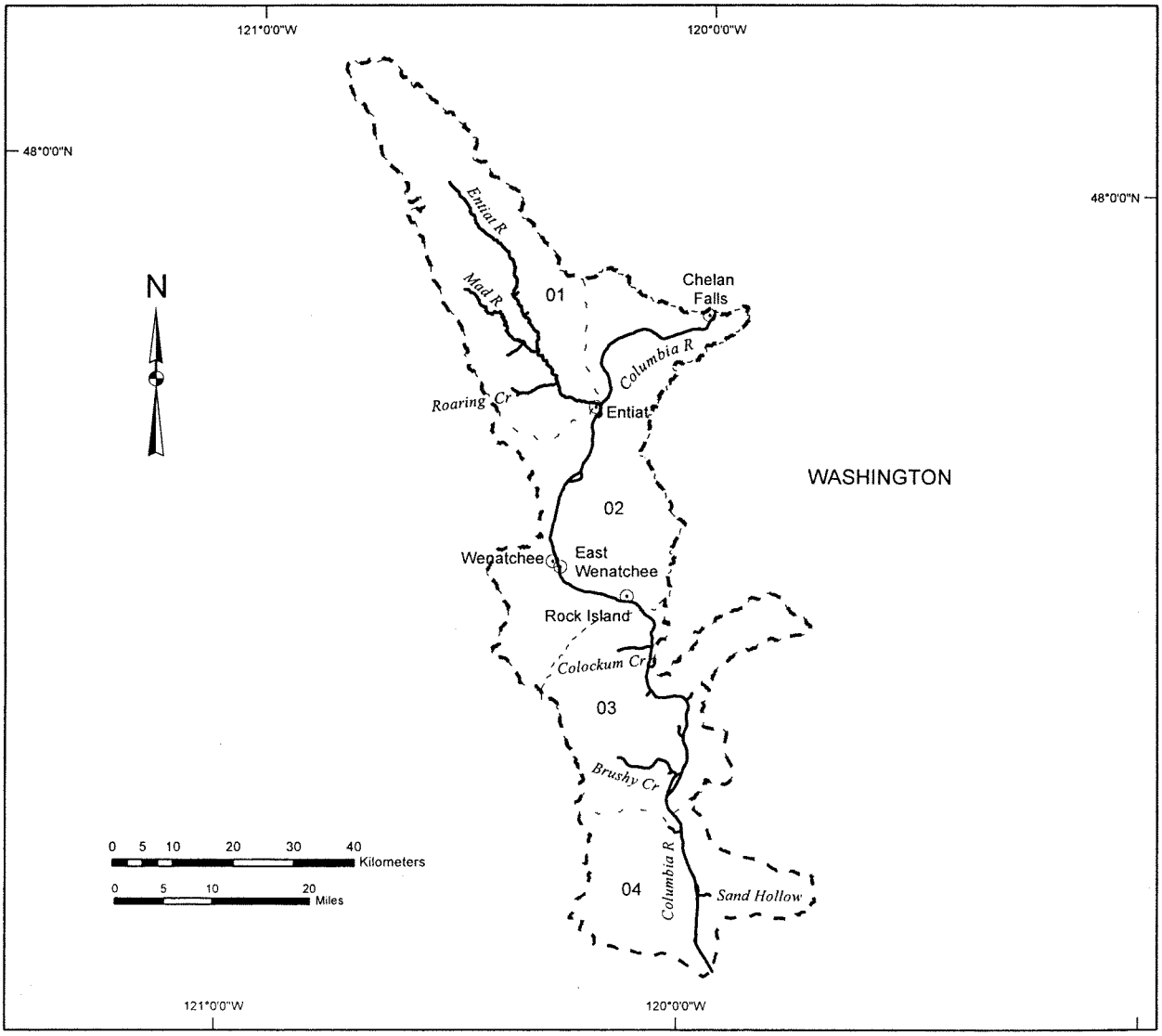



Final Critical Habitat for the
Upper Columbia River Steelhead ESU
SIMILKAMEEN SUBBASIN
17020007
120°30'0"W
120°0'0"W
119°30'0"W
CANADA
49°0'0"N
01
02
03
04
Similkameen R.
Nighthawk
Loomis
WASHINGTON
N
48°30'0"N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17020007xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Steelhead ESU
METHOW SUBBASIN
17020008
CANADA
WASHINGTON
N
01
02
03
04
05
06
07
Lake Cr
Lost R Gorge
Methow R
Early Winters Cr
Mazama
Eightmile Cr
Chewuch R
Wolf Cr
Winthrop
Twisp R
Twisp
Buttermilk Cr
North Fk Beaver Cr
Carlton
Gold Cr
S. Fk Gold Cr
Methow
Pateros
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
49°0'0"N
48°30'0"N
48°0'0"N
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17020008xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Columbia River Steelhead ESU

UPPER COLUMBIA / ENTIAT SUBBASIN 17020010

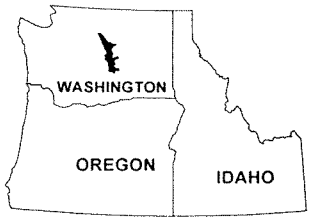


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

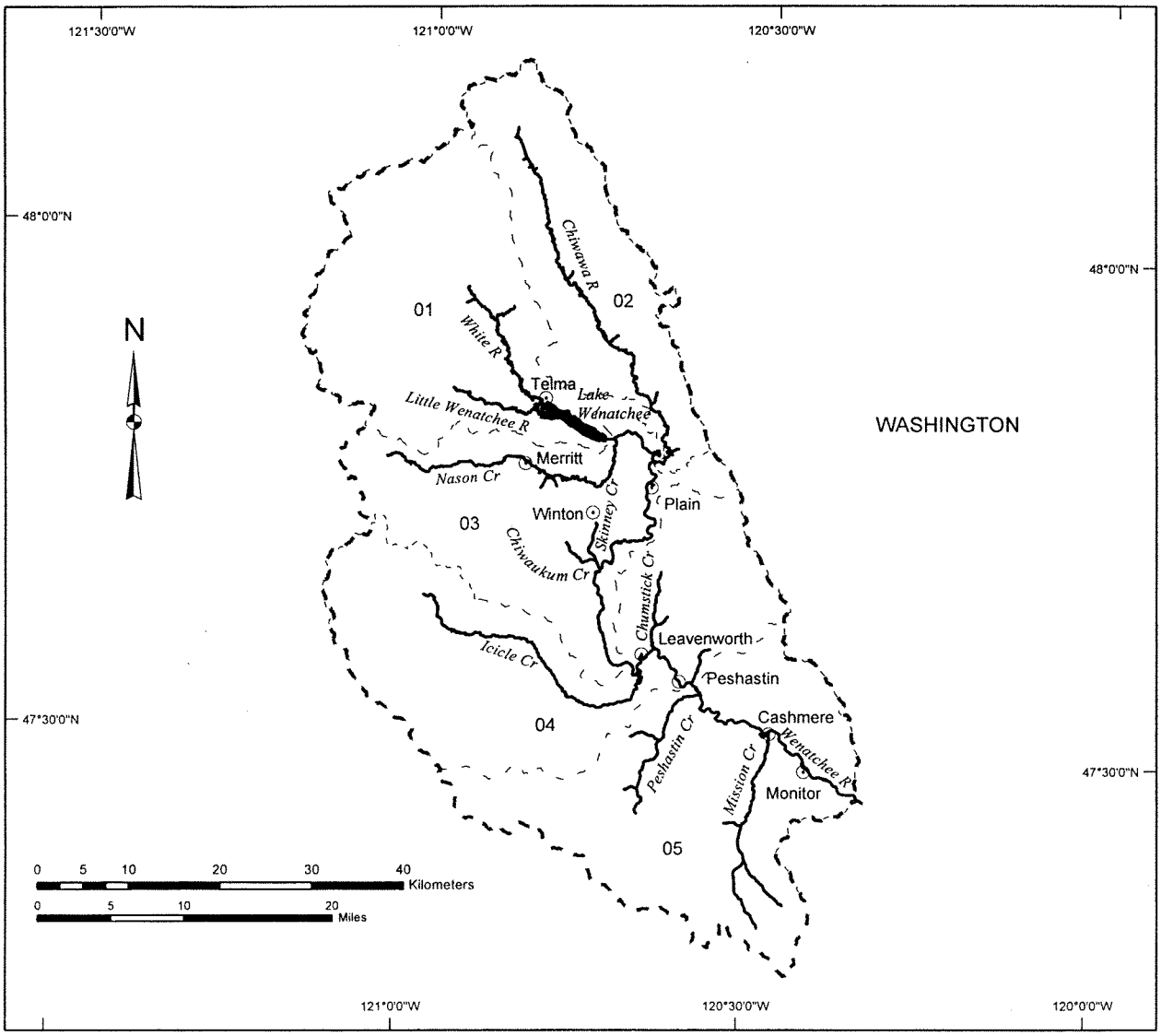
01 - 04 = Watershed code - last 2 digits of 17020010xx

Area of Detail



Final Critical Habitat for the Upper Columbia River Steelhead ESU

WENATCHEE SUBBASIN 17020011

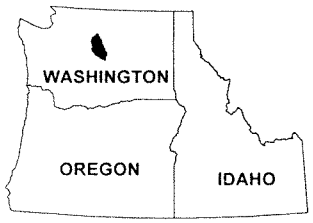


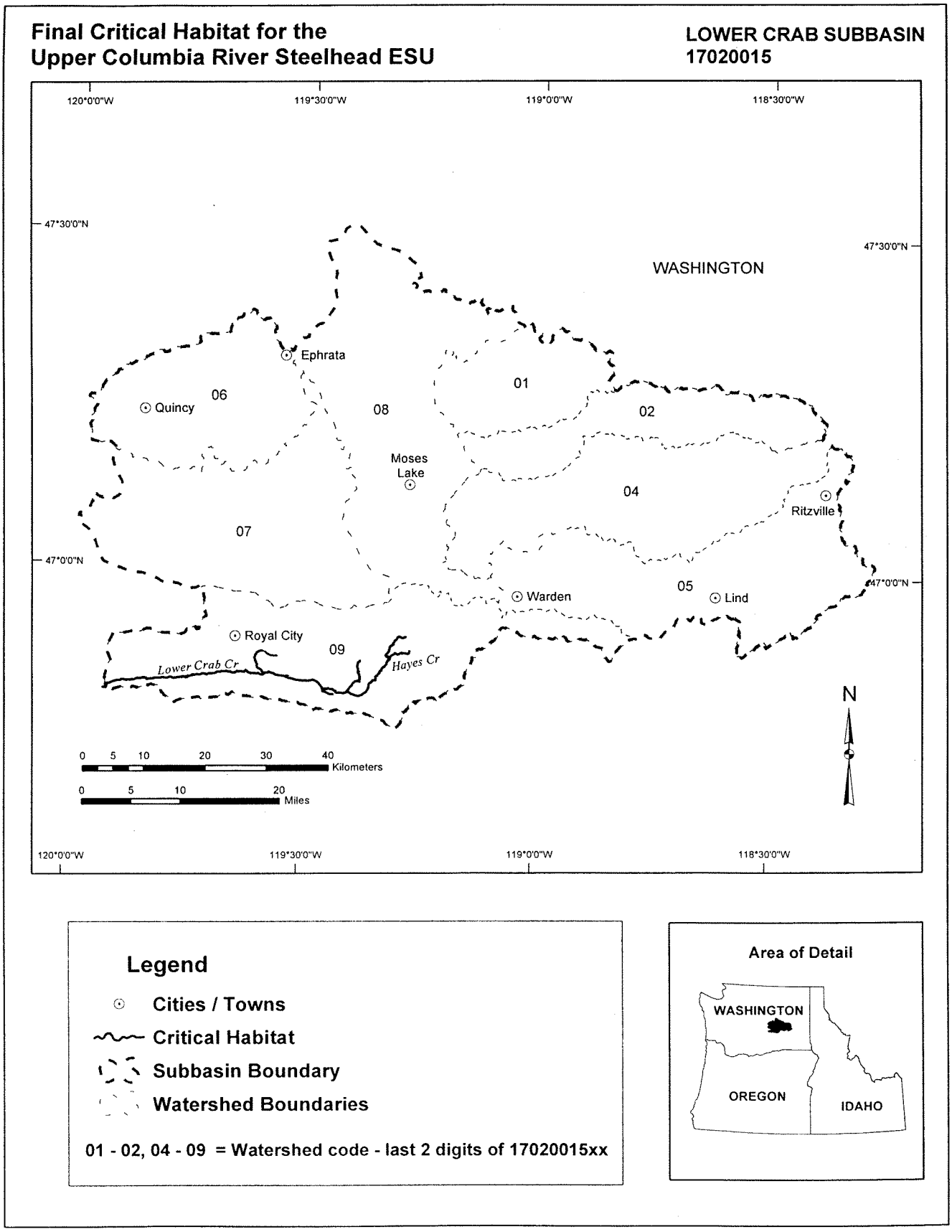
Legend

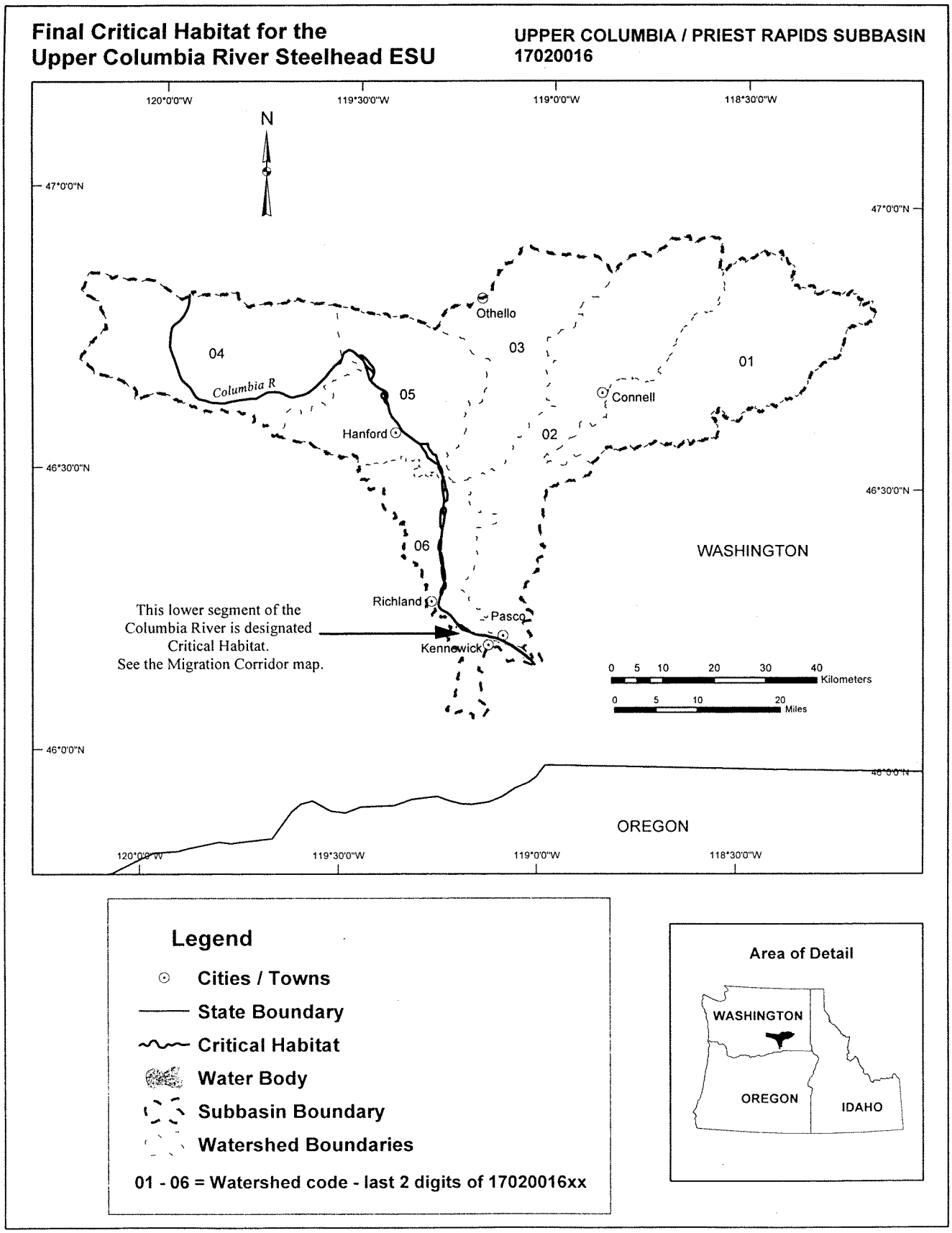
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

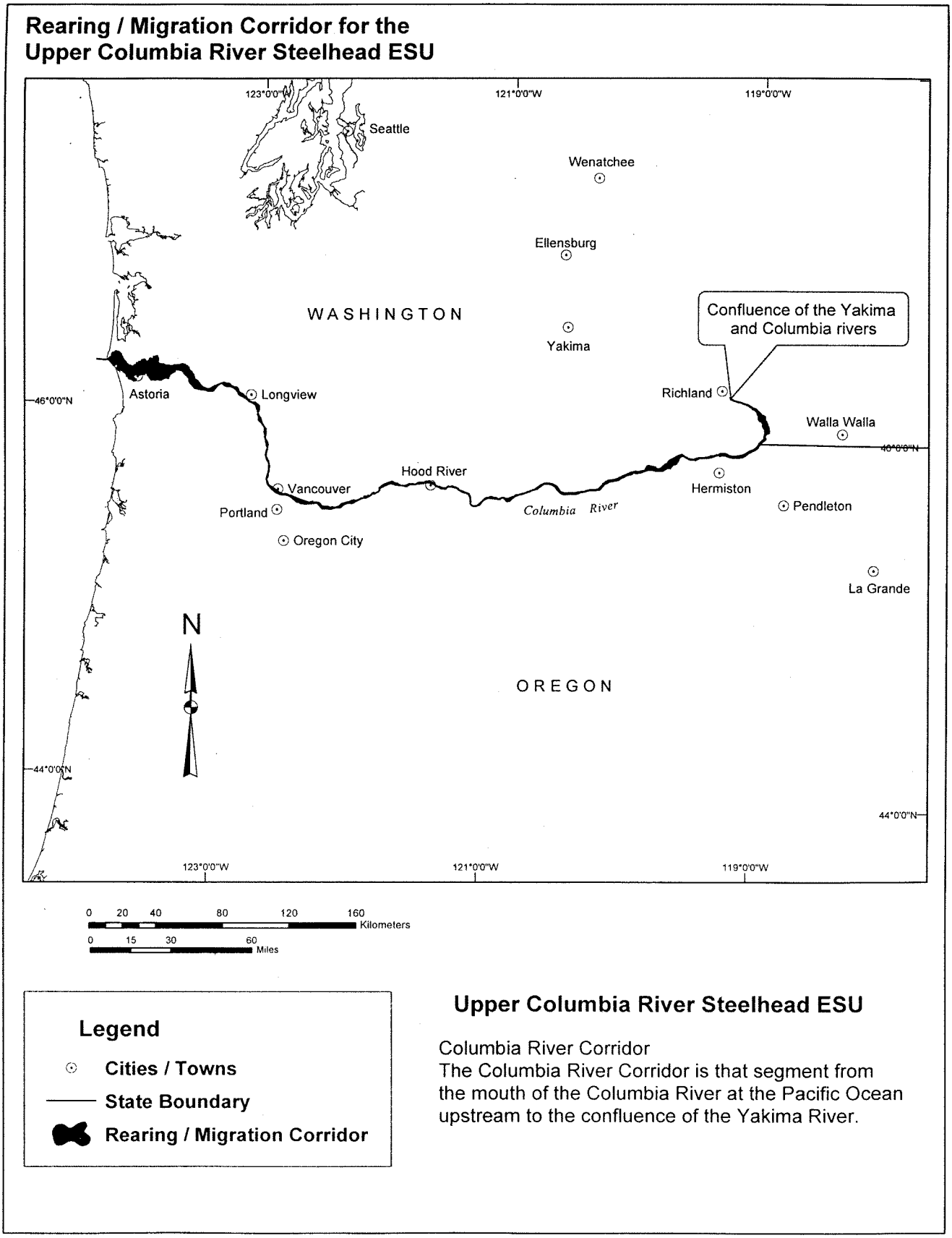
01 - 05 = Watershed code - last 2 digits of 17020011xx

Area of Detail




Final Critical Habitat for the
Upper Columbia River Steelhead ESU
LOWER CRAB SUBBASIN
17020015
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
47°30'0"N
47°0'0"N
WASHINGTON
Ephrata
Quincy
Moses Lake
Ritzville
Warden
Lind
Royal City
Lower Crab Cr
Hayes Cr
01
02
04
05
06
07
08
09
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02, 04 - 09 = Watershed code - last 2 digits of 17020015xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Steelhead ESU
UPPER COLUMBIA / PRIEST RAPIDS SUBBASIN
17020016
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
N
47°0'0"N
46°30'0"N
46°0'0"N
Othello
03
04
01
Columbia R
05
Connell
Hanford
02
06
WASHINGTON
Richland
Pasco
Kennewick
This lower segment of the
Columbia River is designated
Critical Habitat.
See the Migration Corridor map.
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
OREGON
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Body
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17020016xx
Area of Detail
WASHINGTON
OREGON
IDAHO



BILLING CODE 3510–22–C

(q) *Snake River Basin Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Hells Canyon Subbasin 17060101—(i) *Snake River/Granite Creek Watershed 1706010101.* Outlet(s) = Snake River (Lat 45.467, Long –116.554) upstream to endpoint(s) in: Battle Creek (45.307, –116.697); Bernard Creek (45.387, –116.569); Brush Creek (45.275, –116.657); Bull Creek (45.329, –116.673); Deep Creek (45.237, –116.674); Devils Farm Creek (45.301, –116.611); Granite Creek (45.277, –116.630); Hells Canyon (45.254, –116.698); Lightning Creek (45.440, –116.500); Little Granite Creek (45.335, –116.636); North Fork Battle Creek (45.316, –116.687); Rattlesnake Creek (45.457, –116.610); Rough Creek (45.397, –116.638); Rush Creek (45.468, –116.596); Saddle Creek (45.375, –116.721); Sheep Creek (45.406, –116.523); Sluice Creek (45.445, –116.622); Snake River (45.243, –116.700); Stud Creek (45.267, –116.693); Three Creek (45.353, –116.610); Unnamed (45.468, –116.610); Unnamed (45.4787, –116.4799); Wild Sheep Creek (45.326, –116.676).

(ii) *Snake River/Getta Creek Watershed 1706010102.* Outlet(s) = Snake River (Lat 45.747, Long –116.543) upstream to endpoint(s) in: Big Canyon Creek (45.689, –116.467); Corral Creek (45.588, –116.433); Cove Creek (45.553, –116.574); Durham Creek (45.595, –116.472); Getta Creek (45.736, –116.421); Highrange Creek (45.738, –116.518); Indian Creek (45.744, –116.449); Jones Creek (45.703, –116.526); Kirby Creek (45.575, –116.454); Kirkwood Creek (45.548, –116.457); Klopton Creek (45.627, –116.434); Kurry Creek (45.656, –116.426); Lookout Creek (45.713, –116.542); Lost Valley Creek (45.550, –116.482); Pleasant Valley Creek (45.647, –116.492); Salt Creek (45.576, –116.554); SCreek (45.491, –116.574); Snake River (45.468, –116.554); Somers Creek (45.645, –116.553); Temperance Creek (45.537, –116.571); Tryon Creek (45.694, –116.540); Two Corral Creek (45.561, –116.526); Unnamed (45.5817, –116.5098); West Creek (45.664, –116.453); West Fork West Creek (45.669, –116.463).

(iii) *Snake River/Divide Creek Watershed 1706010104.* Outlet(s) = Snake River (Lat 45.857 Long –116.794) upstream to endpoint(s) in: Divide Creek (45.859, –116.741); Dry Creek (45.842, –116.598); Snake River (45.747, –116.543); Unnamed (45.7599, –116.6456); Wolf Creek (45.776, –116.567).

(2) Imnaha River Subbasin 17060102—(i) *Upper Imnaha River Watershed 1706010201.* Outlet(s) = Imnaha River (Lat 45.232, Long –116.844) upstream to endpoint(s) in: Crazyman Creek (45.190, –116.811); Dry Creek (45.123, –116.867); Gumboot Creek (45.147, –116.968); Mahogany Creek (45.201, –116.905); North Fork Dry Creek (45.143, –116.850); North Fork Gumboot Creek (45.184, –116.928); North Fork Imnaha River (45.118, –117.129); Skookum Creek (45.117, –116.938); South Fork Imnaha River (45.111, –117.230); Unnamed (45.188, –116.923); Unnamed (45.208, –116.890).

(ii) *Middle Imnaha River Watershed 1706010202.* Outlet(s) = Imnaha River (Lat 45.557, Long –116.834) upstream to endpoint(s) in: Freezeout Creek (45.352, –116.761); Grouse Creek (45.179, –116.976); Imnaha River (45.232, –116.844); Morgan Creek (45.261, –116.948); Rich Creek (45.243, –116.869); Road Creek (45.279, –116.932); Shadow Canyon (45.295, –116.860); Summit Creek (45.228, –116.793); Unnamed (45.203, –116.978); Unnamed (45.203, –116.943); Unnamed (45.250, –116.923).

(iii) *Big Sheep Creek Watershed 1706010203.* Outlet(s) = Big Sheep Creek (Lat 45.520, Long –116.859) upstream to endpoint(s) in: Big Sheep Creek (45.171, –117.086); Carrol Creek (45.240, –117.063); Griffith Creek (45.273, –117.061); Lick Creek (45.133, –117.056); Marr Creek (45.299, –116.949); North Fork Carrol Creek (45.295, –116.993); South Fork Squaw Creek (45.354, –116.872); Tyee Creek (45.188, –116.991); Unnamed (45.164, –117.023); Unnamed (45.239, –117.045); Unnamed (45.297, –116.940).

(iv) *Little Sheep Creek Watershed 1706010204.* Outlet(s) = Big Sheep Creek (Lat 45.557, Long –116.834) upstream to endpoint(s) in: Bear Gulch (45.379, –116.955); Big Sheep Creek (45.520, –116.859); Camp Creek (45.544, –116.959); Canal Creek (45.256, –117.103); Devils Gulch (45.428, –116.962); Downey Gulch (45.405, –116.958); Ferguson Creek (45.267, –117.106); Lightning Creek (45.475, –117.020); Little Sheep Creek (45.236, –117.083); McCully Creek (45.295, –117.107); Redmont Creek (45.250, –117.099); South Fork Lightning Creek (45.473, –117.019); Summit Creek (45.390, –116.930); Threebuck Creek (45.395, –117.012); Trail Creek (45.563, –116.898).

(v) *Lower Imnaha River Watershed 1706010205.* Outlet(s) = Imnaha River (Lat 45.817, Long –116.764) upstream to endpoint(s) in: Corral Creek (45.708, –116.815); Cottonwood Creek (45.659, –116.865); Cow Creek (45.573, –116.628); Dodson Fork (45.725, –116.821); East Fork Fence Creek (45.652, –116.855); Fence Creek (45.655, –116.875); Horse Creek (45.421, –116.725); Imnaha River (45.557, –116.834); Lightning Creek (45.447, –116.682); Prong (45.589, –116.592); Pumpkin Creek (45.517, –116.758); Sleepy Creek (45.604, –116.666); Stubblefield Fork (45.711, –116.815); Tulley Creek (45.743, –116.766).

(3) Lower Snake/Asotin Subbasin 17060103—(i) *Snake River/Rogersburg Watershed 1706010301.* Outlet(s) = Snake River (Lat 46.080, Long –116.978) upstream to endpoint(s) in: Cache Creek (45.976, –116.928); Cave Gulch (46.023, –116.840); Cook Creek (45.901, –116.865); Corral Creek (46.055, –116.875); Cottonwood Creek (45.944, –116.860); Garden Creek (45.972, –116.903); Snake River (45.857, –116.794).

(ii) *Asotin River Watershed 1706010302.* Outlet(s) = Asotin Creek (Lat 46.345, Long –117.053) upstream to endpoint(s) in: Ayers Gulch (46.278, –117.094); Charley Creek (46.271, –117.460); Coombs Canyon (46.128, –117.276); George Creek (46.144, –117.303); Hefflefinger Gulch (46.151, –117.231); Huber Gulch (46.155, –117.188); Kelly Creek (46.251, –117.114); Lick Creek (46.260, –117.358); Middle Branch North Fork Asotin Creek (46.195, –117.439); Nims Gulch (46.178, –117.121); North Fork Asotin Creek (46.207, –117.478); Pintler Creek (46.194, –117.153); South Fork Asotin Creek (46.174, –117.341); South Fork North Fork Asotin Creek (46.192, –117.425).

(iii) *Snake River/Captain John Creek Watershed 1706010303.* Outlet(s) = Snake River (Lat 46.428, Long –117.038) upstream to endpoint(s) in: Captain John Creek (46.145, –116.821); Couse Creek (46.157, –117.032); Edeburn Gulch (46.142, –117.008); Mill Creek (46.157, –117.078); Redbird Creek (46.220, –116.898); Snake River (46.080, –116.978); South Fork Captain John Creek (46.123, –116.864); Tammany Creek (46.362, –117.052); Tenmile Canyon (46.284, –116.976); Tenmile Creek (46.123, –117.086); Unnamed (46.119, –117.100); Unnamed (46.124, –117.111).

(4) Upper Grande Ronde River Subbasin 17060104—(i) *Upper Grande Ronde River Watershed 1706010401.* Outlet(s) = Grande Ronde River (Lat 45.264, Long –118.376) upstream to endpoint(s) in: Chicken Creek (44.987, –118.378); Clear Creek (45.014, –118.329); Dry Creek (45.052, –118.380); East Fork Grande Ronde River (45.060, –118.237); East Sheep Creek (44.987, –118.425); Fly Creek (45.125, –118.596); Grande Ronde River (44.998, –118.273); Limber Jim Creek (45.107, –118.270); Little Clear Creek (45.038, –118.300); Little Fly Creek (45.062, –118.504); Lookout Creek (45.065, –118.543); Muir

Creek (45.066, –118.297); North Fork Limber Jim Creek (45.125, –118.308); Sheep Creek (45.016, –118.507); South Fork Limber Jim Creek (45.088, –118.304); Squaw Creek (45.103, –118.554); Umapine Creek (45.116, –118.571); Unnamed (45.042, –118.269); Unnamed (45.045, –118.417); West Chicken Creek (45.025, –118.404); Winter Canyon (45.215, –118.361).

(ii) *Meadow Creek Watershed 1706010402.* Outlet(s) = Meadow Creek (Lat 45.264, Long –118.376) upstream to endpoint(s) in: Battle Creek (45.216, –118.507); Bear Creek (45.210, –118.577); Burnt Corral Creek (45.159, –118.524); Dark Canyon (45.382, –118.394); East Burnt Corral Creek (45.173, –118.498); Ensign Creek (45.361, –118.554); Little Dark Canyon (45.322, –118.418); Marley Creek (45.177, –118.476); McCoy Creek (45.322, –118.628); McIntyre Creek (45.345, –118.459); Meadow Creek (45.286, –118.716); Peet Creek (45.233, –118.611); Smith Creek (45.295, –118.594); Sullivan Gulch (45.200, –118.515); Syrup Creek (45.296, –118.543); Tybow Canyon (45.214, –118.467); Unnamed (45.206, –118.552); Unnamed (45.275, –118.695); Unnamed (45.295, –118.718); Unnamed (45.330, –118.551); Waucup Creek (45.243, –118.660).

(iii) *Grande Ronde River/Beaver Creek Watershed 1706010403.* Outlet(s) = Grande Ronde River (Lat 45.347, Long –118.221) upstream to endpoint(s) in: Bear Creek (45.283, –118.270); Beaver Creek (45.146, –118.206); Dry Beaver Creek (45.168, –118.316); East Fork Rock Creek (45.166, –118.111); Grande Ronde River (45.264, –118.376); Graves Creek (45.245, –118.161); Hoodoo Creek (45.154, –118.259); Jordan Creek (45.162, –118.187); Little Beaver Creek (45.185, –118.333); Little Whiskey Creek (45.209, –118.178); Rock Creek (45.172, –118.139); Sheep Creek (45.281, –118.130); South Fork Spring Creek (45.346, –118.363); Spring Creek (45.396, –118.372); Unnamed (45.167, –118.144); Unnamed (45.227, –118.262); Unnamed (45.231, –118.279); Unnamed (45.232, –118.091); Unnamed (45.240, –118.257); Watermelon Creek (45.195, –118.277); Whiskey Creek (45.198, –118.181).

(iv) *Grande Ronde River/Five Points Creek Watershed 1706010404.* Outlet(s) = Grande Ronde River (Lat 45.408, Long –117.930) upstream to endpoint(s) in: California Gulch (45.406, –118.335); Conley Creek (45.406, –118.084); Dobbin Ditch (45.377, –118.017); Dry Creek (45.426, –118.379); Fiddlers Hell (45.443, –118.145); Five Points Creek (45.482, –118.143); Grande Ronde River (45.347, –118.221); Little John Day Creek (45.430, –118.192); Middle Fork Five Points Creek (45.485, –118.129); Mt Emily Creek (45.465, –118.125); Pelican Creek (45.438, –118.318); Tie Creek (45.420, –118.129); Unnamed (45.385, –118.043); Unnamed (45.423, –118.243).

(v) *Catherine Creek Watershed 1706010405.* Outlet(s) = Catherine Creek (Lat 45.219, Long –117.915) upstream to endpoint(s) in: Buck Creek (45.132, –117.606); Camp Creek (45.100, –117.596); Collins Creek (45.100, –117.531); Corral Creek (45.113, –117.575); Little Catherine Creek (45.148, –117.716); Middle Fork Catherine Creek (45.155, –117.567); Milk Creek (45.092, –117.717); North Fork Catherine Creek (45.221, –117.610); Pole Creek (45.123, –117.544); Prong Creek (45.096, –117.565); SPass Creek (45.115, –117.528); Scout Creek (45.105, –117.644); South Fork Catherine Creek (45.116, –117.503); Unnamed (45.104, –117.685).

(vi) *Ladd Creek Watershed 1706010406.* Outlet(s) = Ladd Creek (Lat 45.282, Long –117.936) upstream to endpoint(s) in: Catherine Creek (45.219, –117.915); Ladd Creek (45.215, –118.024); Little Creek (45.210, –117.784); Mill Creek (45.263, –118.083); Unnamed (45.259, –118.039).

(vii) *Grande Ronde River/Mill Creek Watershed 1706010407.* Outlet(s) = Grande Ronde River (Lat 45.408, Long –117.930) upstream to endpoint(s) in: Catherine Creek (45.282, –117.936); McAlister Slough (45.315, –117.973); Mill Creek (45.278, –117.728); Unnamed (45.297, –117.806).

(viii) *Phillips Creek/Willow Creek Watershed 1706010408.* Outlet(s) = Willow Creek (Lat 45.492, Long –117.931) upstream to endpoint(s) in: Dry Creek (45.640, –118.114); End Creek (45.4622, –118.0316); Finley Creek (45.625, –118.099); Fir Creek (45.5171, –118.0568); Little Dry Creek (45.5348, –118.0393); McDonald Creek (45.5348, –118.0393); Mill Creek (45.568, –118.025); Slide Creek (45.422, –118.028); Smith Creek (45.5256, –118.0537); Unnamed (45.525, –118.014).

(ix) *Grande Ronde River/Indian Creek Watershed 1706010409.* Outlet(s) = Grande Ronde River (Lat 45.560, Long –117.910) upstream to endpoint(s) in: Camp Creek (45.386, –117.720); Clark Creek (45.409, –117.728); East Fork Indian Creek (45.363, –117.737); Grande Ronde River (45.408, –117.930); Indian Creek (45.332, –117.717); Little Indian Creek (45.375, –117.785); Middle Fork Clark Creek (45.462, –117.764); North Fork Clark Creek (45.502, –117.733); North Fork Indian Creek (45.419, –117.787); Unnamed (45.375, –117.739); Unnamed (45.476, –117.757).

(x) *Lookingglass Creek Watershed 1706010410.* Outlet(s) = Lookingglass Creek (Lat 45.707, Long –117.841) upstream to endpoint(s) in: Buzzard Creek (45.845, –117.939); Eagle Creek (45.723, –118.005); Jarboe Creek (45.776, –117.855); Little Lookingglass Creek (45.848, –117.901); Lookingglass Creek (45.777, –118.070); Mottet Creek (45.827, –117.958); Unnamed (45.835, –117.869); Unnamed (45.844, –117.893).

(xi) *Grande Ronde River/Cabin Creek Watershed 1706010411.* Outlet(s) = Grande Ronde River (Lat 45.726, Long –117.784) upstream to endpoint(s) in: Buck Creek (45.662, –117.919); Duncan Canyon (45.654, –117.776); East Phillips Creek (45.669, –118.066); Gordon Creek (45.665, –118.001); Grande Ronde River (45.560, –117.910); Little Phillips Creek (45.668, –118.036); North Fork Cabin Creek (45.721, –117.929); Pedro Creek (45.676, –118.051); Phillips Creek (45.666, –118.089); Rysdam Canyon (45.633, –117.812); South Fork Cabin Creek (45.698, –117.963); Unnamed (45.661, –117.930); Unnamed (45.672, –117.941); Unnamed (45.682, –117.974); Unnamed (45.695, –117.927); Unnamed (45.707, –117.916).

(5) Wallowa River Subbasin 17060105—(i) *Upper Wallowa River Watershed 1706010501.* Outlet(s) = Wallowa River (Lat 45.427, Long –117.310) upstream to endpoint(s) in: Hurricane Creek (45.337, –117.291); Little Hurricane Creek (45.407, –117.276); Prairie Creek (45.394, –117.189); Spring Creek (45.406, –117.287); Trout Creek (45.455, –117.281); Unnamed (45.387, –117.215); Unnamed (45.392, –117.214); Unnamed (45.411, –117.264); Unnamed (45.412, –117.156); Unnamed (45.424, –117.313); Wallowa River (45.335, –117.222).

(ii) *Lostine River Watershed 1706010502.* Outlet(s) = Lostine River (Lat 45.552, Long –117.489) upstream to endpoint(s) in: Lostine River (45.245, –117.375); Silver Creek (45.394, –117.420).

(iii) *Middle Wallowa River Watershed 1706010503.* Outlet(s) = Wallowa River (Lat 45.584, Long –117.540) upstream to endpoint(s) in: Middle Fork Whisky Creek (45.590, –117.342); North Fork Whisky Creek (45.614, –117.331); Parsnip Creek (45.533, –117.419); South Fork Whisky Creek (45.590, –117.413); Straight Whisky Creek (45.622, –117.396); Wallowa River (45.427, –117.310); Whisky Creek (45.608, –117.397).

(iv) *Bear Creek Watershed 1706010504.* Outlet(s) = Bear Creek (Lat 45.584, Long –117.540) upstream to endpoint(s) in: Bear Creek (45.347,

–117.500); Doc Creek (45.449, –117.572); Fox Creek (45.447, –117.562); Goat Creek (45.413, –117.519); Little Bear Creek (45.456, –117.500).

(v) *Minam River Watershed 1706010505.* Outlet(s) = Minam River (Lat 45.621, Long –117.720) upstream to endpoint(s) in: Cougar Creek (45.517, –117.672); Elk Creek (45.157, –117.480); Little Minam River (45.338, –117.643); Minam River (45.149, –117.392); Murphy Creek (45.414, –117.644); North Minam River (45.275, –117.520); Patrick Creek (45.426, –117.645); Squaw Creek (45.576, –117.706); Trout Creek (45.471, –117.652).

(vi) *Lower Wallowa River Watershed 1706010506.* Outlet(s) = Wallowa River (Lat 45.726, Long –117.784) upstream to endpoint(s) in: Deer Creek (45.452, –117.606); Dry Creek (45.650, –117.439); Fisher Creek (45.666, –117.750); Howard Creek (45.735, –117.695); Reagin Gulch (45.670, –117.559); Rock Creek (45.679, –117.620); Sage Creek (45.486, –117.590); Tamarack Canyon (45.656, –117.518); Unnamed (45.618, –117.629); Unnamed (45.654, –117.442); Unnamed (45.678, –117.556); Wallowa River (45.584, –117.540); Water Canyon (45.589, –117.614); Wise Creek (45.671, –117.705).

(6) Lower Grande Ronde Subbasin 17060106—(i) *Grande Ronde River/Rondowa Watershed 1706010601.* Outlet(s) = Grande Ronde River (Lat 45.896, Long –117.493) upstream to endpoint(s) in: Alder Creek (45.844, –117.750); Bear Creek (45.885, –117.752); Clear Creek (45.775, –117.714); Deep Creek (45.817, –117.651); East Grossman Creek (45.819, –117.625); Elbow Creek (45.927, –117.630); Grande Ronde River (45.726, –117.784); Grossman Creek (45.732, –117.614); Meadow Creek (45.825, –117.760); Sheep Creek (45.756, –117.797); Sickfoot Creek (45.842, –117.567); Unnamed (45.746, –117.656).

(ii) *Grande Ronde River/Mud Creek Watershed 1706010602.* Outlet(s) = Grande Ronde River (Lat 45.946, Long –117.450) upstream to endpoint(s) in: Bishop Creek (45.747, –117.555); Bobcat Creek (45.853, –117.370); Buck Creek (45.758, –117.298); Burnt Creek (45.769, –117.283); Courtney Creek (45.857, –117.314); Grande Ronde River (45.896, –117.493); Little Courtney Canyon (45.903, –117.385); McAllister Creek (45.683, –117.361); McCubbin Creek (45.700, –117.294); Mud Creek (45.633, –117.291); Unnamed (45.867, –117.329); Shamrock Creek (45.828, –117.335); Simmons Draw (45.730, –117.514); Sled Creek (45.730, –117.278); Teepee Creek (45.694, –117.349); Tope Creek (45.634, –117.330); Unnamed (45.710, –117.283); Unnamed (45.856, –117.312); Wallupa Creek (45.765, –117.528); Wildcat Creek (45.732, –117.489).

(iii) *Wenaha River Watershed 1706010603.* Outlet(s) = Wenaha River (Lat 45.946, Long –117.450) upstream to endpoint(s) in: Beaver Creek (46.002, –117.815); Crooked Creek (46.046, –117.624); First Creek (46.071, –117.519); Melton Creek (46.060, –117.566); Milk Creek (45.973, –117.902); North Fork Wenaha River (46.064, –117.912); Rock Creek (45.999, –117.766); Second Creek (46.065, –117.595); Slick Ear Creek (45.983, –117.784); South Fork Wenaha River (45.872, –117.897); Third Creek (46.089, –117.627); Weller Creek (45.989, –117.648); West Fork Butte Creek (46.064, –117.759).

(iv) *Chesnimnus Creek Watershed 1706010604.* Outlet(s) = Chesnimnus Creek (Lat 45.715, Long –117.155) upstream to endpoint(s) in: Alder Creek (45.702, –116.997); Billy Creek (45.815, –117.032); Butte Creek (45.641, –117.096); Chesnimnus Creek (45.718, –116.906); Deadman Gulch (45.659, –117.049); Devils Run Creek (45.775, –116.882); Doe Creek (45.751, –117.029); Dry Salmon Creek (45.663, –117.051); East Fork Peavine Creek (45.830, –117.061); Gooseberry Creek (45.681, –117.110); McCarty Gulch (45.749, –117.064); Peavine Creek (45.795, –117.084); Pine Creek (45.673, –117.029); Poison Creek (45.791, –116.979); Salmon Creek (45.662, –117.038); South Fork Chesnimnus Creek (45.743, –116.861); Sterling Gulch (45.712, –117.000); Summit Creek (45.794, –116.947); Telephone Gulch (45.767, –117.076); TNT Gulch (45.754, –116.919); Unnamed (45.694, –117.013); Unnamed (45.709, –116.878); Unnamed (45.724, –116.867); Unnamed (45.742, –117.090); Unnamed (45.825, –117.004); Unnamed (45.838, –117.009); Unnamed (45.846, –117.029); West Fork Peavine Creek (45.805, –117.100).

(v) *Upper Joseph Creek Watershed 1706010605.* Outlet(s) = Joseph Creek (Lat 45.823, Long –117.231) upstream to endpoint(s) in: Alford Gulch (45.729, –117.165); Cougar Creek (45.806, –117.150); Crow Creek (45.536, –117.115); Davis Creek (45.658, –117.257); Elk Creek (45.598, –117.167); Gould Gulch (45.657, –117.181); Little Elk Creek (45.694, –117.199); Sumac Creek (45.753, –117.148); Swamp Creek (45.543, –117.218); Unnamed (45.597, –117.141).

(vi) *Lower Joseph Creek Watershed 1706010606.* Outlet(s) = Joseph Creek (Lat 46.053, Long –117.005) upstream to endpoint(s) in: Basin Creek (45.910, –117.057); Broady Creek (45.882, –117.076); Cottonwood Creek (45.832, –116.950); Horse Creek (45.945, –116.962); Joseph Creek (45.823, –117.231); Peavine Creek (45.879, –117.162); Rush Creek (45.899, –117.150); Tamarack Creek (45.964, –117.127); Unnamed (45.826, –116.957); West Fork Broady Creek (45.862, –117.102).

(vii) *Lower Grande Ronde River/Menatchee Creek Watershed 1706010607.* Outlet(s) = Grande Ronde River (Lat 46.080, Long –116.978) upstream to endpoint(s) in: Bear Creek (45.973, –117.455); Buford Creek (45.975, –117.276); Cottonwood Creek (46.071, –117.301); Cougar Creek (46.049, –117.327); Deer Creek (45.992, –117.191); East Bear Creek (45.960, –117.307); Grande Ronde River (45.946, –117.450); Grouse Creek (46.031, –117.460); Menatchee Creek (46.018, –117.371); Rattlesnake Creek (46.079, –117.204); Shumaker Creek (46.049, –117.117); West Bear Creek (45.951, –117.337); West Branch Rattlesnake Creek (46.086, –117.258).

(7) Lower Snake/Tucannon Subbasin 17060107—(i) *Alpowa Creek Watershed 1706010701.* Outlet(s) = Alpowa Creek (Lat 46.422, Long –117.203) upstream to endpoint(s) in: Kidwell Gulch (46.338, –117.480); Page Creek (46.402, –117.210); Pow Wah Kee Creek (46.389, –117.288).

(ii) *Snake River/Steptoe Canyon Watershed 1706010702.* Outlet(s) = Snake River (Lat 46.660, Long –117.433) upstream to endpoint(s) in: Offield Canyon (46.648, –117.420); Snake River (46.428, –117.038); Steptoe Canyon (46.455, –117.192); Truax Canyon (46.565, –117.348); Wawawai Canyon (46.636, –117.375).

(iii) *Deadman Creek Watershed 1706010703.* Outlet(s) = Deadman Creek (Lat 46.626, Long –117.799) upstream to endpoint(s) in: Deadman Gulch (46.574, –117.565); Lynn Gulch (46.628, –117.597); North Deadman Creek (46.578, –117.457); North Meadow Creek (46.517, –117.489); South Meadow Creek (46.507, –117.508).

(iv) *Upper Tucannon River Watershed 1706010706.* Outlet(s) = Tucannon River (Lat 46.509, Long –117.995) upstream to endpoint(s) in: Cummings Creek (46.235, –117.610); Little Tucannon River (46.221, –117.758); Meadow Creek (46.163, –117.728); Panjab Creek (46.171, –117.709); Sheep Creek (46.196, –117.623); Tucannon River (46.168, –117.559); Tumalum Creek (46.315, –117.585).

(v) *Lower Tucannon River Watershed 1706010707.* Outlet(s) = Tucannon River (Lat 46.558, Long –118.174) upstream to endpoint(s) in: Kellogg Creek (46.430, –118.067); Smith Hollow (46.463, –118.017); Tucannon River (46.509, –117.995).

(vi) *Snake River/Penawawa Creek Watershed 1706010708.* Outlet(s) = Snake River (Lat 46.589, Long –118.215) upstream to endpoint(s) in: Almota Creek (46.706, –117.363); Little Almota Creek (46.715, –117.465); Penawawa Creek (46.728, –117.625); Snake River (46.660, –117.433); Unnamed (46.698, –117.381).

(8) Upper Salmon Subbasin 17060201—(i) *Salmon River/Challis Watershed 1706020101.* Outlet(s) = Salmon River (Lat 44.692, Long –114.049) upstream to endpoint(s) in: Challis Creek (44.563, –114.246); Salmon River (44.470, –114.192).

(ii) *Salmon River/Bayhorse Creek Watershed 1706020104.* Outlet(s) = Salmon River (Lat 44.470, Long –114.192) upstream to endpoint(s) in: Bayhorse Creek (44.395, –114.308); Salmon River (44.268, –114.326).

(iii) *East Fork Salmon River/ McDonald Creek Watershed 1706020105.* Outlet(s) = East Fork Salmon River (Lat 44.268, Long –114.326) upstream to endpoint(s) in: Big Lake Creek (44.165, –114.394); East Fork Salmon River (44.147, –114.378); McDonald Creek (44.091, –114.318); Pine Creek (44.136, –114.367).

(iv) *Herd Creek Watershed 1706020108.* Outlet(s) = Herd Creek (Lat 44.154, Long –114.300) upstream to endpoint(s) in: East Fork Herd Creek (44.037, –114.203); East Pass Creek (44.009, –114.369); Lake Creek (44.103, –114.194); Taylor Creek (44.067, –114.317); West Fork Herd Creek (44.032, –114.248).

(v) *East Fork Salmon River/Big Boulder Creek Watershed 1706020109.* Outlet(s) = East Fork Salmon River (Lat 44.147, Long –114.378) upstream to endpoint(s) in: Big Boulder Creek (44.131, –114.518); East Fork Salmon River (44.039, –114.461); Little Boulder Creek (44.065, –114.542).

(vi) *Upper East Fork Salmon River Watershed 1706020110.* Outlet(s) = East Fork Salmon River (Lat 44.039, Long –114.461) upstream to endpoint(s) in: Bowery Creek (44.0316, –114.4587); South Fork East Fork Salmon River (43.902, –114.562); West Fork East Fork Salmon River (43.929, –114.575); West Pass Creek (43.922, –114.446).

(vii) *Germania Creek Watershed 1706020111.* Outlet(s) = Germania Creek (Lat 44.039, Long –114.461) upstream to endpoint(s) in: Germania Creek (44.003, –114.532).

(viii) *Salmon River/Kinnikinic Creek Watershed 1706020112.* Outlet(s) = Salmon River (Lat 44.268, Long –114.326) upstream to endpoint(s) in: Kinnikinic Creek (44.2667, –144.4026); Salmon River (44.249, –114.454).

(ix) *Salmon River/Slate Creek Watershed 1706020113.* Outlet(s) = Salmon River (Lat 44.249, Long –114.454) upstream to endpoint(s) in: Holman Creek (44.250, –114.529); Salmon River (44.254, –114.675); Silver Rule Creek (44.198, –114.588); Slate Creek (44.168, –114.626); Thompson Creek (44.318, –114.588).

(x) *Warm Springs Creek Watershed 1706020114.* Outlet(s) = Warm Springs Creek (Lat 44.254, Long –114.675) upstream to endpoint(s) in: Warm Springs Creek (44.151, –114.718).

(xi) *Salmon River/Big Casino Creek Watershed 1706020115.* Outlet(s) = Salmon River (Lat 44.254, Long –114.675) upstream to endpoint(s) in: Big Casino Creek (44.216, –114.830); Little Casino Creek (44.224, –114.861); Lower Harden Creek (44.274, –114.778); Nip Tuck Creek (44.234, –114.929); Salmon River (44.169, –114.898); Upper Harden Creek (44.272, –114.791).

(xii) *Salmon River/Fisher Creek Watershed 1706020117.* Outlet(s) = Salmon River (Lat 44.169, Long –114.898) upstream to endpoint(s) in: Decker Creek (44.072, –114.879); Gold Creek (44.114, –114.846); Huckleberry Creek (44.061, –114.875); Salmon River (44.032, –114.836); Williams Creek (44.096, –114.852).

(xiii) *Salmon River/Fourth of July Creek Watershed 1706020118.* Outlet(s) = Salmon River (Lat 44.032, Long –114.836) upstream to endpoint(s) in: Champion Creek (44.019, –114.825); Fourth of July Creek (44.035, –114.784); Hell Roaring Creek (44.0268, –114.9252); Salmon River (44.004, –114.836); Unnamed (44.017, –114.879).

(xiv) *Upper Salmon River Watershed 1706020119.* Outlet(s) = Salmon River (Lat 44.004, Long –114.836) upstream to endpoint(s) in: Beaver Creek (43.919, –114.813); Camp Creek (43.876, –114.738); Frenchman Creek (43.822, –114.792); Pole Creek (43.940, –114.686); Salmon River (43.837, –114.759); Smiley Creek (43.829, –114.823); Twin Creek (43.935, –114.723); Unnamed (43.843, –114.742); Unnamed (43.990, –114.803).

(xv) *Alturas Lake Creek Watershed 1706020120.* Outlet(s) = Alturas Lake Creek (Lat 44.004, Long –114.836) upstream to endpoint(s) in: Alpine Creek (43.905, –114.923); Alturas Lake Creek (43.895, –114.910); Cabin Creek (43.937, –114.856); Pettit Lake Creek (43.961, –114.916); Unnamed (43.952, –114.858); Vat Creek (43.967, –114.871); Yellowbelly Creek (43.995, –114.847).

(xvi) *Redfish Lake Creek Watershed 1706020121.* Outlet(s) = Redfish Lake Creek (Lat 44.169, Long –114.898) upstream to endpoint(s) in: Fishhook Creek (44.137, –114.966); Redfish Lake Creek (44.097, –114.959).

(xvii) *Valley Creek/Iron Creek Watershed 1706020122.* Outlet(s) = Valley Creek (Lat 44.225, Long –114.927) upstream to endpoint(s) in: Crooked Creek (44.214, –115.034); Goat Creek (44.179, –115.008); Iron Creek (44.191, –115.025); Job Creek (44.242, –115.027); Meadow Creek (44.190, –114.961); Park Creek (44.281, –115.036); Stanley Creek (44.276, –114.938); Valley Creek (44.291, –115.018).

(xviii) *Upper Valley Creek Watershed 1706020123.* Outlet(s) = Valley Creek (Lat 44.291, Long –115.018); Stanley Lake Creek (44.2535, –115.0040) upstream to endpoint(s) in: East Fork Valley Creek (44.347, –114.999); Elk Creek (44.227, –115.145); Hanna Creek (44.314, –115.041); Meadow Creek (44.291, –115.119); Stanley Lake Creek (44.248, –115.045); Trap Creek (44.311, –115.121); Valley Creek (44.392, –114.980).

(xix) *Basin Creek Watershed 1706020124.* Outlet(s) = Basin Creek (Lat 44.264, Long –114.817) upstream to endpoint(s) in: Basin Creek (44.361, –114.902); East Basin Creek (44.314, –114.823).

(xx) *Yankee Fork/Jordan Creek Watershed 1706020125.* Outlet(s) = Yankee Fork (Lat 44.270, Long –114.734) upstream to endpoint(s) in: Eightmile Creek (44.448, –114.639); Fivemile Creek (44.355, –114.615); Jordan Creek (44.457, –114.752); Ramey Creek (44.355, –114.641); Sevenmile Creek (44.423, –114.608); Sixmile Creek (44.394, –114.585); Yankee Fork (44.426, –114.619).

(xxi) *West Fork Yankee Fork Watershed 1706020126.* Outlet(s) = West Fork Yankee Fork (Lat 44.351, Long –114.727) upstream to endpoint(s) in: Cabin Creek (44.428, –114.881); Deadwood Creek (44.356, –114.834); Lightning Creek (44.466, –114.787); Sawmill Creek (44.341, –114.765); West Fork Yankee Fork (44.386, –114.919).

(xxii) *Upper Yankee Fork Watershed 1706020127.* Outlet(s) = Yankee Fork (Lat 44.426, Long –114.619) upstream to endpoint(s) in: Elevenmile Creek (44.436, –114.544); McKay Creek (44.475, –114.491); Ninemile Creek (44.439, –114.590); Tenmile Creek (44.484, –114.646); Twelvemile Creek (44.497, –114.614); Yankee Fork (44.510, –114.588).

(xxiii) *Squaw Creek Watershed 1706020128.* Outlet(s) = Squaw Creek (Lat 44.249, Long –114.454) upstream to endpoint(s) in: Cash Creek (44.353, –114.473); Cinnabar Creek (44.359, –114.503); Squaw Creek (44.420, –114.489).

(xxiv) *Garden Creek Watershed 1706020129.* Outlet(s) = Garden Creek (Lat 44.511, Long –114.203) upstream to endpoint(s) in: Garden Creek (44.468, –114.325).

(xxv) *Challis Creek/Mill Creek Watershed 1706020130.* Outlet(s) = Challis Creek (Lat 44.563, Long –114.246) upstream to endpoint(s) in: Challis Creek (44.573, –114.309); Darling Creek (44.572, –114.252).

(xxvi) *Morgan Creek Watershed 1706020132.* Outlet(s) = Morgan Creek (Lat 44.612, Long –114.168) upstream to endpoint(s) in: Blowfly Creek (44.714, –114.326); Corral Creek (44.8045, –114.2239); Lick Creek (44.7371, –114.2948); Morgan Creek (44.8029, –114.2561); Van Horn Creek (44.7614, –114.2680); West Fork Morgan Creek (44.710, –114.335).

(9) Pahsimeroi Subbasin 17060202—(i) *Lower Pahsimeroi River Watershed 1706020201.* Outlet(s) = Pahsimeroi River (Lat 44.692, Long –114.049) upstream to endpoint(s) in: Pahsimeroi River (44.559, –113.900); Patterson Creek (44.561, –113.897).

(ii) *Paterson Creek Watershed 1706020203.* Outlet(s) = Patterson Creek (Lat 44.534, Long –113.837) upstream to endpoint(s) in: Patterson Creek (44.566, –113.670).

(10) Middle Salmon-Panther Subbasin 17060203—(i) *Salmon River/Colson Creek Watershed 1706020301.* Outlet(s) = Salmon River (Lat 45.297, Long –114.591) upstream to endpoint(s) in: Colson Creek (45.307, –114.531); Owl Creek (45.340, –114.462); Salmon River (45.316, –114.405).

(ii) *Owl Creek Watershed 1706020302.* Outlet(s) = Owl Creek (Lat 45.340, Long –114.462) upstream to endpoint(s) in: East Fork Owl Creek (45.367, –114.430); Owl Creek (45.382, –114.469).

(iii) *Salmon River/Pine Creek Watershed 1706020303.* Outlet(s) = Salmon River (Lat 45.316, Long –114.405) upstream to endpoint(s) in: Boulder Creek (45.385, –114.297); Pine Creek (45.307, –114.186); Salmon River (45.399, –114.168); Spring Creek (45.421, –114.278); Squaw Creek (45.449, –114.215).

(iv) *Indian Creek Watershed 1706020304.* Outlet(s) = Indian Creek (Lat 45.400, Long –114.167) upstream to endpoint(s) in: Indian Creek (45.523, –114.151); McConn Creek (45.519, –114.185); West Fork Indian Creek (45.481, –114.168).

(v) *Salmon River/Moose Creek Watershed 1706020305.* Outlet(s) = Salmon River (Lat 45.399, Long –114.168) upstream to endpoint(s) in: Dump Creek (45.369, –114.035); Fourth of July Creek (45.417, –113.857); Little Fourth of July Creek (45.396, –113.912); Moose Creek (45.346, –114.080); Salmon River (45.320, –113.909); Wagonhammer Creek (45.395, –113.945).

(vi) *North Fork Salmon River Watershed 1706020306.* Outlet(s) = North Fork Salmon River (Lat 45.405, Long –113.994) upstream to endpoint(s) in: Anderson Creek (45.577, –113.918); Dahlonega Creek (45.559, –113.845); Ditch Creek (45.534, –113.994); Hughes Creek (45.541, –114.069); Hull Creek (45.471, –114.016); Moose Creek (45.674, –113.951); Pierce Creek (45.640, –113.937); Sheep Creek (45.502, –113.889); Smithy Creek (45.575, –113.889); Threemile Creek (45.577, –113.866); Twin Creek (45.591, –114.081).

(vii) *Salmon River/Tower Creek Watershed 1706020307.* Outlet(s) = Salmon River (Lat 45.320, Long –113.909) upstream to endpoint(s) in: Salmon River (45.250, –113.899); Tower Creek (45.367, –113.857); Wallace Creek (45.2645, –113.9035).

(viii) *Carmen Creek Watershed 1706020308.* Outlet(s) = Carmen Creek (Lat 45.250, Long –113.899) upstream to endpoint(s) in: Carmen Creek (45.316, –113.800); Freeman Creek (45.269, –113.752).

(ix) *Salmon River/Jesse Creek Watershed 1706020309.* Outlet(s) = Salmon River (Lat 45.250, Long –113.899) upstream to endpoint(s) in: Salmon River (45.109, –113.901); Unnamed (45.180, –113.930).

(x) *Salmon River/Williams Creek Watershed 1706020310.* Outlet(s) = Salmon River (Lat 45.109, Long –113.901) upstream to endpoint(s) in: Salmon River (45.011, –113.932); Williams Creek (45.081, –113.935).

(xi) *Salmon River/Twelvemile Creek Watershed 1706020311.* Outlet(s) = Salmon River (Lat 45.011, Long –113.932) upstream to endpoint(s) in: Lake Creek (45.015, –113.959); Salmon River (44.896, –113.963); Twelvemile Creek (45.011, –113.927).

(xii) *Salmon River/Cow Creek Watershed 1706020312.* Outlet(s) = Salmon River (Lat 44.896, Long –113.963) upstream to endpoint(s) in: Cow Creek (44.730, –113.940); McKim Creek (44.810, –114.008); Poison Creek (44.876, –113.934); Salmon River (44.692, –114.049); Warm Spring Creek (44.913, –113.914).

(xiii) *Hat Creek Watershed 1706020313.* Outlet(s) = Hat Creek (Lat 44.795, Long –114.001) upstream to endpoint(s) in: Hat Creek (44.785, –114.040).

(xiv) *Iron Creek Watershed 1706020314.* Outlet(s) = Iron Creek (Lat 44.887, Long –113.968) upstream to endpoint(s) in: Iron Creek (44.921, –114.124).

(xv) *Upper Panther Creek Watershed 1706020315.* Outlet(s) = Panther Creek (Lat 45.022, Long –114.313) upstream to endpoint(s) in: Cabin Creek (44.957, –114.365); Opal Creek (44.901, –114.307); Panther Creek (44.887, –114.305); Porphyry Creek (45.034, –114.388).

(xvi) *Moyer Creek Watershed 1706020316.* Outlet(s) = Moyer Creek (Lat 45.024, Long –114.311) upstream to endpoint(s) in: Moyer Creek (44.949, –114.265); South Fork Moyer Creek (44.944, –114.305).

(xvii) *Panther Creek/Woodtick Creek Watershed 1706020317.* Outlet(s) = Panther Creek (Lat 45.079, Long –114.251) upstream to endpoint(s) in: Copper Creek (45.060, –114.258); Fawn Creek (45.073, –114.247); Musgrove Creek (45.054, –114.368); Panther Creek (45.022, –114.313); Woodtick Creek (45.008, –114.235).

(xviii) *Deep Creek Watershed 1706020318.* Outlet(s) = Deep Creek (Lat 45.126, Long –114.215) upstream to endpoint(s) in: Deep Creek (45.108, –114.179).

(xix) *Panther Creek/Spring Creek Watershed 1706020320.* Outlet(s) = Panther Creek (45.176, Long –114.314) upstream to endpoint(s) in: Little Deer Creek (45.156, –114.298); Panther Creek (45.079, –114.251); Spring Creek (45.088, –114.223).

(xx) *Big Deer Creek Watershed 1706020321.* Outlet(s) = Big Deer Creek (Lat 45.1763, Long –114.3138) upstream to endpoint(s) in: Big Deer Creek (45.1695, –114.3256).

(xxi) *Panther Creek/Trail Creek Watershed 1706020322.* Outlet(s) = Panther Creek (Lat 45.316, Long –114.405) upstream to endpoint(s) in: Beaver Creek (45.2816, –114.2744); Garden Creek (45.2959, –114.4293); Trail Creek (45.2318, –114.2663); Panther Creek (45.176, –114.314).

(xxii) *Clear Creek Watershed 1706020323.* Outlet(s) = Clear Creek (Lat 45.295, Long –114.351) upstream to endpoint(s) in: Clear Creek (45.210, –114.485).

(11) Lemhi Subbasin 17060204—(i) *Lemhi River/Bohannon Creek Watershed 1706020401.* Outlet(s) = Lemhi River (Lat 45.188, Long –113.889) upstream to endpoint(s) in: Bohannon Creek (45.189, –113.692); Lemhi River (45.098, –113.720).

(ii) *Lemhi River/Whimpey Creek Watershed 1706020402.* Outlet(s) = Lemhi River (Lat 45.098, Long –113.720) upstream to endpoint(s) in: Lemhi River (45.032, –113.662); Wimpey Creek (45.131, –113.678); Withington Creek (45.058, –113.750).

(iii) *Lemhi River/Kenney Creek Watershed 1706020403.* Outlet(s) =

Lemhi River (Lat 45.032, Long –113.662) upstream to endpoint(s) in: Kenney Creek (45.087, –113.551); Lemhi River (44.940, –113.639).

(iv) *Lemhi River/McDevitt Creek Watershed 1706020405.* Outlet(s) = Lemhi River (Lat 44.940, Long –113.639) upstream to endpoint(s) in: Lemhi River (44.870, –113.626).

(v) *Lemhi River/Yearian Creek Watershed 1706020406.* Outlet(s) = Lemhi River (Lat 44.867, Long –113.626) upstream to endpoint(s) in: Lemhi River (44.778, –113.535).

(vi) *Peterson Creek Watershed 1706020407.* Outlet(s) = Lemhi River (Lat 44.778, Long –113.535) upstream to endpoint(s) in: Lemhi River (44.739, –113.459).

(vii) *Big Eight Mile Creek Watershed 1706020408.* Outlet(s) = Lemhi River (Lat 44.739, Long –113.459) upstream to endpoint(s) in: Lemhi River (44.692, –113.366).

(viii) *Canyon Creek Watershed 1706020409.* Outlet(s) = Lemhi River (Lat 44.692, Long –113.366) upstream to endpoint(s) in: Lemhi River (44.682, –113.355).

(ix) *Texas Creek Watershed 1706020412.* Outlet(s) = Texas Creek (Lat 44.6822, Long –113.3545) upstream to endpoint(s) in: Purcell Creek (44.5726, –113.3459), Texas Creek (44.5348, –113.3018).

(x) *Hayden Creek Watershed 1706020414.* Outlet(s) = Hayden Creek (Lat 44.870, Long –113.626) upstream to endpoint(s) in: Bear Valley Creek (44.796, –113.790); East Fork Hayden Creek (44.708, –113.661); Hayden Creek (44.726, –113.769); Kadletz Creek (44.761, –113.767); West Fork Hayden Creek (44.706, –113.768); Wright Creek (44.759, –113.794).

(12) Upper Middle Fork Salmon Subbasin 17060205—(i) *Lower Loon Creek Watershed 1706020501.* Outlet(s) = Loon Creek (Lat 44.808, Long –114.811) upstream to endpoint(s) in: Cabin Creek (44.742, –114.708); Loon Creek (44.552, –114.849).

(ii) *Warm Springs Watershed 1706020502.* Outlet(s) = Warm Spring Creek (Lat 44.653, Long –114.736) upstream to endpoint(s) in: Trapper Creek (44.504, –114.617); Warm Spring Creek (44.609, –114.481).

(iii) *Upper Loon Creek Watershed 1706020503.* Outlet(s) = Loon Creek (Lat 44.552, Long –114.849) upstream to endpoint(s) in: Cottonwood Creek (44.593, –114.679); East Fork Mayfield Creek (44.494, –114.700); Loon Creek (44.469, –114.923); Pioneer Creek (44.466, –114.873); South Fork Cottonwood Creek (44.563, –114.780); Trail Creek (44.506, –114.959); West Fork Mayfield Creek (44.473, –114.730).

(iv) *Little Loon Creek Watershed 1706020504.* Outlet(s) = Little Loon Creek (Lat 44.731, Long –114.940) upstream to endpoint(s) in: Little Loon Creek (44.615, –114.963).

(v) *Rapid River Watershed 1706020505.* Outlet(s) = Rapid River (Lat 44.680, Long –115.152) upstream to endpoint(s) in: Float Creek (44.546, –115.148); North Fork Sheep Creek (44.656, –114.997); Rapid River (44.551, –115.007); South Fork Sheep Creek (44.628, –114.988); Vanity Creek (44.500, –115.072).

(vi) *Marsh Creek Watershed 1706020506.* Outlet(s) = Marsh Creek (Lat 44.449, Long –115.230) upstream to endpoint(s) in: Asher Creek (44.374, –115.126); Banner Creek (44.291, –115.187); Bear Creek (44.490, –115.098); Beaver Creek (44.494, –114.964); Camp Creek (44.384, –115.144); Cape Horn Creek (44.333, –115.287); Knapp Creek (44.424, –114.915); Marsh Creek (44.329, –115.091); Swamp Creek (44.300, –115.175); Winnemucca Creek (44.479, –114.972).

(vii) *Middle Fork Salmon River/ Soldier Creek Watershed 1706020507.* Outlet(s) = Middle Fork Salmon River (Lat 44.680, Long –115.152) upstream to endpoint(s) in: Boundary Creek (44.507, –115.328); Dagger Creek (44.498, –115.307); Elkhorn Creek (44.582, –115.369); Greyhound Creek (44.626, –115.158); Middle Fork Salmon River (44.449, –115.230); Soldier Creek (44.528, –115.201).

(viii) *Bear Valley Creek Watershed 1706020508.* Outlet(s) = Bear Valley Creek (Lat 44.449, Long –115.230) upstream to endpoint(s) in: Ayers Creek (44.454, –115.330); Bear Valley Creek (44.236, –115.499); Bearskin Creek (44.331, –115.528); Cache Creek (44.286, –115.409); Cold Creek (44.371, –115.317); Cook Creek (44.389, –115.438); East Fork Elk Creek (44.481, –115.359); Fir Creek (44.354, –115.296); Little Beaver Creek (44.415, –115.504); Little East Fork Elk Creek (44.479, –115.407); Mace Creek (44.289, –115.443); North Fork Elk Creek (44.527, –115.458); Poker Creek (44.444, –115.345); Pole Creek (44.361, –115.366); Porter Creek (44.466, –115.529); Sack Creek (44.320, –115.351); Sheep Trail Creek (44.360, –115.451); West Fork Elk Creek (44.485, –115.499); Wyoming Creek (44.362, –115.335).

(ix) *Sulphur Creek Watershed 1706020509.* Outlet(s) = Sulphur Creek (Lat 44.555, Long –115.297) upstream to endpoint(s) in: Blue Moon Creek (44.572, –115.364); Full Moon Creek (44.535, –115.400); Honeymoon Creek (44.605, –115.399); North Fork Sulphur Creek (44.583, –115.467); Sulphur Creek (44.510, –115.518).

(x) *Pistol Creek Watershed 1706020510.* Outlet(s) = Pistol Creek (Lat 44.724, Long –115.149) upstream to endpoint(s) in: Little Pistol Creek (44.721, –115.404); Luger Creek (44.636, –115.386); Pistol Creek (44.644, –115.442).

(xi) *Indian Creek Watershed 1706020511.* Outlet(s) = Indian Creek (Lat 44.770, Long –115.089) upstream to endpoint(s) in: Big Chief Creek (44.817, –115.368); Indian Creek (44.803, –115.383); Little Indian Creek (44.879, –115.226).

(xii) *Upper Marble Creek Watershed 1706020512.* Outlet(s) = Marble Creek (Lat 44.797, Long –114.971) upstream to endpoint(s) in: Big Cottonwood Creek (44.879, –115.206); Canyon Creek (44.822, –114.943); Cornish Creek (44.933, –115.127); Dynamite Creek (44.871, –115.207); Marble Creek (44.983, –115.079); Trail Creek (44.917, –114.930).

(xiii) *Middle Fork Salmon River/ Lower Marble Creek Watershed 1706020513.* Outlet(s) = Middle Fork Salmon River (Lat 44.808, Long –114.811) upstream to endpoint(s) in: Marble Creek (44.797, –114.971); Middle Fork Salmon River (44.680, –115.152).

(13) Lower Middle Fork Salmon Subbasin 17060206—(i) *Lower Middle Fork Salmon River Watershed 1706020601.* Outlet(s) = Middle Fork Salmon River (Lat 45.297, Long –114.591) upstream to endpoint(s) in: Middle Fork Salmon River (45.095, –114.732); Roaring Creek (45.186, –114.574); Stoddard Creek (45.244, –114.702).

(ii) *Wilson Creek Watershed 1706020602.* Outlet(s) = Wilson Creek (Lat 45.033, Long –114.723) upstream to endpoint(s) in: Wilson Creek (45.032, –114.659).

(iii) *Middle Fork Salmon River/Brush Creek Watershed 1706020603.* Outlet(s) = Middle Fork Salmon River (Lat 45.095, Long –114.732) upstream to endpoint(s) in: Brush Creek (44.955, –114.733); Middle Fork Salmon River (44.958, –114.747).

(iv) *Yellow Jacket Creek Watershed 1706020604.* Outlet(s) = Yellowjacket Creek (Lat 44.892, Long –114.644) upstream to endpoint(s) in: Beagle Creek (44.993, –114.466); Hoodoo Creek (44.993, –114.568); Lake Creek (44.967, –114.603); Little Jacket Creek (44.931, –114.505); Meadow Creek (44.984, –114.481); Shovel Creek (45.006, –114.463); Trail Creek (44.939, –114.461); Yellowjacket Creek (45.050, –114.480).

(v) *Silver Creek Watershed 1706020605.* Outlet(s) = Silver Creek (Lat 44.830, Long –114.501) upstream to endpoint(s) in: Silver Creek (44.856, –114.458).

(vi) *Upper Camas Creek Watershed 1706020606.* Outlet(s) = Camas Creek (Lat 44.830, Long –114.501) upstream to endpoint(s) in: Castle Creek (44.825, –114.415); Fly Creek (44.703, –114.509); Furnace Creek (44.767, –114.421); J Fell Creek (44.669, –114.459); South Fork Camas Creek (44.731, –114.553); Spider Creek (44.688, –114.495); White Goat Creek (44.731, –114.460).

(vii) *West Fork Camas Creek Watershed 1706020607.* Outlet(s) = West Fork Camas Creek (Lat 44.831, Long –114.504) upstream to endpoint(s) in: Flume Creek (44.806, –114.526); Martindale Creek (44.822, –114.560); West Fork Camas Creek (44.795, –114.595).

(viii) *Lower Camas Creek Watershed 1706020608.* Outlet(s) = Camas Creek (Lat 44.892, Long –114.722) upstream to endpoint(s) in: Camas Creek (44.830, –114.501); Duck Creek (44.852, –114.521); Woodtick Creek (44.870, –114.636).

(ix) *Middle Fork Salmon River/Sheep Creek Watershed 1706020609.* Outlet(s) = Middle Fork Salmon River (Lat 44.955, Long –114.733) upstream to endpoint(s) in: Middle Fork Salmon River (44.808, –114.811); Sheep Creek (44.923, –114.873).

(x) *Rush Creek Watershed 1706020610.* Outlet(s) = Rush Creek (Lat 45.105, Long –114.861) upstream to endpoint(s) in: Rush Creek (44.958, –114.992); South Fork Rush Creek (45.013, –114.972); Two Point Creek (45.027, –114.947).

(xi) *Monumental Creek Watershed 1706020611.* Outlet(s) = Monumental Creek (Lat 45.160, Long –115.129) upstream to endpoint(s) in: Monumental Creek (44.952, –115.179); Snowslide Creek (45.055, –115.266); West Fork Monumental Creek (45.011, –115.244).

(xii) *Big Creek/Little Marble Creek Watershed 1706020612.* Outlet(s) = Big Creek (Lat 45.163, Long –115.128) upstream to endpoint(s) in: Big Creek (45.153, –115.297); Little Marble Creek (45.062, –115.276).

(xiii) *Upper Big Creek Watershed 1706020613.* Outlet(s) = Big Creek (Lat 45.153, Long –115.297) upstream to endpoint(s) in: Big Creek (45.075, –115.342); Jacobs Ladder Creek (45.063, –115.322); Middle Fork Smith Creek (45.166, –115.411); Smith Creek (45.170, –115.380); Unnamed (45.129, –115.422).

(xiv) *Beaver Creek Watershed 1706020614.* Outlet(s) = Beaver Creek (Lat 45.163, Long –115.242) upstream to endpoint(s) in: Beaver Creek (45.242, –115.314); Coin Creek (45.218, –115.328); HCreek (45.266, –115.270).

(xv) *Big Ramey Creek Watershed 1706020615.* Outlet(s) = Big Ramey Creek (Lat 45.177, Long –115.159) upstream to endpoint(s) in: Big Ramey Creek (45.279, –115.243).

(xvi) *Big Creek/Crooked Creek Watershed 1706020616.* Outlet(s) = Big Creek (Lat 45.127, Long –114.935) upstream to endpoint(s) in: Big Creek (45.163, –115.128); Cave Creek (45.219, –114.916); Coxey Creek (45.181, –115.022); East Fork Crooked Creek (45.250, –114.975); Fawn Creek (45.125, –115.032); West Fork Crooked Creek (45.251, –115.117).

(xvii) *Lower Big Creek Watershed 1706020617.* Outlet(s) = Big Creek (Lat 45.095, Long –114.732) upstream to endpoint(s) in: Big Creek (45.127, –114.935); Cabin Creek (45.195, –114.837); Canyon Creek (45.087, –114.997); Cliff Creek (45.127, –114.857); Cougar Creek (45.138, –114.813); Pioneer Creek (45.066, –114.842).

(14) Middle Salmon-Chamberlain Subbasin 17060207—(i) *Salmon River/Fall Creek Watershed 1706020701.* Outlet(s) = Salmon River (Lat 45.426, Long –116.025) upstream to endpoint(s) in: Carey Creek (45.4242, –115.9343); Fall Creek (45.4153, –115.9755); Salmon River (45.455, –115.941).

(ii) *Wind River Watershed 1706020702.* Outlet(s) = Wind River (Lat 45.4553, Long –115.9411) upstream to endpoint(s) in: Wind River (45.4657, –115.9394).

(iii) *Salmon River/California Creek Watershed 1706020703.* Outlet(s) = Salmon River (Lat 45.455, Long –115.941) upstream to endpoint(s) in: Bear Creek (45.435, –115.852); Bull Creek (45.482, –115.716); California Creek (45.341, –115.850); Cottontail Creek (45.388, –115.752); Maxwell Creek (45.392, –115.841); Salmon River (45.434, –115.666).

(iv) *Sheep Creek Watershed 1706020704.* Outlet(s) = Sheep Creek (Lat 45.468, Long –115.810) upstream to endpoint(s) in: East Fork Sheep Creek (45.546, –115.769); Meadow Creek (45.544, –115.792); Plummer Creek (45.531, –115.807); Porcupine Creek (45.506, –115.817); Sheep Creek (45.591, –115.705).

(v) *Crooked Creek Watershed 1706020705.* Outlet(s) = Crooked Creek (Lat 45.434, Long –115.666) upstream to endpoint(s) in: Arlington Creek (45.491, –115.678); Crooked Creek (45.515, –115.554); Lake Creek (45.616, –115.686).

(vi) *Salmon River/Rabbit Creek Watershed 1706020706.* Outlet(s) = Salmon River (Lat 45.434, Long –115.666) upstream to endpoint(s) in: Indian Creek (45.409, –115.608); Rabbit Creek (45.416, –115.667); Salmon River (45.378, –115.512).

(vii) *Salmon River/Trout Creek Watershed 1706020708.* Outlet(s) = Salmon River (Lat 45.378, Long –115.512) upstream to endpoint(s) in: Big Blowout Creek (45.468, –115.432); Big Elkhorn Creek (45.521, –115.331); Fivemile Creek (45.391, –115.452); Jersey Creek (45.494, –115.531); Little Fivemile Creek (45.416, –115.425); Little Mallard Creek (45.538, –115.317); Rhett Creek (45.483, –115.410); Richardson Creek (45.499, –115.265); Salmon River (45.567, –115.191); Trout Creek (45.396, –115.315).

(viii) *Bargamin Creek Watershed 1706020709.* Outlet(s) = Bargamin Creek (Lat 45.567, Long –115.191) upstream to endpoint(s) in: Bargamin Creek (45.706, –115.046); Cache Creek (45.691, –115.180); Porcupine Creek (45.725, –115.128); Prospector Creek (45.688, –115.153); Rainey Creek (45.617, –115.210); Salt Creek (45.643, –115.189).

(ix) *Salmon River/Rattlesnake Creek Watershed 1706020710.* Outlet(s) = Salmon River (Lat 45.567, Long –115.191) upstream to endpoint(s) in: Rattlesnake Creek (45.560, –115.143); Salmon River (45.511, –115.041).

(x) *Sabe Creek Watershed 1706020711.* Outlet(s) = Sabe Creek (Lat 45.507, Long –115.024) upstream to endpoint(s) in: Center Creek (45.573, –115.040); Hamilton Creek (45.544, –114.826).

(xi) *Salmon River/Hot Springs Creek Watershed 1706020712.* Outlet(s) = Salmon River (Lat 45.511, Long –115.041) upstream to endpoint(s) in: Big Harrington Creek (45.498, –114.895); Hot Springs Creek (45.465, –115.135); Salmon River (45.454, –114.931).

(xii) *Salmon River/Disappointment Creek Watershed 1706020713.* Outlet(s) = Salmon River (Lat 45.454, Long –114.931) upstream to endpoint(s) in: Salmon River (45.395, –114.732).

(xiii) *Horse Creek Watershed 1706020714.* Outlet(s) = Horse Creek (Lat 45.395, Long –114.732) upstream to endpoint(s) in: East Fork Reynolds Creek (45.541, –114.493); Horse Creek (45.498, –114.421); Reynolds Creek (45.555, –114.558); West Horse Creek (45.494, –114.754).

(xiv) *Salmon River/Kitchen Creek Watershed 1706020715.* Outlet(s) = Salmon River (Lat 45.395, Long –114.732) upstream to endpoint(s) in: Corn Creek (45.370, –114.681); Kitchen Creek (45.295, –114.752); Salmon River (45.297, –114.591).

(xv) *Cottonwood Creek Watershed 1706020716.* Outlet(s) = Cottonwood

Creek (Lat 45.394, Long –114.802) upstream to endpoint(s) in: Cottonwood Creek (45.354, –114.823).

(xvi) *Lower Chamberlain/McCalla Creek Watershed 1706020717.* Outlet(s) = Chamberlain Creek (Lat 45.454, Long –114.931) upstream to endpoint(s) in: McCalla Creek (45.321, –115.115); Unnamed (45.433, –114.935); Whimstick Creek (45.241, –115.053).

(xvii) *Upper Chamberlain Creek Watershed 1706020718.* Outlet(s) = Chamberlain Creek (Lat 45.414, Long –114.981) upstream to endpoint(s) in: Flossie Creek (45.384, –115.248); Lodgepole Creek (45.305, –115.254); Moose Creek (45.283, –115.292); South Fork Chamberlain Creek (45.288, –115.342).

(xviii) *Warren Creek Watershed 1706020719.* Outlet(s) = Warren Creek (Lat 45.397, Long –115.592) upstream to endpoint(s) in: Richardson Creek (45.372, –115.625); Slaughter Creek (45.269, –115.648); Steamboat Creek (45.259, –115.722); Warren Creek (45.248, –115.653).

(15) South Fork Salmon Subbasin 17060208—(i) *Lower South Fork Salmon River Watershed 1706020801.* Outlet(s) = South Fork Salmon River (Lat 45.378, Long –115.512) upstream to endpoint(s) in: Big Buck Creek (45.253, –115.554); Pony Creek (45.209, –115.663); Porphyry Creek (45.255, –115.462); Smith Creek (45.265, –115.550); South Fork Salmon River (45.156, –115.585).

(ii) *South Fork Salmon River/Sheep Creek Watershed 1706020802.* Outlet(s) = South Fork Salmon River (Lat 45.156, Long –115.585) upstream to endpoint(s) in: Bear Creek (45.124, –115.643); Contux Creek (45.155, –115.620); Deer Creek (45.162, –115.606); Elk Creek (45.149, –115.506); Sheep Creek (45.039, –115.583); South Fork Salmon River (45.025, –115.706).

(iii) *Lower East Fork South Fork Salmon River Watershed 1706020803.* Outlet(s) = East Fork South Fork Salmon River (Lat 45.015, Long –115.713) upstream to endpoint(s) in: Caton Creek (44.900, –115.584); East Fork South Fork Salmon River (44.963, –115.501); Loosum Creek (44.918, –115.529); Parks Creek (44.969, –115.530).

(iv) *Upper East Fork South Fork Salmon River Watershed 1706020804.* Outlet(s) = East Fork South Fork Salmon River (Lat 44.963, Long –115.501) upstream to endpoint(s) in: East Fork South Fork Salmon River (44.934, –115.336); Profile Creek (45.035, –115.409); Quartz Creek (45.048, –115.496); Salt Creek (44.962, –115.329); Sugar Creek (44.975, –115.245); Tamarack Creek (44.995, –115.318).

(v) *Lower Johnson Creek Watershed 1706020805.* Outlet(s) = Johnson Creek (Lat 44.963, Long –115.501) upstream to endpoint(s) in: Johnson Creek (44.803, –115.518); Riordan Creek (44.898, –115.472); Trapper Creek (44.829, –115.508).

(vi) *Burntlog Creek Watershed 1706020806.* Outlet(s) = Burntlog Creek (Lat 44.803, Long –115.518) upstream to endpoint(s) in: Burntlog Creek (44.718, –115.419).

(vii) *Upper Johnson Creek Watershed 1706020807.* Outlet(s) = Johnson Creek (Lat 44.803, Long –115.518) upstream to endpoint(s) in: Boulder Creek (44.565, –115.595); Johnson Creek (44.550, –115.590); Landmark Creek (44.630, –115.574); Rock Creek (44.600, –115.592); SCreek (44.609, –115.413); Whiskey Creek (44.563, –115.486).

(viii) *Upper South Fork Salmon River Watershed 1706020808.* Outlet(s) = South Fork Salmon River (Lat 44.652, Long –115.703) upstream to endpoint(s) in: Bear Creek (44.607, –115.600); Camp Creek (44.605, –115.633); Curtis Creek (44.593, –115.752); Lodgepole Creek (44.576, –115.610); Mormon Creek (44.499, –115.654); Rice Creek (44.510, –115.644); South Fork Salmon River (44.480, –115.688); Tyndall Creek (44.568, –115.736).

(ix) *South Fork Salmon River/Cabin Creek Watershed 1706020809.* Outlet(s) = South Fork Salmon River (Lat 44.759, Long –115.684) upstream to endpoint(s) in: Cabin Creek (44.713, –115.638); Dollar Creek (44.759, –115.751); North Fork Dollar Creek (44.755, –115.745); Six-Bit Creek (44.684, –115.724); South Fork Salmon River (44.652, –115.703); Two-bit Creek (44.655, –115.747); Warm Lake Creek (44.653, –115.662).

(x) *South Fork Salmon River/ Blackmare Creek Watershed 1706020810.* Outlet(s) = South Fork Salmon River (Lat 44.898, Long –115.715) upstream to endpoint(s) in: Blackmare Creek (44.809, –115.795); Camp Creek (44.889, –115.691); Cougar Creek (44.823, –115.804); Phoebe Creek (44.910, –115.705); South Fork Salmon River (44.759, –115.684).

(xi) [Reserved]

(xii) *Buckhorn Creek Watershed 1706020811.* Outlet(s) = Buckhorn Creek (Lat 44.922, Long –115.736) upstream to endpoint(s) in: Buckhorn Creek (44.881, –115.856); Little Buckhorn Creek (44.902, –115.756); West Fork Buckhorn Creek (44.909, –115.832).

(xiii) *South Fork Salmon River/Fitsum Creek Watershed 1706020812.* Outlet(s) = South Fork Salmon River (Lat 45.025, Long –115.706) upstream to endpoint(s) in: Fitsum Creek (44.996, –115.784); North Fork Fitsum Creek (44.992, –115.870); South Fork Fitsum Creek (44.981, –115.768); South Fork Salmon River (44.898, –115.715).

(xiv) *Lower Secesh River Watershed 1706020813.* Outlet(s) = Secesh River (Lat 45.025, Long –115.706) upstream to endpoint(s) in: Cly Creek (45.031, –115.911); Hum Creek (45.070, –115.903); Lick Creek (45.049, –115.906); Secesh River (45.183, –115.821); Split Creek (45.109, –115.805); Zena Creek (45.057, –115.732).

(xv) *Middle Secesh River Watershed 1706020814.* Outlet(s) = Secesh River (Lat 45.183, Long –115.821) upstream to endpoint(s) in: Grouse Creek (45.289, –115.835); Secesh River (45.257, –115.895); Victor Creek (45.186, –115.831).

(xiv) *Upper Secesh River Watershed 1706020815.* Outlet(s) = Secesh River (Lat 45.257, Long –115.895) upstream to endpoint(s) in: Lake Creek (45.374, –115.867); Threemile Creek (45.334, –115.891).

(16) Lower Salmon Subbasin 17060209—(i) *Salmon River/China Creek Watershed 1706020901.* Outlet(s) = Salmon River (Lat 45.857, Long –116.794) upstream to endpoint(s) in: China Creek (46.004, –116.817); Flynn Creek (45.911, –116.714); Salmon River (45.999, –116.695); Wapshilla Creek (45.945, –116.766).

(ii) *Eagle Creek Watershed 1706020902.* Outlet(s) = Eagle Creek (Lat 45.997, Long –116.700) upstream to endpoint(s) in: Eagle Creek (46.057, –116.814).

(iii) *Deer Creek Watershed 1706020903.* Outlet(s) = Deer Creek (Lat 45.999, Long –116.695) upstream to endpoint(s) in: Deer Creek (46.051, –116.702).

(iv) *Salmon River/Cottonwood Creek Watershed 1706020904.* Outlet(s) = Salmon River (Lat 45.999, Long –116.695) upstream to endpoint(s) in: Billy Creek (45.990, –116.643); Cottonwood Creek (45.932, –116.598); Maloney Creek (46.068, –116.625); Salmon River (46.038, –116.625); West Fork Maloney Creek (46.061, –116.632).

(v) *Salmon River/Deep Creek Watershed 1706020905.* Outlet(s) = Salmon River (Lat 46.038, Long –116.625) upstream to endpoint(s) in: Burnt Creek (45.966, –116.548); Deep Creek (46.005, –116.547); Round Spring Creek (45.972, –116.501); Salmon River (45.911, –116.410); Telcher Creek (45.978, –116.443).

(vi) *Rock Creek Watershed 1706020906.* Outlet(s) = Rock Creek (Lat 45.905, Long –116.396) upstream to endpoint(s) in: Grave Creek (45.978, –116.359); Johns Creek (45.930, –116.245); Rock Creek (45.919, –116.245).

(vii) *Salmon River/Hammer Creek Watershed 1706020907.* Outlet(s) = Salmon River (Lat 45.911, Long –116.410) upstream to endpoint(s) in: Salmon River (45.752, –116.322).

(viii) *White Bird Creek Watershed 1706020908.* White Bird Creek (Lat 45.752, Long –116.322) upstream to endpoint(s) in: Asbestos Creek (45.722, –116.050); Cabin Creek (45.842, –116.110); Chapman Creek (45.841, –116.216); Cold Springs Creek (45.716, –116.037); Fish Creek (45.865, –116.084); Jungle Creek (45.739, –116.063); Little White Bird Creek (45.740, –116.087); North Fork White Bird Creek (45.797, –116.089); Pinnacle Creek (45.779, –116.086); South Fork White Bird Creek (45.772, –116.028); Twin Cabins Creek (45.782, –116.048); Unnamed (45.809, –116.086); Unnamed (45.841, –116.114); Unnamed (45.858, –116.105).

(ix) *Salmon River/McKinzie Creek Watershed 1706020909.* Outlet(s) = Salmon River (Lat 45.752, Long –116.322) upstream to endpoint(s) in: Deer Creek (45.706, –116.332); McKinzie Creek (45.676, –116.260); Salmon River (45.640, –116.284); Sotin Creek (45.725, –116.341).

(x) *Skookumchuck Creek Watershed 1706020910.* Outlet(s) = Skookumchuck Creek (Lat 45.700, Long –116.317) upstream to endpoint(s) in: North Fork Skookumchuck Creek (45.728, –116.114); South Fork Skookumchuck Creek (45.711, –116.197).

(xi) *Slate Creek Watershed 1706020911.* Outlet(s) = Slate Creek (Lat 45.640, Long –116.284) upstream to endpoint(s) in: Deadhorse Creek (45.603, –116.093); Little Slate Creek (45.587, –116.075); North Fork Slate Creek (45.671, –116.095); Slate Creek (45.634, –116.000); Slide Creek (45.662, –116.146); Unnamed (45.5959, –116.1061); Waterspout Creek (45.631, –116.115).

(xii) *Salmon River/John Day Creek Watershed 1706020912.* Outlet(s) = Salmon River (Lat 45.640, Long –116.284) upstream to endpoint(s) in: China Creek (45.547, –116.310); Cow Creek (45.539, –116.330); East Fork John Day Creek (45.575, –116.221); Fiddle Creek (45.495, –116.269); John Day Creek (45.564, –116.220); Race Creek (45.437, –116.316); South Fork Race Creek (45.440, –116.403); West Fork Race Creek (45.464, –116.352).

(xiii) *Salmon River/Lake Creek Watershed 1706020913.* Outlet(s) = Salmon River (Lat 45.437, Long –116.316) upstream to endpoint(s) in: Allison Creek (45.507, –116.156); Berg Creek (45.426, –116.244); Lake Creek (45.294, –116.219); Salmon River (45.418, –116.162); West Fork Allison Creek (45.457, –116.184); West Fork Lake Creek (45.370, –116.241).

(xiv) *Salmon River/Van Creek Watershed 1706020914.* Outlet(s) = Salmon River (Lat 45.418, Long –116.162) upstream to endpoint(s) in: Robbins Creek (45.430, –116.026); Salmon River (45.426, –116.025); Van Creek (45.431, –116.138).

(xv) *French Creek Watershed 1706020915.* Outlet(s) = French Creek (Lat 45.425, Long –116.030) upstream to endpoint(s) in: French Creek (45.375, –116.040).

(xvi) *Partridge Creek Watershed 1706020916.* Outlet(s) = Elkhorn Creek (Lat 45.4043, Long –116.0941); Partridge Creek (45.408, –116.126) upstream to endpoint(s) in: Elkhorn Creek (45.369, –116.092); Partridge Creek (45.369, –116.146).

(17) Little Salmon Subbasin 17060210—(i) *Lower Little Salmon River Watershed 1706021001.* Outlet(s) = Little Salmon River (Lat 45.417, Long –116.313) upstream to endpoint(s) in: Denny Creek (45.306, –116.359); Elk Creek (45.218, –116.311); Hat Creek (45.313, –116.354); Little Salmon River (45.204, –116.310); Lockwood Creek (45.254, –116.366); North Fork Squaw Creek (45.4234, –116.4320); Papoose Creek (45.4078, –116.3920); Rattlesnake Creek (45.268, –116.339); Sheep Creek (45.344, –116.336); South Fork Squaw Creek (45.4093, –116.4356).

(ii) *Little Salmon River/Hard Creek Watershed 1706021002.* Outlet(s) = Little Salmon River (Lat 45.204, Long –116.310) upstream to endpoint(s) in: Bascum Canyon (45.145, –116.248); Hard Creek (45.125, –116.239); Little Salmon River (45.123, –116.298); Trail Creek (45.164, –116.338).

(iii) *Hazard Creek Watershed 1706021003.* Outlet(s) = Hazard Creek (Lat 45.183, Long –116.283) upstream to endpoint(s) in: Hazard Creek (45.201, –116.248).

(iv) *Boulder Creek Watershed 1706021006.* Outlet(s) = Boulder Creek (Lat 45.204, Long –116.310) upstream to endpoint(s) in: Ant Basin Creek (45.128, –116.447); Boulder Creek (45.103, –116.479); Bull Horn Creek (45.159, –116.407); Pollock Creek (45.168, –116.395); Pony Creek (45.190, –116.374); Squirrel Creek (45.198, –116.368); Star Creek (45.152, –116.418); Unnamed (45.095, –116.461); Unnamed (45.116, –116.455); Yellow Jacket Creek (45.141, –116.426).

(v) *Rapid River Watershed 1706021007.* Outlet(s) = Rapid River (Lat 45.375, Long –116.355) upstream to endpoint(s) in: Granite Fork Lake Fork Rapid River (45.179, –116.526); Paradise Creek (45.223, –116.550); Rapid River (45.157, –116.489); Shingle Creek (45.369, –116.409); West Fork Rapid River (45.306, –116.425).

(18) Upper Selway Subbasin 17060301—(i) *Selway River/Pettibone Creek Watershed 1706030101.* Outlet(s) = Selway River (Lat 46.122, Long –114.935) upstream to endpoint(s) in: Ditch Creek (46.022, –114.900); Elk Creek (45.987, –114.872); Pettibone Creek (46.105, –114.745); Selway River (45.962, –114.828).

(ii) *Bear Creek Watershed 1706030102.* Outlet(s) = Bear Creek (Lat 46.019, Long –114.844) upstream to endpoint(s) in: Bear Creek (46.104, –114.588); Brushy Fork Creek (45.978, –114.602); Cub Creek (46.021, –114.662); Granite Creek (46.102, –114.619); Paradise Creek (46.036, –114.710); Wahoo Creek (46.104, –114.633).

(iii) *Selway River/Gardner Creek Watershed 1706030103.* Outlet(s) = Selway River (Lat 45.962, Long –114.828) upstream to endpoint(s) in: Bad Luck Creek (45.899, –114.752); Crooked Creek (45.865, –114.764); Gardner Creek (45.937, –114.772); Magruder Creek (45.702, –114.795); North Star Creek (45.950, –114.806); Selway River (45.707, –114.719); Sheep Creek (45.821, –114.741); Snake Creek (45.855, –114.728).

(iv) *White Cap Creek Watershed 1706030104.* Outlet(s) = White Cap Creek (Lat 45.860, Long –114.744) upstream to endpoint(s) in: Barefoot Creek (45.886, –114.639); Canyon Creek (45.878, –114.422); Cedar Creek (45.895, –114.668); Cooper Creek (45.861, –114.557); Elk Creek (45.928, –114.574); Fox Creek (45.898, –114.597); Granite Creek (45.931, –114.506); Lookout Creek (45.959, –114.626); Paloma Creek (45.918, –114.592); Peach Creek (45.868, –114.607); South Fork Lookout Creek (45.929, –114.649); Unnamed (45.855, –114.557); White Cap Creek (45.947, –114.534).

(v) *Indian Creek Watershed 1706030105.* Outlet(s) = Indian Creek (Lat 45.792, Long –114.764) upstream to endpoint(s) in: Indian Creek (45.786, –114.581); Jack Creek (45.789, –114.681); Saddle Gulch (45.766, –114.641); Schofield Creek (45.818, –114.586).

(vi) *Upper Selway River Watershed 1706030106.* Outlet(s) = Selway River (Lat 45.707, Long –114.719) upstream to endpoint(s) in: Cayuse Creek (45.752, –114.572); Deep Creek (45.703, –114.517); French Creek (45.609, –114.561); Gabe Creek (45.714, –114.666); Hells Half Acre Creek (45.689, –114.708); Lazy Creek (45.670, –114.553); Line Creek (45.590, –114.585); Mist Creek (45.561, –114.629); Pete Creek (45.720,

–114.557); Selway River (45.502, –114.702); Slow Gulch Creek (45.678, –114.520); Storm Creek (45.641, –114.596); Surprise Creek (45.533, –114.672); Swet Creek (45.516, –114.804); Three Lakes Creek (45.620, –114.803); Unnamed (45.569, –114.642); Vance Creek (45.681, –114.594); Wilkerson Creek (45.561, –114.601).

(vii) *Little Clearwater River Watershed 1706030107.* Outlet(s) = Little Clearwater River (Lat 45.754, Long –114.775) upstream to endpoint(s) in: Burnt Knob Creek (45.697, –114.950); FCreek (45.644, –114.847); Little Clearwater River (45.740, –114.949); Lonely Creek (45.727, –114.865); Salamander Creek (45.655, –114.883); Short Creek (45.759, –114.859); Throng Creek (45.736, –114.904).

(viii) *Running Creek Watershed 1706030108.* Outlet(s) = Running Creek (Lat 45.919, Long –114.832) upstream to endpoint(s) in: Eagle Creek (45.844, –114.886); Lynx Creek (45.794, –114.993); Running Creek (45.910, –115.027); South Fork Running Creek (45.820, –115.024).

(ix) *Goat Creek Watershed 1706030109.* Outlet(s) = Goat Creek (Lat 45.962, Long –114.828) upstream to endpoint(s) in: Goat Creek (45.940, –115.038).

(19) Lower Selway Subbasin 17060302—(i) *Selway River/Goddard Creek Watershed 1706030201.* Outlet(s) = Selway River (Lat 46.140, Long –115.599) upstream to endpoint(s) in: Boyd Creek (46.092, –115.431); Glover Creek (46.082, –115.361); Goddard Creek (46.059, –115.610); Johnson Creek (46.139, –115.514); Rackliff Creek (46.110, –115.494); Selway River (46.046, –115.295).

(ii) *Gedney Creek Watershed 1706030202.* Outlet(s) = Gedney Creek (Lat 46.056, Long –115.313) upstream to endpoint(s) in: Gedney Creek (46.111, –115.268).

(iii) *Selway River/Three Links Creek Watershed 1706030203.* Outlet(s) = Selway River (Lat 46.046, Long –115.295) upstream to endpoint(s) in: Mink Creek (46.041, –115.087); Otter Creek (46.042, –115.216); Pinchot Creek (46.120, –115.108); Selway River (46.098, –115.071); Three Links Creek (46.143, –115.093).

(iv) *Upper Three Links Creek Watershed 1706030204.* Outlet(s) = Three Links Creek (Lat 46.143, Long –115.093) upstream to endpoint(s) in: Three Links Creek (46.155, –115.100).

(v) *Rhoda Creek Watershed 1706030205.* Outlet(s) = Rhoda Creek (Lat 46.234, Long –114.960) upstream to endpoint(s) in: Lizard Creek (46.220, –115.136); Rhoda Creek (46.252, –115.164); Wounded Doe Creek (46.299, –115.078).

(vi) *North Fork Moose Creek Watershed 1706030207.* Outlet(s) = North Fork Moose Creek (Lat 46.165, Long –114.897) upstream to endpoint(s) in: North Fork Moose Creek (46.305, –114.853); West Moose Creek (46.322, –114.970).

(vii) *East Fork Moose Creek/Trout Creek Watershed 1706030208.* Outlet(s) = Selway River (Lat 46.098, Long –115.071) upstream to endpoint(s) in: Double Creek (46.230, –114.837); East Fork Moose Creek (46.204, –114.722); Elbow Creek (46.200, –114.716); Fitting Creek (46.231, –114.861); Maple Creek (46.218, –114.785); Monument Creek (46.189, –114.728); Selway River (46.122, –114.935); Trout Creek (46.141, –114.861).

(viii) *Upper East Fork Moose Creek Watershed 1706030209.* Outlet(s) = East Fork Moose Creek (Lat 46.204, Long –114.722) upstream to endpoint(s) in: Cedar Creek (46.291, –114.708); East Fork Moose Creek (46.253, –114.700).

(ix) *Marten Creek Watershed 1706030210.* Outlet(s) = Marten Creek (Lat 46.099, Long –115.052) upstream to endpoint(s) in: Marten Creek (45.988, –115.029).

(x) *Upper Meadow Creek Watershed 1706030211.* Outlet(s) = Meadow Creek (Lat 45.88043738, Long –115.1034371) upstream to endpoint(s) in: Butter Creek (45.804, –115.149); Meadow Creek (45.698, –115.217); Three Prong Creek (45.790, –115.062).

(xi) *Middle Meadow Creek Watershed 1706030212.* Outlet(s) = Meadow Creek (Lat 45.88157325, Long –115.2178401) upstream to endpoint(s) in: East Fork Meadow Creek (45.868, –115.067); Meadow Creek (45.880, –115.103); Sable Creek (45.853, –115.219); Schwar Creek (45.905, –115.108); Simmons Creek (45.856, –115.247).

(xii) *Lower Meadow Creek Watershed 1706030213.* Outlet(s) = Meadow Creek (Lat 46.04563958, Long –115.2953459) upstream to endpoint(s) in: Buck Lake Creek (45.992, –115.084); Butte Creek (45.878, –115.248); Fivemile Creek (45.953, –115.310); Little Boulder Creek (45.935, –115.293); Meadow Creek (45.882, –115.218).

(xiii) *O'Hara Creek Watershed 1706030214.* Outlet(s) = OHara Creek (Lat 46.08603027, Long –115.5170987) upstream to endpoint(s) in: East Fork OHara Creek (45.995, –115.521); West Fork O'Hara Creek (45.995, –115.543).

(20) Lochsa Subbasin 17060303—(i) *Lower Lochsa River Watershed 1706030301.* Outlet(s) = Lochsa River (Lat 46.14004554, Long –115.5986467) upstream to endpoint(s) in: Canyon Creek (46.227, –115.580); Coolwater Creek (46.215, –115.464); Deadman Creek (46.262, –115.517); East Fork Deadman Creek (46.275, –115.505); Fire Creek (46.203, –115.411); Kerr Creek (46.162, –115.579); Lochsa River (46.338, –115.314); Nut Creek (46.180, –115.601); Pete King Creek (46.182, –115.697); Placer Creek (46.196, –115.631); South Fork Canyon Creek (46.211, –115.556); Split Creek (46.207, –115.364); Walde Creek (46.193, –115.662).

(ii) *Fish Creek Watershed 1706030302.* Outlet(s) = Fish Creek (Lat 46.33337703, Long –115.3449332) upstream to endpoint(s) in: Alder Creek (46.319, –115.460); Ceanothus Creek (46.341, –115.470); Fish Creek (46.341, –115.575); Frenchman Creek (46.330, –115.544); Gass Creek (46.390, –115.511); Ham Creek (46.391, –115.365); Hungery Creek (46.377, –115.542); Myrtle Creek (46.343, –115.569); Poker Creek (46.346, –115.447); Willow Creek (46.396, –115.369).

(iii) *Lochsa River/Stanley Creek Watershed 1706030303.* Outlet(s) = Lochsa River (Lat 46.33815653, Long –115.3141495) upstream to endpoint(s) in: Bald Mountain Creek (46.406, –115.254); Dutch Creek (46.377, –115.211); Eagle Mountain Creek (46.428, –115.130); Indian Grave Creek (46.472, –115.103); Indian Meadow Creek (46.450, –115.060); Lochsa River (46.466, –114.985); Lost Creek (46.432, –115.116); Sherman Creek (46.352, –115.320); Stanley Creek (46.387, –115.144); Unnamed (46.453, –115.028); Unnamed (46.460, –115.006); Unnamed (46.502, –115.050); Weir Creek (46.490, –115.035).

(iv) *Lochsa River/Squaw Creek Watershed 1706030304.* Outlet(s) = Lochsa River (Lat 46.4656626, Long –114.9848623) upstream to endpoint(s) in: Badger Creek (46.535, –114.833); Bear Mtn. Creek (46.471, –114.962); Cliff Creek (46.482, –114.708); Colgate Creek (46.455, –114.914); Doe Creek (46.534, –114.914); East Fork Papoose Creek (46.555, –114.743); Jay Creek (46.513, –114.739); Lochsa River (46.508, –114.681); Postoffice Creek (46.529, –114.948); Squaw Creek (46.567, –114.859); Unnamed (46.463, –114.923); Wendover Creek (46.521, –114.788); West Fork Papoose Creek (46.576, –114.758); West Fork Postoffice Creek (46.493, –114.985); West Fork Squaw Creek (46.545, –114.884).

(v) *Lower Crooked Fork Watershed 1706030305.* Outlet(s) = Crooked Fork Lochsa River (Lat 46.50828495, Long –114.680785) upstream to endpoint(s) in: Crooked Fork Lochsa River (46.578, –114.612).

(vi) *Upper Crooked Fork Watershed 1706030306.* Outlet(s) = Crooked Fork Lochsa River (Lat 46.57831788, Long –114.6115072) upstream to endpoint(s) in: Boulder Creek (46.636, –114.703); Crooked Fork Lochsa River (46.653, –114.670); Haskell Creek (46.605, –114.596); Shotgun Creek (46.601, –114.667).

(vii) *Brushy Fork Watershed 1706030307.* Outlet(s) = Brushy Fork (Lat 46.57831788, Long –114.6115072) upstream to endpoint(s) in: Brushy Fork (46.619, –114.450); Pack Creek (46.580, –114.588); Spruce Creek (46.609, –114.433).

(viii) *Lower White Sands Creek Watershed 1706030308.* Outlet(s) = White Sands Creek (Lat 46.50828495, Long –114.680785) upstream to endpoint(s) in: Beaver Creek (46.509, –114.619); Cabin Creek (46.518, –114.641); Walton Creek (46.500, –114.673); White Sands Creek (46.433, –114.540).

(ix) *Storm Creek Watershed 1706030309.* Outlet(s) = Storm Creek (Lat 46.46307502, Long –114.5482819) upstream to endpoint(s) in: Maud Creek (46.495, –114.511); Storm Creek (46.540, –114.424).

(x) *Upper White Sands Creek Watershed 1706030310.* Outlet(s) = White Sands Creek (Lat 46.4330966, Long –114.5395027) upstream to endpoint(s) in: Big FCreek (46.401, –114.475); Big SCreek (46.407, –114.534); Colt Creek (46.403, –114.726); White Sands Creek (46.422, –114.462).

(xi) *Warm Springs Creek Watershed 1706030311.* Outlet(s) = Warm Springs Creek (Lat 46.4733796, Long –114.8872254) upstream to endpoint(s) in: Cooperation Creek (46.453, –114.866); Warm Springs Creek (46.426, –114.868).

(xii) *Fish Lake Creek Watershed 1706030312.* Outlet(s) = Fish Lake Creek (Lat 46.46336343, Long –114.9957028) upstream to endpoint(s) in: Fish Lake Creek (46.405, –115.000); Heslip Creek (46.393, –115.027); Sponge Creek (46.384, –115.048).

(xiii) *Boulder Creek Watershed 1706030313.* Outlet(s) = Boulder Creek (Lat 46.33815653, Long –115.3141495) upstream to endpoint(s) in: Boulder Creek (46.320, –115.199).

(xiv) *Old Man Creek Watershed 1706030314.* Outlet(s) = Old Man Creek (Lat 46.2524595, Long –115.3988563) upstream to endpoint(s) in: Old Man Creek (46.256, –115.343).

(21) Middle Fork Clearwater Subbasin 17060304—(i) *Middle Fork Clearwater River/Maggie Creek Watershed 1706030401.* Outlet(s) = Middle Fork Clearwater River (Lat 46.1459, Long –115.9797) upstream to endpoint(s) in: Maggie Creek (46.195, –115.801); Middle Fork Clearwater River (46.140, –115.599).

(ii) *Clear Creek Watershed 1706030402.* Outlet(s) = Clear Creek (Lat 46.1349, Long –115.9515) upstream to endpoint(s) in: Browns Spring Creek (46.067, –115.658); Clear Creek (46.056, –115.659); Kay Creek (46.005, –115.725); Middle Fork Clear Creek (46.030, –115.739); Pine Knob Creek (46.093, –115.702); South Fork Clear Creek (45.941, –115.769); West Fork Clear Creek (46.013, –115.821).

(22) South Fork Clearwater Subbasin 17060305—(i) *Lower South Fork Clearwater River Watershed 1706030501.* Outlet(s) = South Fork Clearwater River (Lat 46.1459, Long –115.9797) upstream to endpoint(s) in: Butcher Creek (45.945, –116.064); Castle Creek (45.834, –115.966); Earthquake Creek (45.853, –116.005); Green Creek (45.957, –115.937); Lightning Creek (45.936, –115.946); Mill Creek (45.934, –116.010); Rabbit Creek (46.028, –115.877); Sally Ann Creek (46.019, –115.893); Schwartz Creek (45.914, –116.000); South Fork Clearwater River (45.830, –115.931); Wall Creek (45.998, –115.926).

(ii) *South Fork Clearwater River/ Meadow Creek Watershed 1706030502.* Outlet(s) = South Fork Clearwater River (Lat 45.8299, Long –115.9312) upstream to endpoint(s) in: Covert Creek (45.890, –115.933); North Meadow Creek (45.923, –115.890); South Fork Clearwater River (45.824, –115.889); Storm Creek (45.952, –115.848); Whitman Creek (45.914, –115.919).

(iii) *South Fork Clearwater River/ Peasley Creek Watershed 1706030503.* Outlet(s) = South Fork Clearwater River (Lat 45.8239, Long –115.8892) upstream to endpoint(s) in: South Fork Clearwater River (45.795, –115.763).

(iv) *South Fork Clearwater River/ Leggett Creek Watershed 1706030504.* Outlet(s) = South Fork Clearwater River (Lat 45.7952, Long –115.7628) upstream to endpoint(s) in: Allison Creek (45.832, –115.588); Buckhorn Creek (45.807, –115.658); Fall Creek (45.833, –115.696); Leggett Creek (45.862, –115.685); Maurice Creek (45.856, –115.514); Moose Creek (45.835, –115.578); Rabbit Creek (45.822, –115.603); Santiam Creek (45.811, –115.624); South Fork Clearwater River (45.808, –115.474); Twentymile Creek (45.791, –115.765); Whiskey Creek (45.869, –115.544).

(v) *Newsome Creek Watershed 1706030505.* Outlet(s) = Newsome Creek (Lat 45.8284, Long –115.6147) upstream to endpoint(s) in: Baldy Creek (45.944, –115.681); Bear Creek (45.887, –115.580); Beaver Creek (45.943, –115.568); Haysfork Creek (45.953, –115.678); Mule Creek (45.985, –115.606); Newsome Creek (45.972, –115.654); Nuggett Creek (45.897, –115.600); Pilot Creek (45.939, –115.716); Sawmill Creek (45.904, –115.701); Sing Lee Creek (45.898, –115.677); West Fork Newsome Creek (45.880, –115.661).

(vi) *American River Watershed 1706030506.* Outlet(s) = American River (Lat 45.8082, Long –115.4740) upstream to endpoint(s) in: American River (45.996, –115.445); Big Elk Creek (45.902, –115.513); Box Sing Creek (45.850, –115.386); Buffalo Gulch (45.873, –115.522); East Fork American River (45.905, –115.381); Flint Creek (45.913, –115.423); Kirks Fork American River (45.842, –115.385); Lick Creek (45.945, –115.477); Little Elk Creek (45.894, –115.476); Monroe Creek (45.871, –115.495); Unnamed (45.884, –115.510); West Fork American River (45.934, –115.510); West Fork Big Elk Creek (45.883, –115.515).

(vii) *Red River Watershed 1706030507.* Outlet(s) = Red River (Lat 45.8082, Long –115.4740) upstream to endpoint(s) in: Bridge Creek (45.814, –115.163); Campbell Creek (45.792, –115.486); Dawson Creek (45.728, –115.393); Deadwood Creek (45.794, –115.471); Ditch Creek (45.7941, –115.2923); Jungle Creek (45.710, –115.286); Little Campbell Creek (45.801, –115.478); Little Moose Creek (45.710, –115.399); Moose Butte Creek (45.695, –115.365); Otterson Creek (45.803, –115.222); Red Horse Creek (45.822, –115.355); Red River (45.788, –115.174); Siegel Creek (45.800, –115.323); Soda Creek (45.741, –115.257); South Fork Red River (45.646, –115.407); Trail Creek (45.784, –115.265); Trapper Creek (45.672, –115.311); Unnamed (45.788, –115.199); West Fork Red River (45.662, –115.447).

(viii) *Crooked River Watershed 1706030508.* Outlet(s) = Crooked River (Lat 45.8241, Long –115.5291) upstream to endpoint(s) in: American Creek (45.7159, –115.9679); East Fork Crooked River (45.655, –115.562); East Fork Relief Creek (45.7363, –115.4511); Fivemile Creek (45.721, –115.568); Quartz Creek (45.702, –115.536); Relief Creek (45.712, –115.472); Silver Creek (45.713, –115.535); Trout Creek (45.6876, –115.9463); West Fork Crooked River (45.666, –115.596).

(ix) *Ten Mile Creek Watershed 1706030509.* Outlet(s) = Tenmile Creek (Lat 45.8064, Long –115.6833) upstream to endpoint(s) in: Mackey Creek (45.754, –115.683); Morgan Creek (45.731, –115.672); Sixmile Creek (45.762, –115.641); Tenmile Creek (45.694,

–115.694); Williams Creek (45.703, –115.636).

(x) *John's Creek Watershed 1706030510.* Outlet(s) = Johns Creek (Lat 45.8239, Long –115.8892) upstream to endpoint(s) in: American Creek (45.750, –115.961); Frank Brown Creek (45.708, –115.785); Gospel Creek (45.637, –115.915); Johns Creek (45.665, –115.827); Trout Creek (45.750, –115.909); West Fork Gospel Creek (45.657, –115.949).

(xi) *Mill Creek Watershed 1706030511.* Outlet(s) = Mill Creek (Lat 45.8299, Long –115.9312) upstream to endpoint(s) in: Adams Creek (45.6556, –116.0408); Camp Creek (45.6613, –115.9820); Corral Creek (45.6719, –115.9779); Hunt Creek (45.6768, –115.9640); Mill Creek (45.641, –116.008); Unnamed (45.6964, –115.9641).

(xii) *Cottonwood Creek Watershed 1706030513.* Outlet(s) = Cottonwood Creek (Lat 46.0810, Long –115.9764) upstream to endpoint(s) in: Cottonwood Creek (46.0503, –116.1109); Red Rock Creek (46.0807, –116.1579).

(23) Clearwater Subbasin 17060306—

(i) *Lower Clearwater River Watershed 1706030601.* Outlet(s) = Clearwater River (Lat 46.4281, Long –117.0380) upstream to endpoint(s) in: Clearwater River (46.447, –116.837).

(ii) *Clearwater River/Lower Potlatch River Watershed 1706030602.* Outlet(s) = Clearwater River (Lat 46.4467, Long –116.8366) upstream to endpoint(s) in: Catholic Creek (46.489, –116.841); Clearwater River (46.474, –116.765); Howard Gulch (46.4976, –116.7791); Little Potlatch Creek (46.6322, –116.8320); Potlatch River (46.523, –116.728).

(iii) *Potlatch River/Middle Potlatch Creek Watershed 1706030603.* Outlet(s) = Potlatch River (Lat 46.5231, Long –116.7284) upstream to endpoint(s) in: Middle Potlatch Creek (46.669, –116.796); Potlatch River (46.583, –116.700).

(iv) *Lower Big Bear Creek Watershed 1706030604.* Outlet(s) = Big Bear Creek (Lat 46.6180, Long –116.6439) upstream to endpoint(s) in: Big Bear Creek (46.7145, –116.6632); Little Bear Creek (46.7360, –116.7010), West Fork Little Bear Creek (46.7413, –116.7789).

(v) *Upper Big Bear Creek 1706030605.* Outlet(s) = Big Bear Creek (Lat 46.7145, Long –116.6632) upstream to endpoint(s) in: East Fork Big Bear Creek (46.8141, –116.5984).

(vi) *Potlatch River/Pine Creek Watershed 1706030606.* Outlet(s) = Potlatch River (Lat 46.5830, Long –116.6998) upstream to endpoint(s) in: Boulder Creek (46.711, –116.450); Leopold Creek (46.6547, –116.4407); Pine Creek (46.706, –116.554); Potlatch River (46.699, –116.504).

(vii) *Upper Potlatch River Watershed 1706030607.* Outlet(s) = Potlatch River (Lat 46.6987, Long –116.5036) upstream to endpoint(s) in: Corral Creek (46.8012, –116.4746); East Fork Potlatch River (46.876, –116.247); Feather Creek (46.938, –116.411); Head Creek (46.942, –116.366); Little Boulder Creek (46.768, –116.414); Nat Brown Creek (46.911, –116.375); Pasture Creek (46.940, –116.371); Porcupine Creek (46.937, –116.379); Potlatch River (46.941, –116.359); Ruby Creek (46.7992, –116.3037); Unnamed (46.8938, –116.3617); Unnamed (46.922, –116.449); West Fork Potlatch River (46.931, –116.458).

(viii) *Clearwater River/Bedrock Creek Watershed 1706030608.* Outlet(s) = Clearwater River (Lat 46.4741, Long –116.7652) upstream to endpoint(s) in: Bedrock Creek (46.5738, –116.5000); Clearwater River (46.516, –116.590); Louse Creek (46.5380, –116.4411); Pine Creek (46.579, –116.615).

(ix) *Clearwater River/Jack's Creek Watershed 1706030609.* Outlet(s) = Clearwater River (Lat 46.5159, Long –116.5903) upstream to endpoint(s) in: Clearwater River (46.498, –116.433); Jacks Creek (46.435, –116.462).

(x) *Big Canyon Creek Watershed 1706030610.* Outlet(s) = Big Canyon Creek (Lat 46.4984, Long –116.4326) upstream to endpoint(s) in: Big Canyon Creek (46.2680, –116.5396); Cold Springs Creek (46.2500, –116.5210); Posthole Canyon (46.318, –116.450); Sixmile Canyon (46.372, –116.441); Unnamed (46.3801, –116.3750).

(xi) *Little Canyon Creek Watershed 1706030611.* Outlet(s) = Little Canyon Creek (Lat 46.4681, Long –116.4172) upstream to endpoint(s) in: Little Canyon Creek (46.295, –116.279).

(xii) *Clearwater River/Lower Orofino Creek Watershed 1706030612.* Outlet(s) = Clearwater River (Lat 46.4984, Long –116.4326) upstream to endpoint(s) in: Clearwater River (46.476, –116.254); Orofino Creek (46.485, –116.196); Whiskey Creek (46.5214, –116.1753).

(xiii) *Jim Ford Creek Watershed 1706030614.* Outlet(s) = Jim Ford Creek (Lat 46.4394, Long –116.2115) upstream to endpoint(s) in: Jim Ford Creek (46.3957, –115.9570).

(xiv) *Lower Lolo Creek Watershed 1706030615.* Outlet(s) = Lolo Creek (Lat 46.3718, Long –116.1697) upstream to endpoint(s) in: Big Creek (46.392, –116.118); Lolo Creek (46.284, –115.882), Schmidt Creek (46.3617, –116.0426).

(xv) *Middle Lolo Creek Watershed 1706030616.* Outlet(s) = Lolo Creek (Lat 46.2844, Long –115.8818) upstream to endpoint(s) in: Crocker Creek (46.254, –115.859); Lolo Creek (46.381, –115.708); Mud Creek (46.274, –115.759); Nevada Creek (46.322, –115.735); Pete Charlie Creek (46.289, –115.823); Yakus Creek (46.238, –115.763).

(xvi) *Musselshell Creek Watershed 1706030617.* Outlet(s) = Jim Brown Creek (Lat 46.3098, Long –115.7531) upstream to endpoint(s) in: Gold Creek (46.376, –115.735); Jim Brown Creek (46.357, –115.790); Musselshell Creek (46.394, –115.744).

(xvii) *Upper Lolo Creek Watershed 1706030618.* Outlet(s) = Lolo Creek (Lat 46.3815, Long –115.7078) upstream to endpoint(s) in: Camp Creek (46.416, –115.624); Lolo Creek (46.425, –115.648); Max Creek (46.384, –115.679); Relaskon Creek (46.394, –115.647); Siberia Creek (46.384, –115.707); Yoosa Creek (46.408, –115.589).

(xviii) *Eldorado Creek Watershed 1706030619.* Outlet(s) = Eldorado Creek (Lat 46.2947, Long –115.7500) upstream to endpoint(s) in: Cedar Creek (46.298, –115.711); Dollar Creek (46.301, –115.640); Eldorado Creek (46.300, –115.645); Four Bit Creek (46.294, –115.644).

(xix) *Clearwater River/Fivemile Creek Watershed 1706030620.* Outlet(s) = Clearwater River (Lat 46.4759, Long –116.2543) upstream to endpoint(s) in: Clearwater River (46.350, –116.154); Fivemile Creek (46.3473, –116.1859).

(xx) *Clearwater River/Sixmile Creek Watershed 1706030621.* Outlet(s) = Clearwater River (Lat 46.3500, Long –116.1541) upstream to endpoint(s) in: Clearwater River (46.257, –116.067); Sixmile Creek (46.269, –116.213).

(xxi) *Clearwater River/Tom Taha Creek Watershed 1706030622.* Outlet(s) = Clearwater River (Lat 46.2565, Long –116.067) upstream to endpoint(s) in: Clearwater River (46.146, –115.980); Tom Taha Creek (46.244, –115.993).

(xxii) *Lower Lawyer Creek Watershed 1706030623.* Outlet(s) = Lawyer Creek (Lat 46.2257, Long –116.0116) upstream to endpoint(s) in: Lawyer Creek (46.155, –116.190), Sevenmile Creek (46.1498, –116.0838).

(xxiii) *Middle Lawyer Creek Watershed 1706030624.* Outlet(s) = Lawyer Creek (Lat 46.1546, Long –116.1899) upstream to endpoint(s) in: Lawyer Creek (46.188, –116.380).

(xxiv) *Cottonwood Creek Watershed 1706030627.* Outlet(s) = Cottonwood Creek (Lat 46.5023, Long –116.7127) upstream to endpoint(s) in: Cottonwood Creek (46.387, –116.622), Coyote Creek (46.4622, –116.6377), Magpie Creek (46.4814, –116.6643).

(xxv) *Upper Lapwai Creek Watershed 1706030628.* Outlet(s) = Lapwai Creek (Lat 46.3674, Long –116.7352) upstream to endpoint(s) in: Lapwai Creek (46.2961, –116.5955); Unnamed (46.3346, –116.5794).

(xxvi) *Mission Creek Watershed 1706030629.* Outlet(s) = Mission Creek (Lat 46.3674, Long –116.73525) upstream to endpoint(s) in: Mission Creek (46.2724, –116.6949); Rock Creek (46.3048, –116.6250).

(xxvii) *Upper Sweetwater Creek Watershed 1706030630.* Outlet(s) = Webb Creek (Lat 46.3310, Long –116.8369) upstream to endpoint(s) in: Sweetwater Creek (46.2751, –116.8513); Webb Creek (46.2338, –116.7500).

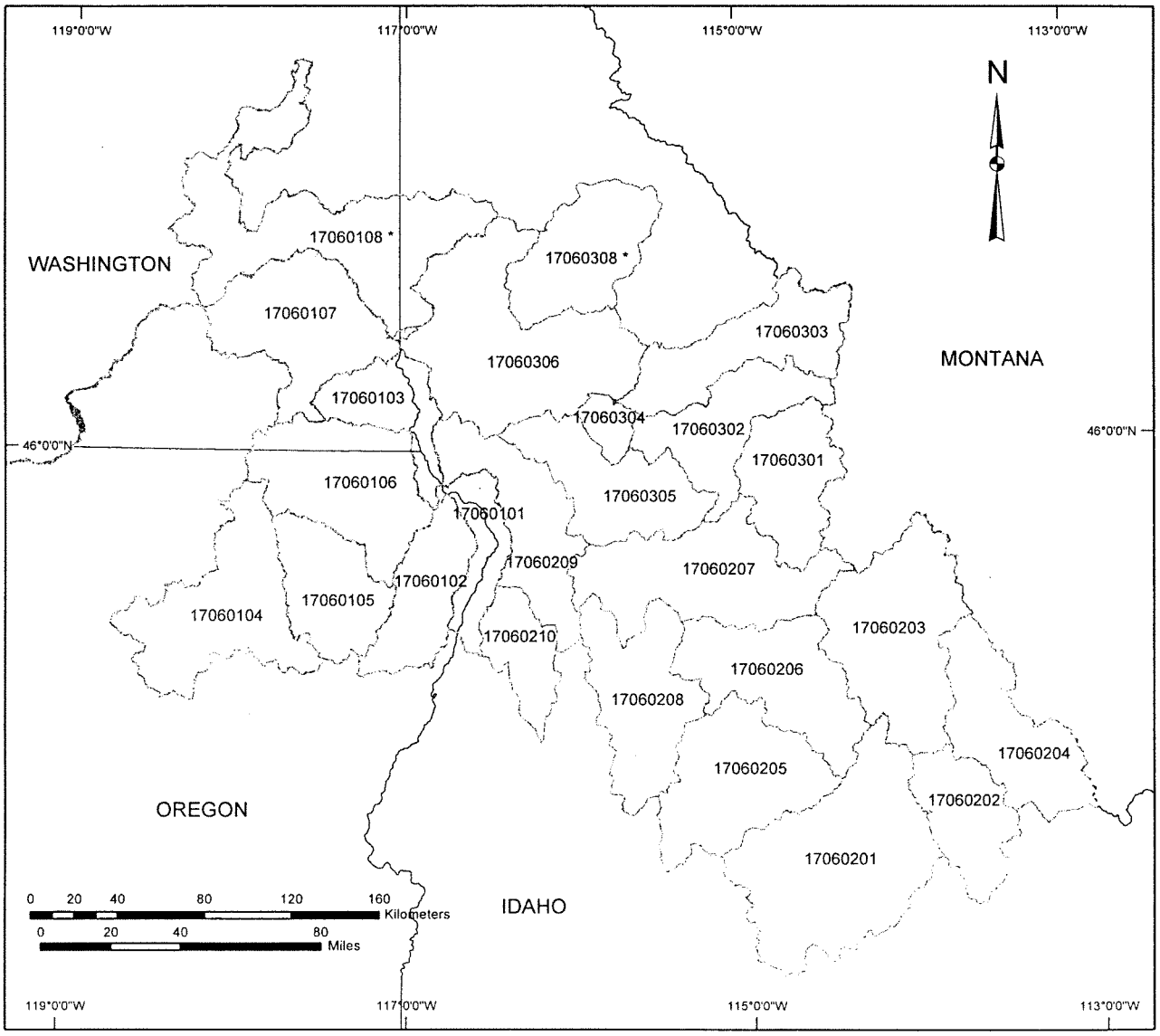
(xxviii) *Lower Sweetwater Creek Watershed 1706030631.* Outlet(s) = Lapwai Creek (Lat 46.4512, Long –116.8182) upstream to endpoint(s) in: Lapwai Creek (46.364, –116.750); Sweetwater Creek (46.331, –116.837); Tom Beall Creek (46.4240, –116.7822).

(24) Lower Snake/Columbia River Corridor—*Lower Snake/Columbia River Corridor.* Outlet(s) = Columbia River mouth (Lat 46.2485, Long –124.0782) upstream to endpoint at the confluence of the Palouse River (46.589, –117.215).

(25) Maps of critical habitat for the Snake River Basin Steelhead ESU follow:

BILLING CODE 3510–22–P

Map of the Snake River Basin Steelhead ESU



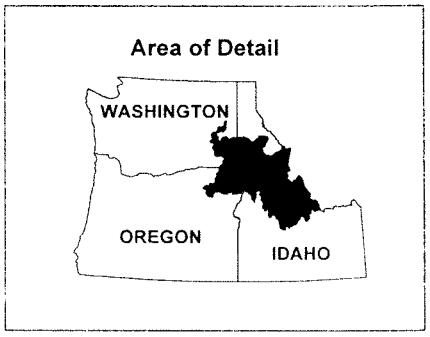
Legend

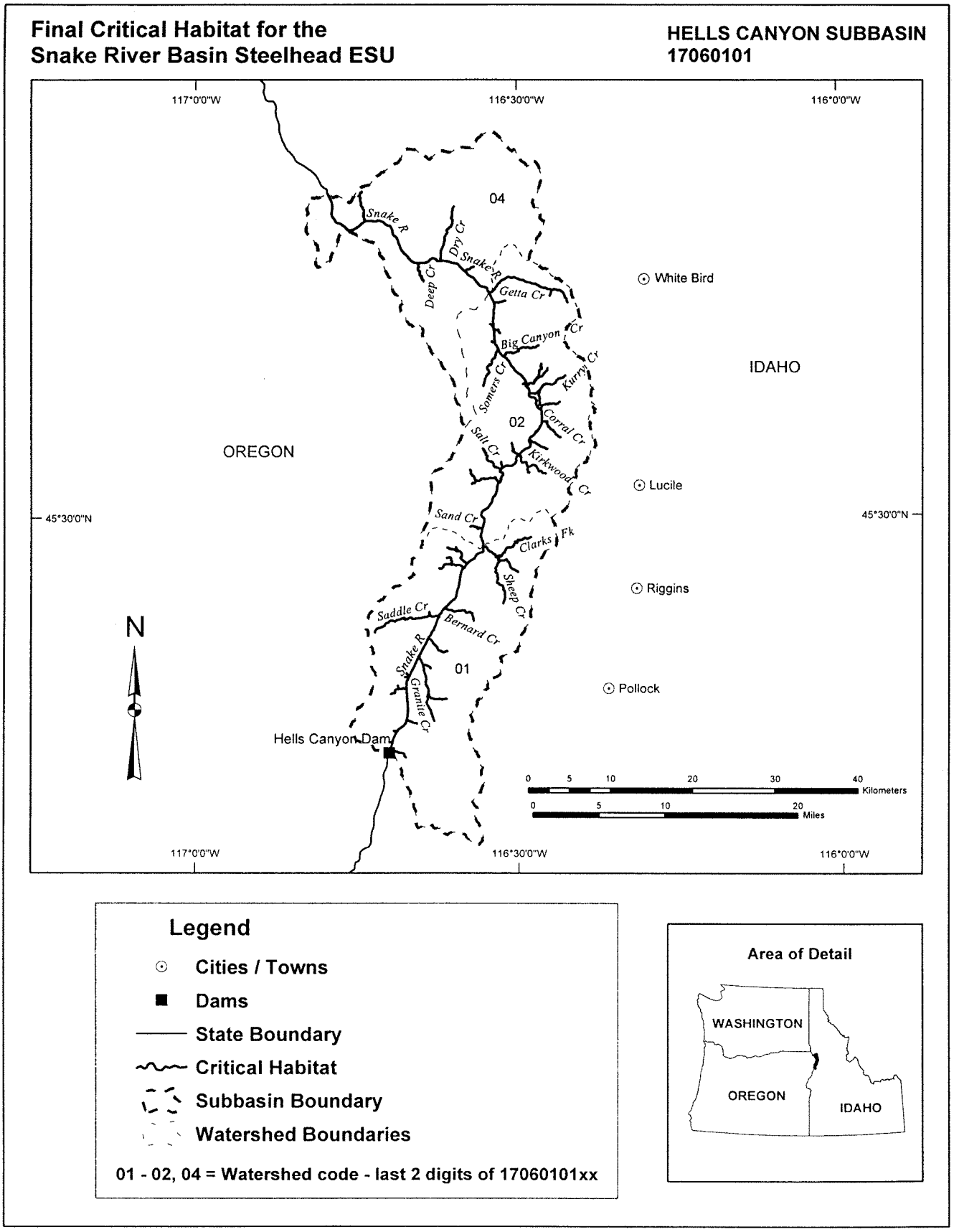
State Boundaries

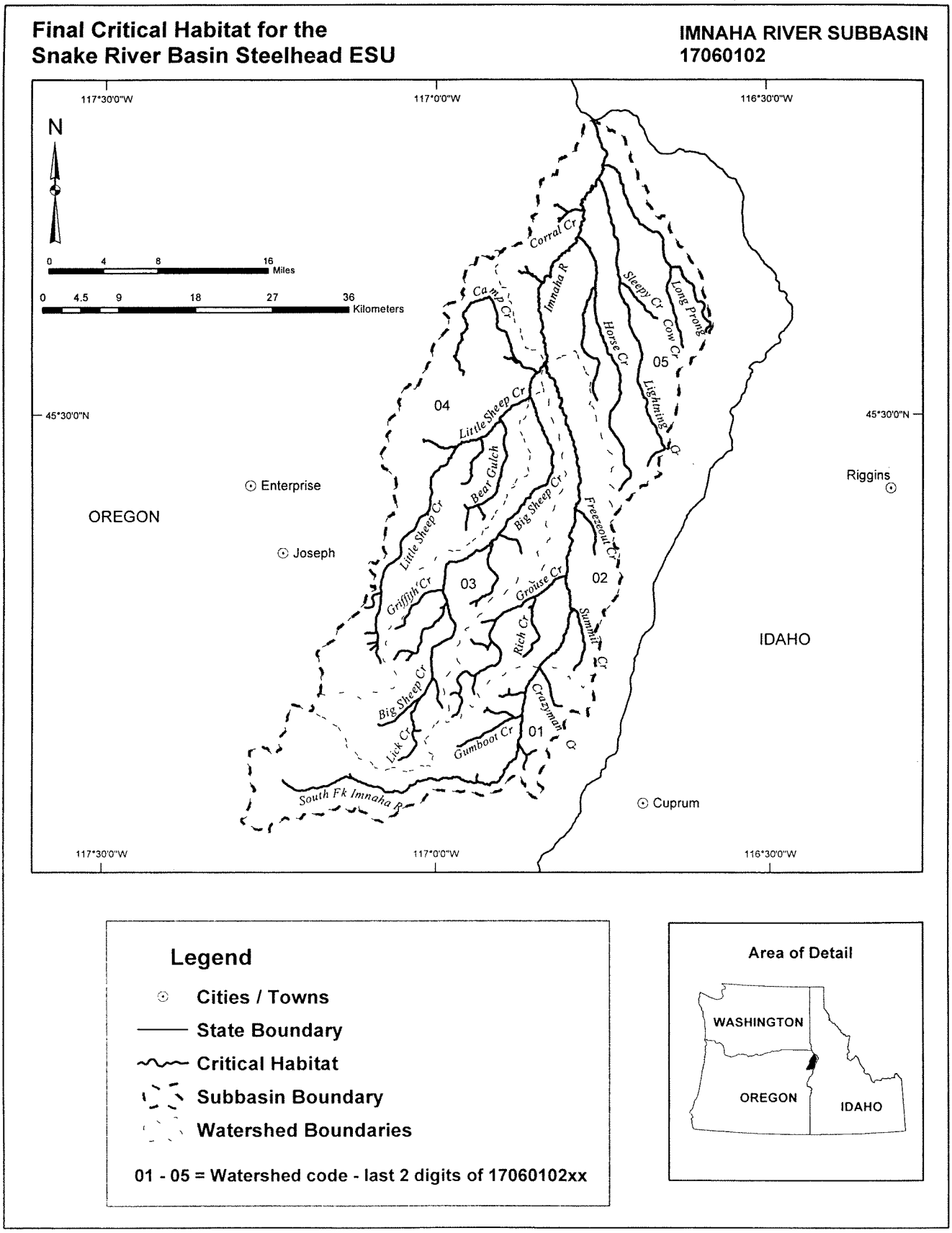
Water Bodies

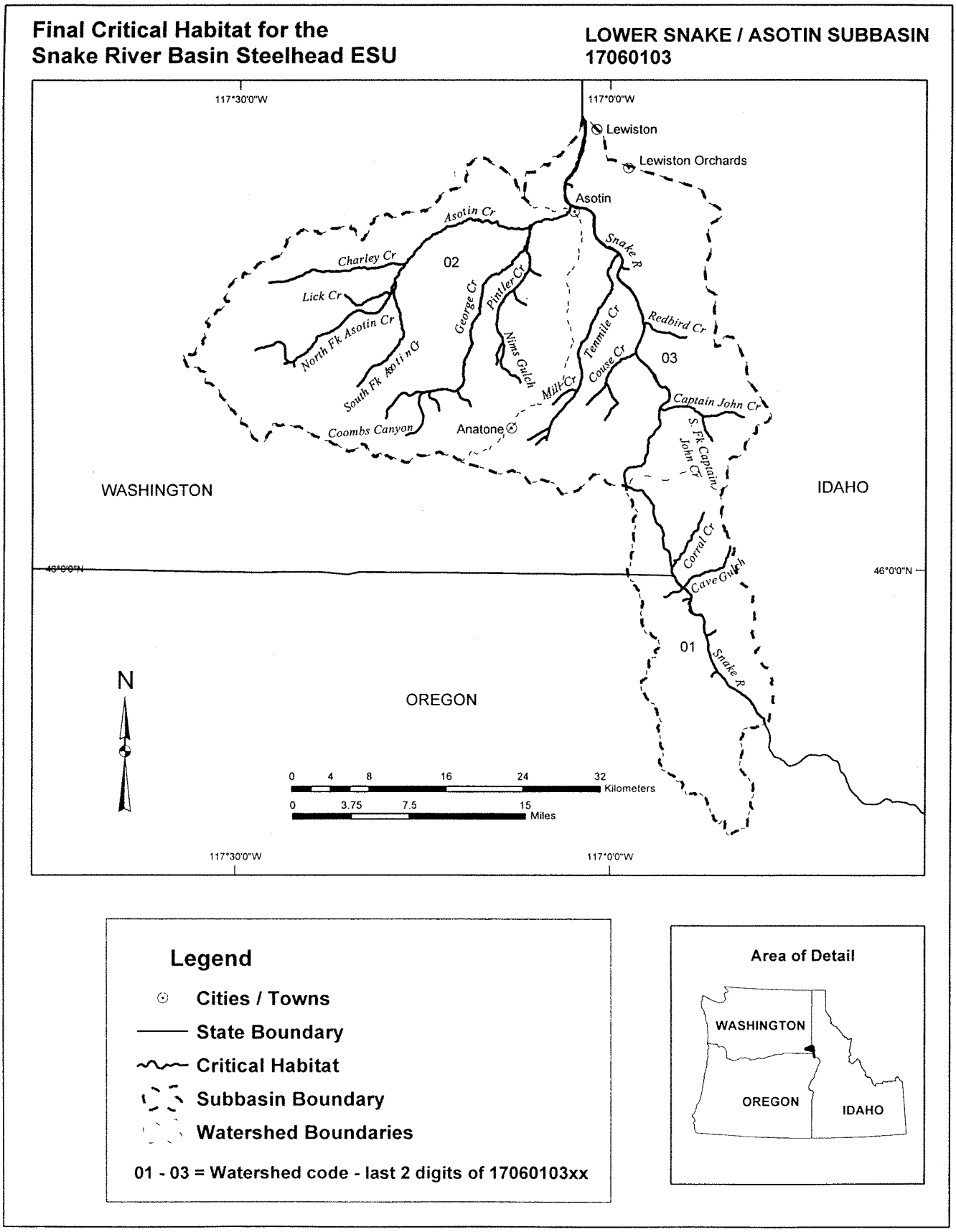
Subbasin Boundaries

* All habitat areas in subbasin are excluded from designation



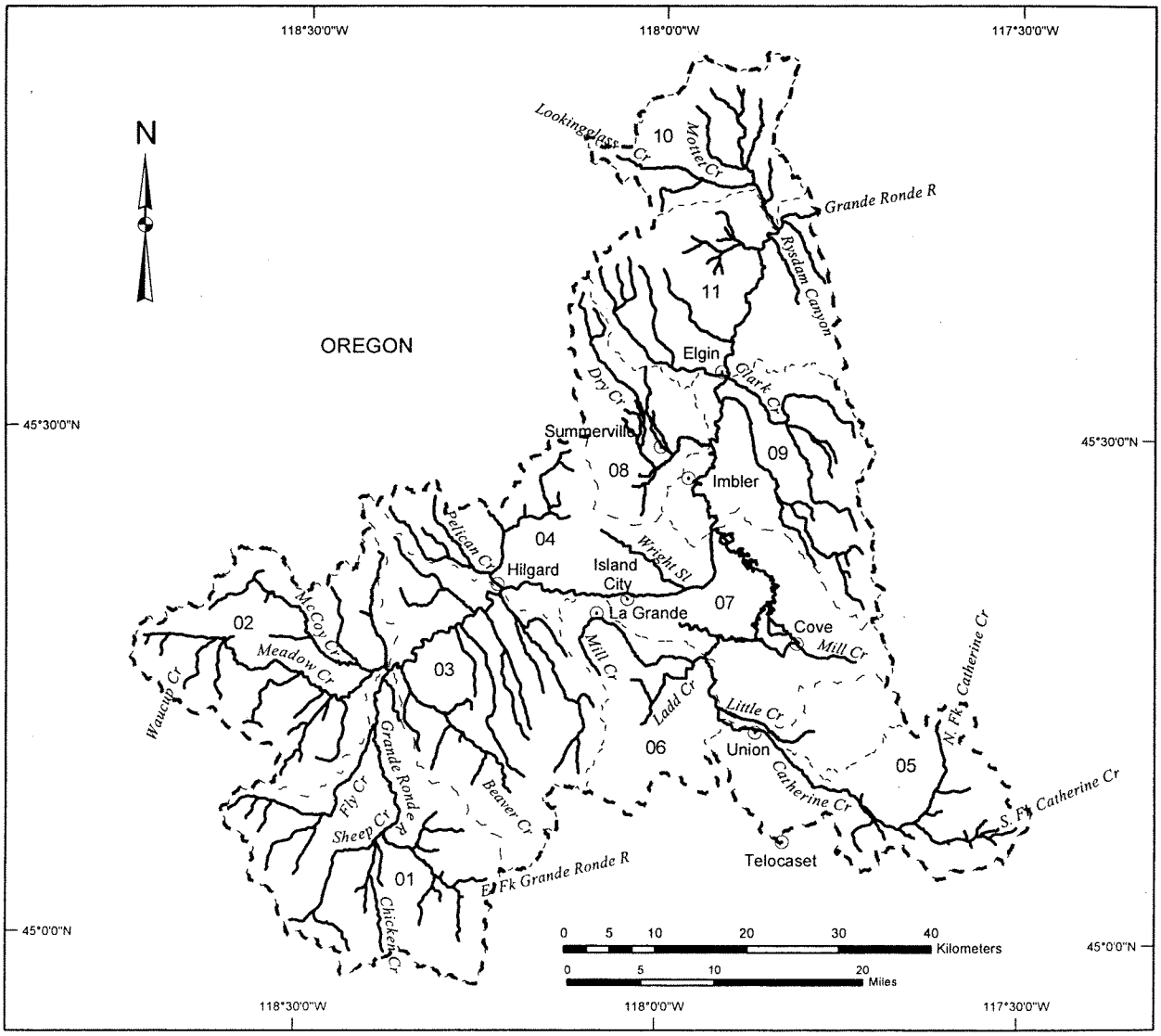

Final Critical Habitat for the
Snake River Basin Steelhead ESU
HELLS CANYON SUBBASIN
17060101
117°0'0"W
116°30'0"W
116°0'0"W
45°30'0"N
04
02
01
Snake R
Dry Cr
Deep Cr
Getta Cr
Big Canyon Cr
Kurry Cr
Somers Cr
Corral Cr
Salt Cr
Kirkwood Cr
Sand Cr
Clarks Fk
Sheep Cr
Saddle Cr
Bernard Cr
Granite Cr
White Bird
IDAHO
OREGON
Lucile
Riggins
Pollock
Hells Canyon Dam
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Dams
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02, 04 = Watershed code - last 2 digits of 17060101xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
IMNAHA RIVER SUBBASIN
17060102
117°30'0"W
117°0'0"W
116°30'0"W
45°30'0"N
N
0 4 8 16 Miles
0 4.5 9 18 27 36 Kilometers
Corral Cr
Camp Cr
Imnaha R
Sleepy Cr
Long Prong
Cow Cr
Horse Cr
Lightning Cr
Little Sheep Cr
Beat Gulch
Big Sheep Cr
Freezeout Cr
Griffith Cr
Grouse Cr
Rich Cr
Summit Cr
Crazyman Cr
Lick Cr
Gumboot Cr
South Fk Imnaha R
01
02
03
04
05
Enterprise
Joseph
Riggins
Cuprum
OREGON
IDAHO
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17060102xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER SNAKE / ASOTIN SUBBASIN
17060103
117°30'0"W
117°0'0"W
Lewiston
Lewiston Orchards
Asotin
Asotin Cr
Snake R
Charley Cr
02
Lick Cr
George Cr
Pintler Cr
North Fk Asotin Cr
South Fk Asotin Cr
Nims Gulch
Tenmile Cr
Redbird Cr
03
Mill Cr
Couse Cr
Captain John Cr
Coombs Canyon
Anatone
S. Fk Captain John Cr
WASHINGTON
IDAHO
Corral Cr
46°0'0"N
Cave Gulch
01
Snake R
N
OREGON
0 4 8 16 24 32 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17060103xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Snake River Basin Steelhead ESU

UPPER GRANDE RONDE RIVER SUBBASIN 17060104

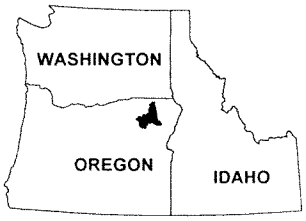


Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

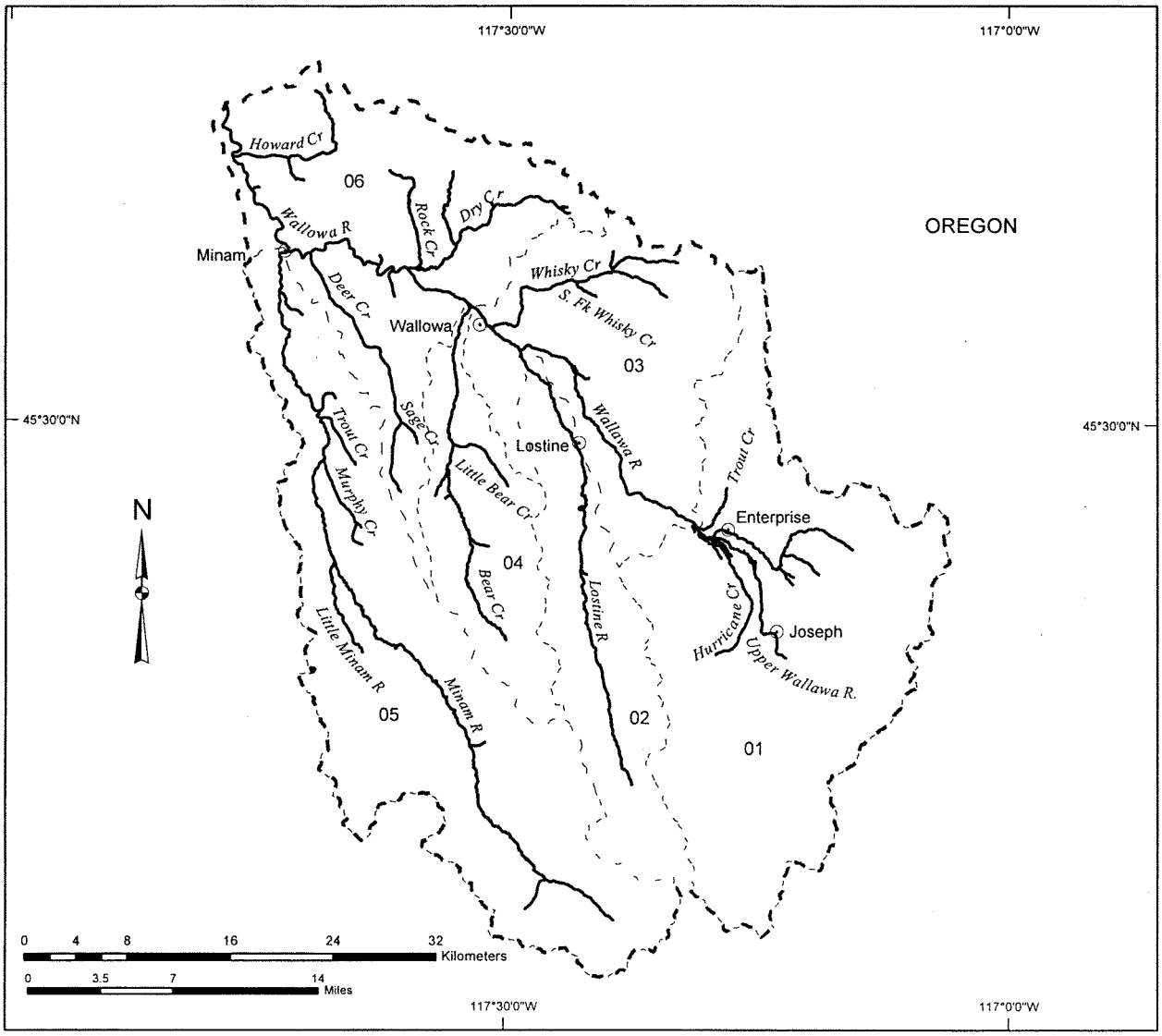
04, 08 - 11 = Watershed code - last 2 digits of 17060104xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

WALLOWA RIVER SUBBASIN 17060105

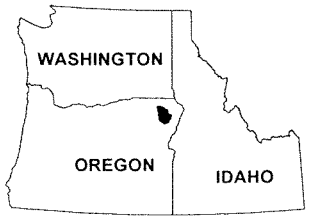


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundaries
- Watershed Boundaries

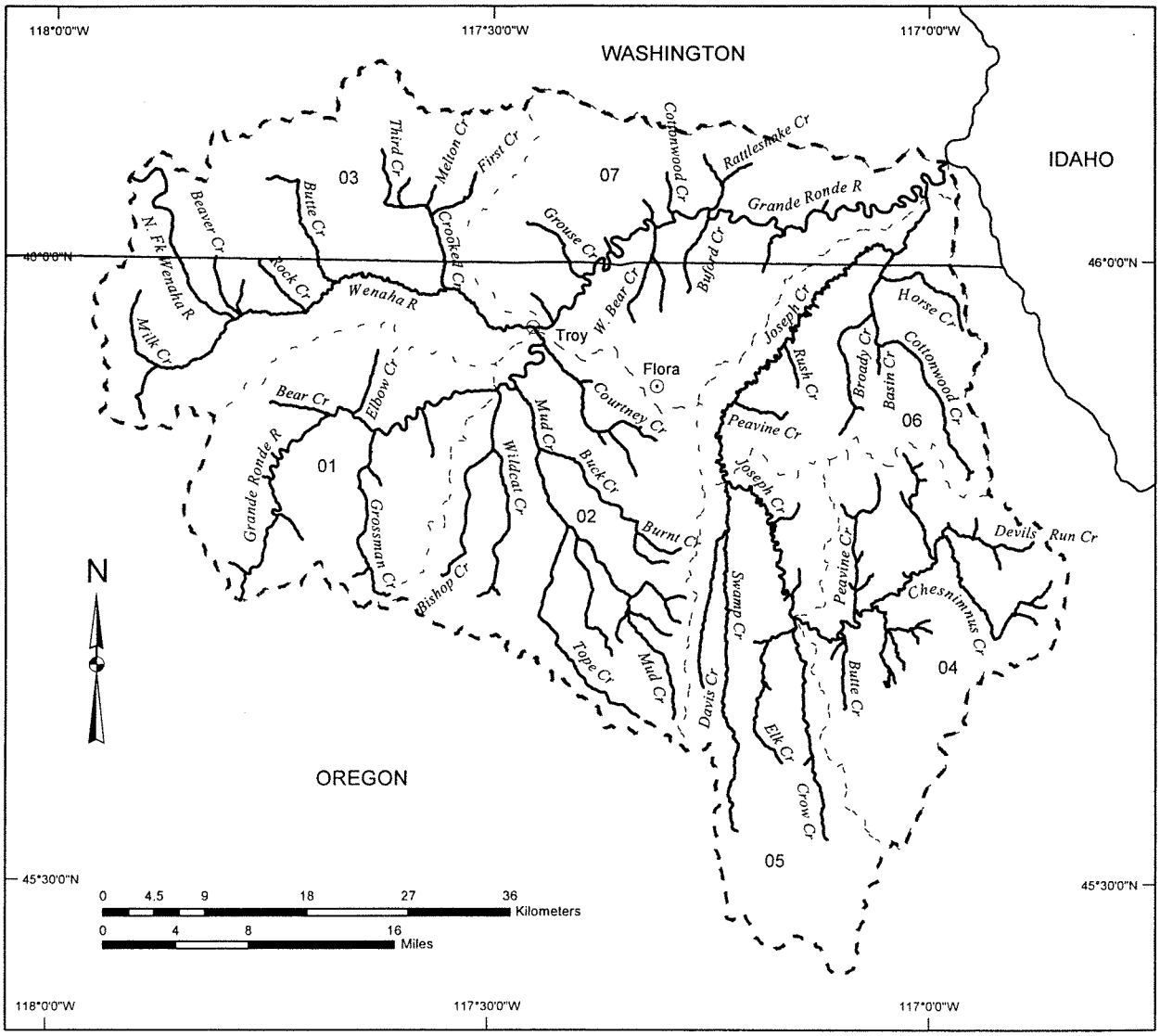
01 - 06 = Watershed code - last 2 digits of 17060105xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

LOWER GRANDE RONDE SUBBASIN 17060106

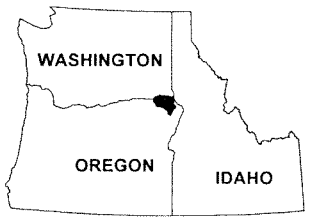


Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

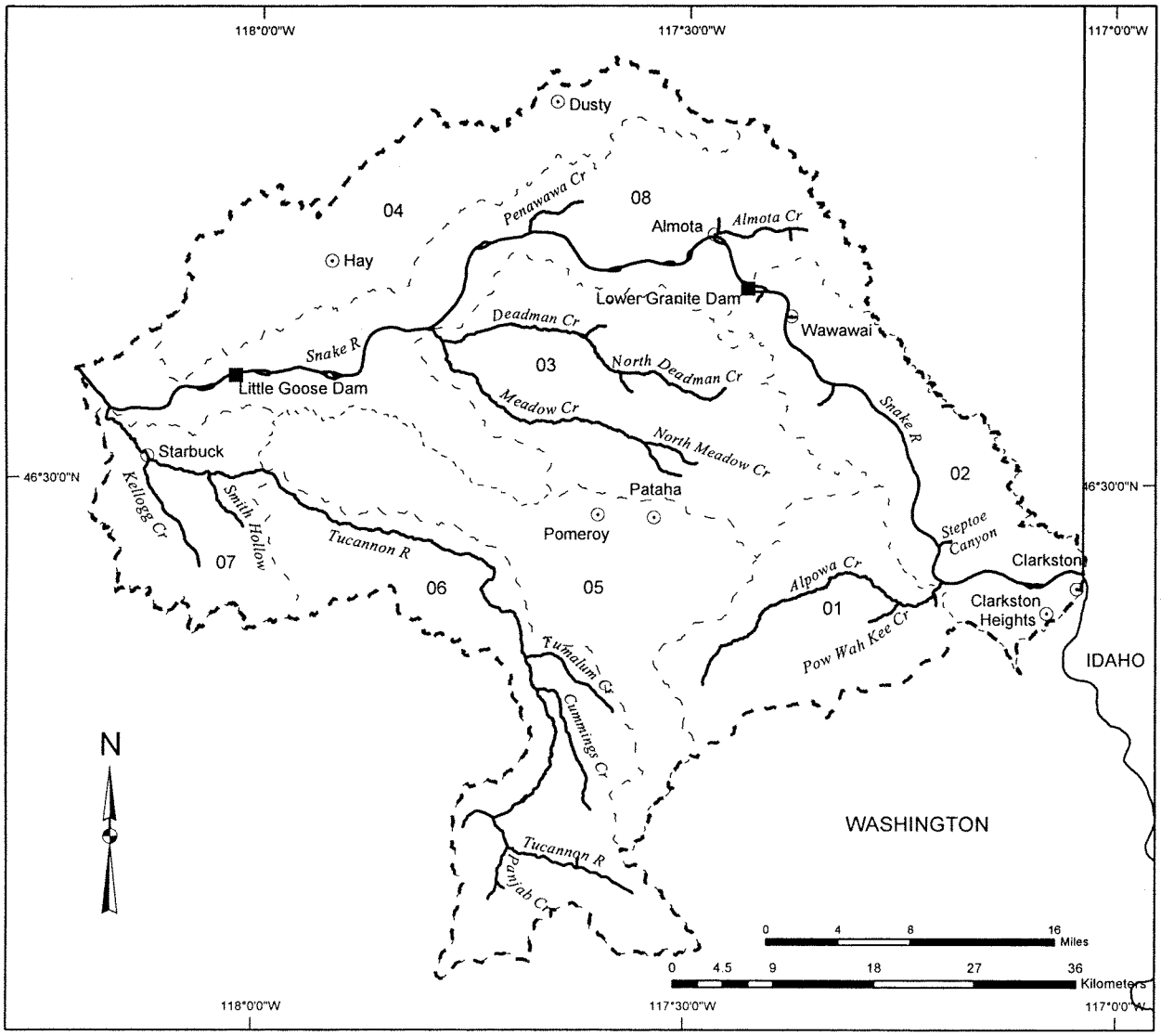
01 - 07 = Watershed code - last 2 digits of 17060106xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

LOWER SNAKE / TUCANNON SUBBASIN 17060107



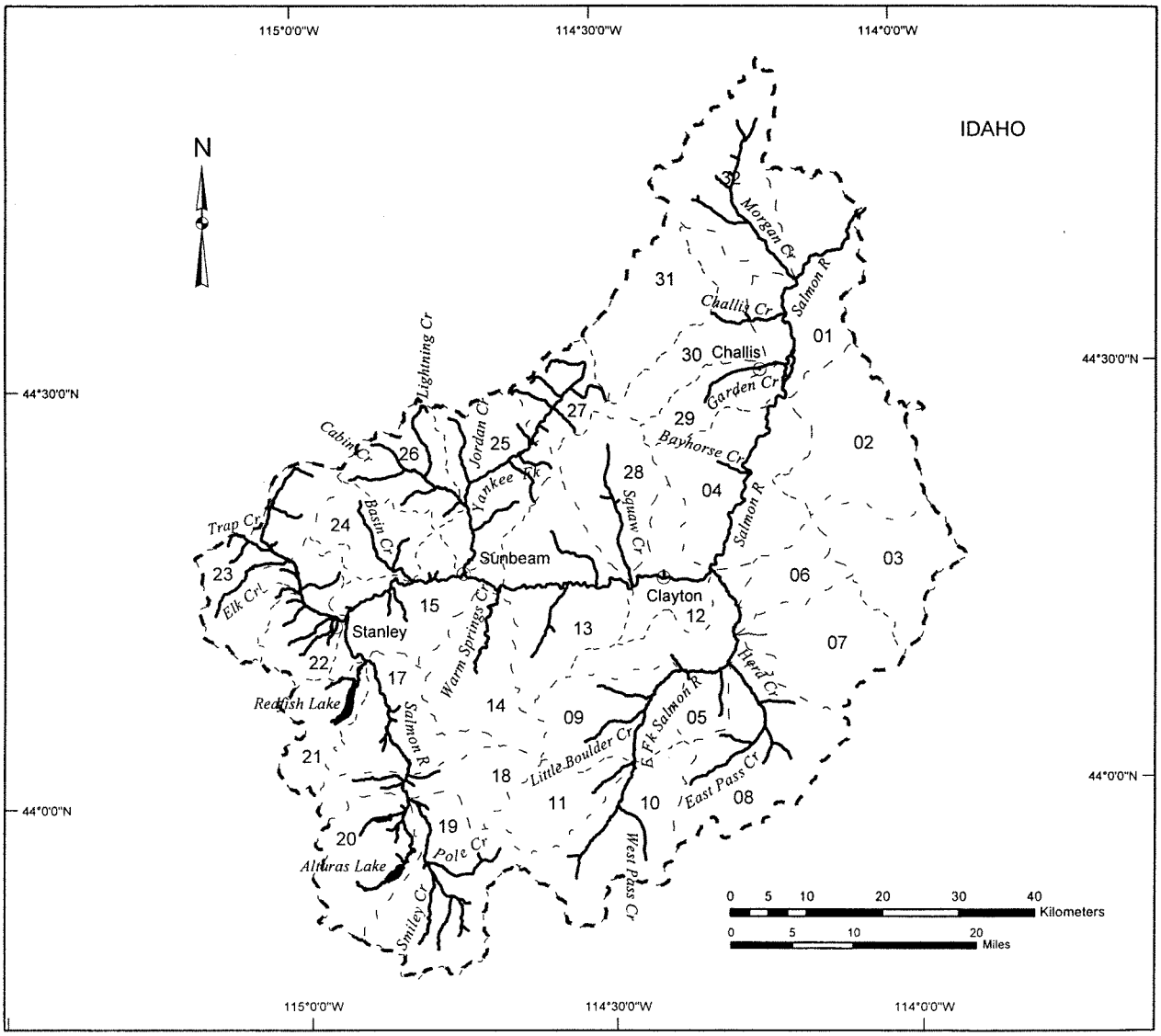
Legend

- Cities / Towns
- Dams
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 08 = Watershed code - last 2 digits of 17060107xx

Final Critical Habitat for the Snake River Basin Steelhead ESU

UPPER SALMON SUBBASIN 17060201

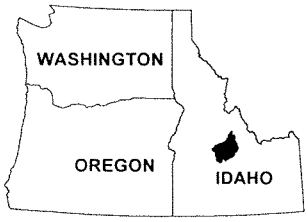


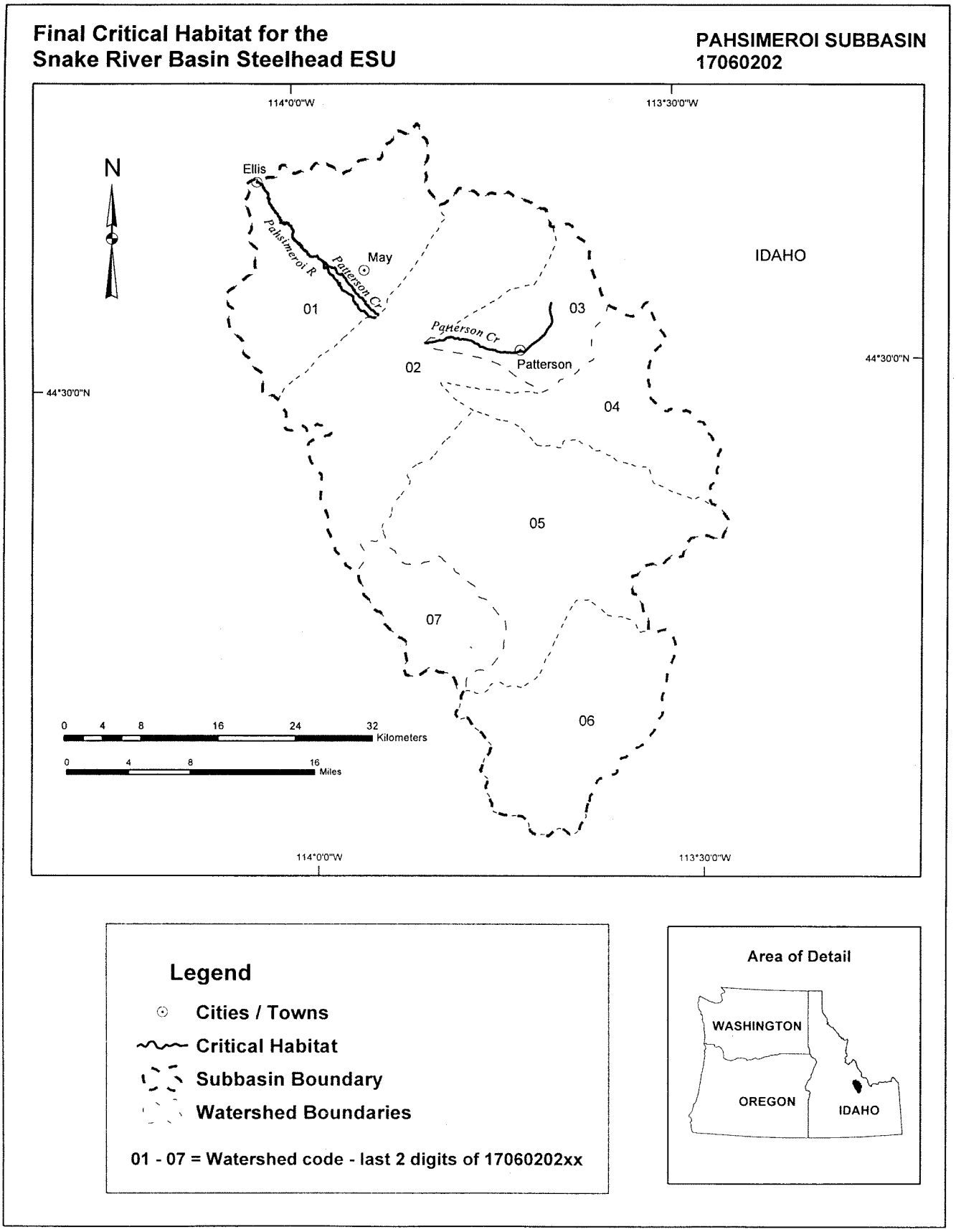
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 32 = Watershed code - last 2 digits of 17060201xx

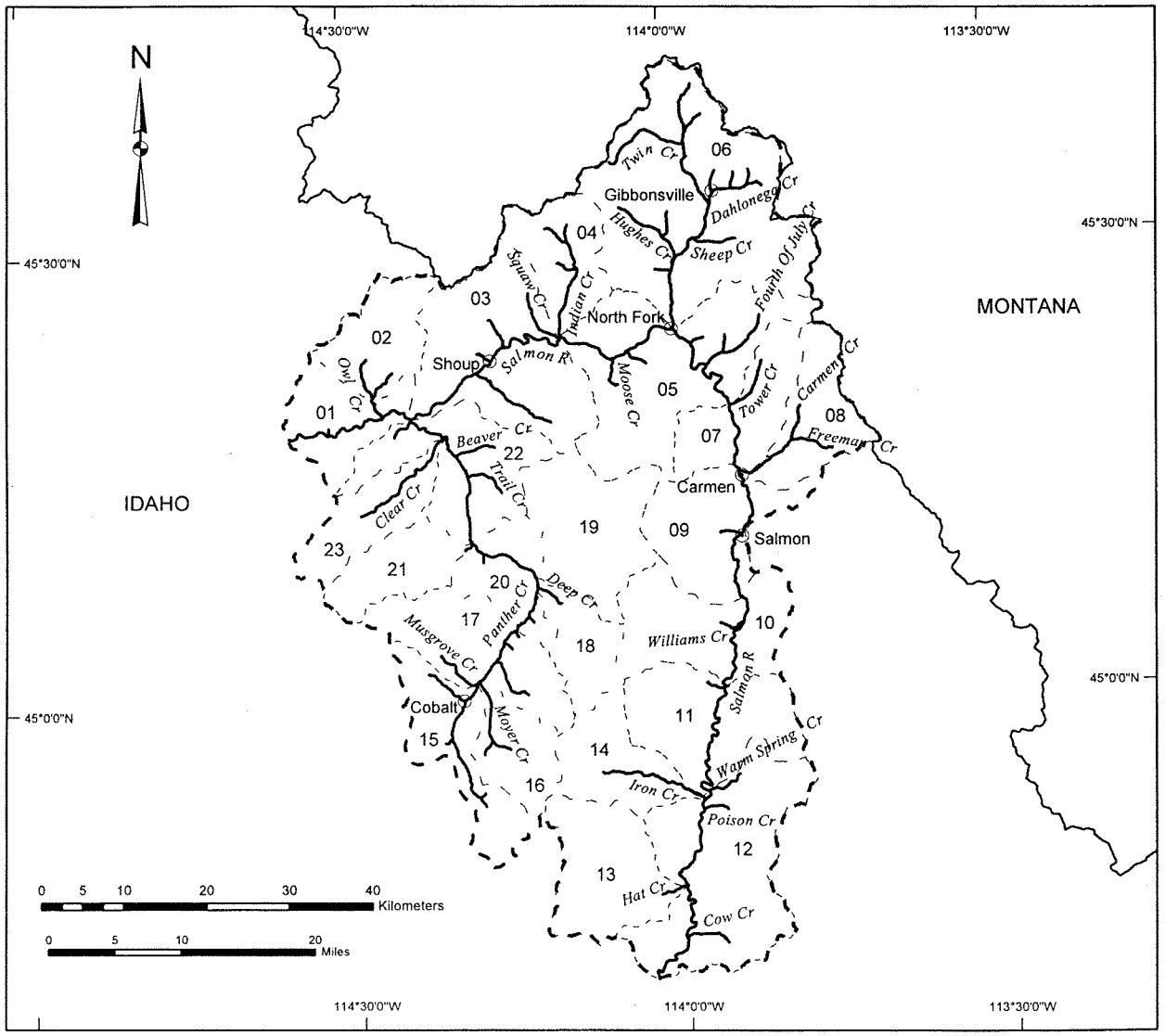
Area of Detail




Final Critical Habitat for the
Snake River Basin Steelhead ESU
PAHSIMEROI SUBBASIN
17060202
114°0'0"W
113°30'0"W
44°30'0"N
N
Ellis
May
Patterson
Pahsimeroi R
Patterson Cr
Patterson Cr
IDAHO
01
02
03
04
05
06
07
0 4 8 16 24 32 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17060202xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Snake River Basin Steelhead ESU

MIDDLE SALMON-PANTHER SUBBASIN 17060203

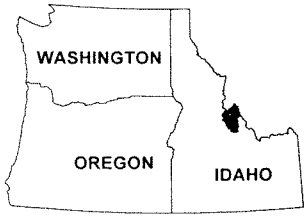


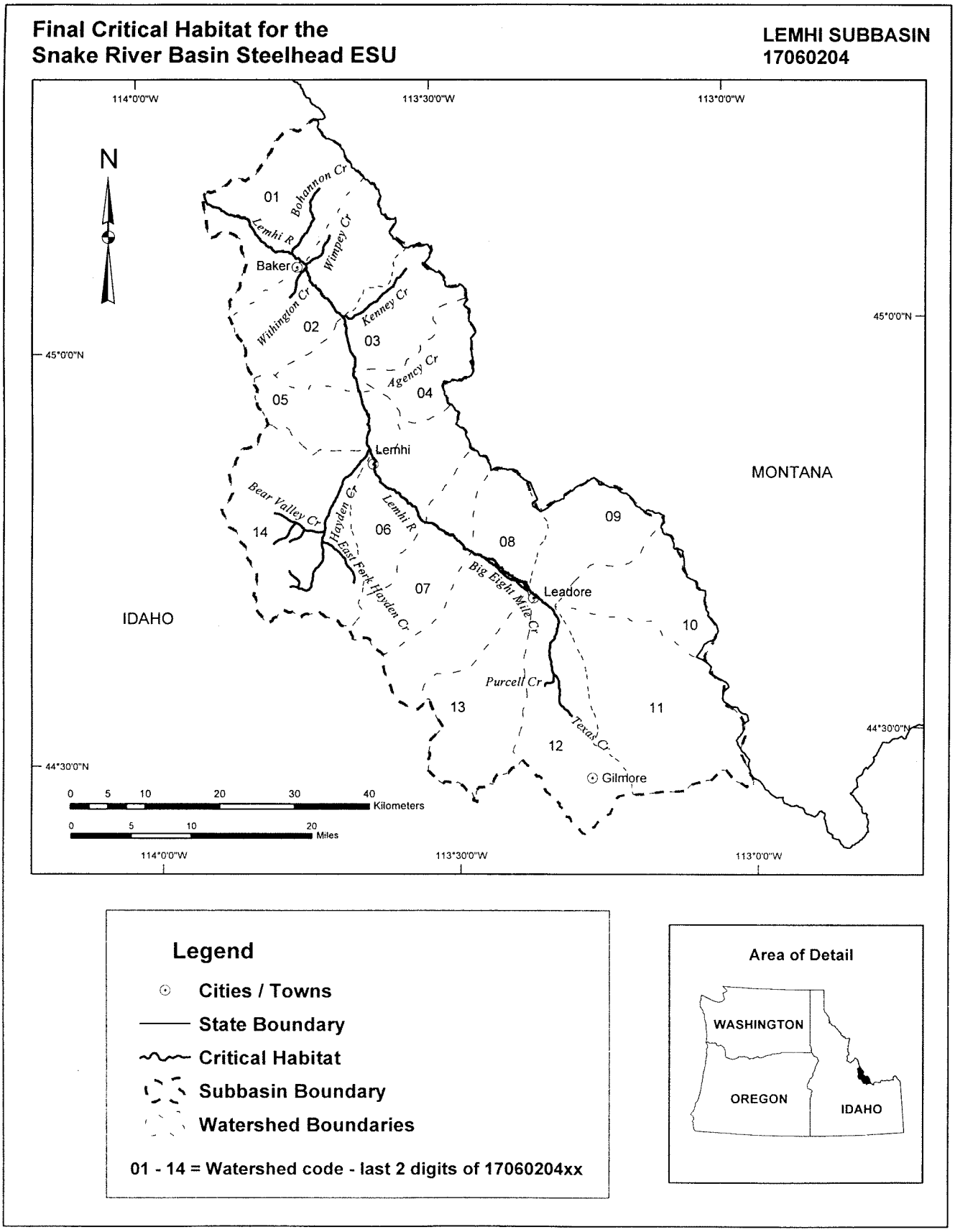
Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 23 = Watershed code - last 2 digits of 17060203xx

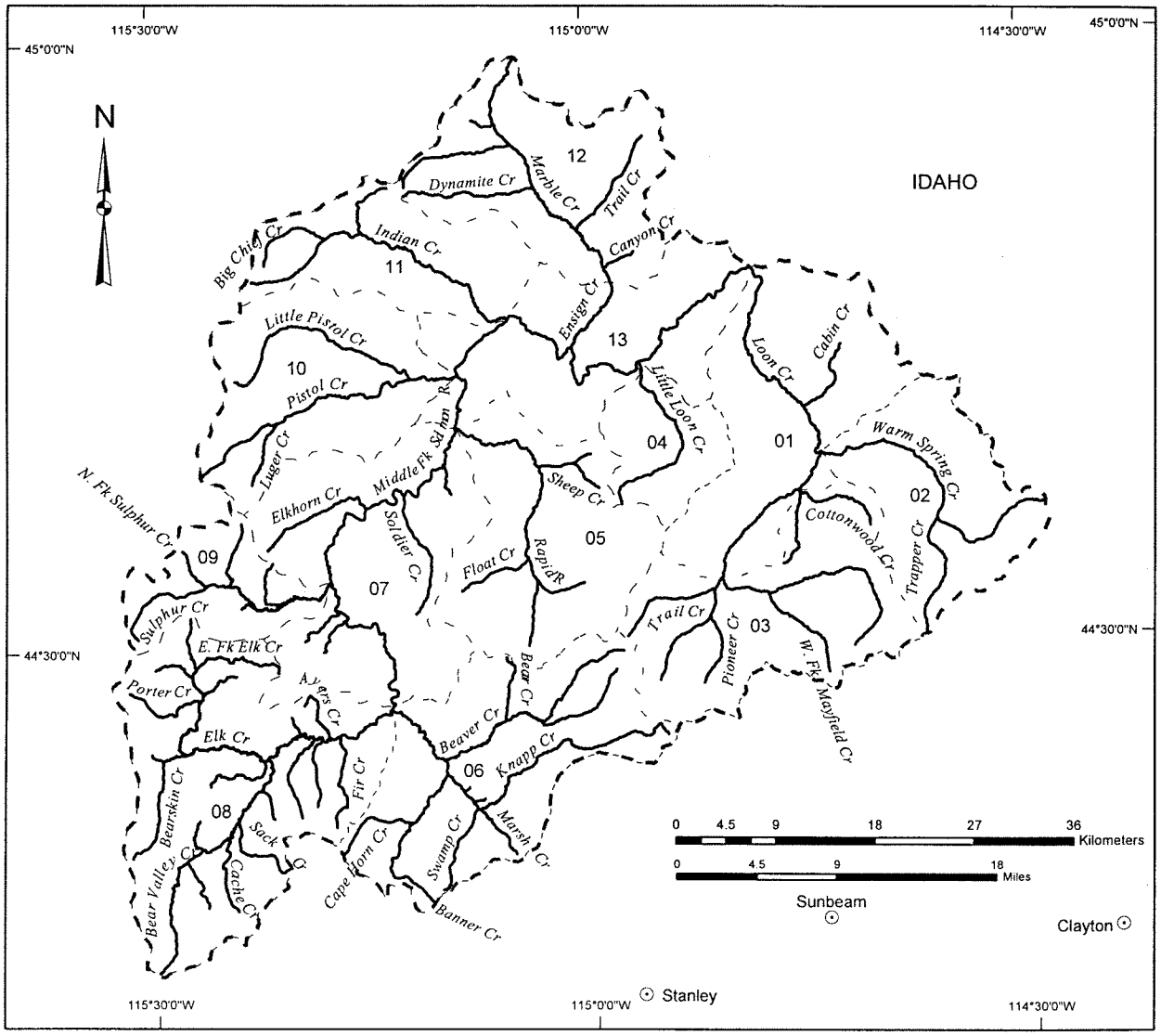
Area of Detail




Final Critical Habitat for the
Snake River Basin Steelhead ESU
LEMHI SUBBASIN
17060204
114°0'0"W
113°30'0"W
113°0'0"W
45°0'0"N
44°30'0"N
N
01
Bohannon Cr
Lemhi R
Wimpey Cr
Baker
Withington Cr
02
Kenney Cr
03
Agency Cr
04
05
Lemhi
MONTANA
Bear Valley Cr
Hayden Cr
Lemhi R
14
06
08
09
East Fork Hayden Cr
07
Big Eight Mile Cr
Leadore
IDAHO
10
Purcell Cr
13
11
Texas Cr
12
Gilmore
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17060204xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Snake River Basin Steelhead ESU

UPPER MIDDLE FORK SALMON SUBBASIN 17060205

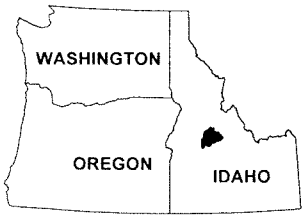


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

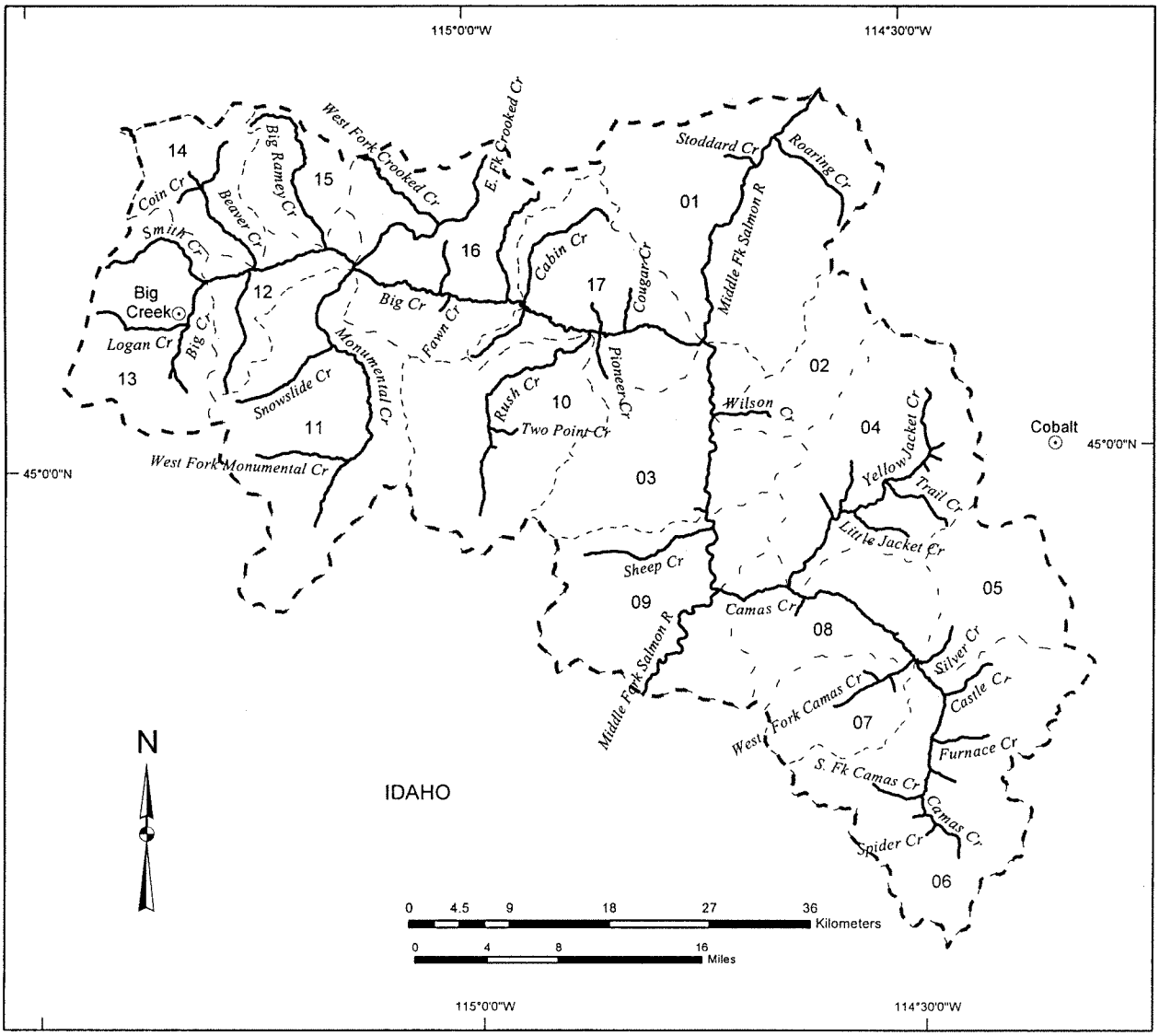
01 - 13 = Watershed code - last 2 digits of 17060205xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

LOWER MIDDLE FORK SALMON SUBBASIN 17060206

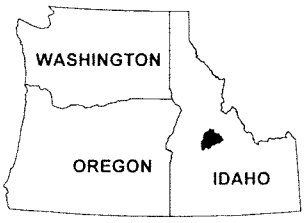


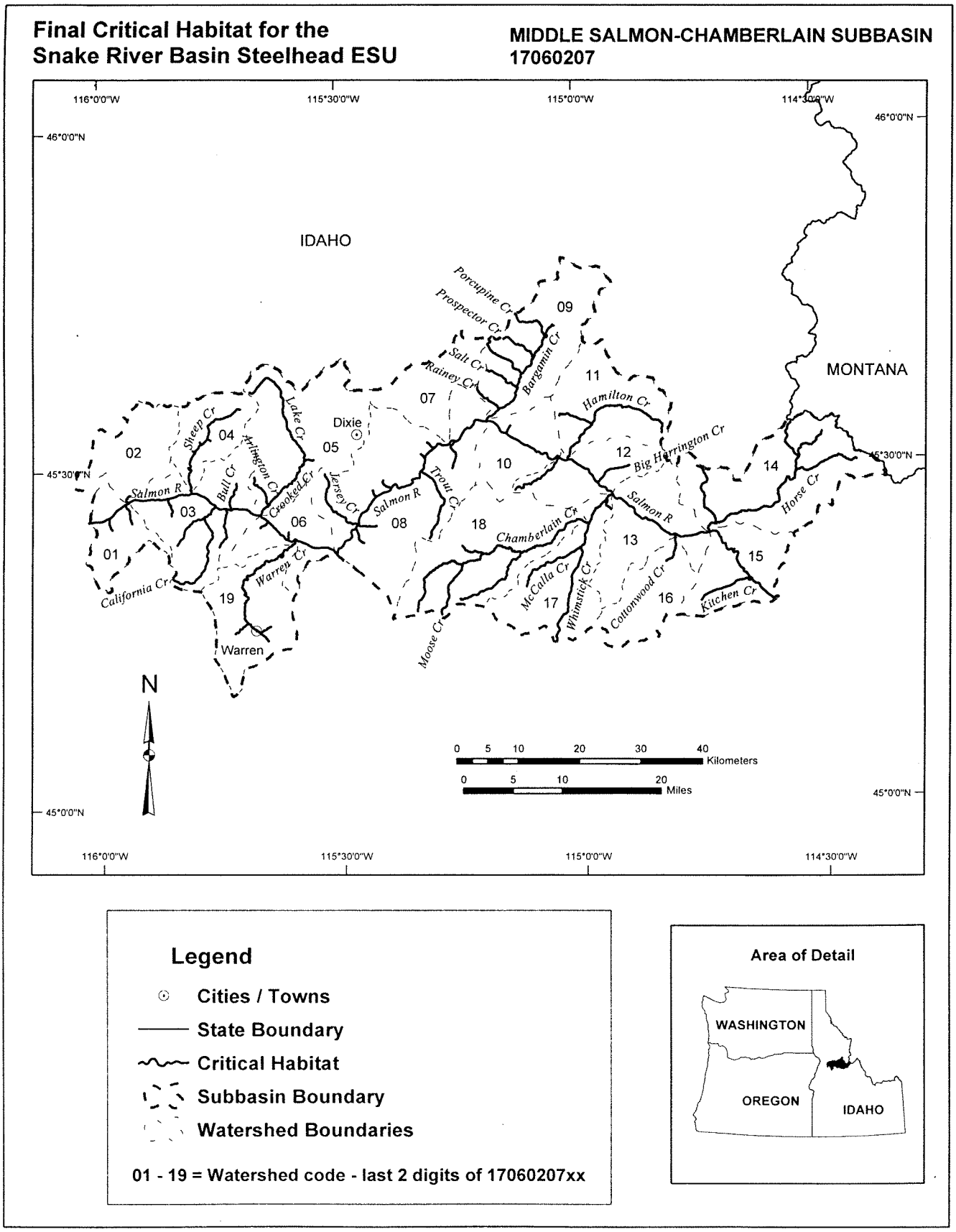
Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 17 = Watershed code - last 2 digits of 17060206xx

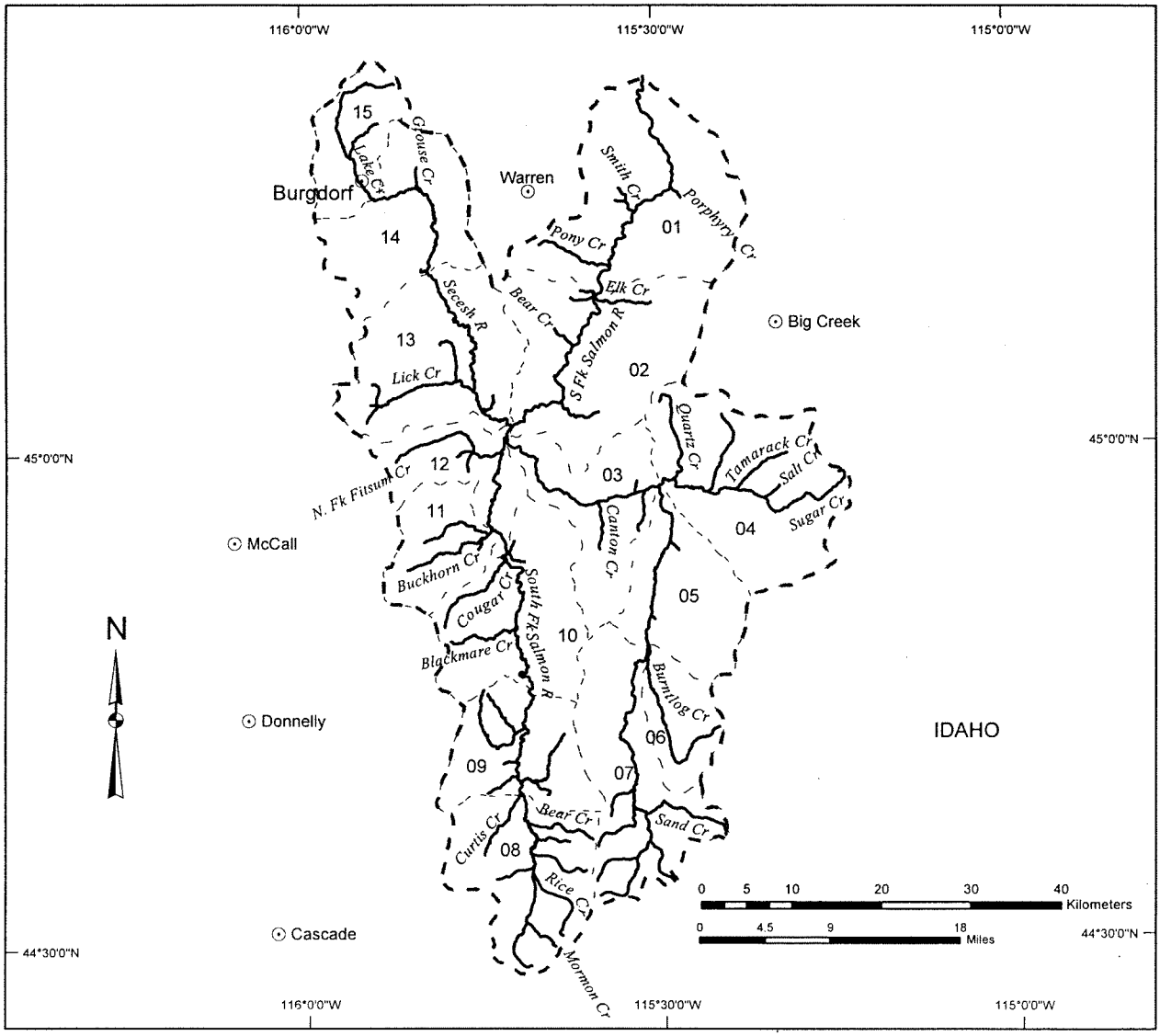
Area of Detail




Final Critical Habitat for the
Snake River Basin Steelhead ESU
MIDDLE SALMON-CHAMBERLAIN SUBBASIN
17060207
116°0'0"W
115°30'0"W
115°0'0"W
114°30'0"W
46°0'0"N
45°30'0"N
45°0'0"N
IDAHO
MONTANA
Porcupine Cr
Prospector Cr
Salt Cr
Rainey Cr
Bargamin Cr
Hamilton Cr
Big Herrington Cr
Sheep Cr
Lake Cr
Dixie
Arrington Cr
Bull Cr
Crooked Cr
Jersey Cr
Salmon R
Trout Cr
Chamberlain Cr
Horse Cr
California Cr
Warren Cr
Warren
Moose Cr
McCalla Cr
Whimstick Cr
Cottonwood Cr
Kitchen Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
18
19
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 19 = Watershed code - last 2 digits of 17060207xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Snake River Basin Steelhead ESU

SOUTH FORK SALMON SUBBASIN 17060208

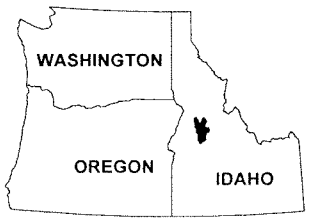


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

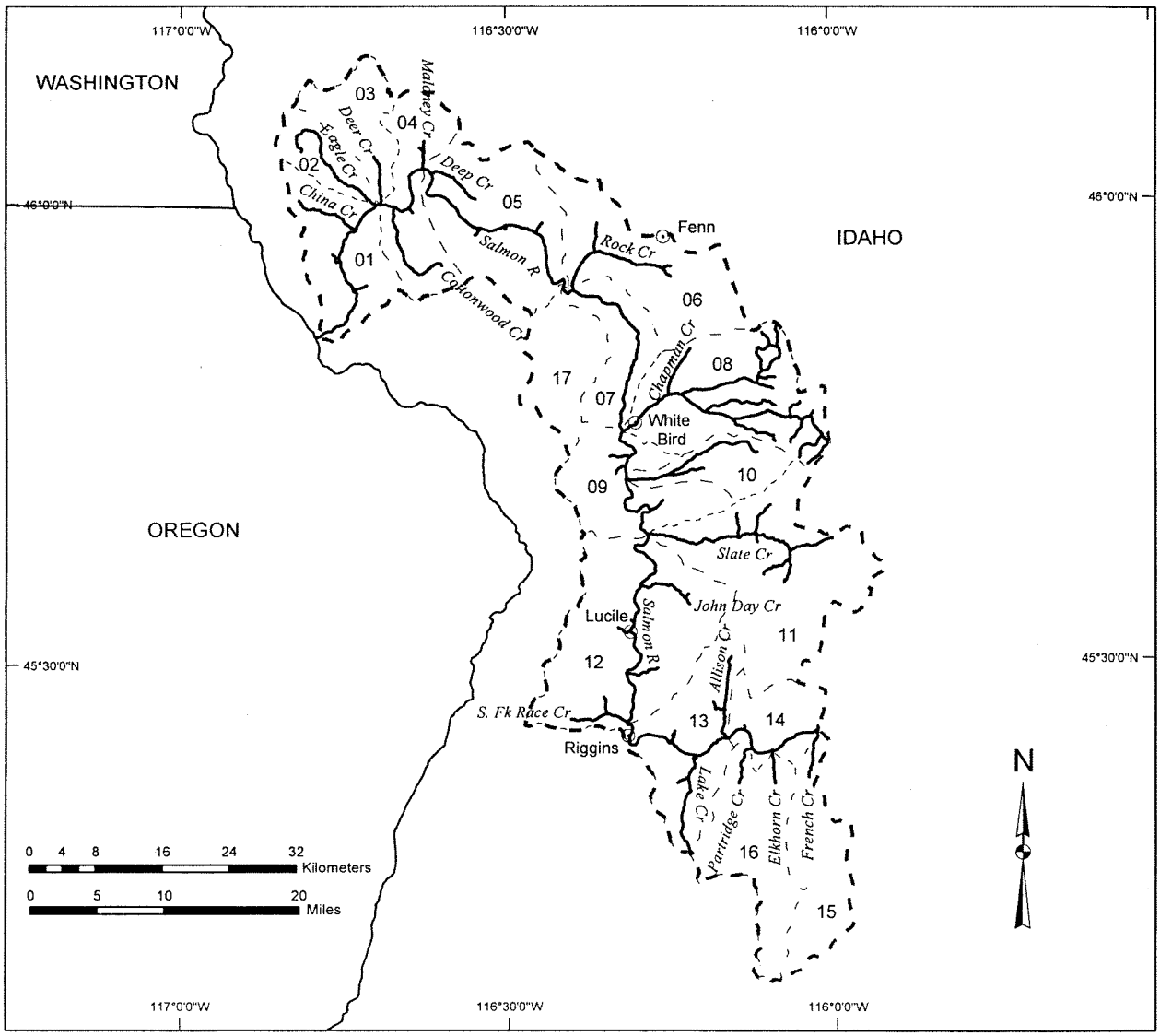
01 - 15 = Watershed code - last 2 digits of 17060208xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

LOWER SALMON SUBBASIN 17060209

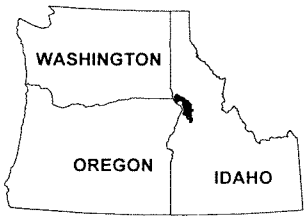


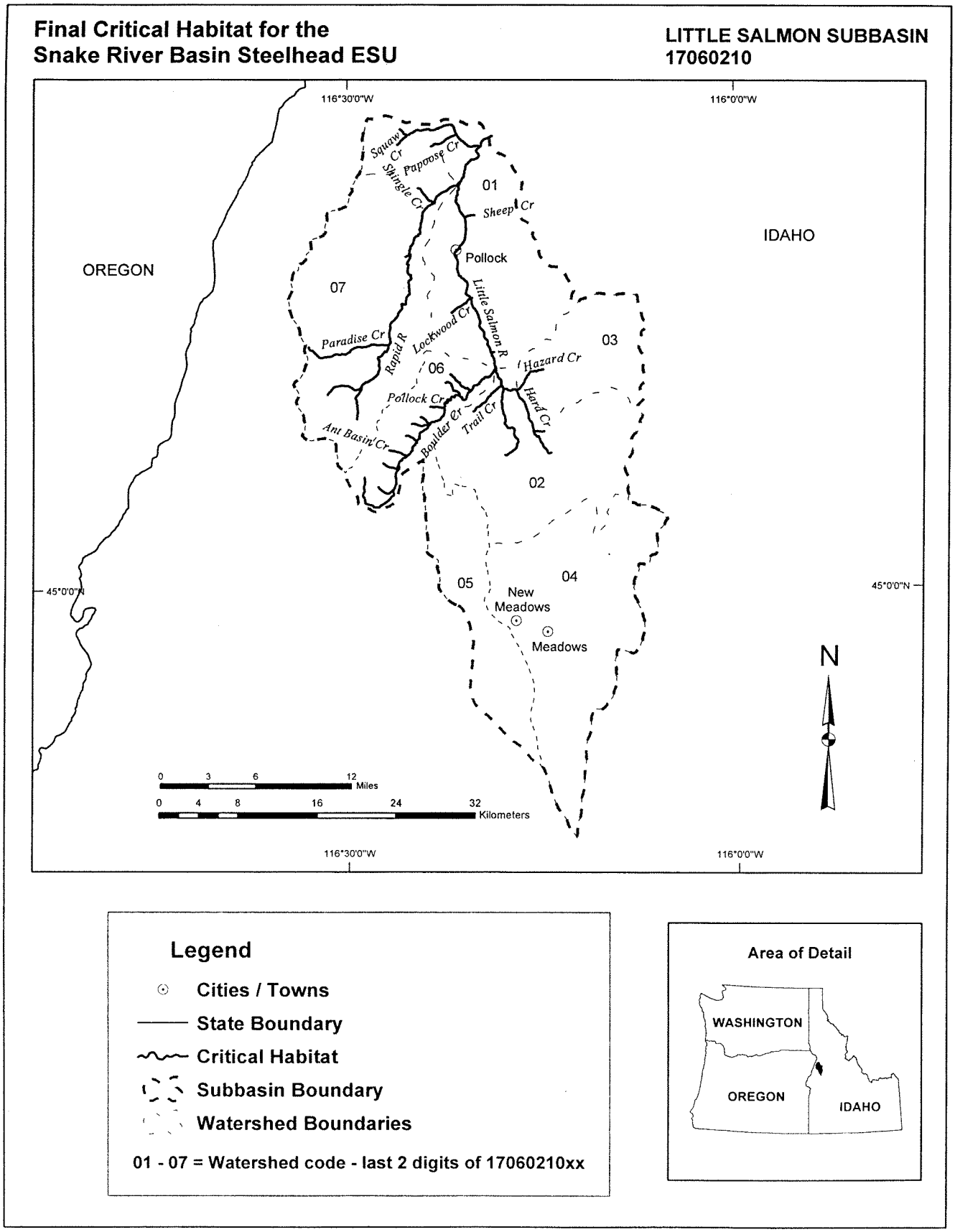
Legend

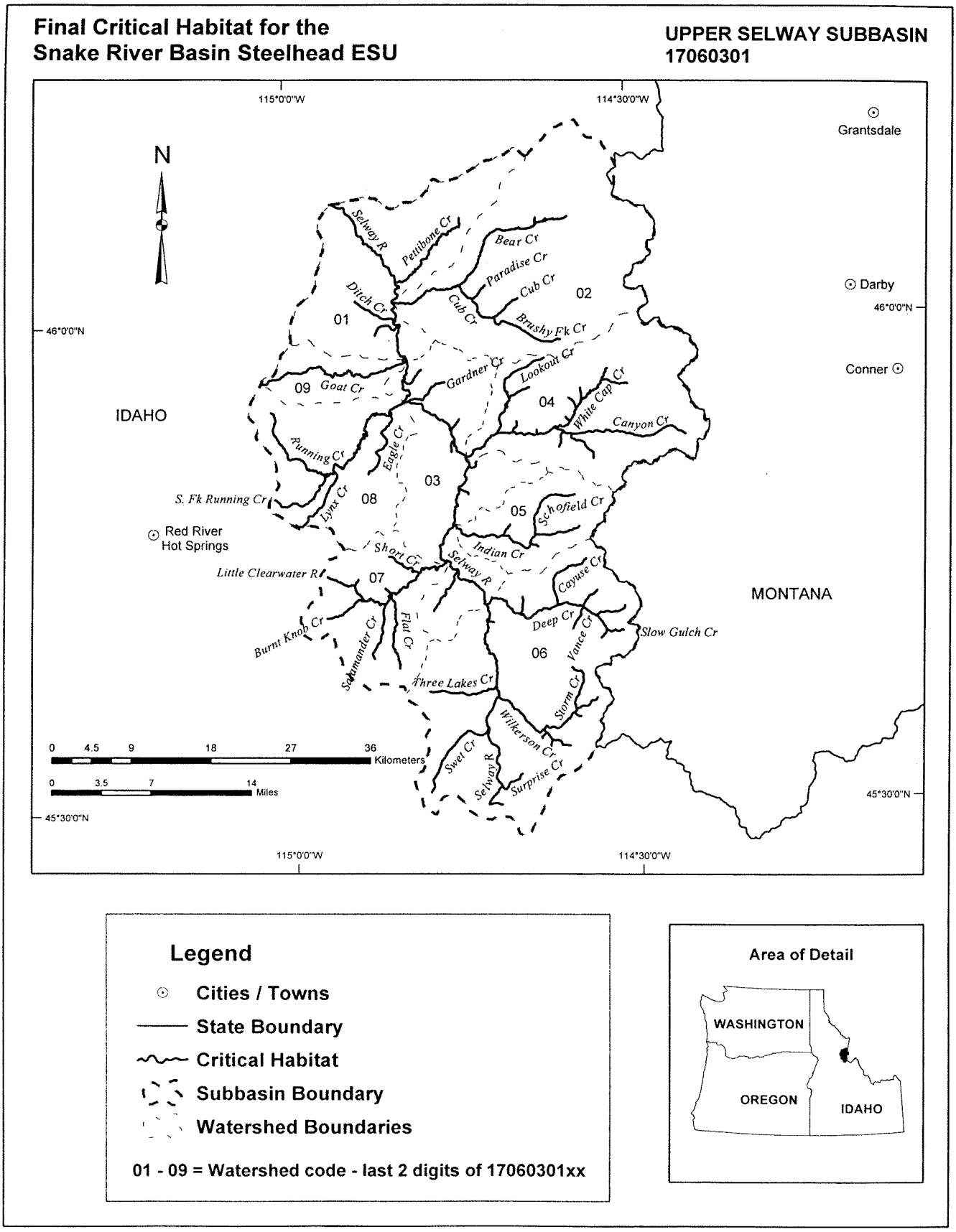
- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

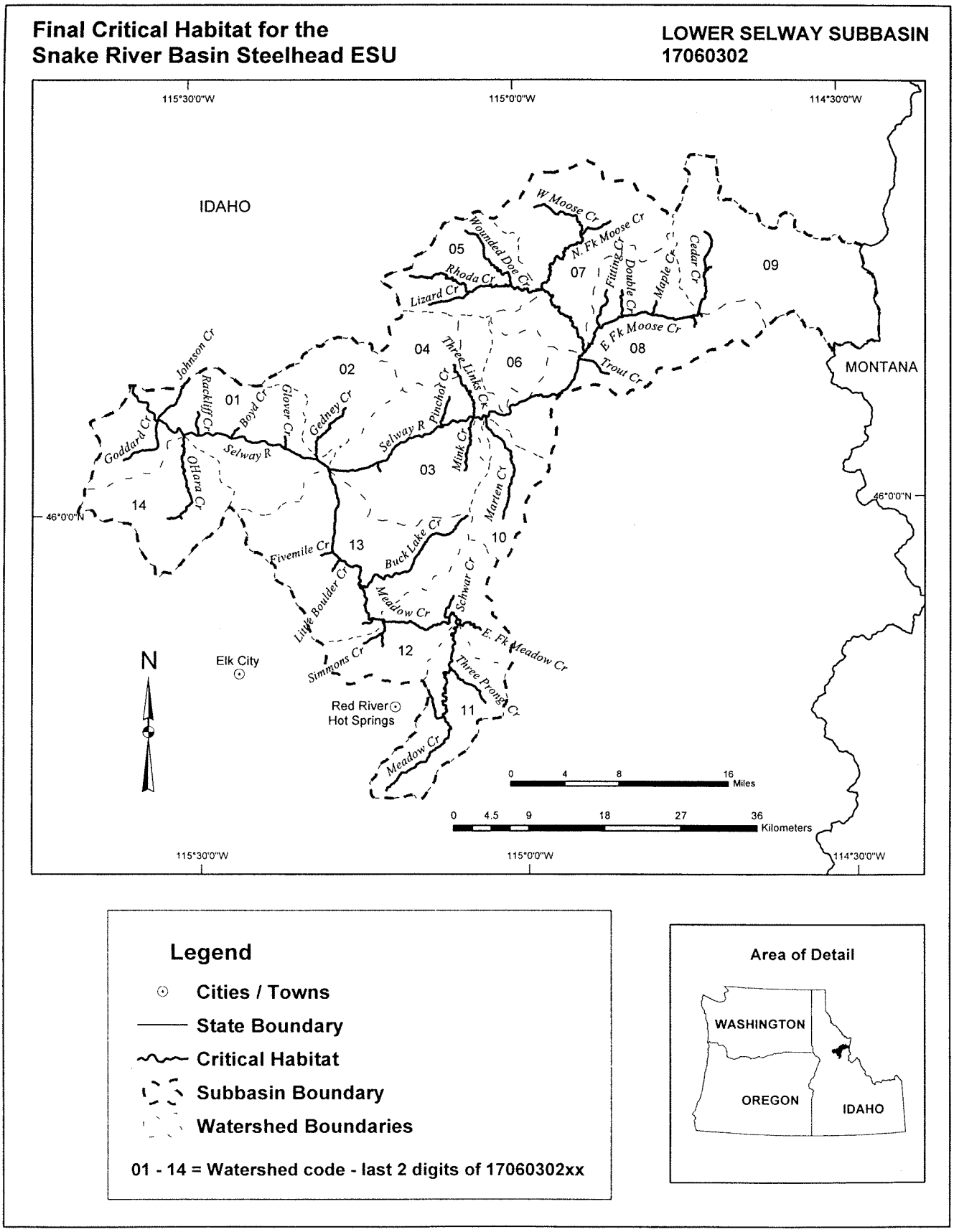
01 - 17 = Watershed code - last 2 digits of 17060209xx

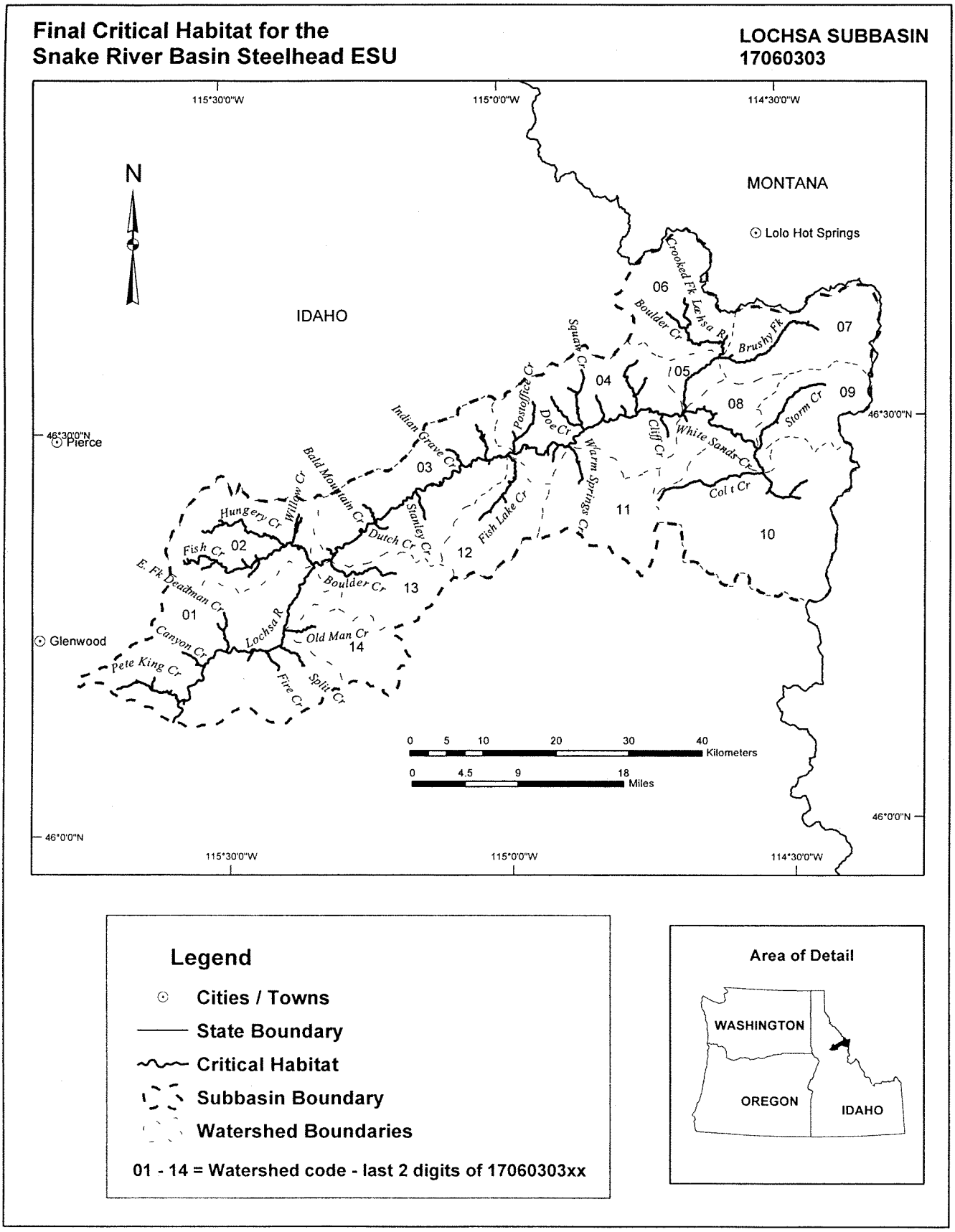
Area of Detail




Final Critical Habitat for the
Snake River Basin Steelhead ESU
LITTLE SALMON SUBBASIN
17060210
116°30'0"W
116°0'0"W
45°0'0"N
OREGON
IDAHO
Squaw Cr
Papoose Cr
Shingle Cr
Sheep Cr
Pollock
Little Salmon R
Lockwood Cr
Paradise Cr
Rapid R
Hazard Cr
Hard Cr
Pollock Cr
Boulder Cr
Trail Cr
Ant Basin Cr
01
02
03
04
05
06
07
New Meadows
Meadows
N
0 3 6 12 Miles
0 4 8 16 24 32 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17060210xx
Area of Detail
WASHINGTON
OREGON
IDAHO

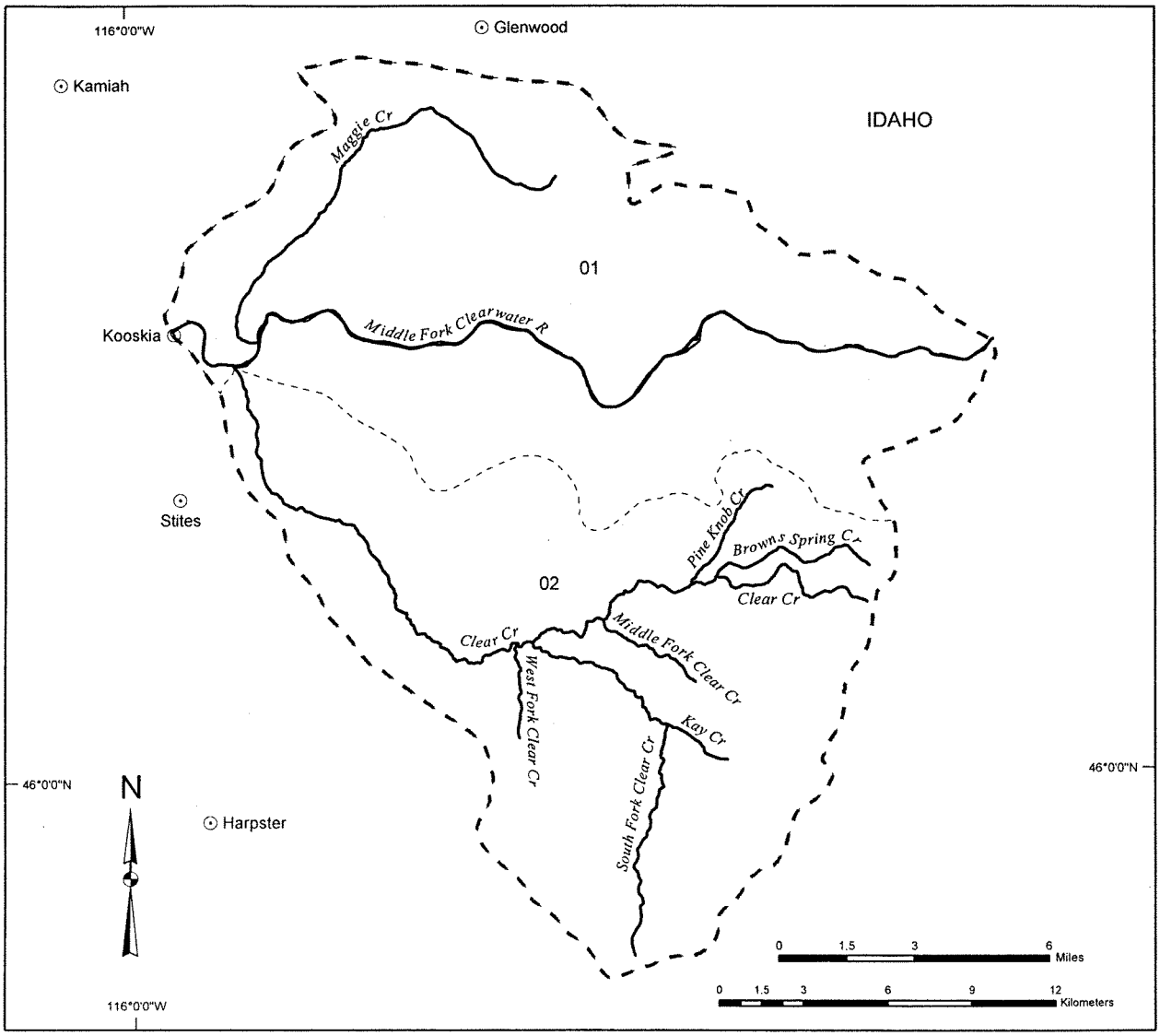

Final Critical Habitat for the
Snake River Basin Steelhead ESU
UPPER SELWAY SUBBASIN
17060301
115°0'0"W
114°30'0"W
46°0'0"N
45°30'0"N
N
Grantsdale
Darby
Conner
IDAHO
MONTANA
Red River
Hot Springs
Selway R
Petitbone Cr
Bear Cr
Paradise Cr
Cub Cr
Brushy Fk Cr
Ditch Cr
Gardner Cr
Lookout Cr
White Cap Cr
Canyon Cr
Goat Cr
Running Cr
Eagle Cr
S. Fk Running Cr
Lynx Cr
Schofield Cr
Short Cr
Indian Cr
Little Clearwater R
Cayuse Cr
Deep Cr
Slow Gulch Cr
Burnt Knob Cr
Salamander Cr
Flat Cr
Vance Cr
Three Lakes Cr
Storm Cr
Wilkerson Cr
Swet Cr
Surprise Cr
01
02
03
04
05
06
07
08
09
0 4.5 9 18 27 36 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17060301xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER SELWAY SUBBASIN
17060302
115°30'0"W
115°0'0"W
114°30'0"W
46°0'0"N
IDAHO
MONTANA
W Moose Cr
N. Fk Moose Cr
Wounded Doe Cr
Rhoda Cr
Lizard Cr
Fitting Cr
Double Cr
Maple Cr
Cedar Cr
E. Fk Moose Cr
Trout Cr
Three Links Cr
Pinchot Cr
Johnson Cr
Racklift Cr
Boyd Cr
Glover Cr
Gedney Cr
Selway R
Goddard Cr
O'Hara Cr
Mink Cr
Marten Cr
Buck Lake Cr
Fivemile Cr
Little Boulder Cr
Meadow Cr
Schwar Cr
E. Fk Meadow Cr
Simmons Cr
Three Prong Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
N
Elk City
Red River Hot Springs
0 4 8 16 Miles
0 4.5 9 18 27 36 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17060302xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOCHSA SUBBASIN
17060303
115°30'0"W
115°0'0"W
114°30'0"W
N
MONTANA
Lolo Hot Springs
IDAHO
Pierce
Glenwood
46°30'0"N
46°0'0"N
Crooked Fk
Lochsa R
Boulder Cr
Brushy Fk
Squaw Cr
Postoffice Cr
Doe Cr
Indian Grave Cr
Bald Mountain Cr
Willow Cr
Hungery Cr
Fish Cr
E. Fk Deadman Cr
Canyon Cr
Pete King Cr
Lochsa R
Dutch Cr
Stanley Cr
Fish Lake Cr
Warm Springs Cr
Cliff Cr
White Sands Cr
Storm Cr
Colt Cr
Boulder Cr
Old Man Cr
Fire Cr
Split Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17060303xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Snake River Basin Steelhead ESU

MIDDLE FORK CLEARWATER SUBBASIN 17060304

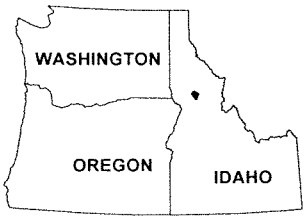


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

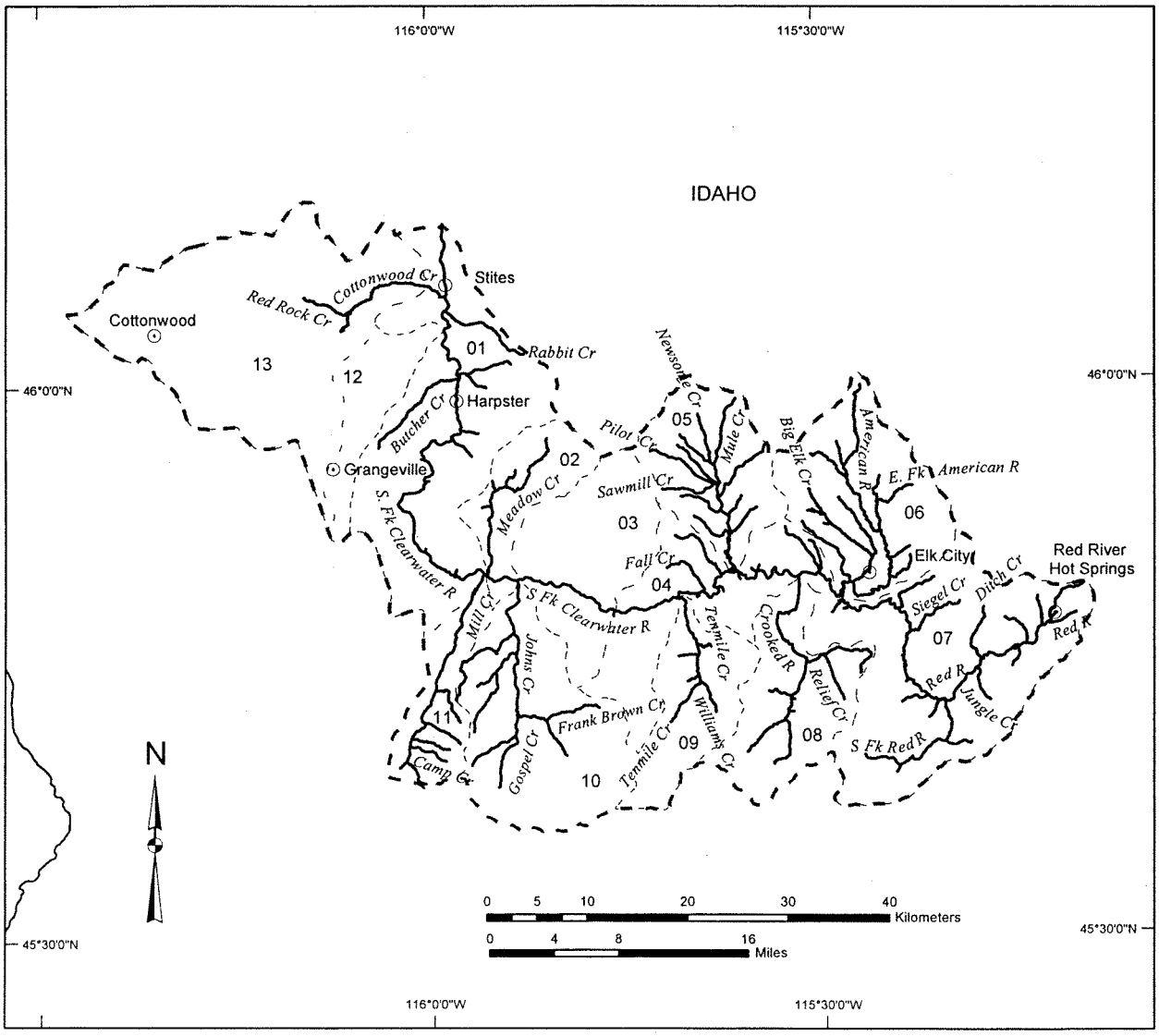
01 - 02 = Watershed code - last 2 digits of 17060304xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

SOUTH FORK CLEARWATER SUBBASIN 17060305

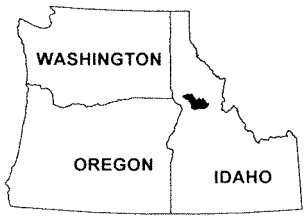


Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

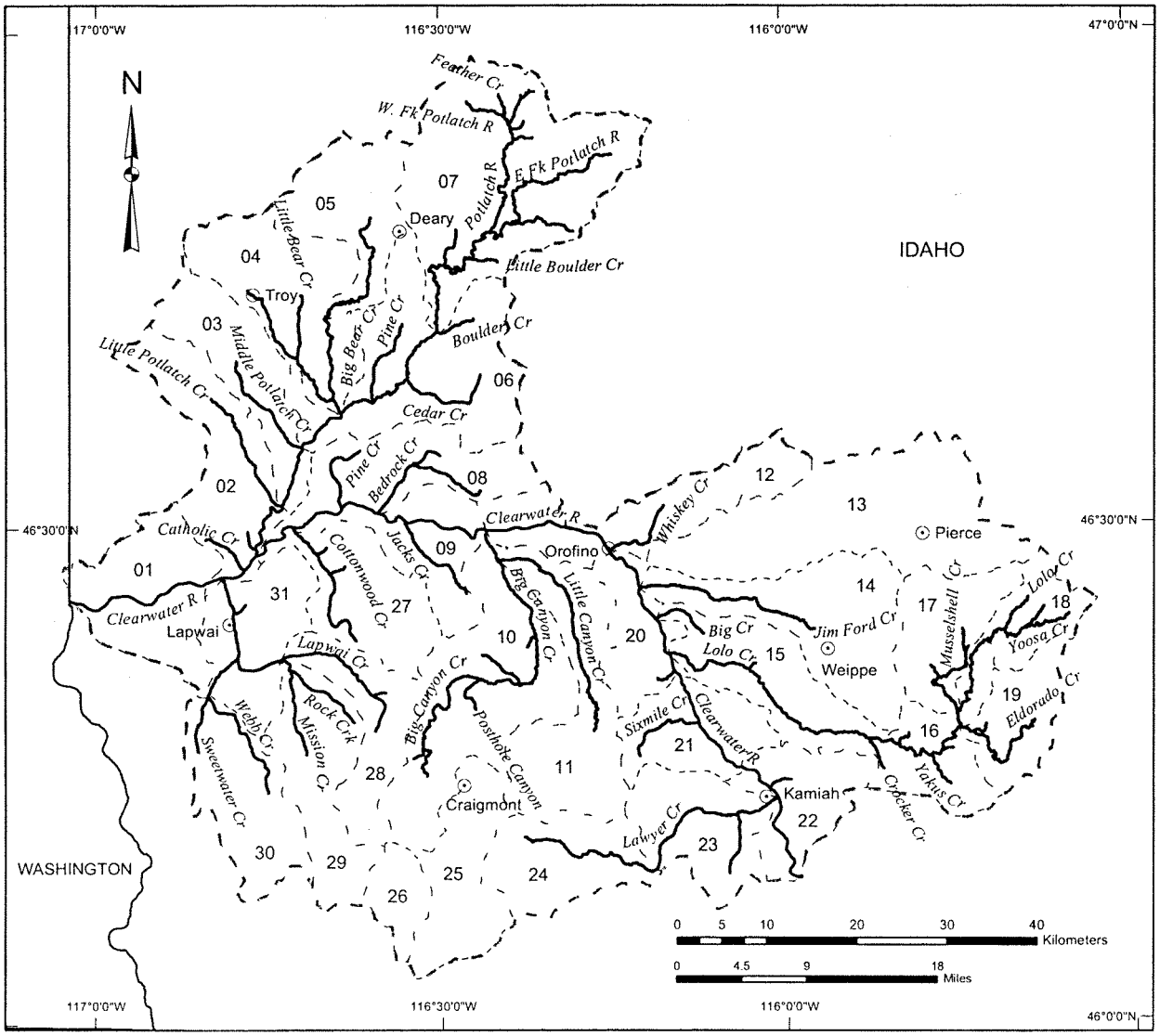
01 - 13 = Watershed code - last 2 digits of 17060305xx

Area of Detail



Final Critical Habitat for the Snake River Basin Steelhead ESU

CLEARWATER SUBBASIN 17060306

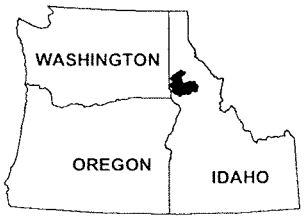


Legend

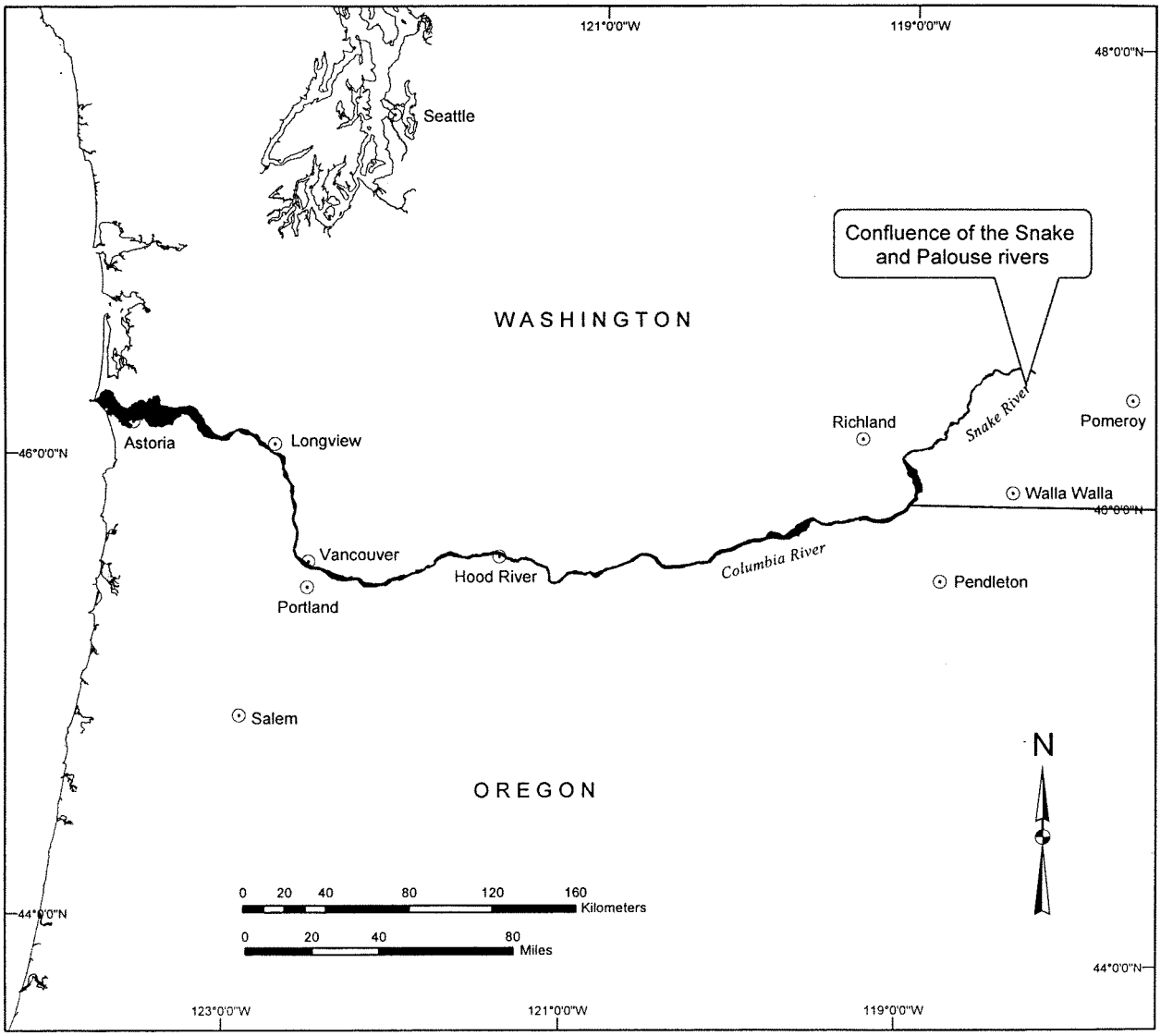
- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 31 = Watershed code - last 2 digits of 17060306xx

Area of Detail



Rearing / Migration Corridor for the Snake River Basin Steelhead ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Snake River Steelhead ESU

Lower Snake / Columbia River corridor
The Lower Snake / Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to the confluence of the Snake and Palouse rivers.

BILLING CODE 3510–22–C

(r) Middle Columbia River Steelhead (Oncorhynchus mykiss). Critical habitat is designated to include the areas defined in the following subbasins:

(1) Upper Yakima Subbasin 17030001—(i) *Upper Yakima River Watershed 1703000101.* Outlet(s) = Yakima River (Lat 47.1770, Long –120.9964) upstream to endpoint(s) in: Big Creek (47.1951, –121.1181); Cabin Creek (47.2140, –121.2400); Cle Elum River (47.2457, –121.0729); Kachess River (47.2645, –121.2062); Little Creek (47.2002, –121.0842); Peterson Creek (47.1765, –121.0592); Tucker Creek (47.2202, –121.1639); Yakima River (47.3219, –121.3371).

(ii) *Teanaway River Watershed 1703000102.* Outlet(s) = Yakima River (Lat 47.1673, Long –120.8338) upstream to endpoint(s) in: Bear Creek (47.3684, –120.7902); DeRoux Creek (47.4202, –120.9477); Dickey Creek (47.2880, –120.8322); Indian Creek (47.3216, –120.8145); Jack Creek (47.3414, –120.8130); Jungle Creek (47.3453, –120.8951); Mason Creek (47.2528, –120.7889); Middle Creek (47.2973, –120.8204); Middle Fork Teanaway River (47.3750, –120.9800); Standup Creek (47.3764, –120.8362); Tillman Creek (47.1698, –120.9798); Unnamed (47.2809, –120.8995); West Fork Teanaway River (47.3040, –121.0179); Yakima River (47.1770, –120.9964).

(iii) *Middle Upper Yakima River Watershed 1703000103.* Outlet(s) = Yakima River (Lat 46.8987, Long –120.5035) upstream to endpoint(s) in: Badger Creek (46.9305, –120.4805); Coleman Creek (46.9636, –120.4764); Cooke Creek (46.9738, –120.4381); Dry Creek (47.0366, –120.6122); First Creek (47.2082, –120.6732); Iron Creek (47.3495, –120.7032); Manastash Creek (46.9657, –120.7347); Naneum Creek (46.9561, –120.4987); North Fork Taneum Creek (47.1224, –121.0396); Reecer Creek (47.0066, –120.5817); South Fork Taneum Creek (47.0962, –120.9713); Swauk Creek (47.3274, –120.6586); Unnamed (46.9799, –120.5407); Unnamed (47.0000, –120.5524); Unnamed (47.0193, –120.5676); Williams Creek (47.2638, –120.6513); Wilson Creek (46.9931, –120.5497); Yakima River (47.1673, –120.8338).

(iv) *Umtanum/Wenas Watershed 1703000104.* Outlet(s) = Yakima River (Lat 46.6309, Long –120.5130) upstream to endpoint(s) in: Burbank Creek (46.7663, –120.4238); Lmuma Creek (46.8224, –120.4510); Umtanum Creek (46.8928, –120.6130); Wenas Creek (46.7087, –120.5179); Yakima River (46.8987, –120.5035).

(2) Naches Subbasin 17030002—(i) *Little Naches River Watershed 1703000201.* Outlet(s) = Little Naches River (Lat 46.9854, Long –121.0915) upstream to endpoint(s) in: American River (46.9008, –121.4194); Barton Creek (46.8645, –121.2869); Bear Creek (47.0793, –121.2415); Blowout Creek (47.0946, –121.3046); Crow Creek (47.0147, –121.3241); Goat Creek (46.9193, –121.2269); Kettle Creek (46.9360, –121.3262); Mathew Creek (47.0829, –121.1944); Miner Creek (46.9542, –121.3074); Morse Creek (46.9053, –121.4131); North Fork Little Naches River (47.0958, –121.3141); Parker Creek (46.9589, –121.2900); Pinus Creek (46.9682, –121.2766); Quartz Creek (47.0382, –121.1128); Scab Creek (46.8969, –121.2459); South Fork Little Naches River (47.0574, –121.2760); Sunrise Creek (46.9041, –121.2448); Survey Creek (46.9435, –121.3296); Timber Creek (46.9113, –121.3822); Union Creek (46.9366, –121.3596); Unnamed (46.8705, –121.2809); Unnamed (46.8741, –121.2956); Unnamed (46.8872, –121.2811); Unnamed (46.8911, –121.2816); Unnamed (46.9033, –121.4162); Unnamed (46.9128, –121.2286); Unnamed (46.9132, –121.4058); Unnamed (46.9158, –121.3710); Unnamed (46.9224, –121.2200); Unnamed (46.9283, –121.3484); Unnamed (46.9302, –121.2103); Unnamed (46.9339, –121.1970); Unnamed (46.9360, –121.3482); Unnamed (46.9384, –121.3200); Unnamed (46.9390, –121.1898); Unnamed (46.9396, –121.3404); Unnamed (46.9431, –121.3088); Unnamed (46.9507, –121.2894); Unnamed (47.0774, –121.3092); Wash Creek (46.9639, –121.2810).

(ii) *Naches River/Rattlesnake Creek Watershed 1703000202.* Outlet(s) = Naches River (Lat 46.7467, Long –120.7858) upstream to endpoint(s) in: Glass Creek (46.8697, –121.0974); Gold Creek (46.9219, –121.0464); Hindoo Creek (46.7862, –121.1689); Little Rattlesnake Creek (46.7550, –121.0543); Lost Creek (46.9200, –121.0568); Naches River (46.9854, –121.0915); North Fork Rattlesnake Creek (46.8340, –121.1439); Rattlesnake Creek (46.7316, –121.2339); Rock Creek (46.8847, –120.9718).

(iii) *Naches River/Tieton River Watershed 1703000203.* Outlet(s) = Naches River (Lat 46.6309, Long –120.5130) upstream to endpoint(s) in: Naches River (46.7467, –120.7858); Oak Creek (46.7295, –120.9348); South Fork Cowiche Creek (46.6595, –120.7601); Tieton River (46.6567, –121.1287); Unnamed (46.6446, –120.5923); Wildcat Creek (46.6715, –121.1520).

(3) Lower Yakima Subbasin 17030003—(i) *Ahtanum Creek Watershed 1703000301.* Outlet(s) = Ahtanum Creek (Lat 46.5283, Long –120.4732) upstream to endpoint(s) in: Foundation Creek (46.5349, –121.0134); Middle Fork Ahtanum Creek (46.5075, –121.0225); Nasty Creek (46.5718, –120.9721); North Fork Ahtanum Creek (46.5217, –121.0917); South Fork Ahtanum Creek (46.4917, –120.9590); Unnamed (46.5811, –120.6390).

(ii) *Upper Lower Yakima River Watershed 1703000302.* Outlet(s) = Yakima River (Lat 46.5283, Long –120.4732) upstream to endpoint(s) in: Unnamed (46.5460, –120.4383); Yakima River (46.6309, –120.5130).

(iii) *Upper Toppenish Creek Watershed 1703000303.* Outlet(s) = Toppenish Creek (Lat 46.3767, Long –120.6172) upstream to endpoint(s) in: Agency Creek (46.3619, –120.9646); Branch Creek (46.2958, –120.9969); North Fork Simcoe Creek (46.4548, –120.9307); North Fork Toppenish Creek (46.3217, –120.9985); Old Maid Canyon (46.4210, –120.9349); South Fork Toppenish Creek (46.2422, –121.0885); Toppenish Creek (46.3180, –121.1387); Unnamed (46.3758, –120.9336); Unnamed (46.4555, –120.8436); Wahtum Creek (46.3942, –120.9146); Willy Dick Canyon (46.2952, –120.9021).

(iv) *Lower Toppenish Creek Watershed 1703000304.* Outlet(s) = Yakima River (Lat 46.3246, Long –120.1671) upstream to endpoint(s) in: Toppenish Creek (46.3767, –120.6172); Unnamed (46.3224, –120.4464); Unnamed (46.3363, –120.5891); Unnamed (46.3364, –120.2288); Unnamed (46.3679, –120.2801); Unnamed (46.4107, –120.5582); Unnamed (46.4379, –120.4258); Yakima River (46.5283, –120.4732).

(v) *Satus Creek Watershed 1703000305.* Outlet(s) = Satus Creek (Lat 46.2893, Long –120.1972) upstream to endpoint(s) in: Bull Creek (46.0314, –120.5147); Kusshi Creek (46.0994, –120.6094); Logy Creek (46.1357, –120.6389); Mule Dry Creek (46.0959, –120.3186); North Fork Dry Creek (46.1779, –120.7669); Satus Creek (46.0185, –120.7268); Unnamed (46.0883, –120.5278); Wilson Charley Canyon (46.0419, –120.6479).

(vi) *Yakima River/Spring Creek Watershed 1703000306.* Outlet(s) = Yakima River (Lat 46.3361, Long –119.4817) upstream to endpoint(s) in: Corral Creek (46.2971, –119.5302); Satus Creek (46.2893, –120.1972); Snipes Creek (46.2419, –119.6802); Spring Creek (46.2359, –119.6952); Unnamed (46.2169, –120.0189); Unnamed (46.2426, –120.0993); Unnamed (46.2598, –120.1322); Unnamed

(46.2514, –120.0190); Yakima River (46.3246, –120.1671).

(vii) *Yakima River/Cold Creek Watershed 1703000307.* Outlet(s) = Yakima River (Lat 46.2534, Long –119.2268) upstream to endpoint(s) in: Yakima River (46.3361, –119.4817).

(4) Middle Columbia/Lake Wallula Subbasin 17070101—(i) *Upper Lake Wallula Watershed 1707010101.* Outlet(s) = Columbia River (Lat 46.0594, Long –118.9445) upstream to endpoint(s) in: Columbia River (46.1776, –119.0183).

(ii) *Lower Lake Wallula Watershed 1707010102.* Outlet(s) = Columbia River (Lat 45.9376, Long –119.2969) upstream to endpoint(s) in: Columbia River (46.0594, –118.9445).

(iii) *Glade Creek Watershed 1707010105.* Outlet(s) = Glade Creek (Lat 45.8895, Long –119.6809) upstream to endpoint(s) in: Glade Creek (45.8978, –119.6962).

(iv) *Upper Lake Umatilla Watershed 1707010106.* Outlet(s) = Columbia River (Lat 45.8895, Long –119.6809) upstream to endpoint(s) in: Columbia River (45.9376, –119.2969).

(v) Middle Lake Umatilla Watershed 1707010109. Outlet(s) = Columbia River (Lat 45.8318, Long –119.9069) upstream to endpoint(s) in: Columbia River (45.8895, –119.6809).

(vi) *Alder Creek Watershed 1707010110.* Outlet(s) = Alder Creek (Lat 45.8298, Long –119.9277) upstream to endpoint(s) in: Alder Creek (45.8668, –119.9224).

(vii) *Pine Creek Watershed 1707010111.* Outlet(s) = Pine Creek (Lat 45.7843, Long –120.0823) upstream to endpoint(s) in: Pine Creek (45.8234, –120.1396).

(viii) *Wood Gulch Watershed 1707010112.* Outlet(s) = Wood Creek (Lat 45.7443, Long –120.1930) upstream to endpoint(s) in: Big Horn Canyon (45.8322, –120.2467); Wood Gulch (45.8386, –120.3006).

(ix) *Rock Creek Watershed 1707010113.* Outlet(s) = Rock Creek (Lat 45.6995, Long –120.4597) upstream to endpoint(s) in: Rock Creek (45.8835, –120.5557); Squaw Creek (45.8399, –120.4935).

(x) *Lower Lake Umatilla Watershed 1707010114.* Outlet(s) = Columbia River (Lat 45.7168, Long –120.6927) upstream to endpoint(s) in: Chapman Creek (45.7293, –120.3148); Columbia River (45.8318, –119.9069).

(5) Walla Walla Subbasin 17070102—(i) *Upper Walla Walla River Watershed 1707010201.* Outlet(s) = Walla Walla River (Lat 45.9104, Long –118.3696) upstream to endpoint(s) in: Bear Creek (45.8528, –118.0991); Big Meadow Canyon (45.900, –118.1116); Burnt Cabin Gulch (45.8056, –118.0593); Couse Creek (45.8035, –118.2032); Elbow Creek (45.7999, –118.1462); Kees Canyon (45.8262, –118.0927); Little Meadow Canyon (45.9094, –118.1333); North Fork Walla Walla River (45.9342, –118.0169); Reser Creek (45.8840, –117.9950); Rodgers Gulch (45.8513, –118.0839); Skiphorton Creek (45.8892, –118.0255); South Fork Walla Walla River (45.9512, –117.9647); Swede Canyon (45.8506, –118.0640); Table Creek (45.8540, –118.0546); Unnamed (45.8026, –118.1412); Unnamed (45.8547, –117.9915); Unnamed (45.8787–118.0387); Unnamed (45.8868, –117.9629); Unnamed (45.9095, –117.9621).

(ii) *Mill Creek Watershed 1707010202.* Outlet(s) = Mill Creek (Lat 46.0391, Long –118.4779) upstream to endpoint(s) in: Blue Creek (46.0188, –118.0519); Broken Creek (45.9745, –117.9899); Cold Creek (46.0540, –118.4097); Deadman Creek (46.0421, –117.9503); Doan Creek (46.0437, –118.4353); Green Fork (46.0298, –117.9389); Henry Canyon (45.9554, –118.1104); Low Creek (45.9649, –117.9980); Mill Creek (46.0112, –117.9406); North Fork Mill Creek (46.0322, –117.9937); Paradise Creek (46.0005, –117.9900); Tiger Creek (45.9588, –118.0253); Unnamed (46.0253, –117.9320); Unnamed (46.0383, –117.9463); Webb Creek (45.9800, –118.0875).

(iii) *Upper Touchet River Watershed 1707010203.* Outlet(s) = Touchet River (Lat 46.3196, Long –117.9841) upstream to endpoint(s) in: Burnt Fork (46.0838, –117.9311); Coates Creek (46.1585, –117.8431); Green Fork (46.0737, –117.9712); Griffin Fork (46.1100, –117.9336); Ireland Gulch (46.1894, –117.8070); Jim Creek (46.2156, –117.7959); Lewis Creek (46.1855, –117.7791); North Fork Touchet River (46.0938, –117.8460); North Patit Creek (46.3418, –117.7538); Robinson Fork (46.1200, –117.9006); Rodgers Gulch (46.2813, –117.8411); Spangler Creek (46.1156, –117.7934); Unnamed (46.1049, –117.9351); Unnamed (46.1061, –117.9544); Unnamed (46.1206, –117.9386); Unnamed (46.1334, –117.9512); Unnamed (46.1604, –117.9018); Unnamed (46.2900, –117.7339); Weidman Gulch (46.2359, –117.8067); West Patit Creek (46.2940, –117.7164); Whitney Creek (46.1348, –117.8491); Wolf Fork (46.1035, –117.8797).

(iv) *Middle Touchet River Watershed 1707010204.* Outlet(s) = Touchet River (Lat 46.2952, Long –118.3320) upstream to endpoint(s) in: North Fork Coppei Creek (46.1384, –118.0181); South Fork Coppei Creek (46.1302, –118.0608); Touchet River (46.3196, –117.9841); Whisky Creek (46.2438, –118.0785).

(v) *Lower Touchet River Watershed 1707010207.* Outlet(s) = Touchet River (Lat 46.0340, Long –118.6828) upstream to endpoint(s) in: Touchet River (46.2952, –118.3320).

(vi) *Cottonwood Creek Watershed 1707010208.* Outlet(s) = Walla Walla River (Lat 46.0391, Long –118.4779) upstream to endpoint(s) in: Birch Creek (45.9489, –118.2541); Caldwell Creek (46.0493, –118.3022); East Little Walla Walla River (46.0009, –118.4069); Garrison Creek (46.0753, –118.2726); Middle Fork Cottonwood Creek (45.9566, –118.1776); North Fork Cottonwood Creek (45.9738, –118.1533); Reser Creek (46.0370, –118.3085); Russell Creek (46.0424, –118.2488); South Fork Cottonwood Creek (45.9252, –118.1798); Stone Creek (46.0618, –118.3081); Unnamed (45.9525, –118.2513); Unnamed (46.0022, –118.4070); Walla Walla River (45.9104, –118.3696); Yellowhawk Creek (46.0753, –118.2726).

(vii) *Dry Creek Watershed 1707010210.* Outlet(s) = Dry Creek (Lat 46.0507, Long –118.5932) upstream to endpoint(s) in: Dry Creek (46.0725, –118.0268); Mud Creek (46.1414, –118.1313); South Fork Dry Creek (46.0751, –118.0514); Unnamed (46.1122, –118.1141).

(viii) *Lower Walla Walla River Watershed 1707010211.* Outlet(s) = Walla Walla River (Lat 46.0594, Long –118.9445) upstream to endpoint(s) in: Walla Walla River (46.0391, –118.4779).

(6) Umatilla Subbasin 17070103—(i) *Upper Umatilla River Watershed 1707010301.* Outlet(s) = Umatilla River (Lat 45.7024, Long –118.3593) upstream to endpoint(s) in: Bear Creek (45.7595, –118.1942); Bobsled Creek (45.7268, –118.2503); Buck Creek (45.7081, –118.1059); East Fork Coyote Creek (45.7553, –118.1263); Johnson Creek #4 (45.7239, –118.0797); Lake Creek #2 (45.7040, –118.1297); Lick Creek (45.7400, –118.1880); North Fork Umatilla River (45.7193, –118.0244); Rock Creek (45.7629, –118.2377); Ryan Creek (45.6362, –118.2963); Shimmiehorn Creek (45.6184, –118.1908); South Fork Umatilla River (45.6292, –118.2424); Spring Creek #2 (45.6288, –118.1525); Swamp Creek (45.6978, –118.1356); Thomas Creek (45.6546, –118.1435); Unnamed (45.6548, –118.1371); Unnamed (45.6737, –118.1616); Unnamed (45.6938, –118.3036); Unnamed (45.7060, –118.2123); Unnamed (45.7200, –118.3092); Unnamed (45.7241, –118.3197); Unnamed (45.7281, –118.1604); Unnamed (45.7282, –118.3372); Unnamed

(45.7419, –118.1586); West Fork Coyote Creek (45.7713, –118.1513); Woodward Creek (45.7484, –118.0760).

(ii) *Meacham Creek Watershed 1707010302.* Outlet(s) = Meacham Creek (Lat 45.7024, Long –118.3593) upstream to endpoint(s) in: Bear Creek #3 (45.4882, –118.1993); Beaver Creek (45.4940, –118.4411); Boston Canyon (45.6594, –118.3344); Butcher Creek (45.4558, –118.3737); Camp Creek (45.5895, –118.2800); Duncan Canyon (45.5674, –118.3244); East Meacham Creek (45.4570, –118.2212); Hoskins Creek (45.5188, –118.2059); Line Creek (45.6303, –118.3291); Meacham Creek (45.4364, –118.3963); North Fork Meacham Creek (45.5767, –118.1721); Owsley Creek (45.4349, –118.2434); Pot Creek (45.5036, –118.1438); Sheep Creek (45.5121, –118.3945); Twomile Creek (45.5085, –118.4579); Unnamed (45.4540, –118.2192); Unnamed (45.5585, –118.2064); Unnamed (45.6019, –118.2971); Unnamed (45.6774, –118.3415).

(iii) *Umatilla River/Mission Creek Watershed 1707010303.* Outlet(s) = Umatilla River (Lat 45.6559, Long –118.8804) upstream to endpoint(s) in: Bachelor Canyon (45.6368, –118.3890); Buckaroo Creek (45.6062, –118.5000); Coonskin Creek (45.6556, –118.5239); Cottonwood Creek (45.6122, –118.5704); Little Squaw Creek (45.5969, –118.4095); Mission Creek (45.6256, –118.6133); Moonshine Creek (45.6166, –118.5392); Patawa Creek (45.6424, –118.7125); Red Elk Canyon (45.6773, –118.4431); Saddle Hollow (45.7067, –118.3968); South Patawa Creek (45.6250, –118.6919); Squaw Creek (45.5584, –118.4389); Stage Gulch (45.6533, –118.4481); Thorn Hollow Creek (45.6957, –118.4530); Umatilla River (45.7024, –118.3593); Unnamed (45.5649, –118.4221); Unnamed (45.6092, –118.7603); Unnamed (45.6100, –118.4046); Unnamed (45.6571, –118.7473); Unnamed (45.6599, –118.4641); Unnamed (45.6599, –118.4711); Unnamed (45.6676, –118.6176); Unnamed (45.6688, –118.5575); Unnamed (45.6745, –118.5859).

(iv) *McKay Creek Watershed 1707010305.* Outlet(s) = McKay Creek (Lat 45.6685, Long –118.8400) upstream to endpoint(s) in: McKay Creek (45.6077, –118.7917).

(v) *Birch Creek Watershed 1707010306.* Outlet(s) = Birch Creek (Lat 45.6559, Long –118.8804) upstream to endpoint(s) in: Bear Creek (45.2730, –118.8939); Bridge Creek (45.3603, –118.9039); California Gulch (45.3950, –118.8149); Dark Canyon (45.3119, –118.7572); East Birch Creek (45.3676, –118.6085); Johnson Creek #2 (45.3931, –118.7518); Little Pearson Creek (45.3852, –118.7415); Merle Gulch (45.3450, –118.8136); Owings Creek (45.3864, –118.9600); Pearson Creek (45.2901, –118.7985); South Canyon #2 (45.3444, –118.6949); Unnamed (45.2703, –118.7624); Unnamed (45.3016, –118.7705); Unnamed (45.3232, –118.7264); Unnamed (45.3470, –118.7984); Unnamed (45.3476, –118.6703); Unnamed (45.3511, –118.6328); Unnamed (45.4628, –118.7491); West Birch Creek (45.2973, –118.8341); Willow Spring Canyon (45.3426, –118.9833).

(vi) *Umatilla River/Alkali Canyon Watershed 1707010307.* Outlet(s) = Umatilla River (Lat 45.7831, Long –119.2372) upstream to endpoint(s) in: Umatilla River (45.6559, –118.8804).

(vii) *Lower Umatilla River Watershed 1707010313.* Outlet(s) = Umatilla River (Lat 45.9247, Long –119.3575) upstream to endpoint(s) in: Umatilla River (45.7831, –119.2372); Unnamed (45.8202, –119.3305).

(7) Middle Columbia/Hood Subbasin 17070105—(i) *Upper Middle Columbia/Hood Watershed 1707010501.* Outlet(s) = Columbia River (Lat 45.6426, Long –120.9142) upstream to endpoint(s) in: Columbia River (45.7168, –120.6927); Frank Fulton Canyon (45.6244, –120.8258); Spanish Hollow Creek (45.6469, –120.8069); Unnamed (45.6404, –120.8654).

(ii) *Fifteenmile Creek Watershed 1707010502.* Outlet(s) = Fifteenmile Creek (Lat 45.6197, Long –121.1265) upstream to endpoint(s) in: Cedar Creek (45.3713, –121.4153); Dry Creek (45.4918, –121.0479); Fifteenmile Creek (45.3658, –121.4390); Ramsey Creek (45.3979, –121.4454); Unnamed (45.3768, –121.4410).

(iii) *Fivemile Creek Watershed 1707010503.* Outlet(s) = Eightmile Creek (Lat 45.6064, Long –121.0854) upstream to endpoint(s) in: Eightmile Creek (45.3944, –121.4983); Middle Fork Fivemile Creek (45.4502, –121.4324); South Fork Fivemile Creek (45.4622, –121.3641).

(iv) *Middle Columbia/Mill Creek Watershed 1707010504.* Outlet(s) = Columbia River (Lat 45.6920, Long –121.2937) upstream to endpoint(s) in: Brown Creek (45.5911, –121.2729); Chenoweth Creek (45.6119, –121.2658); Columbia River (45.6426, –120.9142); North Fork Mill Creek (45.4999, –121.4537); South Fork Mill Creek (45.5187, –121.3367); Threemile Creek (45.5598, –121.1747).

(v) *Mosier Creek Watershed 1707010505.* Outlet(s) = Mosier Creek (Lat 45.6950, Long –121.3996) upstream to endpoint(s) in: Mosier Creek (45.6826, –121.3896); Rock Creek (45.6649, –121.4352).

(vi) *White Salmon River Watershed 1707010509.* Outlet(s) = White Salmon River (Lat 45.7267, Long –121.5209) upstream to endpoint(s) in: Unnamed (45.7395, –121.5500); White Salmon River (45.7676, –121.5374).

(vii) *Middle Columbia/Grays Creek Watershed 1707010512.* Outlet(s) = Columbia River (Lat 45.7070, Long –121.7943) upstream to endpoint(s) in: Catherine Creek (45.7448, –121.4206); Columbia River (45.6920, –121.2937); Dog Creek (45.7200, –121.6804); East Fork Major Creek (45.8005, –121.3449); Hanson Creek (45.7472, –121.3143); Jewett Creek (45.7524, –121.4704); Rowena Creek (45.6940, –121.3122); Unnamed (45.7238, –121.7227); Unnamed (45.7248, –121.7322); Unnamed (45.7303, –121.3095); Unnamed (45.7316, –121.3094); Unnamed (45.7445, –121.3309); Unnamed (45.7486, –121.3203); Unnamed (45.7530, –121.4697); Unnamed (45.7632, –121.4795); Unnamed (45.7954, –121.3863); Unnamed (45.8003, –121.4062); West Fork Major Creek (45.8117, –121.3929).

(8) Klickitat Subbasin 17070106—(i) *Upper Klickitat River Watershed 1707010601.* Outlet(s) = Klickitat River (Lat 46.1263, Long –121.2881) upstream to endpoint(s) in: Cedar Creek (46.2122, –121.2042); Coyote Creek (46.4640, –121.1839); Cuitin Creek (46.4602, –121.1662); Diamond Fork (46.4794, –121.2284); Huckleberry Creek (46.4273, –121.3720); Klickitat River (46.4439, –121.3756); McCreedy Creek (46.3319, –121.2529); Piscoe Creek (46.3708, –121.1436); Surveyors Creek (46.2181, –121.1838); Unnamed (46.4476, –121.2575); Unnamed (46.4585, –121.2565); West Fork Klickitat River (46.2757, –121.3267).

(ii) *Middle Klickitat River Watershed 1707010602.* Outlet(s) = Klickitat River (Lat 45.9858, Long –121.1233) upstream to endpoint(s) in: Bear Creek (46.0770, –121.2262); Klickitat River (46.1263, –121.2881); Outlet Creek (46.0178, –121.1740); Summit Creek (46.0035, –121.0918); Trout Creek (46.1166, –121.1968); White Creek (46.1084, –121.0730).

(iii) *Little Klickitat River Watershed 1707010603.* Outlet(s) = Little Klickitat River (Lat 45.8452, Long –121.0625) upstream to endpoint(s) in: Blockhouse Creek (45.8188, –120.9813); Butler Creek (45.9287, –120.7005); Canyon Creek (45.8833, –121.0504); East Prong Little Klickitat River (45.9279, –120.6832); Mill Creek (45.8374, –121.0001); Unnamed (45.8162, –120.9288); West Prong Little Klickitat River (45.9251, –120.7202).

(iv) *Lower Klickitat River Watershed 1707010604.* Outlet(s) = Klickitat River (Lat 45.6920, Long –121.2937) upstream to endpoint(s) in: Dead Canyon (45.9473, –121.1734); Dillacort Canyon (45.7349, –121.1904); Klickitat River (45.9858, –121.1233); Logging Camp Canyon (45.7872, –121.2260); Snyder Canyon (45.8431, –121.2152); Swale Creek (45.7218, –121.0475); Wheeler Canyon (45.7946, –121.1615).

(9) Upper John Day Subbasin 17070201—(i) *Middle South Fork John Day Watershed 1707020103.* Outlet(s) = South Fork John Day River (Lat 44.1918, Long –119.5261) upstream to endpoint(s) in: Blue Creek (44.2183, –119.3679); Corral Creek (44.1688, –119.3573); North Fork Deer Creek (44.2034, –119.3009); South Fork Deer Creek (44.1550, –119.3457); South Fork John Day River (44.1822, –119.5243) Unnamed (44.1824, –119.4210); Vester Creek (44.1794, –1193872).

(ii) *Murderers Creek Watershed 1707020104.* Outlet(s) = Murderers Creek (Lat 44.3146, Long –119.5383) upstream to endpoint(s) in: Bark Cabin Creek (44.2481, –119.3967); Basin Creek (44.2700, –119.1711); Cabin Creek (44.3420, –119.4403); Charlie Mack Creek (44.2708, –119.2344); Crazy Creek (44.2421, –119.4282); Dans Creek (44.2500, –119.2774); Duncan Creek (44.3219, –119.3555); Lemon Creek (44.2528, –119.2500); Miner Creek (44.3237, –119.2416); Orange Creek (44.2524, –119.2613); Oregon Mine Creek (44.2816, –119.2945); South Fork Murderers Creek (44.2318, –119.3221); Sugar Creek (44.2914, –119.2326); Tennessee Creek (44.3041, –119.3029); Thorn Creek (44.3113, –119.3157); Todd Creek (44.3291, –119.3976); Unnamed (44.3133, –119.3533); Unnamed (44.3250, –119.3476); White Creek (44.2747, –119.1866).

(iii) *Lower South Fork John Day Watershed 1707020105.* Outlet(s) = South Fork John Day River (Lat 44.4740, Long –119.5344) upstream to endpoint(s) in: Cougar Gulch (44.2279, –119.4898); Frazier Creek (44.2200, –119.5745); Jackass Creek (44.3564, –119.4958); North Fork Wind Creek (44.3019, –119.6632); Payten Creek (44.3692, –119.6185); Smoky Creek (44.3893, –119.4791); South Fork Black Canyon Creek (44.3789, –119.7293); South Fork John Day River (44.1918, –119.5261); South Fork Wind Creek (44.2169, –119.6192); South Prong Creek (44.3093, –119.6558); Squaw Creek (44.3000, –119.6143); Unnamed (44.2306, –119.6095); Unnamed (44.2358, –119.6013); Unnamed (44.3052, –119.6332); Wind Creek (44.2793, –119.6515).

(iv) *Upper John Day River Watershed 1707020106.* Outlet(s) = John Day River (Lat 44.4534, Long –118.6711) upstream to endpoint(s) in: Bogue Gulch (44.3697, –118.5200); Call Creek (44.2973, –118.5169); Crescent Creek (44.2721, –118.5473); Dads Creek (44.5140, –118.6463); Dans Creek (44.4989, –118.5920); Deardorff Creek (44.3665, –118.4596); Eureka Gulch (44.4801, –118.5912); Graham Creek (44.3611, –118.6084); Isham Creek (44.4649, –118.5626); Jeff Davis Creek (44.4813, –118.6370); John Day River (44.2503, –118.5256); Mossy Gulch (44.4641, –118.5211); North Reynolds Creek (44.4525, –118.4886); Rail Creek #2 (44.3413, –118.5017); Reynolds Creek (44.4185, –118.4507); Roberts Creek (44.3060, –118.5815); Thompson Creek (44.3581, –118.5395); Unnamed (44.2710, –118.5412).

(v) *Canyon Creek Watershed 1707020107.* Outlet(s) = Canyon Creek (Lat 44.4225, Long –118.9584) upstream to endpoint(s) in: Berry Creek (44.3084, –118.8791); Brookling Creek (44.3042, –118.8363); Canyon Creek (44.2368, –118.7775); Crazy Creek #2 (44.2165, –118.7751); East Brookling Creek (44.3029, –118.8082); East Fork Canyon Creek (44.2865, –118.7939); Middle Fork Canyon Creek (44.2885, –118.7500); Skin Shin Creek (44.3036, –118.8488); Tamarack Creek #2 (44.2965, –118.8611); Unnamed (44.2500, –118.8298); Unnamed (44.2717, –118.7500); Unnamed (44.2814, –118.7620); Vance Creek (44.2929, –118.9989); Wall Creek (44.2543, –118.8308).

(vi) *Strawberry Creek Watershed 1707020108.* Outlet(s) = John Day River (Lat 44.4225, Long –118.9584) upstream to endpoint(s) in: Bear Creek (44.5434, –118.7508); Dixie Creek (44.5814, –118.7257); Dog Creek (44.3635, –118.8890); Grub Creek (44.5189, –118.8050); Hall Creek (44.5479, –118.7894); Indian Creek #3 (44.3092, –118.7438); John Day River (44.4534, –118.6711); Little Pine Creek (44.3771, –118.9103); Onion Creek (44.3151, –118.6972); Overholt Creek (44.3385, –118.7196); Pine Creek (44.3468, –118.8345); Slide Creek (44.2988, –118.6583); Standard Creek (44.5648, –118.6468); Strawberry Creek (44.3128, –118.6772); West Fork Little Indian Creek (44.3632, –118.7918).

(vii) *Beech Creek Watershed 1707020109.* Outlet(s) = Beech Creek (Lat 44.4116, Long –119.1151) upstream to endpoint(s) in: Bear Creek (44.5268, –119.1002); Beech Creek (44.5682, –119.1170); Clear Creek (44.5522, –118.9942); Cottonwood Creek (44.5758, –119.0694); East Fork Beech Creek (44.5248, –118.9023); Ennis Creek (44.5409, –119.0207); Hog Creek (44.5484, –119.0379); Little Beech Creek (44.4676, –118.9733); McClellan Creek #2 (44.5570, –118.9490); Tinker Creek (44.5550, –118.8892); Unnamed (44.5349, –119.0827).

(viii) *Laycock Creek Watershed 1707020110.* Outlet(s) = John Day River (Lat 44.4155, Long –119.2230) upstream to endpoint(s) in: Birch Creek #2 (44.4353, –119.2148); East Fork Dry Creek (44.4896, –119.1817); Fall Creek #2 (44.3551, –119.0420); Hanscombe Creek (44.3040, –119.0513); Harper Creek (44.3485, –119.1259); Ingle Creek (44.3154, –119.1153); John Day River (44.4225, –118.9584); Laycock Creek (44.3118, –119.0842); McClellan Creek (44.3510, –119.2004); Moon Creek (44.3483, –119.2389); Riley Creek (44.3450, –119.1664).

(ix) *Fields Creek Watershed 1707020111.* Outlet(s) = John Day River (Lat 44.4740, Long –119.5344) upstream to endpoint(s) in: Belshaw Creek (44.5460, –119.2025); Bridge Creek (44.4062, –119.4180); Buck Cabin Creek (44.3412, –119.3313); Cummings Creek (44.5043, –119.3250); Fields Creek (44.3260, –119.2828); Flat Creek (44.3930, –119.4386); John Day River (44.4155, –119.2230); Marks Creek (44.5162, –119.3886); Wickiup Creek (44.3713, –119.3239); Widows Creek (44.3752, –119.3819); Wiley Creek (44.4752, –119.3784).

(x) *Upper Middle John Day Watershed 1707020112.* Outlet(s) = John Day River (Lat 44.5289, Long –119.6320) upstream to endpoint(s) in: Back Creek (44.4164, –119.6858); Battle Creek (44.4658, –119.5863); Cottonwood Creek (44.3863, –119.7376); Cougar Creek (44.4031, –119.7056); East Fork Cottonwood Creek (44.3846, –119.6177); Ferris Creek (44.5446, –119.5250); Franks Creek (44.5067, –119.4903); John Day River (44.4740, –119.5344); Rattlesnake Creek (44.4673, –119.6953); Unnamed (44.3827, –119.6479); Unnamed (44.3961, –119.7403); Unnamed (44.4082, –119.6916).

(xi) *Mountain Creek Watershed 1707020113.* Outlet(s) = Mountain Creek (Lat 44.5214, Long –119.7138) upstream to endpoint(s) in: Badger Creek (44.4491, –120.1186); Fopiano Creek (44.5899, –119.9429); Fort Creek (44.4656, –119.9253); Fry Creek (44.4647, –119.9940); Keeton Creek (44.4632, –120.0195); Mac Creek (44.4739, –119.9359); Milk Creek (44.4649, –120.1526); Unnamed (44.4700, –119.9427); Unnamed (44.4703, –120.0328); Unnamed (44.4703, –120.0597); Unnamed (44.4827, –119.8970); Willow Creek (44.6027, –119.8746).

(xii) *Rock Creek Watershed 1707020114.* Outlet(s) = Rock Creek (Lat 44.5289, Long –119.6320) upstream to endpoint(s) in: Baldy Creek (44.3906, –119.7651); Bear Creek (44.3676, –119.8401); Fir Tree Creek (44.3902, –119.7893); First Creek (44.4086, –119.8120); Fred Creek (44.4602, –119.8549); Little Windy Creek (44.3751, –119.7595); Pine Hollow #2 (44.5007, –119.8559); Rock Creek (44.3509, –119.7636); Second Creek (44.3984, –119.8075); Unnamed (44.4000, –119.8501); Unnamed (44.4232, –119.7271); West Fork Birch Creek (44.4365, –119.7500).

(xiii) *John Day River/Johnson Creek Watershed 1707020115.* Outlet(s) = John Day River (Lat 44.7554, Long –119.6382) upstream to endpoint(s) in: Buckhorn Creek (44.6137, –119.7382); Burnt Corral Creek (44.6987, –119.5733); Frank Creek (44.6262, –119.7177); Indian Creek (44.5925, –119.7636); John Day River (44.5289, –119.6320); Johnny Creek (44.6126, –119.5534); Johnson Creek (44.6766, –119.7363).

(10) North Fork John Day Subbasin 17070202—(i) *Upper North Fork John Day River Watershed 1707020201.* Outlet(s) = North Fork John Day River (Lat 44.8661, Long –118.5605) upstream to endpoint(s) in: Baldy Creek (44.8687, –118.3172); Bear Gulch (44.8978, –118.5400); Bull Creek (44.8790, –118.2753); Crane Creek (44.8715, –118.3539); Crawfish Creek (44.9424, –118.2608); Cunningham Creek (44.9172, –118.2478); Davis Creek (44.9645, –118.4156); First Gulch (44.8831, –118.5588); Hoodoo Creek (44.9763, –118.3673); Long Meadow Creek (44.9490, –118.2932); McCarty Gulch (44.9131, –118.5114); Middle Trail Creek (44.9513, –118.3185); North Fork John Day River (44.8691, –118.2392); North Trail Creek (44.9675, –118.3219); South Trail Creek (44.9434, –118.2930); Trout Creek (44.9666, –118.4656); Unnamed (44.8576, –118.3169); Unnamed (44.8845, –118.3421); Unnamed (44.9221, –118.5000); Unnamed (44.9405, –118.4093); Unnamed (44.9471, –118.4797); Wagner Gulch (44.9390, –118.5148).

(ii) *Granite Creek Watershed 1707020202.* Outlet(s) = Granite Creek (Lat 44.8661, Long –118.5605) upstream to endpoint(s) in: Beaver Creek (44.7425, –118.3940); Boulder Creek (44.8368, –118.3631); Boundary Creek (44.8106, –118.3420); Bull Run Creek (44.7534, –118.3154); Corral Creek #2 (44.8186, –118.3565); Deep Creek #2 (44.8017, –118.3200); East Ten Cent Creek (44.8584, –118.4253); Granite Creek (44.8578, –118.3736); Lake Creek (44.7875, –118.5929); Lick Creek (44.8503, –118.5065); Lightning Creek (44.7256, –118.5011); Lost Creek (44.7620, –118.5822); North Fork Ruby Creek (44.7898, –118.5073); Olive Creek (44.7191, –118.4677); Rabbit Creek (44.7819, –118.5616); Ruby Creek (44.7797, –118.5237); South Fork Beaver Creek (44.7432, –118.4272); Squaw Creek #5 (44.8552, –118.4705); Unnamed (44.8427, –118.4233); West Fork Clear Creek (44.7490, –118.5440); West Ten Cent Creek (44.8709, –118.4377); Wolesy Creek (44.7687, –118.5540).

(iii) *North Fork John Day River/Big Creek Watershed 1707020203.* Outlet(s) = North Fork John Day River (Lat 44.9976, Long –118.9444) upstream to endpoint(s) in: Backout Creek (44.8560, –118.6289); Basin Creek (44.9081, –118.6671); Big Creek (45.0115, –118.6041); Bismark Creek (44.9548, –118.7020); Corral Creek (44.9592, –118.6368); Cougar Creek (44.9288, –118.6653); Meadow Creek (44.9856, –118.4664); North Fork John Day River (44.8661, –118.5605); Oregon Gulch (44.8694, –118.6119); Oriental Creek (45.0000, –118.7255); Otter Creek (44.9634, –118.7567); Paradise Creek (44.9168, –118.5850); Raspberry Creek (44.9638, –118.7356); Ryder Creek (44.9341, –118.5943); Silver Creek (44.9077, –118.5580); Simpson Creek (44.9383, –118.6794); South Fork Meadow Creek (44.9303, –118.5481); South Martin Creek (44.9479, –118.5281); Trough Creek (44.9960, –118.8499); Unnamed (44.8594, –118.6432); Unnamed (44.9073, –118.5690); Unnamed (45.0031, –118.7060); Unnamed (45.0267, –118.7635); Unnamed (45.0413, –118.8089); White Creek (45.0000, –118.5617); Winom Creek (44.9822, –118.6766).

(iv) *Desolation Creek Watershed 1707020204.* Outlet(s) = Desolation Creek (Lat 44.9977, Long –118.9352) upstream to endpoint(s) in: Battle Creek (44.8895, –118.7010); Beeman Creek (44.8230, –118.7498); Bruin Creek (44.8936, –118.7600); Howard Creek (44.8513, –118.7004); Junkens Creek (44.8482, –118.7994); Kelsay Creek (44.9203, –118.6899); Little Kelsay Creek (44.9127, –118.7124); North Fork Desolation Creek (44.7791, –118.6231); Park Creek (44.9109, –118.7839); Peep Creek (44.9488, –118.8069); South Fork Desolation Creek (44.7890, –118.6732); Sponge Creek (44.8577, –118.7165); Starveout Creek (44.8994, –118.8220); Unnamed (44.8709, –118.7130); Unnamed (44.9058, –118.7689); Unnamed (44.9163, –118.8384); Unnamed (44.9203, –118.8315); Unnamed (44.9521, –118.8141); Unnamed (44.9735, –118.8707).

(v) *Upper Camas Creek Watershed 1707020205.* Outlet(s) = Camas Creek (Lat 45.1576, Long –118.8411) upstream to endpoint(s) in: Bear Wallow Creek (45.2501, –118.7502); Bowman Creek (45.2281, –118.7028); Butcherknife Creek (45.1495, –118.6913); Camas Creek (45.1751, –118.5548); Dry Camas Creek (45.1582, –118.5846); Frazier Creek (45.1196, –118.6152); Hidaway Creek (45.0807, –118.5788); Lane Creek (45.2429, –118.7749); Line Creek (45.1067, –118.6562); North Fork Cable Creek (45.0535, –118.6569); Rancheria Creek (45.2144, –118.6552); Salsbury Creek (45.2022, –118.6206); South Fork Cable Creek (45.0077, –118.6942); Unnamed (45.0508, –118.6536); Unnamed (45.0579, –118.6705); Unnamed (45.0636, –118.6198); Unnamed (45.0638, –118.5908); Unnamed (45.0823, –118.6579); Unnamed (45.1369, –118.6771); Unnamed (45.1513, –118.5966); Unnamed (45.1854, –118.6842); Unnamed (45.1891, –118.6110); Unnamed (45.2429, –118.7575); Warm Spring Creek (45.1386, –118.6561).

(vi) *Lower Camas Creek Watershed 1707020206.* Outlet(s) = Camas Creek (Lat 45.0101, Long –118.9950) upstream to endpoint(s) in: Bridge Creek (45.0395, –118.8633); Camas Creek (45.1576, –118.8411); Cooper Creek (45.2133, –118.9881); Deerlick Creek (45.1489, –119.0229); Dry Fivemile Creek (45.1313, –119.0898); Fivemile Creek (45.1804, –119.2259); Middle Fork Wilkins Creek (45.1193, –119.0439); North Fork Owens Creek (45.1872, –118.9705); Owens Creek (45.2562, –118.8305); Silver Creek (45.1066, –119.1268); Snipe Creek (45.2502, –118.9707); South Fork Wilkins Creek (45.1078, –119.0312); Sugarbowl Creek (45.1986, –119.0999); Taylor Creek (45.1482, –119.1820); Tribble Creek (45.1713, –119.1617); Unnamed (45.0797, –118.7878); Unnamed (45.1198, –118.8514); Unnamed (45.1993, –118.9062); Unnamed (45.2000, –118.8236); Unnamed (45.2141, –118.8079); Unnamed (45.1773, –119.0753); Unnamed (45.2062, –119.0717); Wilkins Creek (45.1239, –119.0094).

(vii) *North Fork John Day River/ Potamus Creek Watershed 1707020207.* Outlet(s) = North Fork John Day River (Lat 44.8832. Long –119.4090) upstream to endpoint(s) in: Buckaroo Creek (45.0245, –119.1187); Butcher Bill Creek (45.1290, –119.3197); Cabin Creek (44.9650, –119.3628); Deep Creek (45.0977, –119.2021); Deerhorn Creek (45.0513, –119.0542); Ditch Creek (45.1584, –119.3153); East Fork Meadow Brook Creek (44.9634, –118.9575); Ellis Creek (45.1197, –119.2167); Graves

Creek (44.9927, –119.3171); Hinton Creek (44.9650, –119.0025); Hunter Creek (45.0114, –119.0896); Jericho Creek (45.0361, –119.0829); Little Potamus Creek (45.0462, –119.2579); Mallory Creek (45.1030, –119.3112); Martin Creek (45.1217, –119.3538); Matlock Creek (45.0762, –119.1837); No Name Creek (45.0730, –119.1459); North Fork John Day River (44.9976, –118.9444); Pole Creek (45.1666, –119.2533); Rush Creek (45.0498, –119.1219); Skull Creek (44.9726, –119.2035); Smith Creek (44.9443, –118.9687); Stalder Creek (45.0655, –119.2844); Stony Creek (45.0424, –119.1489); West Fork Meadow Brook (44.9428, –119.0319); Wickiup Creek (45.0256, –119.2776); Wilson Creek (45.1372, –119.2673).

(viii) *Wall Creek Watershed 1707020208.* Outlet(s) = Big Wall Creek (Lat 44.8832, Long –119.4090) upstream to endpoint(s) in: Alder Creek (45.1049, –119.4170); Bacon Creek (45.0137, –119.4800); Bear Creek (45.0551, –119.4170); Big Wall Creek (44.9369, –119.6055); Bull Prairie Creek (44.9753, –119.6604); Colvin Creek (44.9835, –119.6911); East Fork Alder Creek (45.1028, –119.3929); East Fork Indian Creek (44.9009, –119.4918); Happy Jack Creek (44.8997, –119.5730); Hog Creek (45.0507, –119.4821); Indian Creek (44.8810, –119.5260); Johnson Creek (45.0097, –119.6282); Little Bear Creek (45.0433, –119.4084); Little Wall Creek (45.0271, –119.5235); Little Wilson Creek (44.8979, –119.5531); Lovlett Creek (44.9675, –119.5105); Skookum Creek (45.0894, –119.4725); South Fork Big Wall Creek (44.9315, –119.6167); Swale Creek (45.1162, –119.3836); Three Trough Creek (44.9927, –119.5318); Two Spring Creek (45.0251, –119.3938); Unnamed (44.9000, –119.6213); Unnamed (44.9830, –119.7364); Unnamed (44.9883, –119.7248); Unnamed (45.0922, –119.4374); Unnamed (45.1079, –119.4359); Willow Spring Creek (44.9467, –119.5921); Wilson Creek (44.9861, –119.6623).

(ix) *Cottonwood Creek Watershed 1707020209.* Outlet(s) = Cottonwood Creek (Lat 44.8141, Long –119.4183) upstream to endpoint(s) in: BecK Creek (44.5795, –119.2664); Board Creek (44.5841, –119.3763); Boulder Creek (44.5876, –119.3006); Camp Creek #3 (44.6606, –119.3283); Cougar Creek #2 (44.6230, –119.4133); Day Creek (44.5946, –119.0235); Donaldson Creek (44.5919, –119.3480); Dunning Creek (44.6416, –119.0628); Fox Creek (44.6163, –119.0078); Indian Creek #3 (44.6794, –119.2196); McHaley Creek (44.5845, –119.2234); Mill Creek (44.6080, –119.0878); Mine Creek (44.5938, –119.1756); Murphy Creek (44.6062, –119.1114); Smith Creek (44.6627, –119.0808); Squaw Creek #3 (44.5715, –119.4069); Unnamed (44.6176, –119.0806).

(x) *Lower North Fork John Day River Watershed 1707020210.* Outlet(s) = North Fork John Day River (Lat 44.7554, Long –119.6382) upstream to endpoint(s) in: East Fork Deer Creek (44.7033, –119.2753); Gilmore Creek (44.6744, –119.4875); North Fork John Day River (44.8832, –119.4090); Rudio Creek (44.6254, –119.5026); Straight Creek (44.6759, –119.4687); West Fork Deer Creek (44.6985, –119.3372).

(11) Middle Fork John Day Subbasin 17070203—(i) *Upper Middle Fork John Day River Watershed 1707020301.* Outlet(s) = Middle Fork John Day River (Lat 44.5946, Long –118.5163) upstream to endpoint(s) in: Bridge Creek (44.5326, –118.5746); Clear Creek (44.4692, –118.4615); Crawford Creek (44.6381, –118.3887); Dry Fork Clear Creek (44.5339, –118.4484); Fly Creek (44.6108, –118.3810); Idaho Creek (44.6113, –118.3856); Middle Fork John Day River (44.5847, –118.4286); Mill Creek (44.6106, –118.4809); North Fork Bridge Creek (44.5479, –118.5663); North Fork Summit Creek (44.5878, –118.3560); Squaw Creek (44.5303, –118.4089); Summit Creek (44.5831, –118.3585).

(ii) *Camp Creek Watershed 1707020302.* Outlet(s) = Middle Fork John Day River (Lat 44.6934, Long –118.7947) upstream to endpoint(s) in: Badger Creek (44.7102, –118.6738); Balance Creek (44.6756, –118.7661); Beaver Creek (44.6918, –118.6467); Bennett Creek (44.6095, –118.6432); Big Boulder Creek (44.7332, –118.6889); Blue Gulch (44.6952, –118.5220); Butte Creek (44.5913, –118.6481); Camp Creek (44.5692, –118.8041); Caribou Creek (44.6581, –118.5543); Charlie Creek (44.5829, –118.8277); Cottonwood Creek (44.6616, –118.8919); Cougar Creek (44.6014, –118.8261); Coxie Creek (44.5596, –118.8457); Coyote Creek (44.7040, –118.7436); Davis Creek (44.5720, –118.6026); Deerhorn Creek (44.5984, –118.5879); Dry Creek (44.6722, –118.6962); Eagle Creek (44.5715, –118.8269); Granite Boulder Creek (44.6860, –118.6039); Lemon Creek (44.6933, –118.6169); Lick Creek (44.6102, –118.7504); Little Boulder Creek (44.6661, –118.5807); Little Butte Creek (44.6093, –118.6188); Middle Fork John Day River (44.5946, –118.5163); Myrtle Creek (44.7336, –118.7187); Placer Gulch (44.5670, –118.5593); Ragged Creek (44.6366, –118.7048); Ruby Creek (44.6050, –118.6897); Sulphur Creek (44.6119, –118.6672); Sunshine Creek (44.6424, –118.7437); Tincup Creek (44.6489, –118.6320); Trail Creek (44.6249, –118.8469); Unnamed (44.5535, –118.8139); Unnamed (44.5697, –118.5975); Unnamed (44.6041, –118.6051); Unnamed (44.6471, –118.6869); Unnamed (44.6559, –118.5777); Vincent Creek (44.6663, –118.5345); Vinegar Creek (44.6861, –118.5378); West Fork Lick Creek (44.6021, –118.7891); Whiskey Creek (44.6776, –118.8659); Windlass Creek (44.6653, –118.6030); Wray Creek (44.6978, –118.6588).

(iii) *Big Creek Watershed 1707020303.* Outlet(s) = Middle Fork John Day River (Lat 44.8363, Long –119.0306) upstream to endpoint(s) in: Barnes Creek (44.8911, –118.9974); Bear Creek (44.7068, –118.8742); Big Creek (44.7726, –118.6831); Deadwood Creek (44.7645, –118.7499); Deep Creek (44.7448, –118.7591); East Fork Big Creek (44.7923, –118.7783); Elk Creek (44.7167, –118.7721); Granite Creek (44.8893, –119.0103); Huckleberry Creek (44.8045, –118.8605); Indian Creek (44.8037, –118.7498); Lick Creek (44.8302, –118.9613); Little Indian Creek (44.8743, –118.8862); Lost Creek (44.7906, –118.7970); Middle Fork John Day River (44.6934, –118.7947); Mosquito Creek (44.7504, –118.8021); North Fork Elk Creek (44.7281, –118.7624); Onion Gulch (44.7622, –118.7846); Pizer Creek (44.7805, –118.8102); Slide Creek (44.6950, –118.9124); Swamp Gulch (44.7606, –118.7641); Unnamed (44.8249, –118.8718); Unnamed (44.8594, –118.9018).

(iv) *Long Creek Watershed 1707020304.* Outlet(s) = Long Creek (Lat 44.8878, Long –119.2338) upstream to endpoint(s) in: Basin Creek (44.7458, –119.2452); Everett Creek (44.7106, –119.1063); Jonas Creek (44.6307, –118.9118); Long Creek (44.6076, –118.9402); Pass Creek (44.7681, –119.0414); Paul Creek (44.7243, –119.1304); Pine Creek (44.8125, –119.0859); South Fork Long Creek (44.6360, –118.9756).

(v) *Lower Middle Fork John Day River Watershed 1707020305.* Outlet(s) = Middle Fork John Day River (Lat 44.9168, Long –119.3004) upstream to endpoint(s) in: Middle Fork John Day River (44.8363, –119.0306).

(12) Lower John Day Subbasin 17070204—(i) *Lower John Day River/Kahler Creek 1707020401.* Outlet(s) = John Day River (Lat 44.8080, Long –119.9585) upstream to endpoint(s) in: Alder Creek (44.9575, –119.8621); Camp Creek (44.9005, –119.9505); East Bologna Canyon (44.8484, –119.5842); Henry Creek (44.9609, –119.7683); Horseshoe Creek (44.7076, –119.9465);

John Day River (44.7554, –119.6382); Kahler Creek (44.9109, –119.7030); Lake Creek (44.9012, –119.9806); Left Hand Creek (44.7693, –119.7613); Parrish Creek (44.7207, –119.8369); Tamarack Butte #2 (44.6867, –119.7898); Tamarack Creek (44.9107, –119.7026); Unnamed (44.9334, –119.9164); Unnamed (44.9385, –119.9088); Unnamed (44.9451, –119.8932); Unnamed (44.9491, –119.8696); Unnamed (44.9546, –119.8739); Unnamed (44.9557, –119.7561); West Bologna Canyon (44.8338, –119.6422); Wheeler Creek (44.9483, –119.8447); William Creek (44.7458, –119.9027).

(ii) *Lower John Day River/Service Creek Watershed 1707020402.* Outlet(s) = John Day River (Lat 44.7368, Long –120.3054) upstream to endpoint(s) in: Big Service Creek (44.9286, –120.0428); Girds Creek (44.6681, –120.1234); John Day River (44.8080, –119.9585); Rowe Creek (44.8043, –120.1751); Service Creek (44.8951, –120.0892); Shoofly Creek (44.6510, –120.0207).

(iii) *Bridge Creek Watershed 1707020403.* Outlet(s) = Bridge Creek (Lat 44.7368, Long –120.3054) upstream to endpoint(s) in: Bear Creek (44.5585, –120.4198); Bridge Creek (44.4721, –120.2009); Carroll Creek (44.5460, –120.3322); Dodds Creek (44.5329, –120.3867); Gable Creek (44.5186, –120.2384); Johnson Creek #2 (44.5193, –120.0949); Slide Creek (44.4956, –120.3023); Thompson Creek (44.5270, –120.2489); West Branch Bridge Creek (44.4911, –120.3098).

(iv) *Lower John Day River/Muddy Creek Watershed 1707020404.* Outlet(s) = John Day River (Lat 44.9062, Long –120.4460) upstream to endpoint(s) in: Cherry Creek (44.6344, –120.4543); Clubfoot Hollow (44.8865, –120.1929); Cove Creek (44.9299, –120.3791); Dry Creek (44.6771, –120.5367); John Day River (44.7368, –120.3054); Little Muddy Creek (44.7371, –120.5575); Muddy Creek (44.7491, –120.5071); Pine Creek (44.8931, –120.1797); Robinson Canyon (44.8807, –120.2678); Steers Canyon (44.9247, –120.2013).

(v) *Lower John Day River/Clarno Watershed 1707020405.* Outlet(s) = John Day River (Lat 45.1626, Long –120.4681) upstream to endpoint(s) in: Pine Creek (44.9062, –120.4460); Sorefoot Creek (44.9428, –120.5481).

(vi) *Butte Creek Watershed 1707020406.* Outlet(s) = Butte Creek (Lat 45.0574, Long –120.4831) upstream to endpoint(s) in: Butte Creek (44.9266, –120.1142); Cottonwood Creek (44.9816, –120.2136); Deep Creek (45.0166, –120.4165); Hunt Canyon (45.1050, –120.2838); Straw Fork (44.9536, –120.1024); Unnamed (45.0952, –120.2928); West Fork Butte Creek (44.9883, –120.3332).

(vii) *Pine Hollow Watershed 1707020407.* Outlet(s) = Pine Hollow (Lat 45.1531, Long –120.4757) upstream to endpoint(s) in: Big Pine Hollow (44.9968, –120.7342); Brush Canyon (45.0255, –120.6329); Eakin Canyon (45.1608, –120.5863); Hannafin Canyon (45.1522, –120.6158); Long Hollow Creek (44.9922, –120.5565); West Little Pine Hollow (44.9921, –120.7324).

(viii) *Thirtymile Creek Watershed 1707020408.* Outlet(s) = Thirtymile Creek (Lat 45.1626, Long –120.4681) upstream to endpoint(s) in: Condon Canyon (45.1870, –120.1829); Dry Fork Thirtymile Creek (45.1858, –120.1338); East Fork Thirtymile Creek (45.1575, –120.0556); Lost Valley Creek (45.1062, –119.9916); Patill Canyon (45.1252, –120.1870); Thirtymile Creek (44.9852, –120.0375); Unnamed (44.9753, –120.0469); Wehrli Canyon (45.1539, –120.2137).

(ix) *Lower John Day River/Ferry Canyon Watershed 1707020409.* Outlet(s) = John Day River (Lat 45.3801, Long –120.5117) upstream to endpoint(s) in: Ferry Canyon (45.3424, –120.4388); Jackknife Creek (45.2490, –120.6106); John Day River (45.1626, –120.4681); Lamberson Canyon (45.3099, –120.4147); Little Ferry Canyon (45.3827, –120.5913).

(x) *Lower John Day River/Scott Canyon Watershed 1707020410.* Outlet(s) = John Day River (Lat 45.5769, Long –120.4041) upstream to endpoint(s) in: Cottonwood Canyon (45.4143, –120.4490); Cottonwood Canyon (45.4898, –120.5118); Dry Fork Hay Creek (45.3093, –120.1612); John Day River (45.3801, –120.5117); Scott Canyon (45.4124, –120.1957); Unnamed (45.3407, –120.2299).

(xi) *Upper Rock Creek Watershed 1707020411.* Outlet(s) = Rock Creek (Lat 45.2190, Long –119.9597) upstream to endpoint(s) in: Allen Canyon (45.1092, –119.5976); Allen Spring Canyon (45.0471, –119.6468); Board Creek (45.1120, –119.5390); Brown Creek (45.0365, –119.8296); Buckhorn Creek (45.0272, –119.9186); Chapin Creek (45.0538, –119.6727); Davidson Canyon (45.0515, –119.5952); Hahn Canyon (45.1491, –119.8320); Harris Canyon (45.0762, –119.5856); Hollywood Creek (45.0964, –119.5174); Indian Creek (45.0481, –119.6476); John Z Canyon (45.0829, –119.6058); Juniper Creek (45.0504, –119.7730); Middle Fork Rock Creek (45.0818, –119.7404); Rock Creek (45.0361, –119.5989); Stahl Canyon (45.0071, –119.8683); Tree Root Canyon (45.0626, –119.6314); Tupper Creek (45.0903, –119.4999); Unnamed (45.0293, –119.5907); Unnamed (45.0698, –119.5329); Unnamed (45.0714, –119.5227); West Fork Juniper Creek (45.0192, –119.7786).

(xii) *Lower Rock Creek Watershed 1707020412.* Outlet(s) = Rock Creek (Lat 45.5769, Long –120.4041) upstream to endpoint(s) in: Dry Creek (45.3238, –119.9709); Rock Creek (45.2190, –119.9597); Sixmile Canyon (45.2448, –120.0283); South Fork Rock Creek (45.2770, –120.1232).

(xiii) *Grass Valley Canyon Watershed 1707020413.* Outlet(s) = Grass Valley Canyon (Lat 45.5974, Long –120.4232) upstream to endpoint(s) in: Grass Valley Canyon (45.4071, –120.7226); Hay Canyon (45.5104, –120.6085); Rosebush Creek (45.3395, –120.7159).

(xiv) *Lower John Day River/McDonald Ferry Watershed 1707020414.* Outlet(s) = John Day River (Lat 45.7389, Long –120.6520) upstream to endpoint(s) in: John Day River (45.5769, –120.4041).

(13) Lower Deschutes Subbasin 17070306—(i) *Upper Deschutes River Watershed 1707030603.* Outlet(s) = Deschutes River (Lat 44.8579, Long –121.0668) upstream to endpoint(s) in: Deschutes River (44.7243, –121.2465); Shitike Creek (44.7655, –121.5835); Unnamed (44.7934, –121.3715).

(ii) *Mill Creek Watershed 1707030604.* Outlet(s) = Mill Creek (Lat 44.8792, Long –121.3711) upstream to endpoint(s) in: Boulder Creek (44.8261, –121.4924); Mill Creek (44.8343, –121.6737); Unnamed (44.8330, –121.6756).

(iii) *Beaver Creek Watershed 1707030605.* Outlet(s) = Beaver Creek (Lat 44.8730, Long –121.3405) upstream to endpoint(s) in: Beaver Butte Creek (45.0786, –121.5746); Beaver Creek (45.1306, –121.6468); Indian Creek (45.0835, –121.5113).

(iv) *Warm Springs River Watershed 1707030606.* Outlet(s) = Warm Springs River (Lat 44.8579, Long –121.0668) upstream to endpoint(s) in: Badger Creek #2 (44.9352, –121.5569); South Fork Warm Springs River (44.9268, –121.6995); Warm Springs River (44.9812, –121.7976).

(v) *Middle Deschutes River Watershed 1707030607.* Outlet(s) = Deschutes River (Lat 45.2642, Long –121.0232) upstream to endpoint(s) in: Cove Creek (44.9673, –121.0430); Deschutes River (44.8579, –121.0668); Eagle Creek (44.9999, –121.1688); Nena Creek (45.1030, –121.1653); Oak Creek (44.9336, –121.0981); Paquet Gulch (45.0676, –121.2911); Skookum Creek (44.9171, –121.1251); Stag Canyon (45.1249, –121.0563); Unnamed (45.0186, –121.0464); Unnamed (45.0930, –121.1511); Wapinitia Creek (45.1177, –121.3025).

(vi) *Bakeoven Creek Watershed 1707030608.* Outlet(s) = Bakeoven Creek (Lat 45.1748, Long –121.0728) upstream to endpoint(s) in: Bakeoven Creek (45.1261, –120.9398); Booten Creek (45.1434, –121.0131); Cottonwood Creek (45.0036, –120.8720); Deep Creek (44.9723, –120.9480); Robin Creek (45.1209, –120.9652); Trail Hollow Creek (45.1481, –121.0423).

(vii) *Buck Hollow Creek Watershed 1707030611.* Outlet(s) = Buck Hollow Creek (Lat 45.2642, Long –121.0232) upstream to endpoint(s) in: Buck Hollow Creek (45.0663, –120.7095); Finnegan Creek (45.2231, –120.8472); Macken Canyon (45.1093, –120.7011); Thorn Hollow (45.0450, –120.7386).

(viii) *Lower Deschutes River Watershed 1707030612.* Outlet(s) = Deschutes River (Lat 45.6426, Long –120.9142) upstream to endpoint(s) in: Bull Run Canyon (45.4480, –120.8655); Deschutes River (45.2642, –121.0232); Fall Canyon (45.5222, –120.8538); Ferry Canyon (45.3854, –120.9373); Jones Canyon (45.3011, –120.9404); Macks Canyon (45.3659, –120.8524); Oak Canyon (45.3460, –120.9960); Sixteen Canyon (45.4050, –120.8529).

(14) Trout Subbasin 17070307—(i) *Upper Trout Creek Watershed 1707030701.* Outlet(s) = Trout Creek (Lat 44.8229, Long –120.9193) upstream to endpoint(s) in: Amity Creek (44.6447, –120.5854); Auger Creek (44.5539, –120.5381); Beaver Creek (44.6390, –120.7034); Big Log Creek (44.5436, –120.6997); Big Whetstone Creek (44.6761, –120.7645); Board Hollow (44.6064, –120.7405); Cartwright Creek (44.5404, –120.6535); Clover Creek (44.6523, –120.7358); Dutchman Creek (44.5320, –120.6704); Foley Creek (44.5861, –120.6801); Little Trout Creek (44.7816, –120.7237); Opal Creek (44.5792, –120.5446); Potlid Creek (44.5366, –120.6207); Trout Creek (44.5286, –120.5805); Tub Springs Canyon (44.8155, –120.7888); Unnamed (44.5428, –120.5848); Unnamed (44.6043, –120.7403); Unnamed (44.6510, –120.7337).

(ii) *Antelope Creek Watershed 1707030702.* Antelope Creek (Lat 44.8229, Long –120.9193) upstream to endpoint(s) in: Antelope Creek (44.8564, –120.8574); Boot Creek (44.9086, –120.8864); Pole Creek (44.9023, –120.9108); Ward Creek (44.9513, –120.8341).

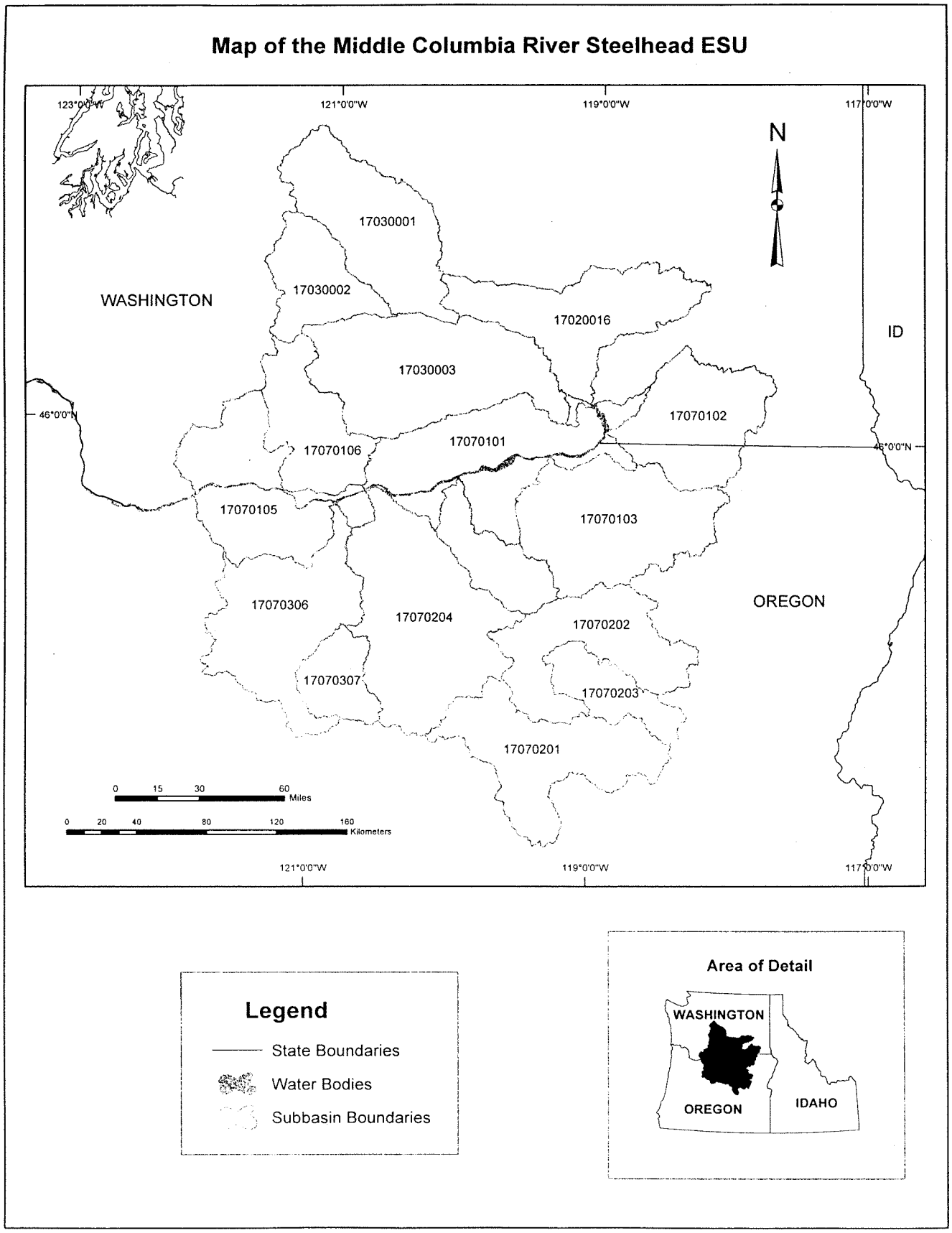
(iii) *Lower Trout Creek Watershed 1707030705.* Outlet(s) = Trout Creek (Lat 44.8214, Long –121.0876) upstream to endpoint(s) in: Brocher Creek (44.8357, –121.0330); Hay Creek (44.7824, –120.9652); Trout Creek (44.8229, –120.9193).

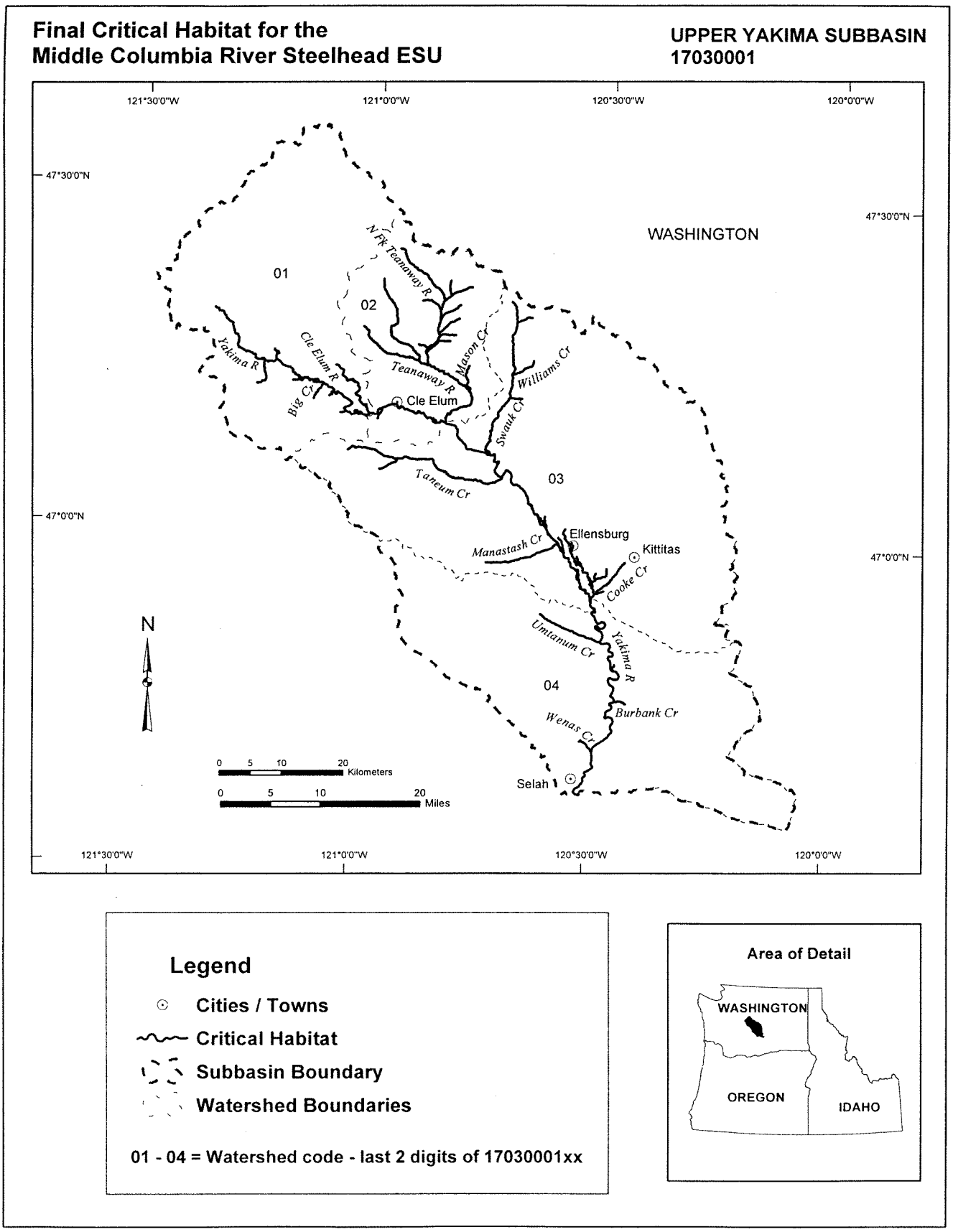
(15) Upper Columbia/Priest Rapids Subbasin 17020016—*Columbia River/Zintel Canyon Watershed 1702001606.* Outlet(s) = Columbia River (Lat 46.1776, Long –119.0183) upstream to endpoint(s) in: Columbia River (46.2534, –119.2268).

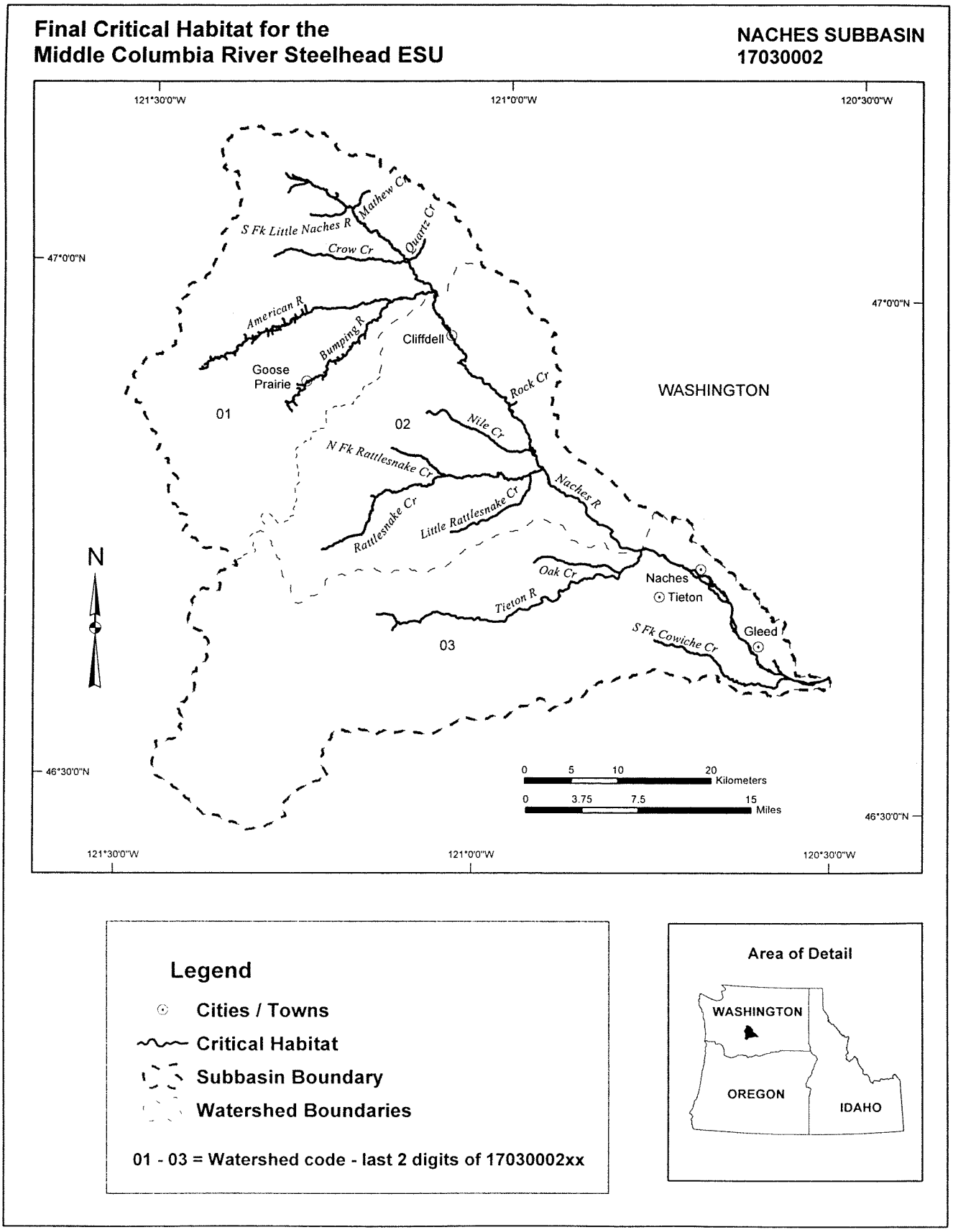
(16) Columbia River Corridor-*Columbia River Corridor* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.7070, –121.7943).

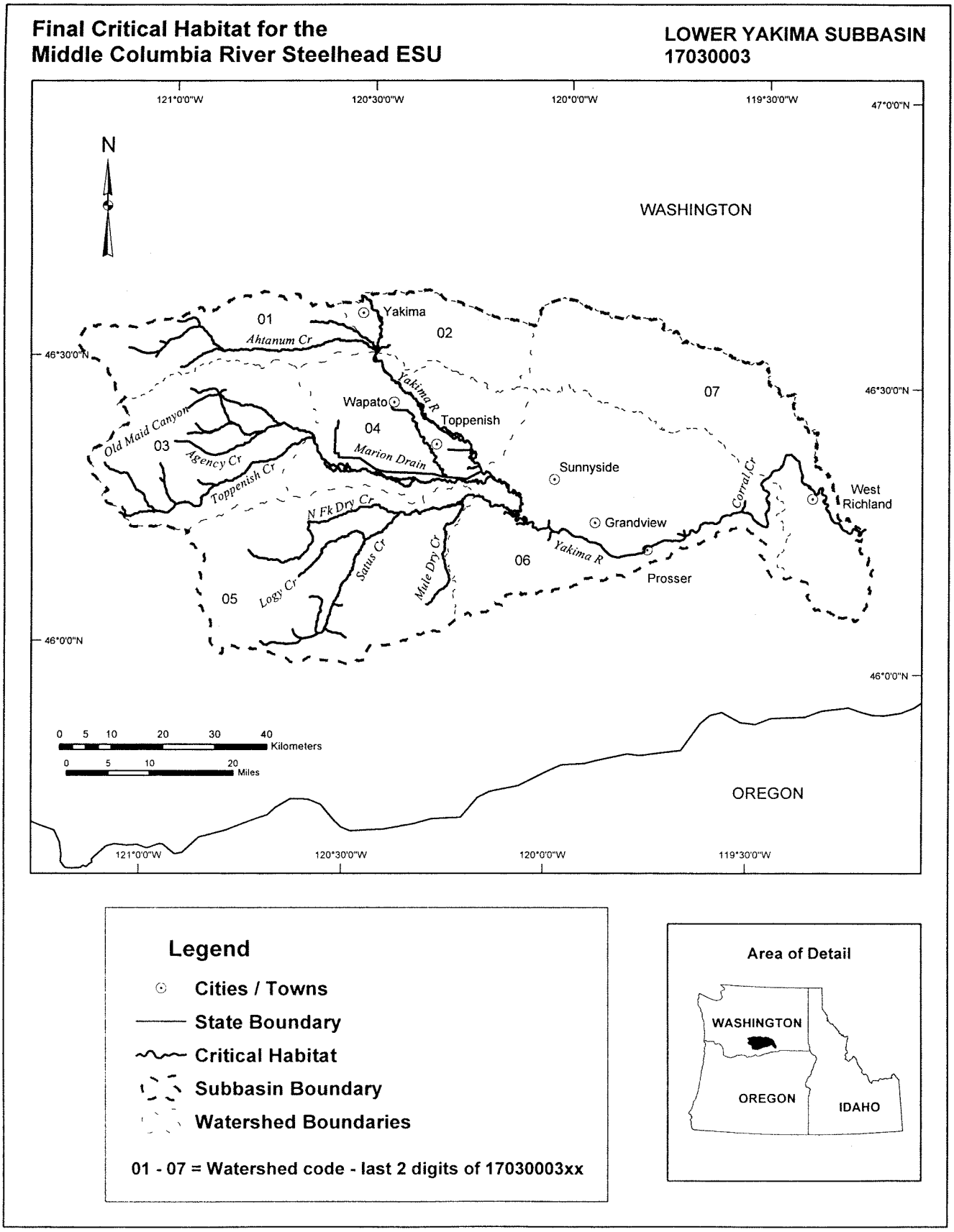
(17) Maps of critical habitat for the Middle Columbia River Steelhead ESU follow:

BILLING CODE 3510–22–P


Map of the Middle Columbia River Steelhead ESU
123°0'0"W
121°0'0"W
119°0'0"W
117°0'0"W
N
WASHINGTON
ID
OREGON
46°0'0"N
17030001
17030002
17020016
17030003
17070102
17070101
17070106
17070105
17070103
17070306
17070204
17070202
17070307
17070203
17070201
0 15 30 60 Miles
0 20 40 80 120 160 Kilometers
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

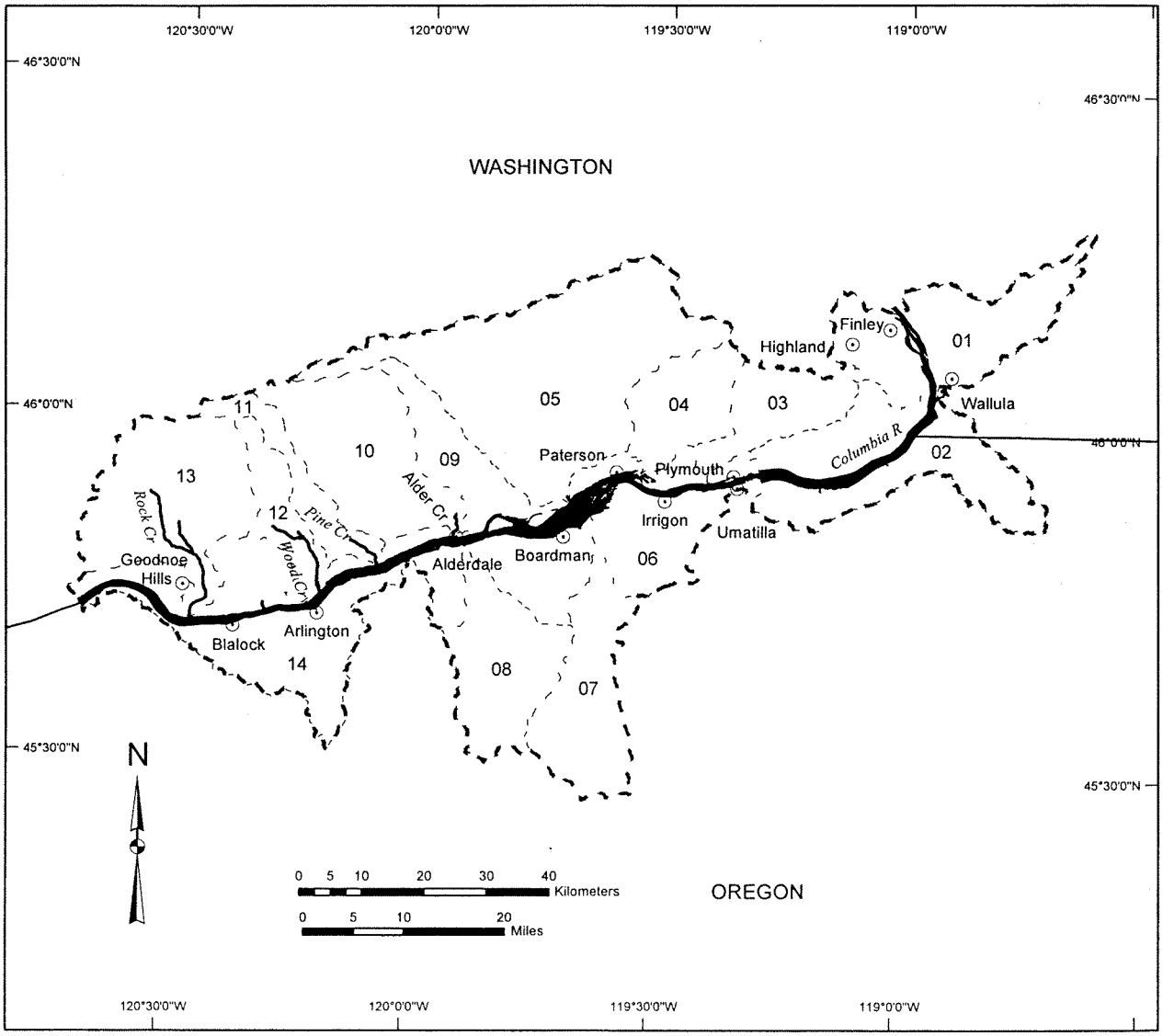

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
UPPER YAKIMA SUBBASIN
17030001
121°30'0"W
121°0'0"W
120°30'0"W
120°0'0"W
47°30'0"N
47°0'0"N
WASHINGTON
01
02
03
04
N Fk Teanaway R
Teanaway R
Mason Cr
Williams Cr
Swauk Cr
Yakima R
Cle Elum R
Big Cr
Cle Elum
Taneum Cr
Manastash Cr
Ellensburg
Kittitas
Cooke Cr
Umtanum Cr
Yakima R
Burbank Cr
Wenas Cr
Selah
N
0 5 10 20 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17030001xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
NACHES SUBBASIN
17030002
121°30'0"W
121°0'0"W
120°30'0"W
47°0'0"N
46°30'0"N
S Fk Little Naches R
Mathew Cr
Quartz Cr
Crow Cr
American R
Bumping R
Cliffdell
Goose Prairie
Rock Cr
WASHINGTON
01
02
Nile Cr
N Fk Rattlesnake Cr
Naches R
Rattlesnake Cr
Little Rattlesnake Cr
N
Oak Cr
Naches
Tieton
Tieton R
Gleed
S Fk Cowiche Cr
03
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17030002xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
LOWER YAKIMA SUBBASIN
17030003
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
47°0'0"N
46°30'0"N
46°0'0"N
N
WASHINGTON
OREGON
01
02
03
04
05
06
07
Yakima
Wapato
Toppenish
Sunnyside
Grandview
Prosser
West Richland
Ahtanum Cr
Yakima R
Old Maid Canyon
Agency Cr
Toppenish Cr
Marion Drain
N Fk Dry Cr
Logy Cr
Satus Cr
Mule Dry Cr
Corral Cr
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17030003xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Middle Columbia River Steelhead ESU

MIDDLE COLUMBIA / LAKE WALLULA SUBBASIN 17070101

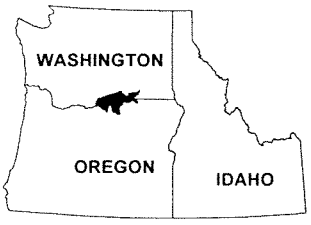


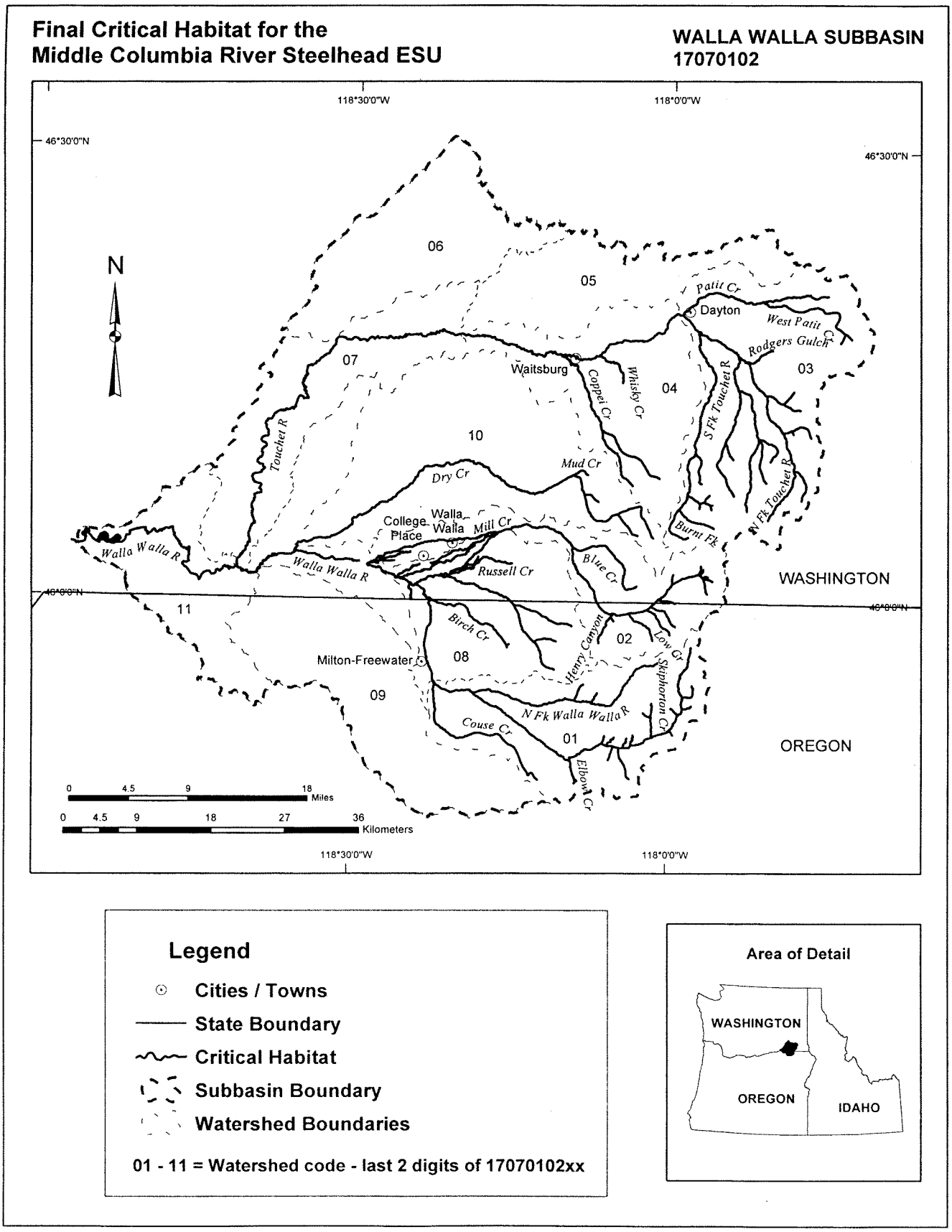
Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 14 = Watershed code - last 2 digits of 17070101xx

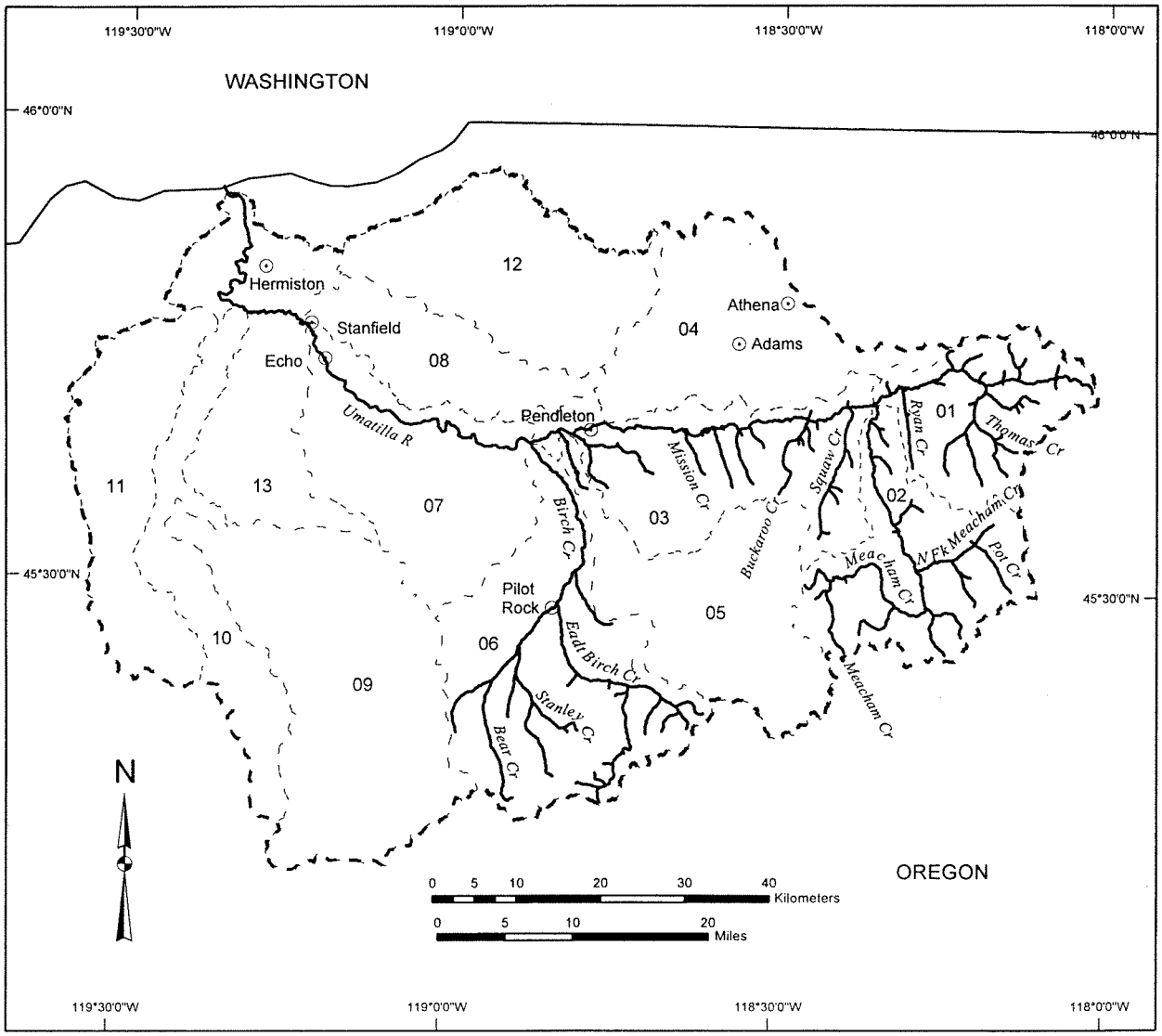
Area of Detail




Final Critical Habitat for the
Middle Columbia River Steelhead ESU
WALLA WALLA SUBBASIN
17070102
118°30'0"W
118°0'0"W
46°30'0"N
46°0'0"N
N
06
05
07
04
03
10
11
08
09
02
01
Dayton
Waitsburg
College Place
Walla Walla
Milton-Freewater
Patit Cr
West Patit
Rodgers Gulch
Coppei Cr
Whisky Cr
S Fk Touchet R
N Fk Touchet R
Touchet R
Mud Cr
Dry Cr
Mill Cr
Burnt Fk
Walla Walla R
Russell Cr
Blue Cr
Birch Cr
Henry Canyon
Low Cr
Skiphorton Cr
N Fk Walla Walla R
Couse Cr
Elbow Cr
WASHINGTON
OREGON
0 4.5 9 18 Miles
0 4.5 9 18 27 36 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 11 = Watershed code - last 2 digits of 17070102xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Middle Columbia River Steelhead ESU

UMATILLA SUBBASIN 17070103

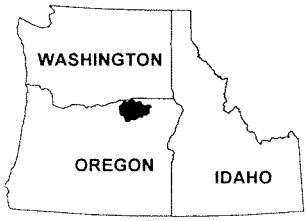


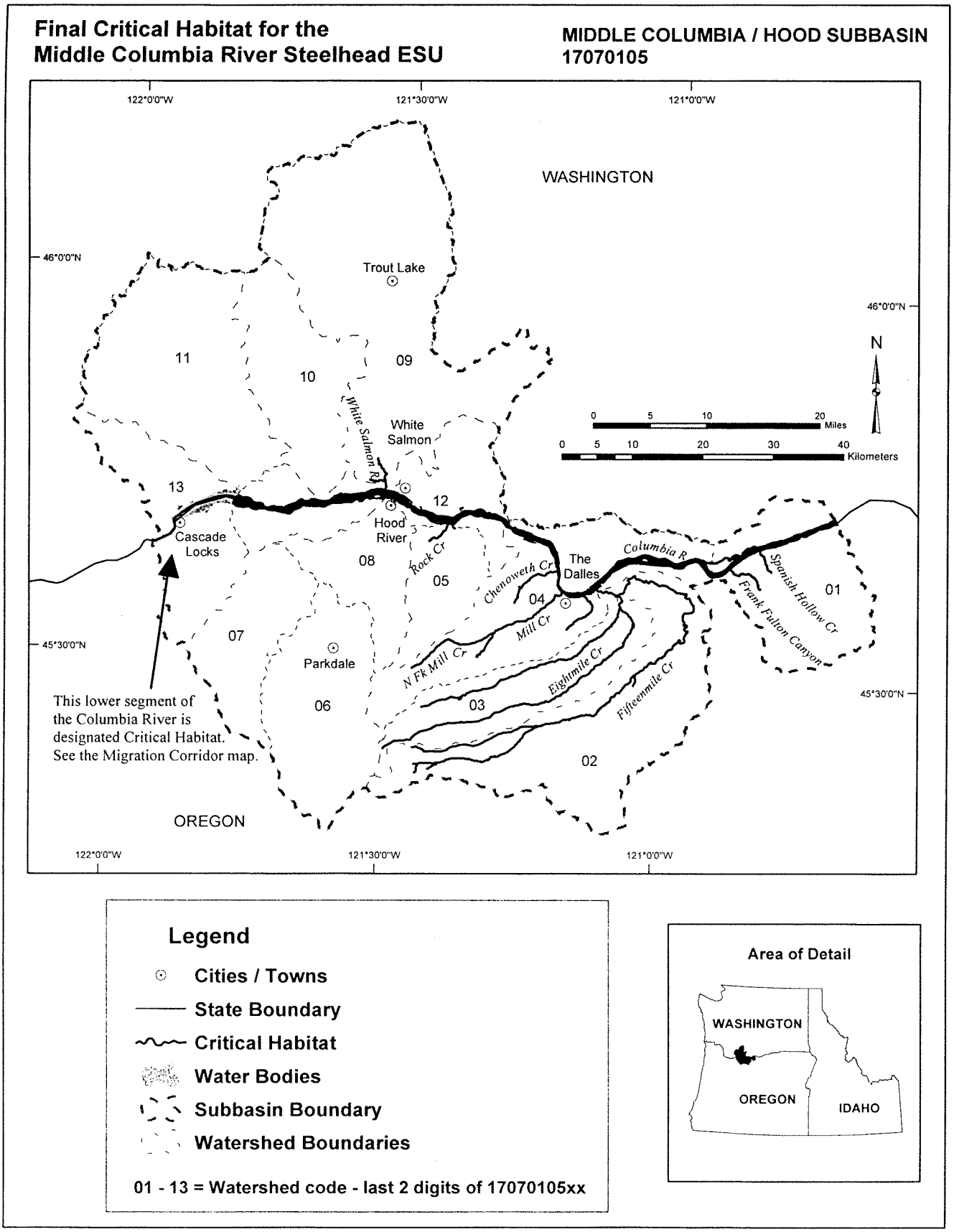
Legend

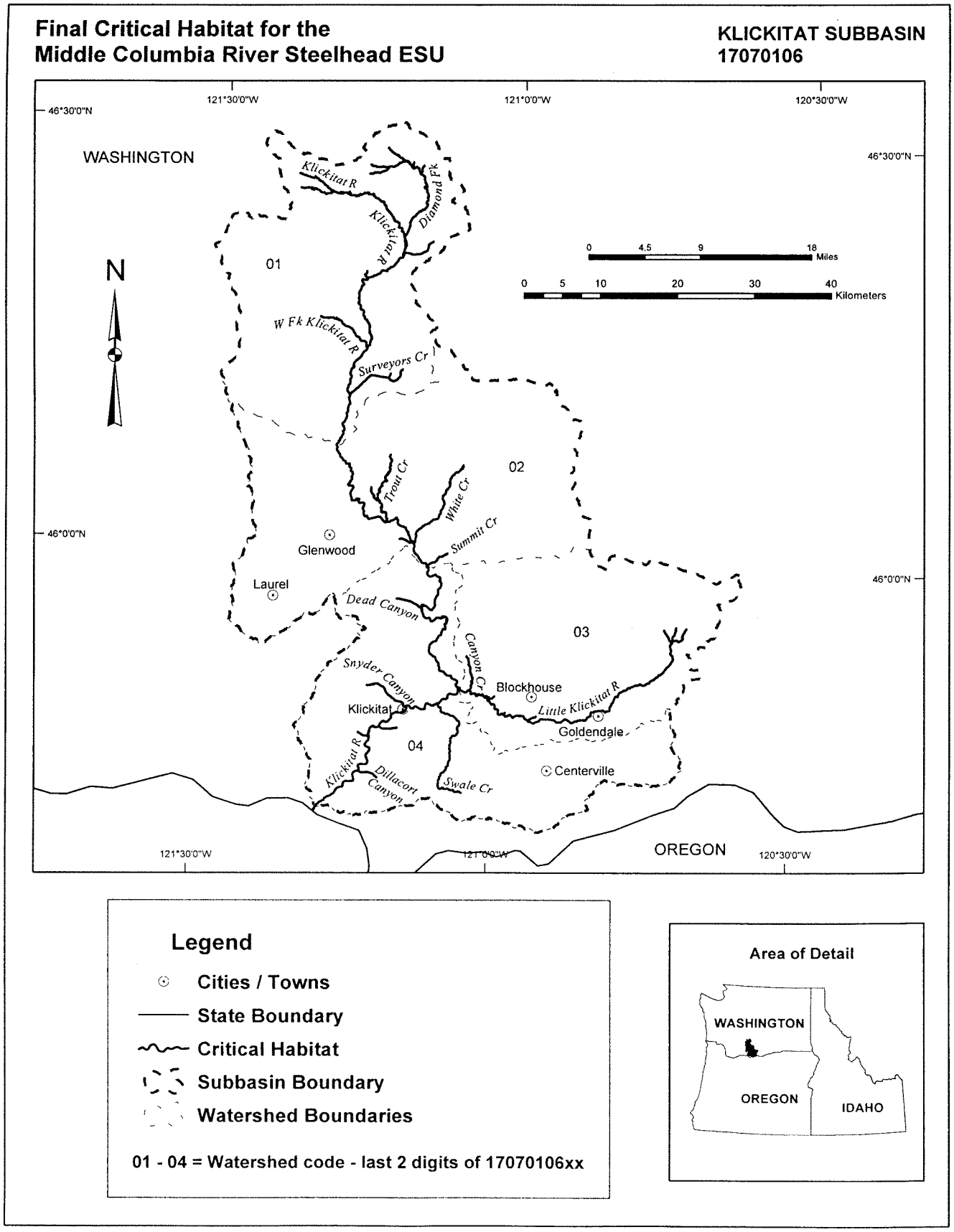
- Cities / Towns
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

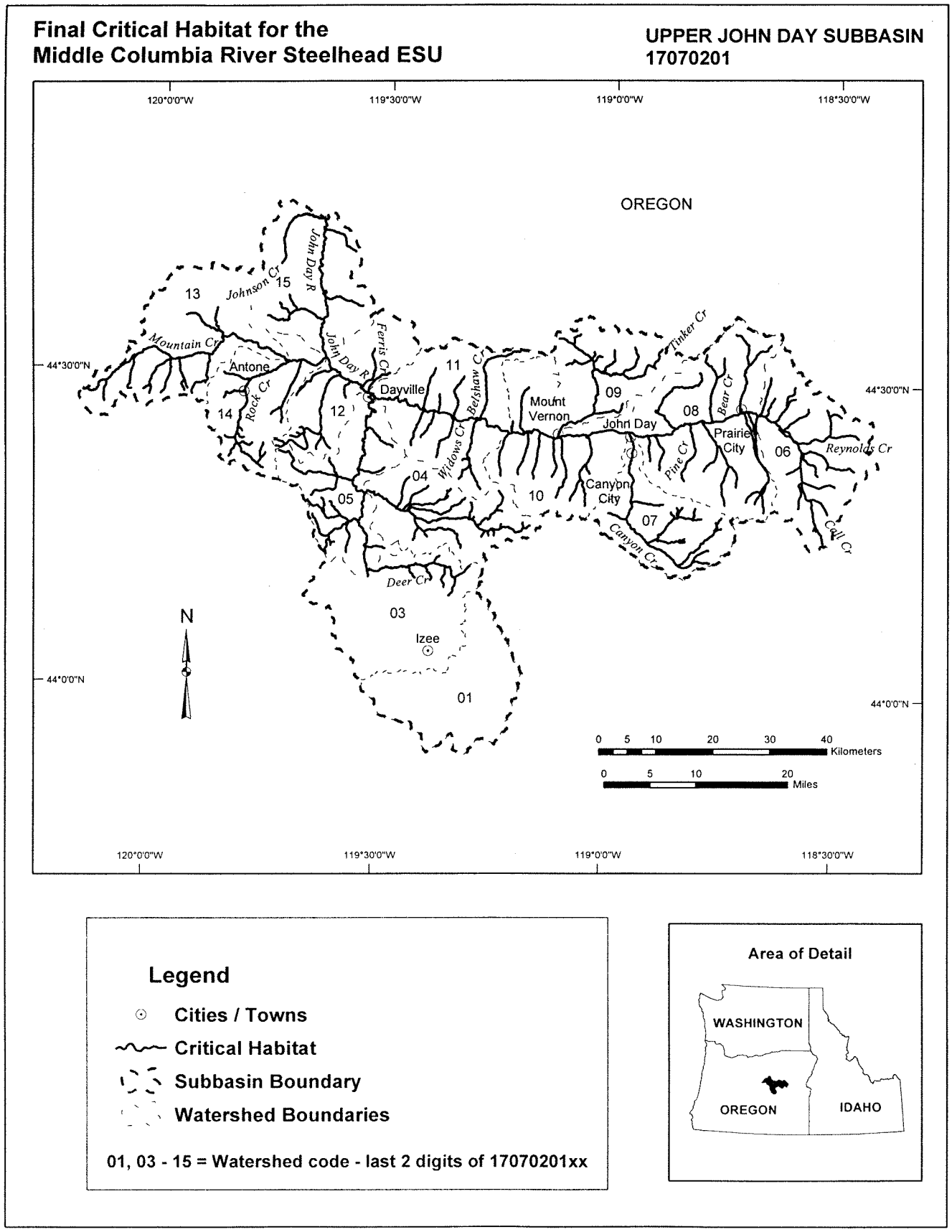
01 - 13 = Watershed code - last 2 digits of 17070103xx

Area of Detail



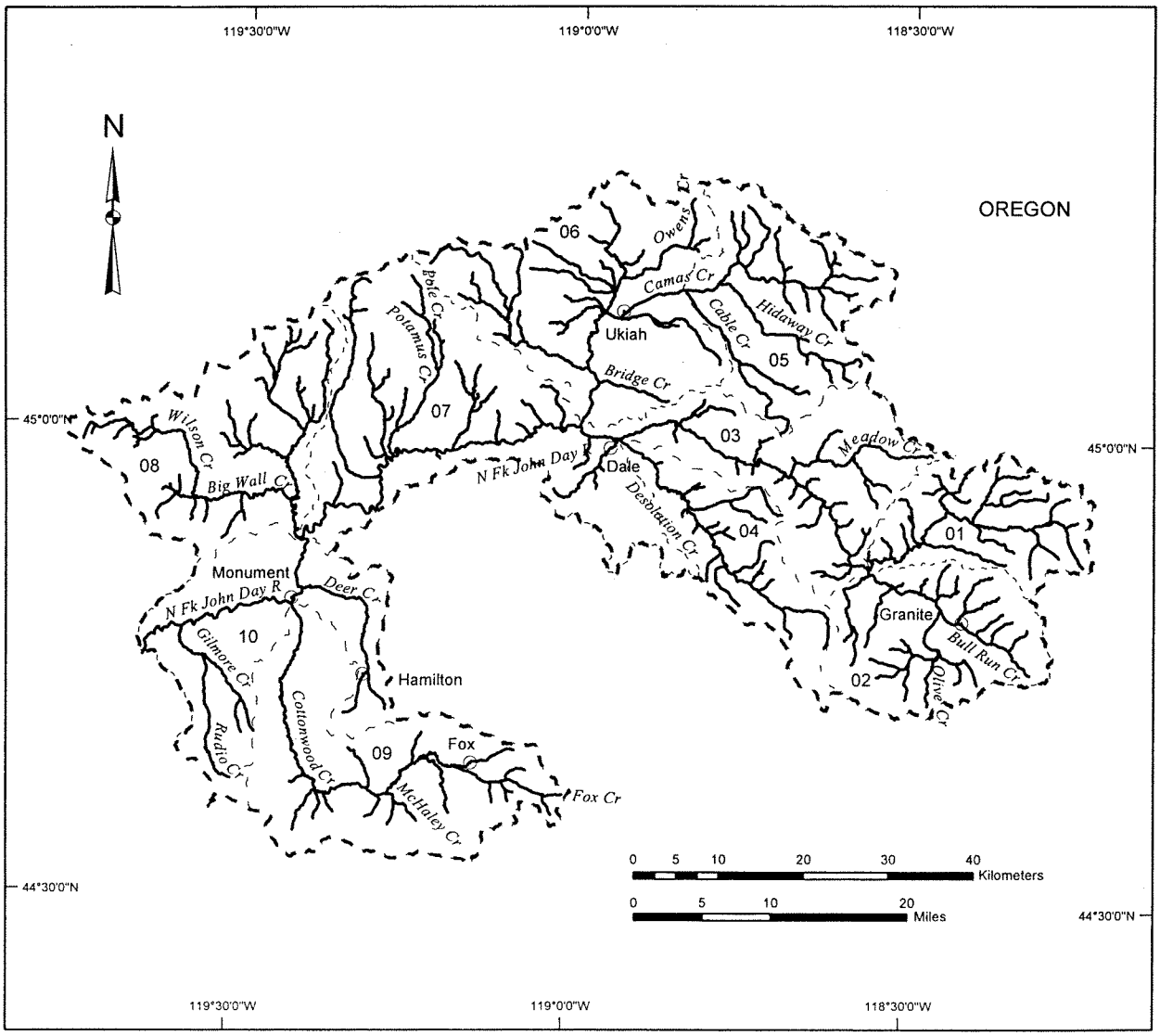

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
MIDDLE COLUMBIA / HOOD SUBBASIN
17070105
122°0'0"W
121°30'0"W
121°0'0"W
46°0'0"N
45°30'0"N
WASHINGTON
OREGON
Trout Lake
White Salmon
Hood River
Cascade Locks
Parkdale
The Dalles
White Salmon R
Rock Cr
Chenoweth Cr
Mill Cr
N Fk Mill Cr
Eightmile Cr
Fifteenmile Cr
Columbia R
Frank Fulton Canyon
Spanish Hollow Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
N
0 5 10 20 Miles
0 5 10 20 30 40 Kilometers
This lower segment of the Columbia River is designated Critical Habitat. See the Migration Corridor map.
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17070105xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
KLICKITAT SUBBASIN
17070106
121°30'0"W
121°0'0"W
120°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
N
0 4.5 9 18 Miles
0 5 10 20 30 40 Kilometers
01
02
03
04
Klickitat R
Diamond Fk
W Fk Klickitat R
Surveyors Cr
Trout Cr
White Cr
Summit Cr
Glenwood
Laurel
Dead Canyon
Canyon Cr
Snyder Canyon
Blockhouse
Little Klickitat R
Klickitat
Goldendale
Centerville
Dillacort Canyon
Swale Cr
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17070106xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
UPPER JOHN DAY SUBBASIN
17070201
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
44°30'0"N
44°0'0"N
OREGON
Johnson Cr
John Day R
Mountain Cr
Antone
Rock Cr
Ferris Cr
Dayville
Belshaw Cr
Widows Cr
Mount Vernon
Tinker Cr
John Day
Bear Cr
Prairie City
Pine Cr
Reynolds Cr
Canyon City
Canyon Cr
Call Cr
Deer Cr
Izee
13
15
14
12
11
09
08
06
05
04
10
07
03
01
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01, 03 - 15 = Watershed code - last 2 digits of 17070201xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Middle Columbia River Steelhead ESU

NORTH FORK JOHN DAY SUBBASIN 17070202

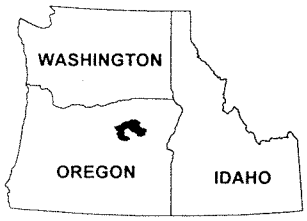


Legend

- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

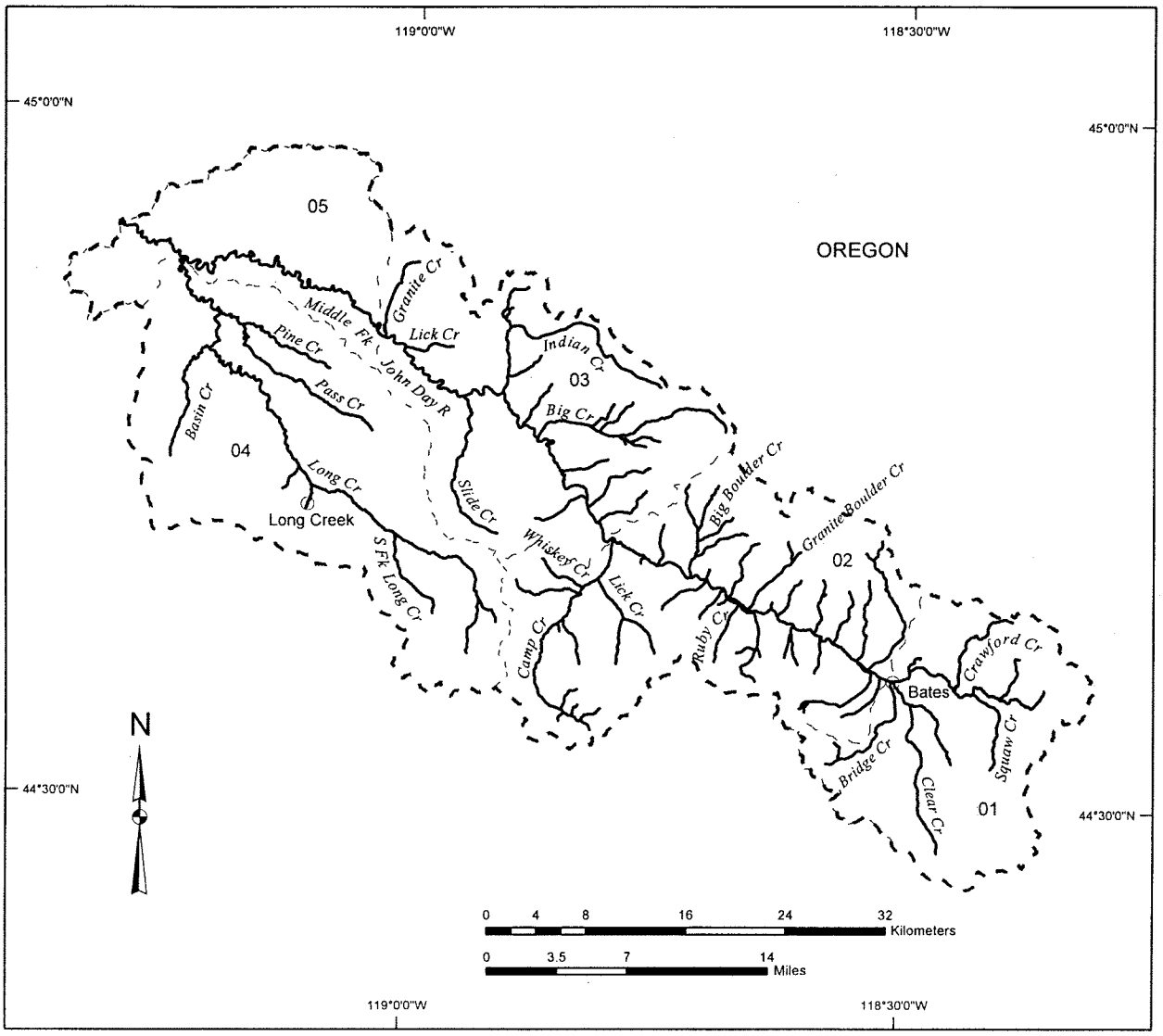
01 - 10 = Watershed code - last 2 digits of 17070202xx

Area of Detail



Final Critical Habitat for the Middle Columbia River Steelhead ESU

MIDDLE FORK JOHN DAY SUBBASIN 17070203

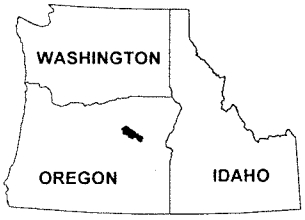


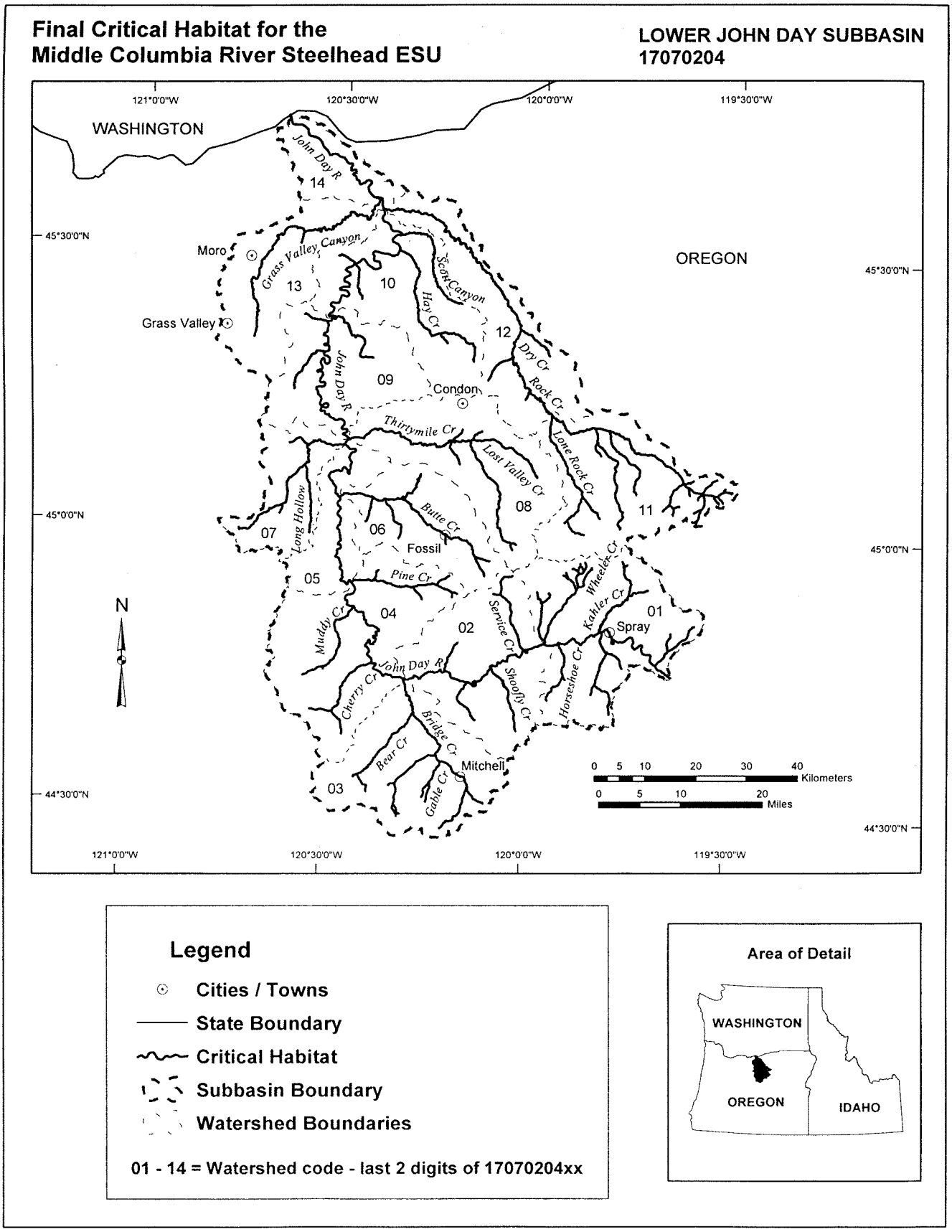
Legend

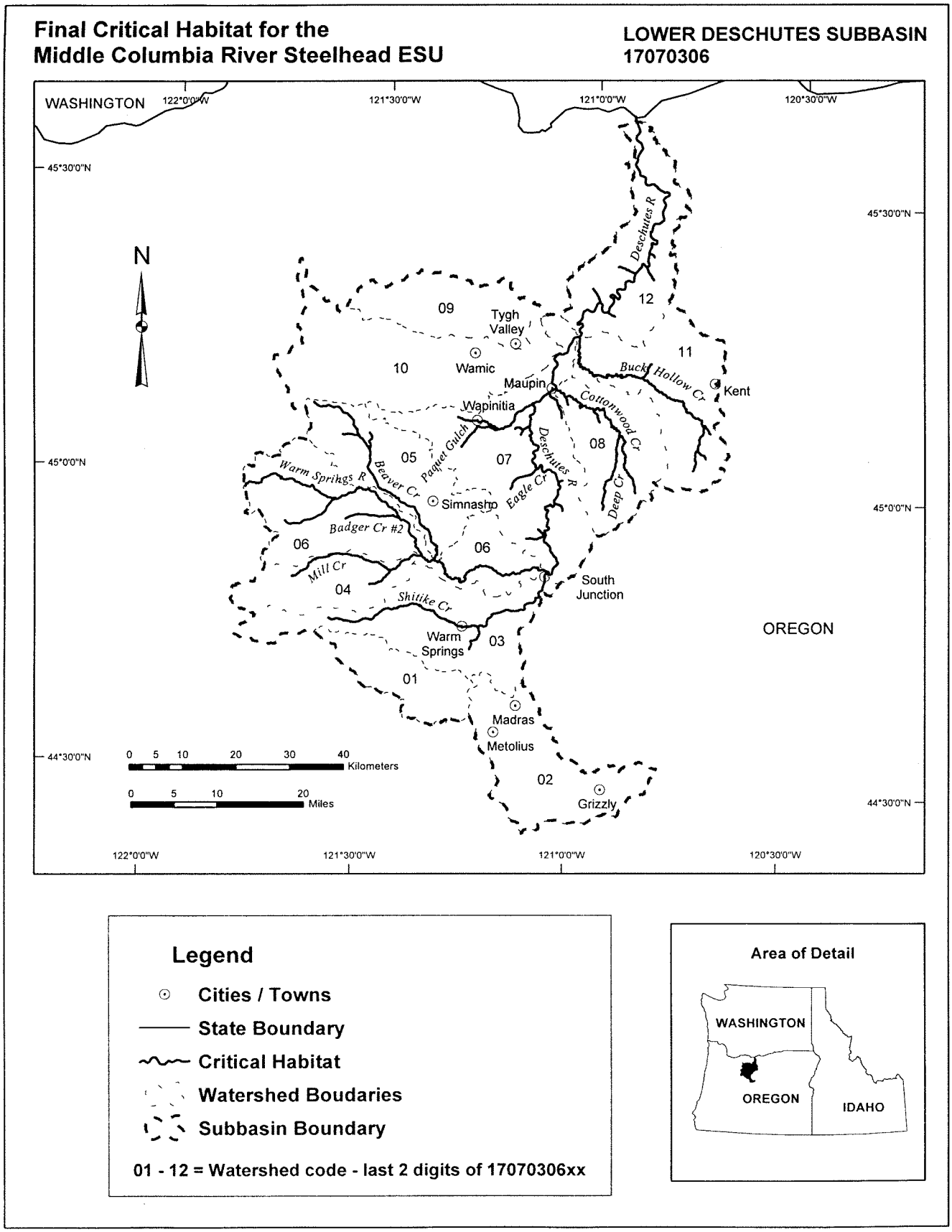
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

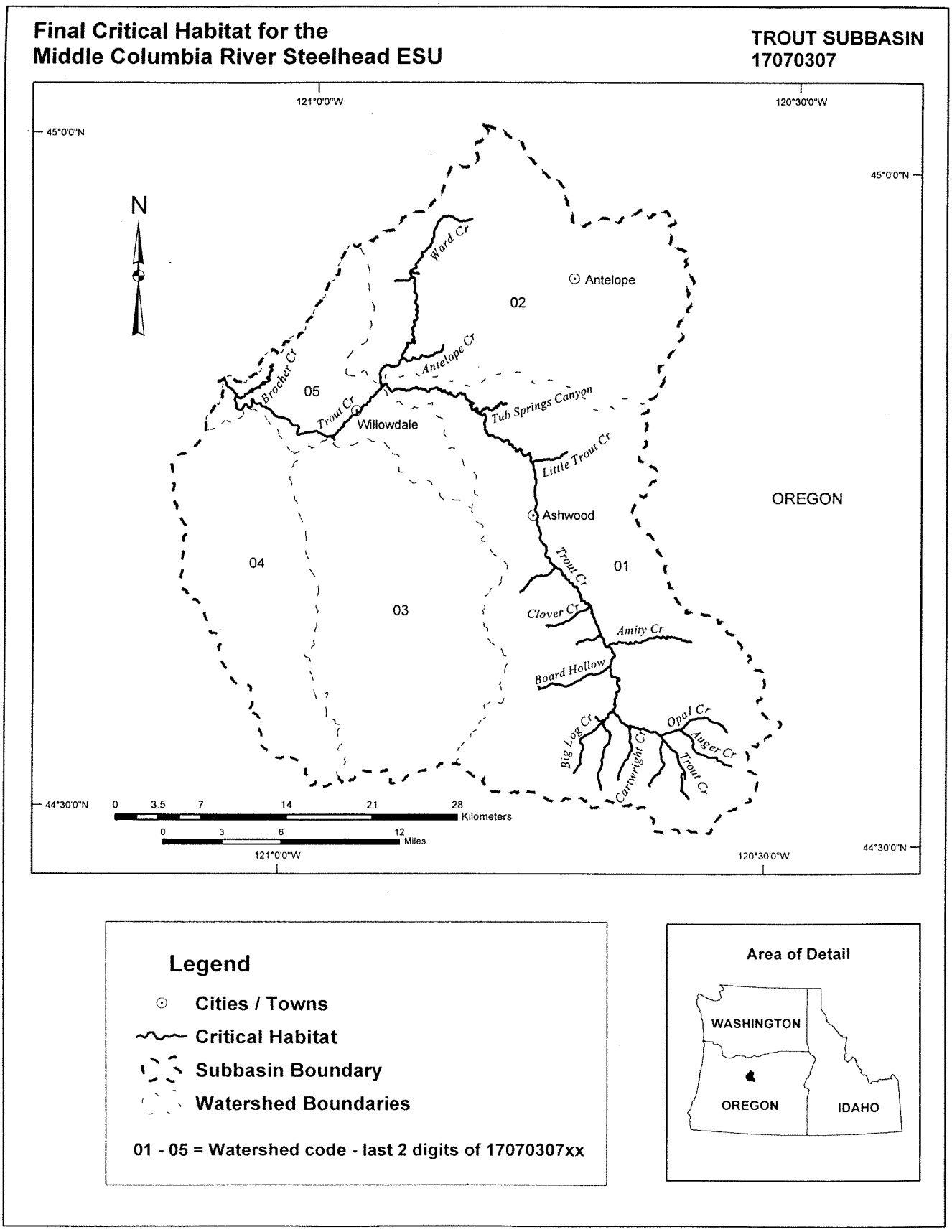
01 - 05 = Watershed code - last 2 digits of 17070203xx

Area of Detail



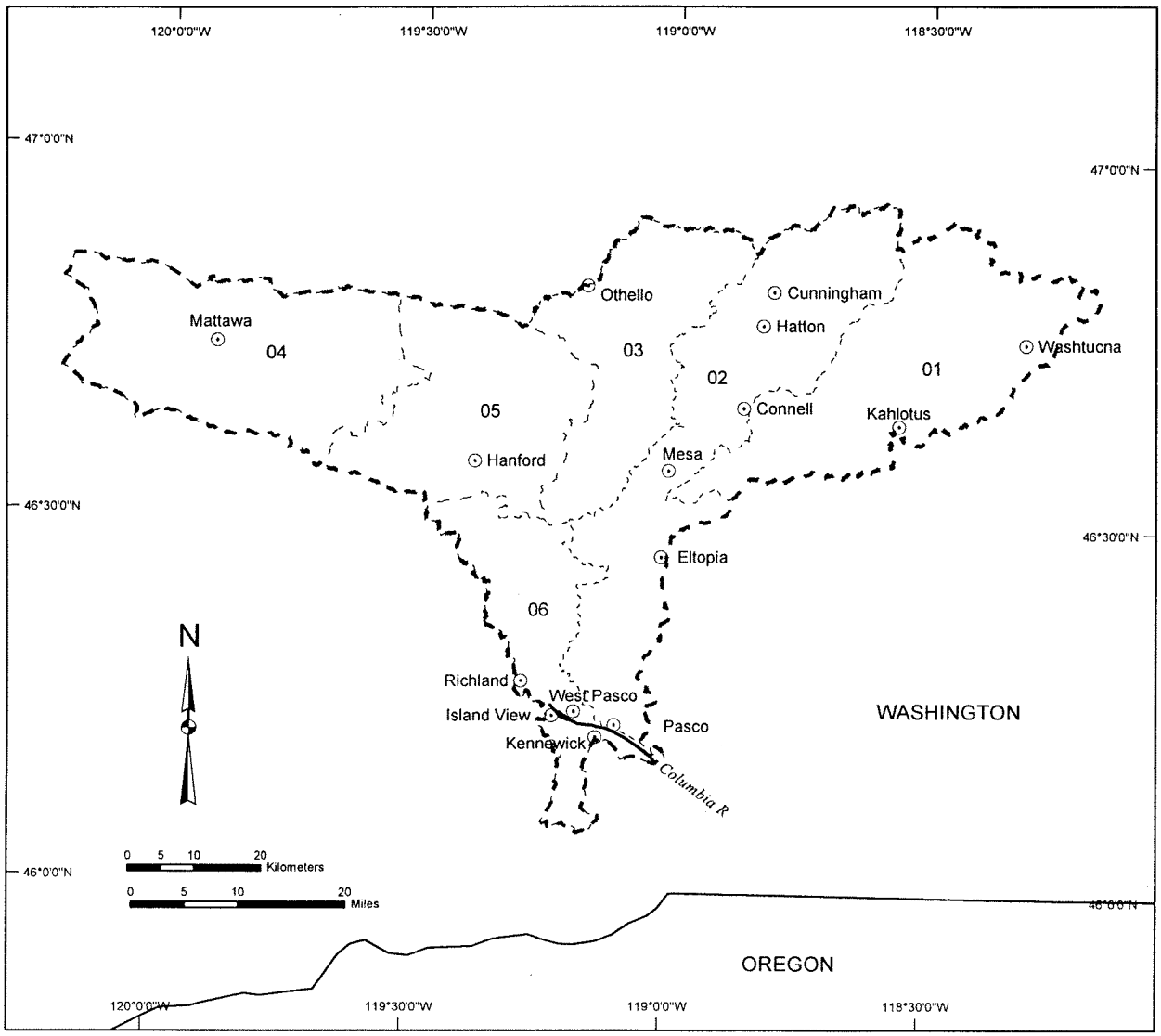

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
LOWER JOHN DAY SUBBASIN
17070204
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
45°30'0"N
45°0'0"N
44°30'0"N
WASHINGTON
OREGON
John Day R
Moro
Grass Valley Canyon
Grass Valley
Scott Canyon
Hay Cr
Dry Cr
Rock Cr
Condon
Thirtymile Cr
Lost Valley Cr
Lone Rock Cr
Long Hollow
Butte Cr
Fossil
Pine Cr
Wheeler Cr
Kahler Cr
Spray
Muddy Cr
Service Cr
Shoofly Cr
Horseshoe Cr
Cherry Cr
Bridge Cr
Bear Cr
Gable Cr
Mitchell
01
02
03
04
05
06
07
08
09
10
11
12
13
14
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17070204xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
LOWER DESCHUTES SUBBASIN
17070306
WASHINGTON
OREGON
122°0'0"W
121°30'0"W
121°0'0"W
120°30'0"W
45°30'0"N
45°0'0"N
44°30'0"N
N
09
10
11
12
05
06
07
08
04
03
01
02
Tygh Valley
Wamic
Maupin
Wapinitia
Kent
Simnasho
South Junction
Warm Springs
Madras
Metolius
Grizzly
Deschutes R
Buck Hollow Cr
Cottonwood Cr
Paquet Gulch
Warm Sprihgs R
Beaver Cr
Eagle Cr
Deep Cr
Badger Cr #2
Mill Cr
Shitike Cr
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Watershed Boudaries
Subbasin Boundary
01 - 12 = Watershed code - last 2 digits of 17070306xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
TROUT SUBBASIN
17070307
121°0'0"W
120°30'0"W
45°0'0"N
44°30'0"N
N
Ward Cr
Antelope
02
Antelope Cr
Brocher Cr
05
Trout Cr
Willowdale
Tub Springs Canyon
Little Trout Cr
Ashwood
OREGON
04
01
Trout Cr
03
Clover Cr
Amity Cr
Board Hollow
Big Log Cr
Opal Cr
Auger Cr
Cartwright Cr
Trout Cr
0 3.5 7 14 21 28 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17070307xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Middle Columbia River Steelhead ESU

UPPER COLUMBIA / PRIEST RAPIDS SUBBASIN 17020016

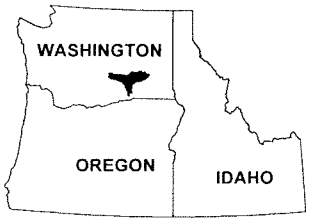


Legend

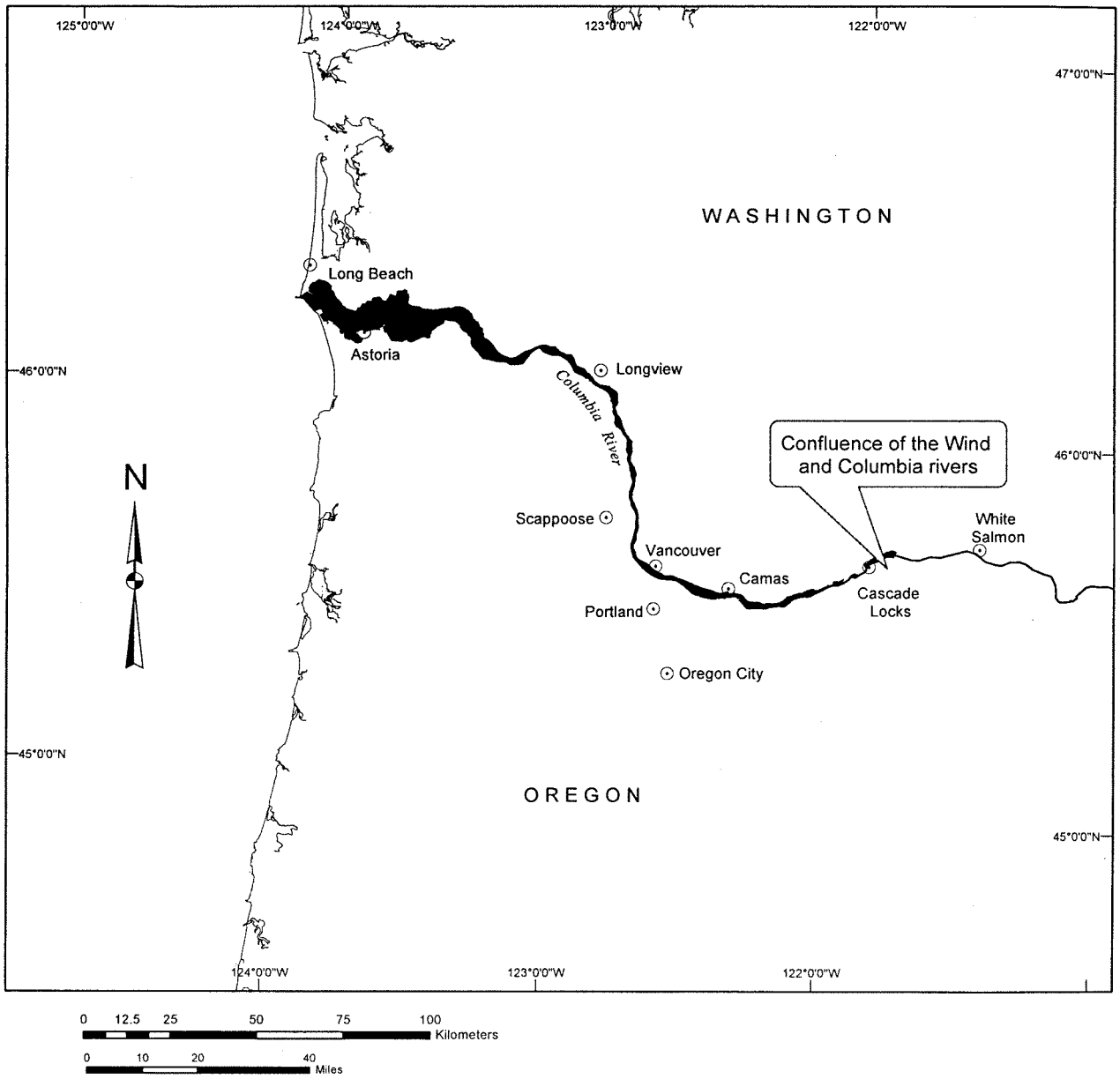
- Cities / Towns
- State Boundary
- Critical Habitat
- Watershed Boundaries
- Subbasin Boundary

01 - 06 = Watershed code - last 2 digits of 17020016xx

Area of Detail



Rearing / Migration Corridor for the Middle Columbia River Steelhead ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Middle Columbia River Steelhead ESU

Columbia River Corridor
The Columbia River Corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to the confluence of the Wind River.

BILLING CODE 3510–22–C

(s) *Lower Columbia River Steelhead (Oncorhynchus mykiss)*. Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia/Hood Subbasin 17070105—(i) *East Fork Hood River Watershed 1707010506*. Outlet(s) = Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Baldwin Creek (45.5618, –121.5585); Bear Creek (45.4894, –121.6516); Cat Creek (45.4708, –121.5591); Clark Creek (45.3335, –121.6420); Coe Branch (45.4342, –121.6673); Cold Spring Creek (45.4020, –121.5873);Culvert Creek (45.3770, –121.5660); Dog River (45.4404, –121.5623); East Fork Hood River (45.3172, –121.6390); Eliot Branch, Middle Fork Hood River (45.4534, –121.6362); Emil Creek (45.5223, –121.5886); Evans Creek (45.4872, –121.5894); Graham Creek (45.5463, –121.5639); Meadows Creek (45.3195, –121.6279); Newton Creek (45.3370, –121.6261); Pinnacle Creek (45.4595, –121.6568); Pocket Creek (45.3025, –121.5969); Polallie Creek (45.4132, –121.5826); Tony Creek (45.5254, –121.6584); Unnamed (45.3470, –121.5843); Unnamed (45.4661, –121.5627); Unnamed (45.5208, –121.6198); Unnamed (45.5445, –121.5738).

(ii) *West Fork Hood River Watershed 1707010507*. Outlet(s) = West Fork Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Divers Creek (45.5457, –121.7447); Elk Creek (45.4294, –121.7884); Green Point Creek (45.5915, –121.6981); Indian Creek (45.5375, –121.7857); Jones Creek (45.4673, –121.8020); Lake Branch (45.5083, –121.8485); McGee Creek (45.4120, –121.7598); No Name Creek (45.5347, –121.7929); Red Hill Creek (45.4720, –121.7705); Unnamed (45.5502, –121.7014).

(iii) *Hood River Watershed 1707010508*. Outlet(s) = Hood River (Lat 45.7237, Long –121.5049) upstream to endpoint(s) in: Hood River (45.6050, –121.6323); Lenz Creek (45.6291, –121.5220); Neal Creek (45.5787, –121.4875); West Fork Neal Creek (45.5751, –121.5215); Whiskey Creek (45.6827, –121.5064).

(iv) *Wind River Watershed 1707010511*. Outlet(s) = Wind River (Lat 45.7067, Long –121.7929) upstream to endpoint(s) in: Bear Creek (45.7619, –121.8295); Big Hollow Creek (45.9408, –122.0075); Bourbon Creek (45.9246, –121.9982); Brush Creek (45.7720, –121.7528); Cedar Creek (45.8388, –121.7956); Compass Creek (45.8372, –122.0633); Crater Creek (45.8637, –122.0639); Dry Creek (45.9551, –121.9924); East Fork Trout Creek (45.8503, –122.0096); Eightmile Creek (45.8616, –121.8966); Falls Creek (45.9107, –121.9151); Hollis Creek (45.8524, –121.9304); Jimmy Creek (45.7886, –121.8409); Layout Creek (45.8096, –122.0475); Little Wind River (45.7763, –121.7222); Martha Creek (45.7846, –121.9482); Mouse Creek (45.8415, –121.8428); Ninemile Creek (45.8942, –121.9023); Oldman Creek (45.9856, –121.9369); Panther Creek (45.8605, –121.8422); Pass Creek (45.8555, –122.0133); Planting Creek (45.8071, –122.0010); Proverbial Creek (45.9816, –121.9654); Tenmile Creek (45.8760, –121.8694); Trapper Creek (45.9113, –122.0470); Trout Creek (45.8679, –122.0477); Unnamed (45.7862, –121.9097); Unnamed (45.8008, –121.9881); Unnamed (45.8025, –121.9678); Unnamed (45.8142, –122.0204); Unnamed (45.8149, –122.0532); Unnamed (45.8161, –121.8437); Unnamed (45.8206, –121.8111); Unnamed (45.8218, –121.9470); Unnamed (45.8242, –122.0295); Unnamed (45.8427, –121.9180); Unnamed (45.8509, –121.9190); Unnamed (45.8529, –122.0406); Unnamed (45.8551, –122.0638); Unnamed (45.8610, –121.9635); Unnamed (45.8637, –122.0625); Unnamed (45.8640, –121.9764); Unnamed (45.8682, –121.9714); Unnamed (45.8940, –122.0348); Unnamed (45.8965, –122.0035); Unnamed (45.9652, –121.9517); Unnamed (45.9798, –121.8873); Unnamed (45.9844, –121.9171); Wind River (45.9964, –121.9000).

(v) *Middle Columbia/Grays Creek Watershed 1707010512*. Outlet(s) = Columbia River (Lat 45.7070, Long –121.7943) upstream to endpoint(s) in: Columbia River (45.7237, –121.5049).

(vi) *Middle Columbia/Eagle Creek Watershed 1707010513*. Outlet(s) = Columbia River (Lat 45.6453, Long –121.9395) upstream to endpoint(s) in: Columbia River (45.7070, –121.7943).

(2) Lower Columbia/Sandy Subbasin 17080001—(i) *Salmon River Watershed 17080001*. Outlet(s) = Salmon River (Lat 45.3768, Long –122.0293) upstream to endpoint(s) in: Bighorn Creek (45.2582, –121.9204); Boulder Creek (45.3027, –122.0209); Cheeney Creek (45.2919, –121.9710); Copper Creek (45.2454, –121.9051); Mack Hall Creek (45.2391, –121.9508); Salmon River (45.2511, –121.9025); South Fork Salmon River (45.2500, –121.9770); Unnamed (45.2576, –121.9068); Unnamed (45.2600, –121.9093); Unnamed (45.2633, –121.9153); Unnamed (45.2646, –121.9175); Unnamed (45.2708, –121.9246); Unnamed (45.2946, –121.9388); Unnamed (45.3161, –121.9565); Unnamed (45.3225, –121.9609); Unnamed (45.3254, –121.9582); Unnamed (45.3277, –121.9635); Unnamed (45.3336, –121.9538); Unnamed (45.3383, –121.9768); Unnamed (45.3398, –121.9954).

(ii) *Zigzag River Watershed 1708000102*. Outlet(s) = Zigzag River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Camp Creek (45.3070, –121.7921); Cool Creek (45.2867, –121.8849); Devil Canyon (45.3186, –121.8587); Henry Creek (45.3241, –121.8869); Lady Creek (45.3199, –121.8225); Little Zigzag Canyon (45.3138, –121.8035); Still Creek (45.3167, –121.7228); Unnamed (45.2647, –121.8342); Unnamed (45.2706, –121.8194); Unnamed (45.2793, –121.8529); Unnamed (45.2801, –121.8537); Wind Creek (45.2961, –121.8515); Zigzag River (45.3270, –121.7786).

(iii) *Upper Sandy River Watershed 1708000103*. Outlet(s) = Sandy River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Cast Creek (45.3794, –121.8538); Clear Creek (45.3998, –121.8936); Clear Fork (45.4256, –121.8006); Horseshoe Creek (45.3664, –121.8680); Little Clear Creek (45.3854, –121.9190); Lost Creek (45.3670, –121.8091); Muddy Fork (45.3920, –121.7577); Sandy River (45.3719, –121.7560); Unnamed (45.3813, –121.8954); Unnamed (45.3904, –121.7979); Unnamed (45.4090, –121.8056); Unnamed (45.4164, –121.8342).

(iv) *Middle Sandy River Watershed 1708000104*. Outlet(s) = Sandy River (Lat 45.4464, Long –122.2459) upstream to endpoint(s) in: Alder Creek (45.3459, –122.0875); Bear Creek #2 (45.3368, –121.9265); Cedar Creek (45.4046, –122.2513); Hackett Creek (45.3525, –121.9504); North Boulder Creek (45.3900, –122.0037); Sandy River (45.3489, –121.9442); Unnamed (45.3469, –122.0673); Unnamed (45.3699, –122.0764); Unnamed (45.3808, –122.0325); Unnamed (45.3864, –122.0355); Whisky Creek (45.3744, –122.1202).

(v) *Washougal River Watershed 1708000106*. Outlet(s) = Unnamed (Lat 45.5812, Long –122.4077); Washougal River (45.5795, –122.4023) upstream to endpoint(s) in: Bear Creek (45.7732, –122.1468); Bluebird Creek (45.7486, –122.1717); Cougar Creek (45.6514, –122.2677); Dougan Creek (45.7080, –122.1817); East Fork Little Washougal River (45.6722, –122.2827); Grouse Creek (45.7574, –122.1352); Hagen Creek (45.7154, –122.2518); Jackson Creek (45.6755, –122.2530); Jones Creek (45.6913, –122.2870); Lacamas Creek (45.5972, –122.3933); Little Washougal

River (45.7006, –122.3212); Lookout Creek (45.7806, –122.1006); Meander Creek (45.7708, –122.0848); Prospector Creek (45.7590, –122.0890); Silver Creek (45.7343, –122.1694); Stebbins Creek (45.7285, –122.0683); Texas Creek (45.6946, –122.1873); Timber Creek (45.7236, –122.1001); Unnamed (45.5873, –122.4121); Unnamed (45.6002, –122.3312); Unnamed (45.6132, –122.3238); Unnamed (45.6177, –122.2425); Unnamed (45.6206, –122.3449); Unnamed (45.6213, –122.2807); Unnamed (45.6243, –122.2283); Unnamed (45.6251, –122.3419); Unnamed (45.6279, –122.2549); Unnamed (45.6297, –122.2463); Unnamed (45.6321, –122.2753); Unnamed (45.6328, –122.2574); Unnamed (45.6382, –122.2915); Unnamed (45.6477, –122.3665); Unnamed (45.6487, –122.3336); Unnamed (45.6507, –122.1562); Unnamed (45.6531, –122.2739); Unnamed (45.6594, –122.2062); Unnamed (45.6622, –122.3015); Unnamed (45.6625, –122.3446); Unnamed (45.6675, –122.3415); Unnamed (45.6694, –122.1553); Unnamed (45.6703, –122.3399); Unnamed (45.6721, –122.1725); Unnamed (45.6749, –122.3370); Unnamed (45.6798, –122.2905); Unnamed (45.6835, –122.3336); Unnamed (45.6836, –122.1146); Unnamed (45.6871, –122.2996); Unnamed (45.6934, –122.1063); Unnamed (45.6949, –122.3305); Unnamed (45.6959, –122.3149); Unnamed (45.6965, –122.0837); Unnamed (45.7074, –122.1566); Unnamed (45.7080, –122.2600); Unnamed (45.7092, –122.2510); Unnamed (45.7179, –122.0744); Unnamed (45.7201, –122.1360); Unnamed (45.7249, –122.1067); Unnamed (45.7285, –122.1965); Unnamed (45.7303, –122.1126); Unnamed (45.7458, –122.1328); Unnamed (45.7476, –122.0518); Unnamed (45.7482, –122.1594); Unnamed (45.7624, –122.1308); Unnamed (45.7841, –122.1211); Washougal River (45.7798, –122.1403); West Fork Washougal River (45.7382, –122.2173); Wildboy Creek (45.6712, –122.2172); Winkler Creek (45.6377, –122.2588).

(vi) *Columbia Gorge Tributaries Watershed 1708000107*. Outlet(s) = Columbia River (Lat 45.5710, Long –122.4021) upstream to endpoint(s) in: Columbia River (45.6453, –121.9395).

(vii) *Lower Sandy River Watershed 1708000108*. Outlet(s) = Sandy River (Lat 45.5679, Long –122.4023) upstream to endpoint(s) in: Beaver Creek (45.4959, –122.3643); Big Creek (45.5068, –122.2966); Buck Creek (45.4985, –122.2671); Gordon Creek (45.5021, –122.1805); Kelly Creek (45.5134, –122.3953); Sandy River (45.4464, –122.2459); Smith Creek (45.5136, –122.3339); Trout Creek (45.4819, –122.2769); Unnamed (45.4889, –122.3513); Unnamed (45.5557, –122.3715); Unnamed (45.5600, –122.3650).

(3) Lewis Subbasin 17080002—(i) *East Fork Lewis River Watershed 1708000205*. Outlet(s) = Allen Creek (Lat 45.8641, Long –122.7499); East Fork Lewis River (45.8664, –122.7189); Gee Creek (45.8462, –122.7803) upstream to endpoint(s) in: Allen Creek (45.8279, –122.6968); Anaconda Creek (45.8208, –122.2652); Basket Creek (45.8327, –122.4579); Big Tree Creek (45.8572, –122.3728); Brezee Creek (45.8625, –122.6637); Cedar Creek (45.7226, –122.3290); Cold Creek (45.7493, –122.3252); Copper Creek (45.8177, –122.2637); Coyote Creek (45.7554, –122.2641); East Fork Lewis River (45.8380, –122.0948); Gee Creek (45.7920, –122.6679); Green Fork (45.8462, –122.1274); Grouse Creek (45.7214, –122.2709); King Creek (45.7802, –122.2552); Little Creek (45.8417, –122.1779); Lockwood Creek (45.8986, –122.5953); Mason Creek (45.8661, –122.5430); McCormick Creek (45.8521, –122.6907); McKinley Creek (45.8026, –122.1797); Niccolls Creek (45.8148, –122.3093); Poison Gulch (45.7898, –122.1617); Riley Creek (45.8936, –122.6175); Rock Creek (45.7375, –122.2571); Roger Creek (45.8183, –122.3426); Slide Creek (45.8477, –122.2090); Unnamed (45.7212, –122.3389); Unnamed (45.7623, –122.2727); Unnamed (45.7697, –122.3157); Unnamed (45.7726, –122.6651); Unnamed (45.7770, –122.3539); Unnamed (45.7802, –122.6068); Unnamed (45.7858, –122.3283); Unnamed (45.7916, –122.3780); Unnamed (45.7919, –122.2780); Unnamed (45.7961, –122.1312); Unnamed (45.7980, –122.5650); Unnamed (45.8033, –122.6667); Unnamed (45.8038, –122.3545); Unnamed (45.8075, –122.1120); Unnamed (45.8076, –122.6285); Unnamed (45.8079, –122.2942); Unnamed (45.8146, –122.4818); Unnamed (45.8147, –122.3144); Unnamed (45.8149, –122.5653); Unnamed (45.8172, –122.5742); Unnamed (45.8207, –122.4916); Unnamed (45.8230, –122.7069); Unnamed (45.8242, –122.6390); Unnamed (45.8292, –122.6040); Unnamed (45.8306, –122.3769); Unnamed (45.8353, –122.4842); Unnamed (45.8363, –122.1252); Unnamed (45.8368, –122.6498); Unnamed (45.8381, –122.4685); Unnamed (45.8427, –122.3708); Unnamed (45.8432, –122.1480); Unnamed (45.8434, –122.2292); Unnamed (45.8439, –122.6478); Unnamed (45.8471, –122.7486); Unnamed (45.8475, –122.6486); Unnamed (45.8484, –122.4401); Unnamed (45.8498, –122.7300); Unnamed (45.8502, –122.5228); Unnamed (45.8513, –122.1323); Unnamed (45.8537, –122.5973); Unnamed (45.8600, –122.6112); Unnamed (45.8604, –122.3831); Unnamed (45.8606, –122.3981); Unnamed (45.8662, –122.5772); Unnamed (45.8667, –122.5744); Unnamed (45.8689, –122.4227); Unnamed (45.8698, –122.6777); Unnamed (45.8756, –122.4795); Unnamed (45.8813, –122.4772); Unnamed (45.8899, –122.6256); Unnamed (45.8986, –122.5742); Unnamed (45.8988, –122.6123); Unnamed (45.9055, –122.5187); Yacolt Creek (45.8761, –122.4220).

(ii) *Lower Lewis River Watershed 1708000206*. Outlet(s) = Lewis River (Lat 45.8519, Long –122.7806) upstream to endpoint(s) in: Bitter Creek (45.9133, –122.4593); Brush Creek (45.9280, –122.4674); Cedar Creek (45.9019, –122.3655); Chelatchie Creek (45.9357, –122.3784); Colvin Creek (45.9400, –122.6081); Houghton Creek (45.9559, –122.6348); John Creek (45.9291, –122.4964); Johnson Creek (45.9536, –122.6183); Lewis River (45.9570, –122.5550); Pup Creek (45.9486, –122.5245); Robinson Creek (45.9362, –122.7243); Ross Creek (45.9536, –122.7043); Staples Creek (45.9423, –122.6665); Unnamed (45.8696, –122.7658); Unnamed (45.8878, –122.3688); Unnamed (45.8928, –122.4209); Unnamed (45.8940, –122.4371); Unnamed (45.9001, –122.7226); Unnamed (45.9136, –122.6836); Unnamed (45.9141, –122.5565); Unnamed (45.9172, –122.3591); Unnamed (45.9202, –122.5339); Unnamed (45.9203, –122.4557); Unnamed (45.9245, –122.3731); Unnamed (45.9258, –122.5964); Unnamed (45.9294, –122.6225); Unnamed (45.9396, –122.4097); Unnamed (45.9417, –122.7035); Unnamed (45.9436, –122.6417); Unnamed (45.9438, –122.6190); Unnamed (45.9446, –122.6437); Unnamed (45.9457, –122.3926); Unnamed (45.9474, –122.6695); Unnamed (45.9549, –122.6967).

(4) Lower Columbia/Clatskanie Subbasin 17080003—*Kalama River Watershed 1708000301*. Outlet(s) = Burris Creek (Lat 45.8926, Long

–122.7892); Bybee Creek (45.9667, –122.8150); Kalama River (46.0340, –122.8695); Mill Creek (45.9579, –122.8030); Schoolhouse Creek (45.9785, –122.8282); Unnamed (46.0001, –122.8438); Unnamed (46.0075, –122.8455) upstream to endpoint(s) in: Arnold Creek (46.0206, –122.5638); Bear Creek (46.0951, –122.5772); Burris Creek (45.9506, –122.7428); Bush Creek (46.0828, –122.4611); Bybee Creek (45.9695, –122.8135); Canyon Creek (45.9540, –122.7925); Cedar Creek (46.0333, –122.8110); Dee Creek (45.9953, –122.6525); Elk Creek (46.1154, –122.4796); Hatchery Creek (46.0673, –122.7548); Indian Creek (46.0516, –122.7502); Jacks Creek (46.0400, –122.5014); Kalama River (46.1109, –122.3579); Knowlton Creek (46.0245, –122.6454); Langdon Creek (46.1137, –122.4364); Little Kalama River (45.9745, –122.6604); Lost Creek (46.0692, –122.5292); Mill Creek (45.9741, –122.7756); North Fork Elk Creek (46.1086, –122.5284); North Fork Kalama River (46.1550, –122.4007); Schoolhouse Creek (45.9810, –122.8217); Spencer Creek (46.0253, –122.8285); Summers Creek (46.0357, –122.6529); Unnamed (45.9034, –122.7792); Unnamed (45.9423, –122.7761); Unnamed (45.9683, –122.7751); Unnamed (45.9772, –122.6534); Unnamed (45.9820, –122.7123); Unnamed (45.9830, –122.8249); Unnamed (45.9957, –122.6742); Unnamed (46.0023, –122.8001); Unnamed (46.0034, –122.8330); Unnamed (46.0059, –122.7350); Unnamed (46.0064, –122.7377); Unnamed (46.0238, –122.5834); Unnamed (46.0257, –122.5913); Unnamed (46.0389, –122.6305); Unnamed (46.0437, –122.5713); Unnamed (46.0440, –122.8548); Unnamed (46.0462, –122.5097); Unnamed (46.0473, –122.7668); Unnamed (46.0611, –122.5514); Unnamed (46.0618, –122.4290); Unnamed (46.0634, –122.5630); Unnamed (46.0645, –122.3953); Unnamed (46.0861, –122.6708); Unnamed (46.0882, –122.5729); Unnamed (46.0982, –122.4887); Unnamed (46.0986, –122.6384); Unnamed (46.0998, –122.6089); Unnamed (46.1031, –122.3851); Unnamed (46.1076, –122.5965); Unnamed (46.1086, –122.4399); Unnamed (46.1088, –122.3440); Unnamed (46.1124, –122.6411); Unnamed (46.1153, –122.5646); Unnamed (46.1159, –122.5728); Unnamed (46.1169, –122.3397); Unnamed (46.1242, –122.5932); Unnamed (46.1244, –122.4255); Unnamed (46.1355, –122.4413); Unnamed (46.1451, –122.4279); Unnamed (46.1543, –122.4131); Unnamed (46.1559, –122.4254); Wild Horse Creek (46.1018, –122.6755); Wolf Creek (46.0523, –122.4334).

(5) Upper Cowlitz Subbasin 17080004—(i) *Headwaters Cowlitz River Watershed 1708000401.* Outlet(s) = Cowlitz River (Lat 46.6580, Long –121.6032) upstream to endpoint(s) in: Clear Fork Cowlitz River (46.6846, –121.5668); Muddy Fork Cowlitz River (46.6973, –121.6177); Ohanapecosh River (46.6909, –121.5809); Purcell Creek (46.6722, –121.5877).

(ii) *Upper Cowlitz River Watershed 1708000402.* Outlet(s) = Cowlitz River (Lat 46.5742, Long –121.7059) upstream to endpoint(s) in: Butter Creek (46.6451, –121.6749); Coal Creek (46.6438, –121.6108); Cowlitz River (46.6580, –121.6032); Hall Creek (46.6044, –121.6609); Johnson Creek (46.5546, –121.6373); Lake Creek (46.6227, –121.6093); Skate Creek (46.6850, –121.8052); Unnamed (46.6930, –121.8024).

(iii) *Cowlitz Valley Frontal Watershed 1708000403.* Outlet(s) = Cowlitz River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Burton Creek (46.5423, –121.7505); Cowlitz River (46.5742, –121.7059); Davis Creek (46.5410, –121.8084); Kilborn Creek (46.5081, –121.8007); Oliver Creek (46.5450, –121.9928); Peters Creek (46.5386, –121.9830); Siler Creek (46.4931, –121.9085); Silver Creek (46.5909, –121.9253); Smith Creek (46.5620, –121.6923); Unnamed (46.4913, –122.0820); Unnamed (46.5657, –122.0489); Willame Creek (46.5805, –121.7319).

(iv) *Upper Cispus River Watershed 1708000404.* Outlet(s) = Cispus River (Lat 46.4449, Long –121.7954) upstream to endpoint(s) in: Cispus River (46.3450, –121.6833); East Canyon Creek (46.3472, –121.7028); North Fork Cispus River (46.4362, –121.6479); Timonium Creek (46.4318, –121.6548); Twin Creek (46.3748, –121.7297); Yozoo Creek (46.4363, –121.6637).

(v) *Lower Cispus River Watershed 1708000405.* Outlet(s) = Cispus River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Ames Creek (46.4654, –121.9233); Camp Creek (46.4513, –121.8301); Cispus River (46.4449, –121.7954); Covell Creek (46.4331, –121.8516); Crystal Creek (46.4454, –122.0234); Greenhorn Creek (46.4217, –121.9042); Iron Creek (46.3887, –121.9702); McCoy Creek (46.3891, –121.8190); Quartz Creek (46.4250, –122.0519); Unnamed (46.4633, –121.9548); Woods Creek (46.4741, –121.9473); Yellowjacket Creek (46.3869, –121.8342).

(6) Cowlitz Subbasin 17080005—(i) *Riffe Reservoir Watershed 1708000502.* Outlet(s) = Cowlitz River (Lat 46.5033, Long –122.5870) upstream to endpoint(s) in: Cowlitz River (46.4765, –122.0952).

(ii) *Jackson Prairie Watershed 1708000503.* Outlet(s) = Cowlitz River (Lat 46.3678, Long –122.9337) upstream to endpoint(s) in: Bear Creek (46.4538, –122.9192); Blue Creek (46.4885, –122.7253); Brights Creek (46.5015, –122.6247); Cedar Creek (46.4110, –122.7316); Coon Creek (46.4371, –122.9065); Cougar Creek (46.3937, –122.7945); Cowlitz River (46.5033, –122.5870); Foster Creek (46.4073, –122.8897); Hopkey Creek (46.4587, –122.5533); Jones Creek (46.5125, –122.6825); Lacamas Creek (46.5246, –122.7923); Little Salmon Creek (46.4402, –122.7458); Mill Creek (46.5024, –122.8013); Mill Creek (46.5175, –122.6209); Otter Creek (46.4801, –122.7000); Pin Creek (46.4133, –122.8321); Rapid Creek (46.4320, –122.5465); Skook Creek (46.5031, –122.7561); Unnamed (46.3838, –122.7243); Unnamed (46.3841, –122.6789); Unnamed (46.3849, –122.7043); Unnamed (46.3857, –122.9224); Unnamed (46.3881, –122.6949); Unnamed (46.3900, –122.7368); Unnamed (46.3998, –122.8974); Unnamed (46.4001, –122.7437); Unnamed (46.4015, –122.7327); Unnamed (46.4097, –122.5887); Unnamed (46.4102, –122.6787); Unnamed (46.4106, –122.7075); Unnamed (46.4115, –122.9091); Unnamed (46.4117, –122.7554); Unnamed (46.4143, –122.7823); Unnamed (46.4174, –122.6365); Unnamed (46.4241, –122.8170); Unnamed (46.4269, –122.6124); Unnamed (46.4291, –122.6418); Unnamed (46.4293, –122.8354); Unnamed (46.4412, –122.5192); Unnamed (46.4454, –122.8662); Unnamed (46.4496, –122.5281); Unnamed (46.4514, –122.8699); Unnamed (46.4703, –122.7959); Unnamed (46.4708, –122.7713); Unnamed (46.4729, –122.6850); Unnamed (46.4886, –122.8067); Unnamed (46.5172, –122.6534); Unnamed (46.5312, –122.8196).

(iii) *North Fork Toutle River Watershed 1708000504.* Outlet(s) = North Fork Toutle River (Lat 46.3669, Long –122.5859) upstream to endpoint(s) in: Alder Creek (46.2813, –122.4964); Bear Creek (46.3085, –122.3504); Coldwater Creek (46.2884, –122.2675); Cow Creek (46.3287, –122.4616); Hoffstadt Creek (46.3211,

–122.3324); Maratta Creek (46.2925, –122.2845); Unnamed (46.3050, –122.5416); Unnamed (46.3346, –122.5460); Unnamed (46.3394, –122.3314).

(iv) *Green River Watershed 1708000505.* Outlet(s) = Green River (Lat 46.3718, Long –122.5847) upstream to endpoint(s) in: Beaver Creek (46.4056, –122.5671); Cascade Creek (46.3924, –122.3529); Devils Creek (46.4017, –122.4089); Elk Creek (46.4178, –122.2477); Green River (46.3857, –122.1815); Jim Creek (46.3885, –122.5256); Miners Creek (46.3483, –122.1932); Shultz Creek (46.3684, –122.2848); Tradedollar Creek (46.3769, –122.2411); Unnamed (46.3271, –122.2978); Unnamed (46.3467, –122.2092); Unnamed (46.3602, –122.3257); Unnamed (46.3655, –122.4774); Unnamed (46.3683, –122.3454); Unnamed (46.3695, –122.4132); Unnamed (46.3697, –122.4705); Unnamed (46.3707, –122.5175); Unnamed (46.3734, –122.3883); Unnamed (46.3817, –122.2348); Unnamed (46.3844, –122.4335); Unnamed (46.3876, –122.4870); Unnamed (46.3931, –122.3726); Unnamed (46.4023, –122.5543); Unnamed (46.4060, –122.5415); Unnamed (46.4087, –122.5061); Unnamed (46.4106, –122.4300); Unnamed (46.4143, –122.4463); Unnamed (46.4173, –122.2910); Unnamed (46.4196, –122.2850); Unnamed (46.4226, –122.3029); Unnamed (46.4285, –122.2662).

(v) *South Fork Toutle River Watershed 1708000506.* Outlet(s) = South Fork Toutle River (Lat 46.3282, Long –122.7215) upstream to endpoint(s) in: Bear Creek (46.2219, –122.4620); Big Wolf Creek (46.2259, –122.5662); Disappointment Creek (46.2138, –122.3080); Eighteen Creek (46.2453, –122.5989); Harrington Creek (46.2508, –122.4126); Johnson Creek (46.3047, –122.5923); Sheep Canyon (46.2066, –122.2672); South Fork Toutle River (46.2137, –122.2347); Studebaker Creek (46.2825, –122.6805); Thirteen Creek (46.2374, –122.6230); Trouble Creek (46.1999, –122.3774); Twenty Creek (46.2508, –122.5738); Unnamed (46.1858, –122.2983); Unnamed (46.1953, –122.2881); Unnamed (46.2068, –122.3301); Unnamed (46.2075, –122.3267); Unnamed (46.2082, –122.2591); Unnamed (46.2107, –122.4301); Unnamed (46.2115, –122.2786); Unnamed (46.2117, –122.2378); Unnamed (46.2121, –122.5188); Unnamed (46.2157, –122.3467); Unnamed (46.2215, –122.5318); Unnamed (46.2234, –122.3265); Unnamed (46.2265, –122.3906); Unnamed (46.2271, –122.3367); Unnamed (46.2277, –122.3719); Unnamed (46.2309, –122.3828); Unnamed (46.2357, –122.4802); Unnamed (46.2365, –122.4402); Unnamed (46.2424, –122.4860); Unnamed (46.2444, –122.5427); Unnamed (46.2457, –122.6283); Unnamed (46.2523, –122.5147); Unnamed (46.2587, –122.5333); Unnamed (46.2591, –122.5240); Unnamed (46.2608, –122.5493); Unnamed (46.2618, –122.5705); Unnamed (46.2693, –122.5763); Unnamed (46.2707, –122.6094); Unnamed (46.2932, –122.5890); Unnamed (46.2969, –122.6718); Unnamed (46.2976, –122.6129); Unnamed (46.3035, –122.5952); Unnamed (46.3128, –122.7032); Unnamed (46.3217, –122.6473); Whitten Creek (46.2328, –122.4944).

(vi) *East Willapa Watershed 1708000507.* Outlet(s) = Cowlitz River (Lat 46.2660, Long –122.9154) upstream to endpoint(s) in: Arkansas Creek (46.3345, –123.0567); Baxter Creek (46.3367, –122.9841); Brim Creek (46.4446, –123.0395); Campbell Creek (46.3436, –123.0700); Cline Creek (46.3397, –122.8550); Cowlitz River (46.3678, –122.9337); Delameter Creek (46.2705, –123.0143); Ferrier Creek (46.4646, –122.9374); Hemlock Creek (46.2586.–122.7270); Hill Creek (46.3861, –122.8864); King Creek (46.5304, –123.0203); McMurphy Creek (46.4113, –122.9469); Monahan Creek (46.3041, –123.0614); North Fork Brim Creek (46.4627, –123.0222); North Fork Toutle River (46.3669, –122.5859); Owens Creek (46.3994, –123.0457); Rock Creek (46.3479, –122.8144); Rock Creek (46.3531, –122.9368); Snow Creek (46.4486, –122.9805); Stankey Creek (46.3259, –122.8266); Stillwater Creek (46.3583, –123.1144); Sucker Creek (46.2600, –122.7684); Tucker Creek (46.2565, –123.0162); Unnamed (46.2413, –122.9887); Unnamed (46.2480, –123.0169); Unnamed (46.2480, –122.7759); Unnamed (46.2517, –123.0173); Unnamed (46.2606, –122.9549); Unnamed (46.2629, –123.0188); Unnamed (46.2663, –122.9804); Unnamed (46.2709, –122.7687); Unnamed (46.2711, –122.8159); Unnamed (46.2840, –122.8128); Unnamed (46.2878, –123.0286); Unnamed (46.2883, –122.9051); Unnamed (46.2892, –122.9625); Unnamed (46.2900, –122.8124); Unnamed (46.3030, –123.0645); Unnamed (46.3092, –122.9826); Unnamed (46.3160, –122.7783); Unnamed (46.3161, –123.0123); Unnamed (46.3173, –122.8950); Unnamed (46.3229, –122.8152); Unnamed (46.3245, –122.8609); Unnamed (46.3248, –123.0292); Unnamed (46.3252, –122.9238); Unnamed (46.3294, –122.9084); Unnamed (46.3309, –123.0046); Unnamed (46.3316, –122.8257); Unnamed (46.3346, –123.0167); Unnamed (46.3378, –122.9398); Unnamed (46.3393, –122.9402); Unnamed (46.3415, –122.9208); Unnamed (46.3456, –122.6405); Unnamed (46.3472, –122.9457); Unnamed (46.3488, –123.0519); Unnamed (46.3510, –123.0079); Unnamed (46.3511, –122.7678); Unnamed (46.3584, –122.7902); Unnamed (46.3585, –123.0369); Unnamed (46.3586, –122.7477); Unnamed (46.3599, –123.0992); Unnamed (46.3623, –122.6910); Unnamed (46.3665, –122.6334); Unnamed (46.3667, –122.8953); Unnamed (46.3683, –122.8930); Unnamed (46.3683, –122.7502); Unnamed (46.3718, –122.6202); Unnamed (46.3720, –123.0933); Unnamed (46.3748, –122.6167); Unnamed (46.3818, –122.8822); Unnamed (46.3824, –122.6090); Unnamed (46.3942, –122.9794); Unnamed (46.4015, –123.0272); Unnamed (46.4045, –123.0194); Unnamed (46.4177, –122.9611); Unnamed (46.4200, –123.0403); Unnamed (46.4286, –123.0467); Unnamed (46.4362, –123.0451); Unnamed (46.4379, –122.9985); Unnamed (46.4571, –122.9604); Unnamed (46.4606, –123.0166); Unnamed (46.4724, –122.9989); Unnamed (46.4907, –122.9352); Unnamed (46.5074, –122.8877); Unnamed (46.5089, –122.9291); Unnamed (46.5228, –122.8539); Unnamed (46.5336, –122.9793); Unnamed (46.5371, –122.8214); Unnamed (46.5439, –122.8538); Whittle Creek (46.3122, –122.9501); Wyant Creek (46.3381, –122.6117).

(vii) *Coweeman River Watershed 1708000508.* Outlet(s) = Cowlitz River (Lat 46.0977, Long –122.9141); Owl Creek (46.0771, –122.8676) upstream to endpoint(s) in: Baird Creek (46.1942, –122.5483); Coweeman River (46.1505, –122.5172); Cowlitz River (46.2660, –122.9154); Goble Creek (46.1103, –122.6789); Hill Creek (46.1784, –122.5990); Leckler Creek (46.2317, –122.9470); Little Baird Creek (46.1905, –122.5709); Martin Creek (46.1394, –122.5519); Mulholland Creek (46.2013, –122.6450); Nineteen Creek (46.1437, –122.6146); North Fork Goble Creek (46.1363, –122.6769); Nye Creek (46.1219, –122.8040); O'Neil Creek

(46.1760, –122.5422); Ostrander Creek (46.2103, –122.7623); Owl Creek (46.0913, –122.8644); Salmon Creek (46.2547, –122.8839); Sandy Bend Creek (46.2319, –122.9140); Skipper Creek (46.1639, –122.5887); South Fork Ostrander Creek (46.1875, –122.8240); Turner Creek (46.1167, –122.8149); Unnamed (46.0719, –122.8607); Unnamed (46.0767, –122.8605); Unnamed (46.0824, –122.7200); Unnamed (46.0843, –122.7195); Unnamed (46.1185, –122.7253); Unnamed (46.1289, –122.8968); Unnamed (46.1390, –122.5709); Unnamed (46.1430, –122.8125); Unnamed (46.1433, –122.8084); Unnamed (46.1478, –122.8649); Unnamed (46.1546, –122.6376); Unnamed (46.1562, –122.7808); Unnamed (46.1579, –122.6476); Unnamed (46.1582, –122.5332); Unnamed (46.1605, –122.6681); Unnamed (46.1620, –122.5885); Unnamed (46.1671, –122.6284); Unnamed (46.1688, –122.9215); Unnamed (46.1724, –122.6118); Unnamed (46.1735, –122.8282); Unnamed (46.1750, –122.8428); Unnamed (46.1750, –122.7557); Unnamed (46.1797, –122.7746); Unnamed (46.1803, –122.7801); Unnamed (46.1811, –122.7631); Unnamed (46.1814, –122.7656); Unnamed (46.1840, –122.8191); Unnamed (46.1955, –122.9082); Unnamed (46.1966, –122.5542); Unnamed (46.1971, –122.7118); Unnamed (46.2014, –122.8241); Unnamed (46.2021, –122.6941); Unnamed (46.2027, –122.5593); Unnamed (46.2172, –122.9516); Unnamed (46.2192, –122.6663); Unnamed (46.2199, –122.8375); Unnamed (46.2208, –122.8887); Unnamed (46.2231, –122.9509); Unnamed (46.2257, –122.7667); Unnamed (46.2261, –122.8023); Unnamed (46.2379, –122.8859); Unnamed (46.2430, –122.8842).

(7) Clackamas Subbasin 17090011—(i) *Collawash River Watershed 1709001101.* Outlet(s) = Collawash River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Blister Creek (44.9594, –122.1590); Dickey Creek (44.9335, –122.0469); East Fork Collawash River (44.8789, –121.9850); Elk Lake Creek (44.8886, –122.0128); Fan Creek (44.9926, –122.0735); Farm Creek (44.9620, –122.0604); Hot Springs Fork Collawash River (44.9005, –122.1616); Hugh Creek (44.9226, –122.1978); Pansy Creek (44.9463, –122.1420); Skin Creek (44.9477, –122.2015); Thunder Creek (44.9740, –122.1230).

(ii) *Upper Clackamas River Watershed 1709001102.* Outlet(s) = Clackamas River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Berry Creek (44.8291, –121.9176); Cabin Creek (45.0087, –121.8958); Clackamas River (44.8723, –121.8470); Cub Creek (44.8288, –121.8863); Fawn Creek (44.9089, –121.9226); Hunter Creek (44.8926, –121.9285); Kansas Creek (44.9820, –121.8999); Last Creek (44.9759, –121.8424); Lost Creek (45.0180, –121.9070); Lowe Creek (44.9636, –121.9457); Pinhead Creek (44.9421, –121.8359); Pot Creek (45.0201, –121.9014); Rhododendron Creek (44.9358, –121.9154); Sisi Creek (44.9110, –121.8875); Unnamed (44.8286, –121.9225); Unnamed (44.8343, –121.8778); Unnamed (44.8944, –121.9028); Unnamed (44.9355, –121.8735); Unnamed (44.9661, –121.8894); Unnamed (44.9687, –121.8920); Unnamed (45.0000, –121.8910).

(iii) *Oak Grove Fork Clackamas River Watershed 1709001103.* Outlet(s) = Oak Grove Fork Clackamas River (Lat 45.0746, Long –122.0520) upstream to endpoint(s) in: Oak Grove Fork Clackamas River (45.0823, –121.9861); Pint Creek (45.0834, –122.0355).

(iv) *Middle Clackamas River Watershed 1709001104.* Outlet(s) = Clackamas River (Lat 45.2440, Long –122.2798) upstream to endpoint(s) in: Big Creek (45.0694, –122.0848); Calico Creek (45.0682, –122.1627); Clackamas River (45.0321, –122.0600); Cripple Creek (45.1149, –122.0618); Fish Creek (45.0634, –122.1597); Mag Creek (45.0587, –122.0488); North Fork Clackamas River (45.2371, –122.2181); Pick Creek (45.0738, –122.1994); Pup Creek (45.1451, –122.1055); Roaring River (45.1773, –122.0650); Sandstone Creek (45.0862, –122.0845); Second Creek (45.1081, –122.1601); South Fork Clackamas River (45.1912, –122.2261); Tag Creek (45.0605, –122.0475); Tar Creek (45.0494, –122.0569); Third Creek (45.0977, –122.1649); Trout Creek (45.0379, –122.0720); Wash Creek (45.0473, –122.1893); Whale Creek (45.1102, –122.0849).

(v) *Eagle Creek Watershed 1709001105.* Outlet(s) = Eagle Creek (Lat 45.3535, Long –122.3823) upstream to endpoint(s) in: Bear Creek (45.3369, –122.2331); Currin Creek (45.3369, –122.3555); Delph Creek (45.2587, –122.2098); Eagle Creek (45.2766, –122.1998); Little Eagle Creek (45.3003, –122.1682); North Fork Eagle Creek (45.3142, –122.1135); Trout Creek (45.3305, –122.1187).

(vi) *Lower Clackamas River 1709001106.* Outlet(s) = Clackamas River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Bargfeld Creek (45.3195, –122.4398); Clackamas River (45.2440, –122.2798); Clear Creek (45.2022, –122.3121); Deep Creek (45.3421, –122.2799); Foster Creek (45.3512, –122.4082); Goose Creek (45.3621, –122.3549); Little Clear Creek (45.2803, –122.4055); Mosier Creek (45.2683, –122.4516); North Fork Deep Creek (45.4271, –122.3094); Richardson Creek (45.4097, –122.4484); Rock Creek (45.4157, –122.5013); Tickle Creek (45.3932, –122.2775); Unnamed (45.3502, –122.4861); Unnamed (45.3626, –122.2858); Unnamed (45.3816, –122.3721); Unnamed (45.4057, –122.3223); Unnamed (45.4102, –122.2987); Wade Creek (45.2922, –122.3237).

(8) Lower Willamette Subbasin 17090012—(i) *Johnson Creek Watershed 1709001201.* Outlet(s) = Willamette River (Lat 45.4423, Long –122.6453) upstream to endpoint(s) in: Crystal Springs Creek (45.4811, –122.6381); Crystal Springs Lake (45.4799, –122.6361); Johnson Creek (45.4610, –122.3432); Kellogg Creek (45.4083, –122.5925); Kelly Creek (45.4661, –122.4655); Mount Scott Creek (45.4306, –122.5556); Oswego Creek (45.4105, –122.6666); Phillips Creek (45.4328, –122.5763); Tryon Creek (45.4472, –122.6863); Unnamed (45.4793, –122.4165); Willamette River (45.3719, –122.6071).

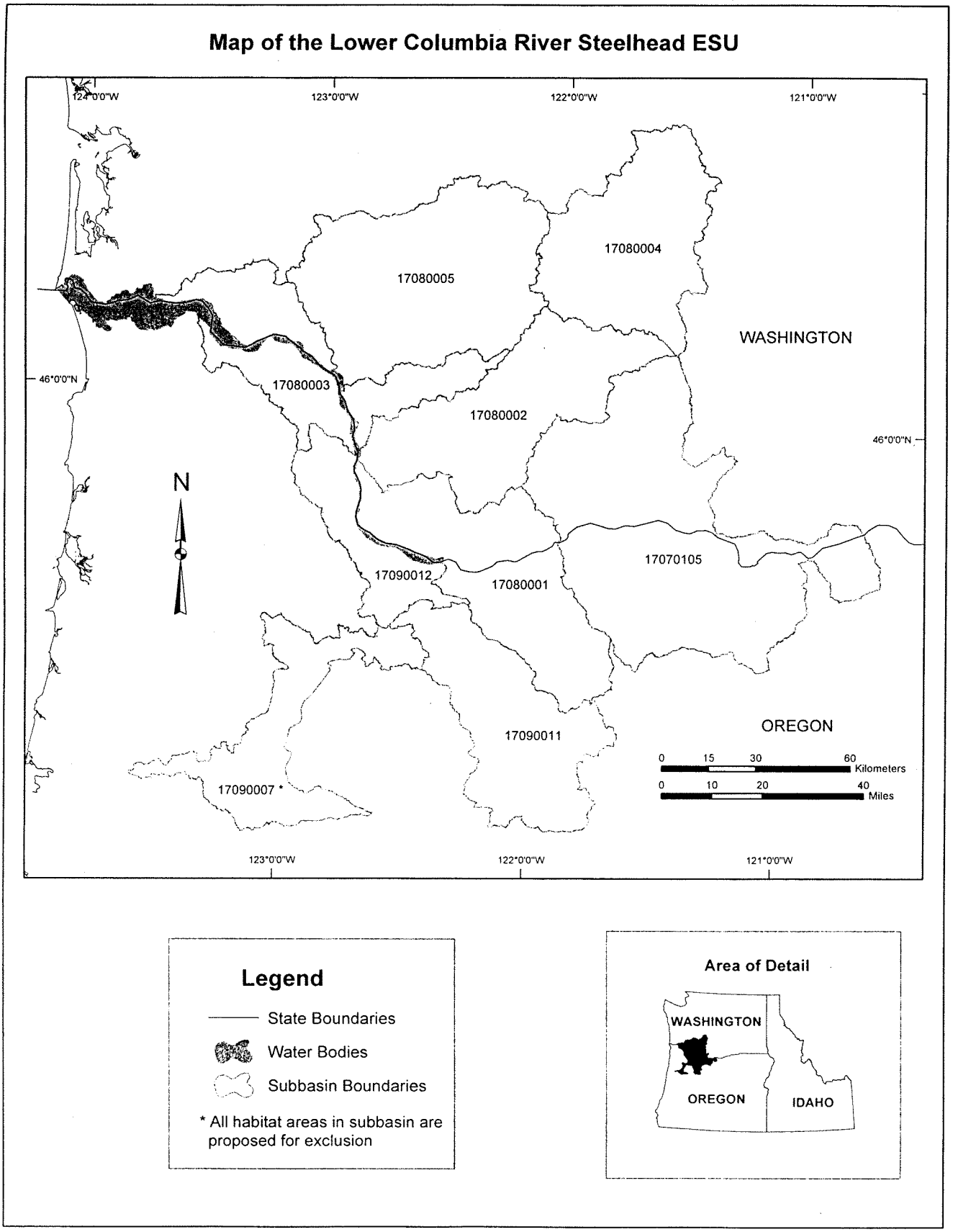
(ii) *Scappoose Creek Watershed 1709001202.* Outlet(s) = Multnomah Channel (Lat 45.8577, Long –122.7919) upstream to endpoint(s) in: Multnomah Channel (45.6188, –122.7921).

(iii) *Columbia Slough/Willamette River Watershed 1709001203.* Outlet(s) = Willamette River (Lat 45.6530, Long –122.7646) upstream to endpoint(s) in: Bybee Lake (45.6266, –122.7523); Bybee/Smith Lakes (45.6105, –122.7285); Columbia Slough #1 (45.6078, –122.7447); Swan Island Basin (45.5652, –122.7120); Unnamed (45.6253, –122.7568); Willamette River (45.4423, –122.6453).

(9) Lower Columbia River Corridor—*Lower Columbia River Corridor* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.5710, –122.4021).

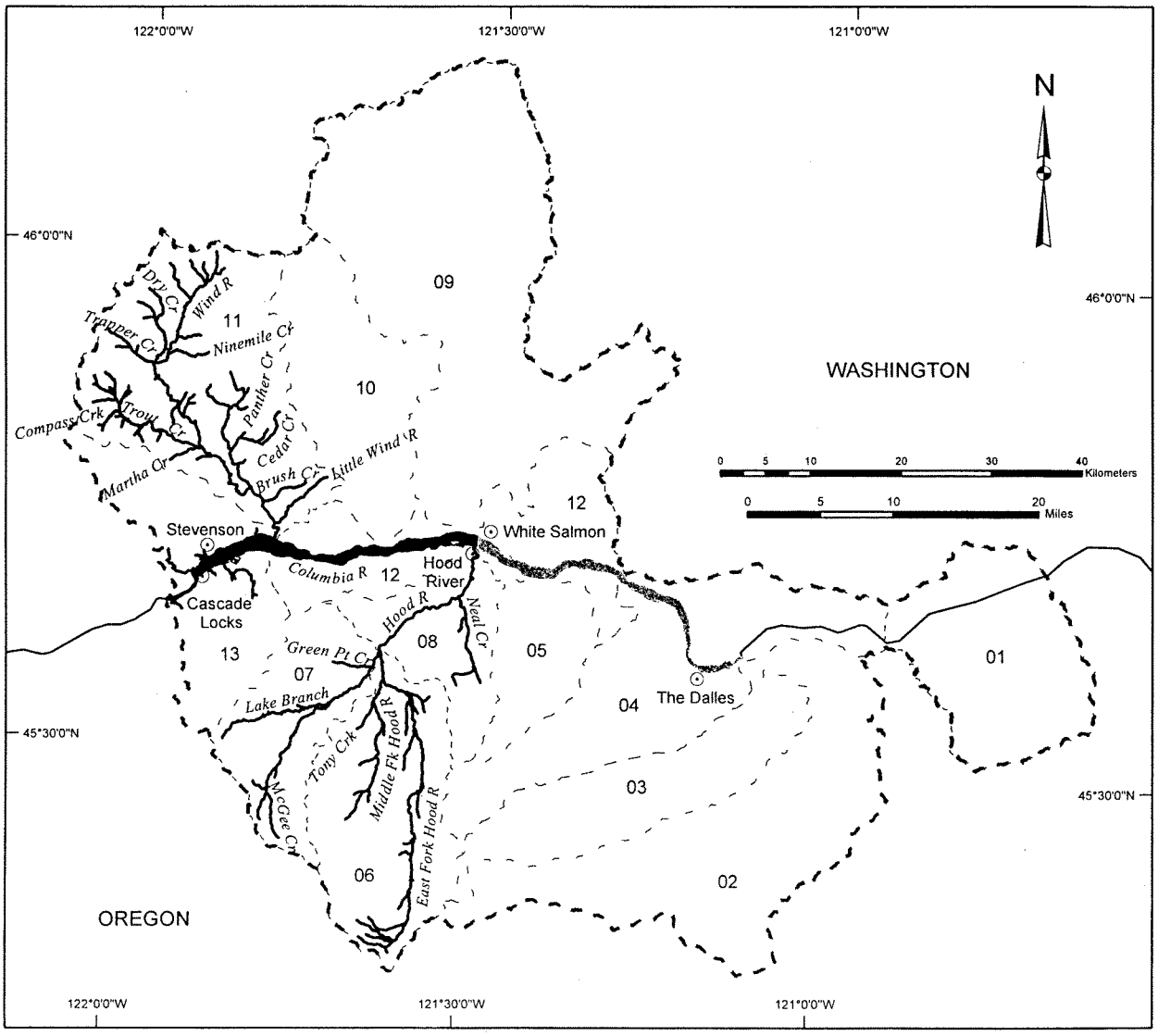
(10) Maps of critical habitat for the Lower Columbia River Steelhead ESU follow:

BILLING CODE 3510–22–P


Map of the Lower Columbia River Steelhead ESU
124°0'0"W
123°0'0"W
122°0'0"W
121°0'0"W
46°0'0"N
17080004
17080005
WASHINGTON
17080003
17080002
N
17070105
17090012
17080001
17090011
OREGON
17090007 *
0 15 30 60 Kilometers
0 10 20 40 Miles
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
* All habitat areas in subbasin are proposed for exclusion
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Lower Columbia River Steelhead ESU

MIDDLE COLUMBIA / HOOD SUBBASIN 17070105

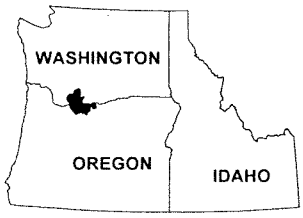


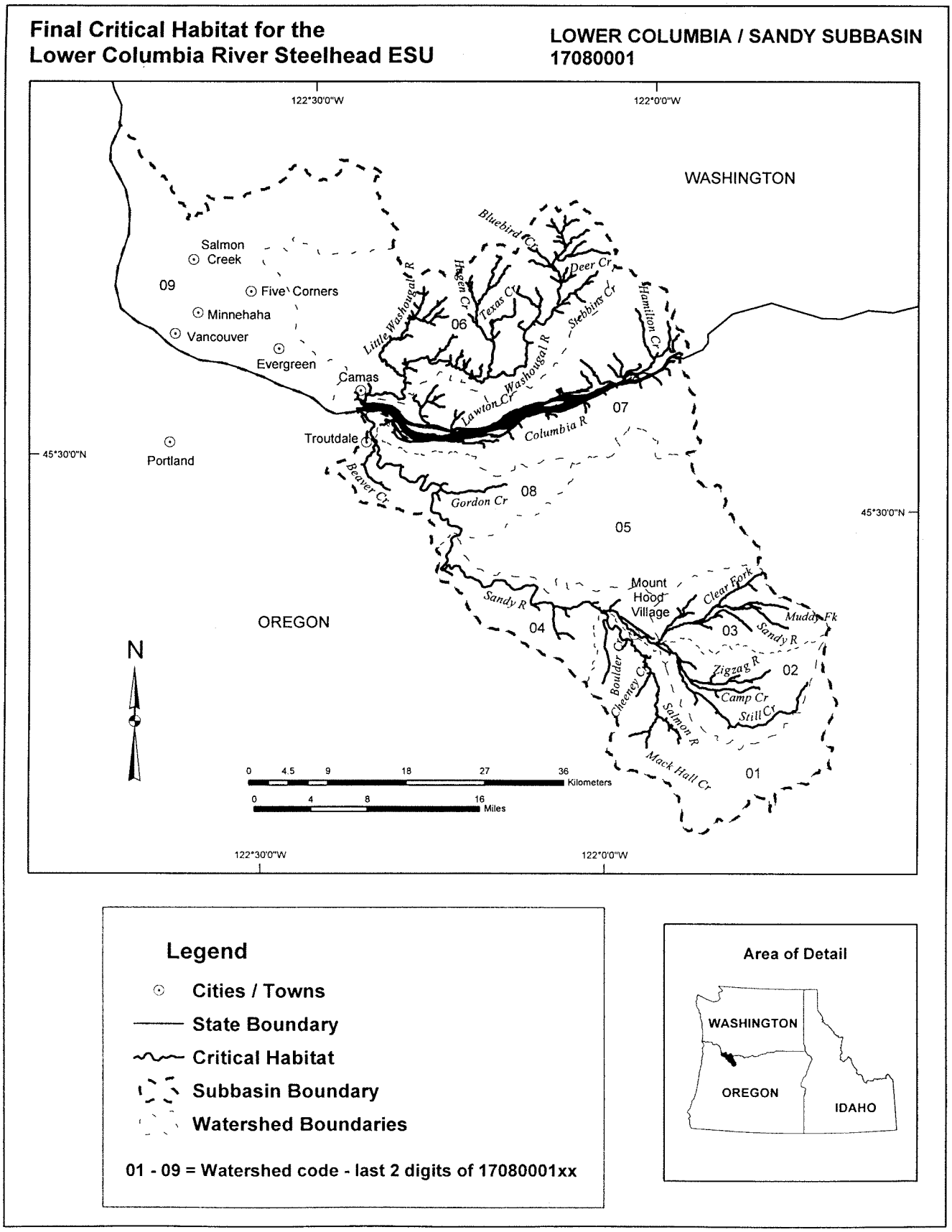
Legend

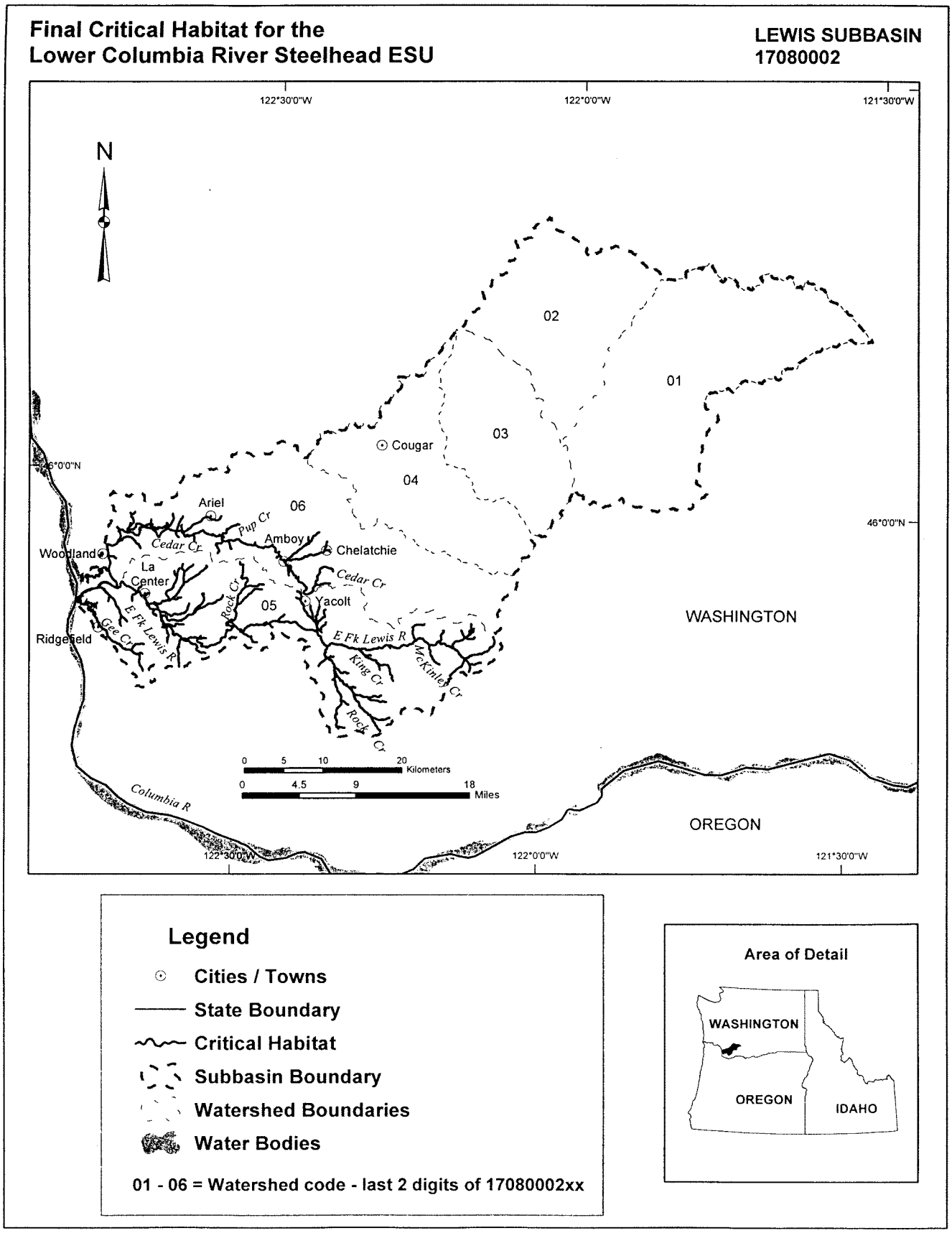
- Cities / Towns
- State Boundary
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

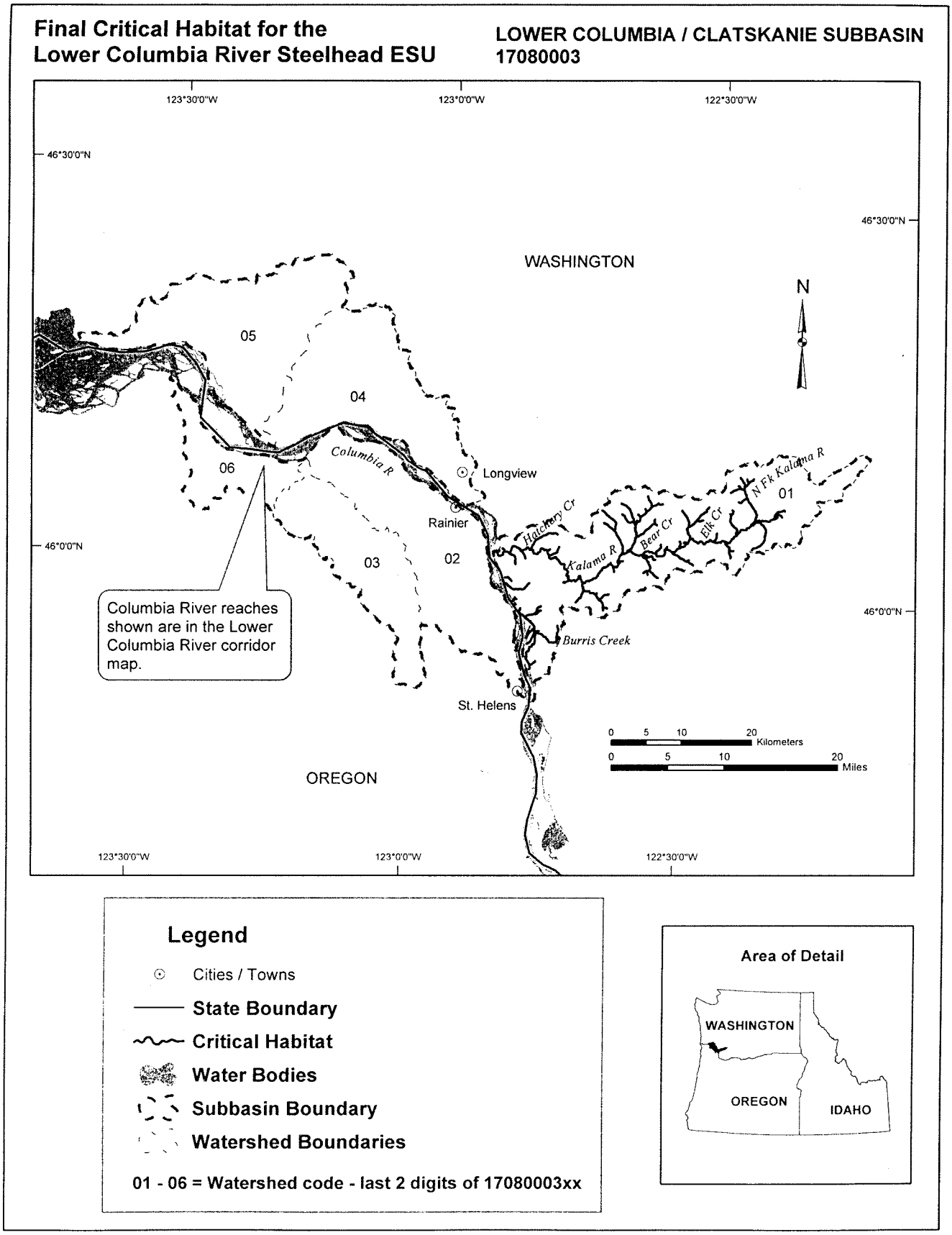
01 - 13 = Watershed code - last 2 digits of 17070105xx

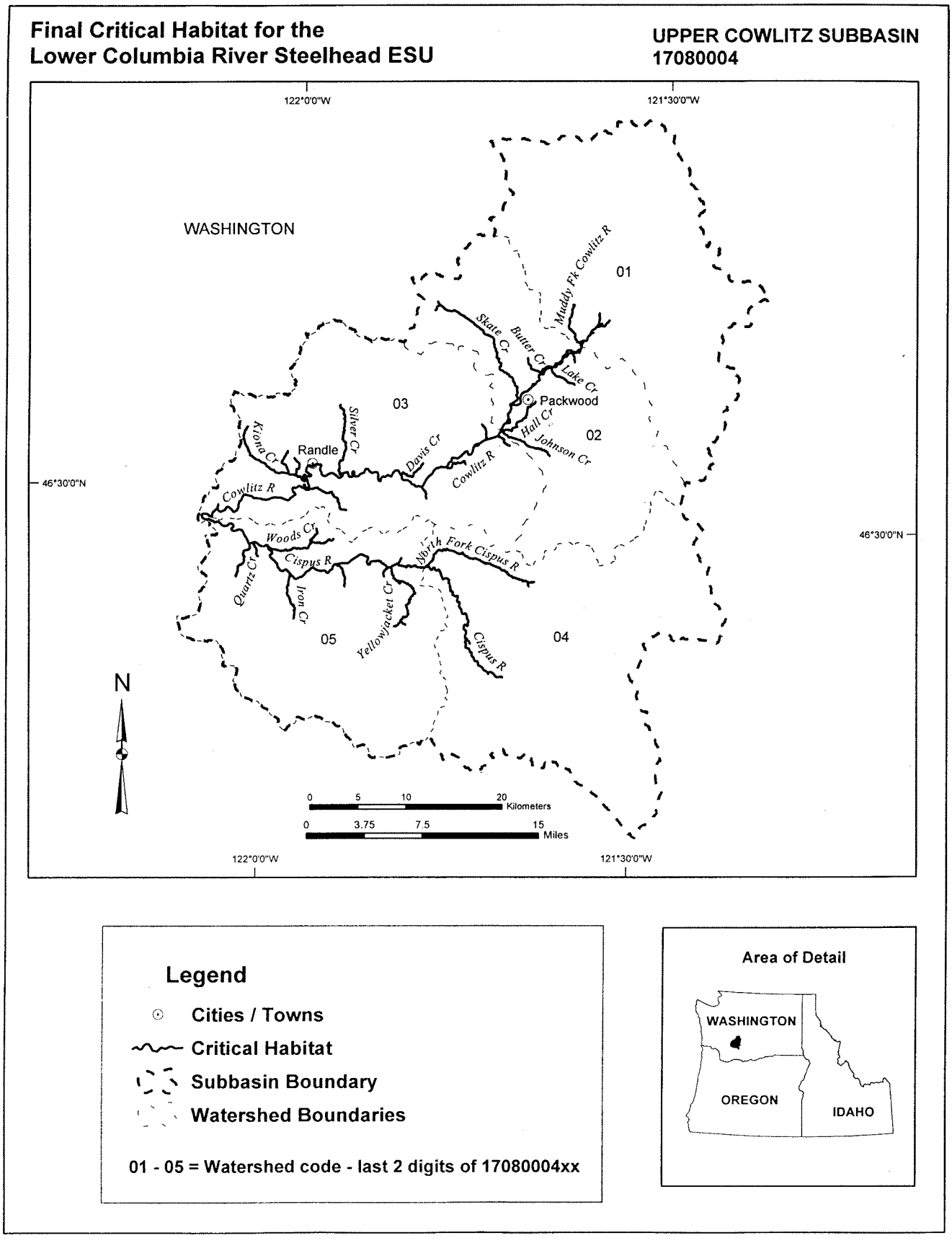
Area of Detail




Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LOWER COLUMBIA / SANDY SUBBASIN
17080001
122°30'0"W
122°0'0"W
WASHINGTON
Salmon Creek
Five Corners
Minnehaha
Vancouver
Evergreen
Camas
Troutdale
Portland
45°30'0"N
09
06
07
08
05
04
03
02
01
Bluebird Cr
Deer Cr
Hamilton Cr
Stebbins Cr
Texas Cr
Hagen Cr
Little Washougal R
Washougal R
Lawton Cr
Columbia R
Beaver Cr
Gordon Cr
Sandy R
Mount Hood Village
Clear Fork
Muddy Fk
Zigzag R
Camp Cr
Still Cr
Boulder Cr
Cheeney Cr
Salmon R
Mack Hall Cr
OREGON
N
0 4.5 9 18 27 36 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17080001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

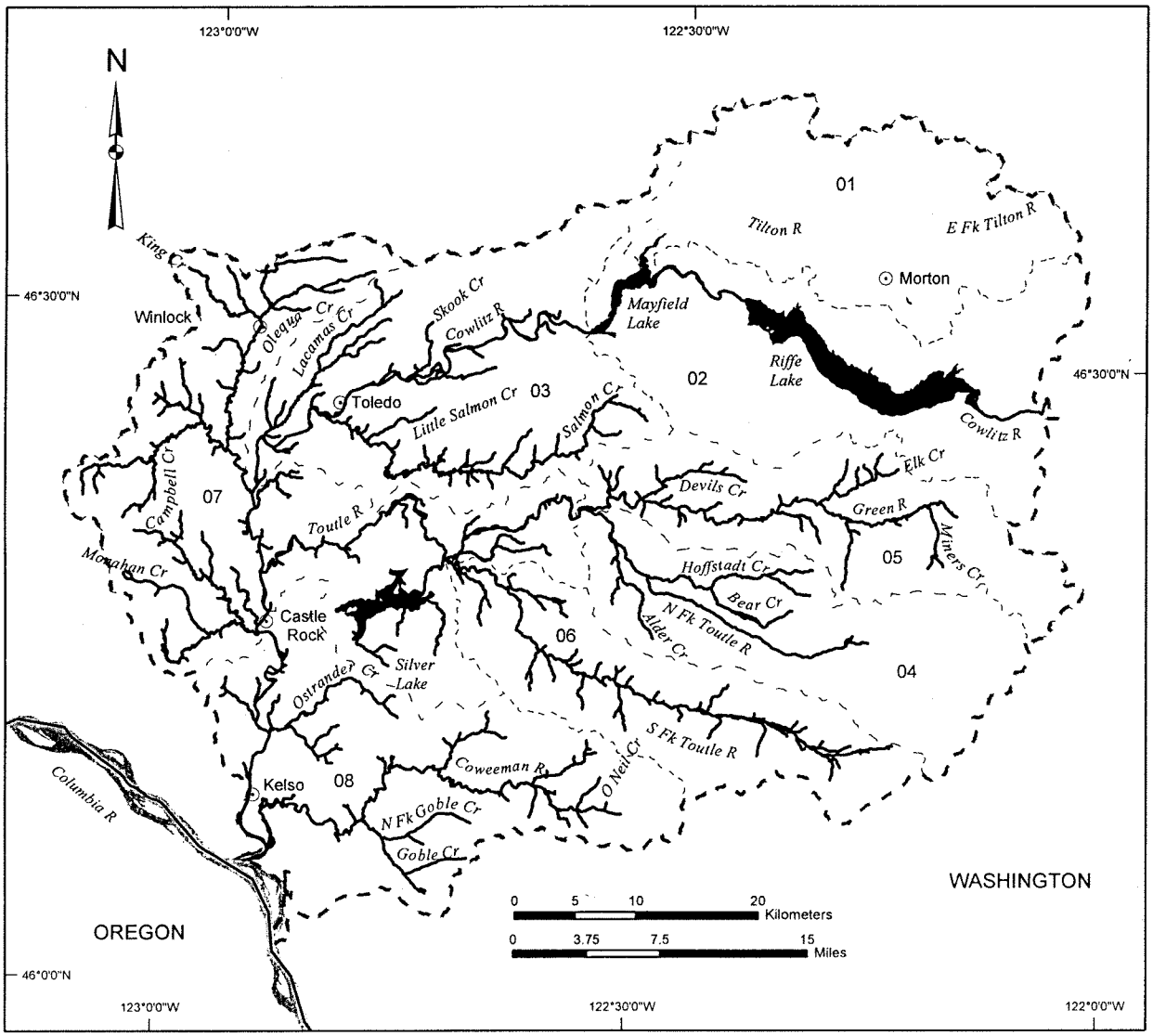

Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LEWIS SUBBASIN
17080002
122°30'0"W
122°0'0"W
121°30'0"W
N
02
01
03
Cougar
04
06
Ariel
Pup Cr
Amboy
Chelatchie
Cedar Cr
Woodland
La Center
Cedar Cr
Rock Cr
05
Yacolt
E Fk Lewis R
Gee Cr
Ridgefield
E Fk Lewis R
King Cr
McKinley Cr
Rock Cr
46°0'0"N
WASHINGTON
0 5 10 20 Kilometers
0 4.5 9 18 Miles
Columbia R
OREGON
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
Water Bodies
01 - 06 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LOWER COLUMBIA / CLATSKANIE SUBBASIN
17080003
123°30'0"W
123°0'0"W
122°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
N
05
04
06
03
02
01
Columbia R
Longview
Rainier
Hatchery Cr
Kalama R
Bear Cr
Elk Cr
N Fk Kalama R
Burris Creek
St. Helens
Columbia River reaches shown are in the Lower Columbia River corridor map.
0 5 10 20 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080003xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Steelhead ESU
UPPER COWLITZ SUBBASIN
17080004
122°0'0"W
121°30'0"W
46°30'0"N
WASHINGTON
01
02
03
04
05
Muddy Fk Cowlitz R
Skate Cr
Butter Cr
Lake Cr
Packwood
Hall Cr
Johnson Cr
Silver Cr
Kiona Cr
Randle
Davis Cr
Cowlitz R
Woods Cr
Cispus R
North Fork Cispus R
Quartz Cr
Iron Cr
Yellowjacket Cr
N
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080004xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Lower Columbia River Steelhead ESU

COWLITZ SUBBASIN 17080005

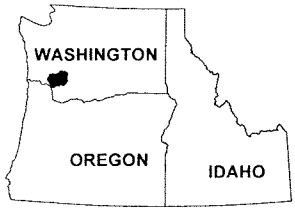


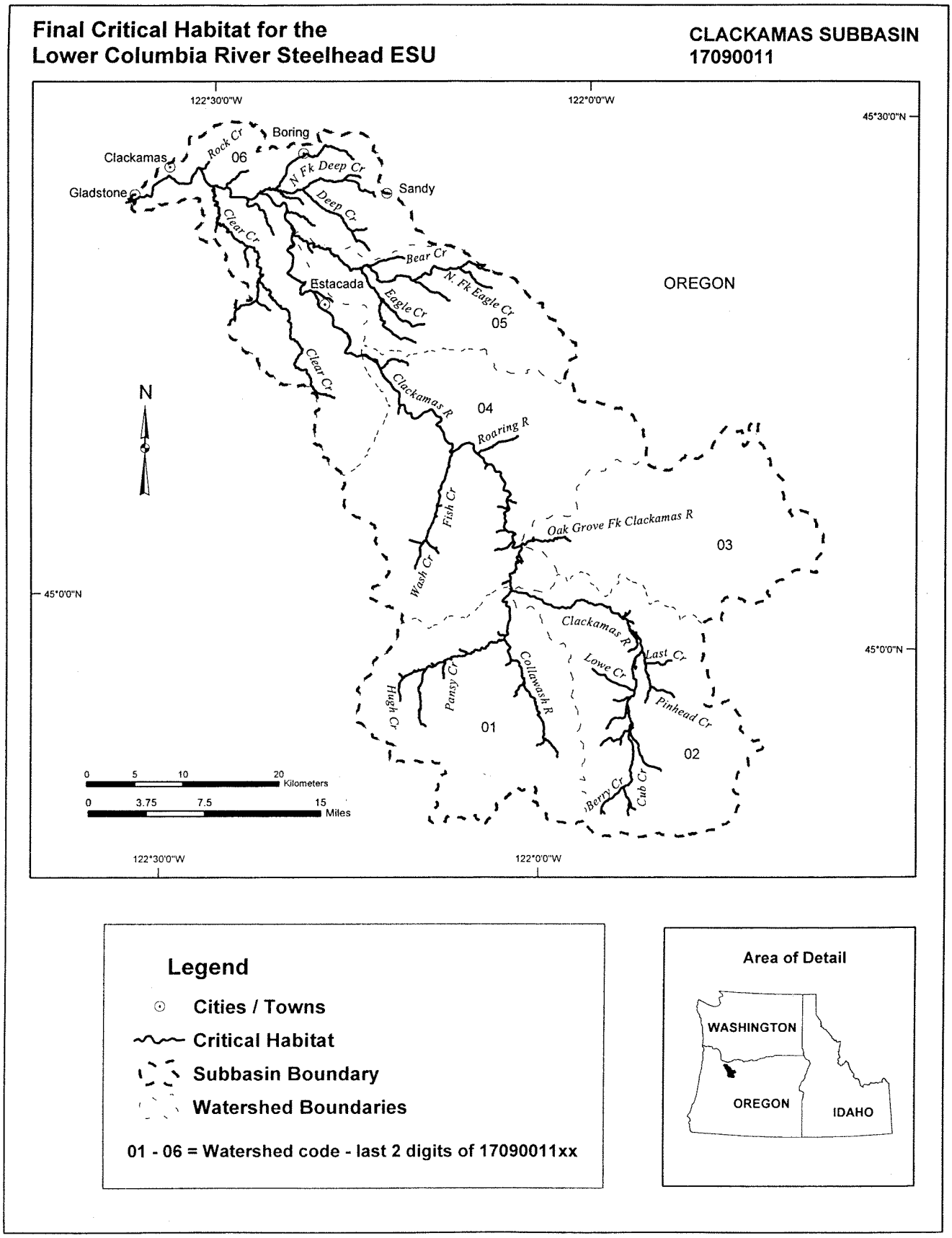
Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

01 - 08 = Watershed code - last 2 digits of 17080005xx

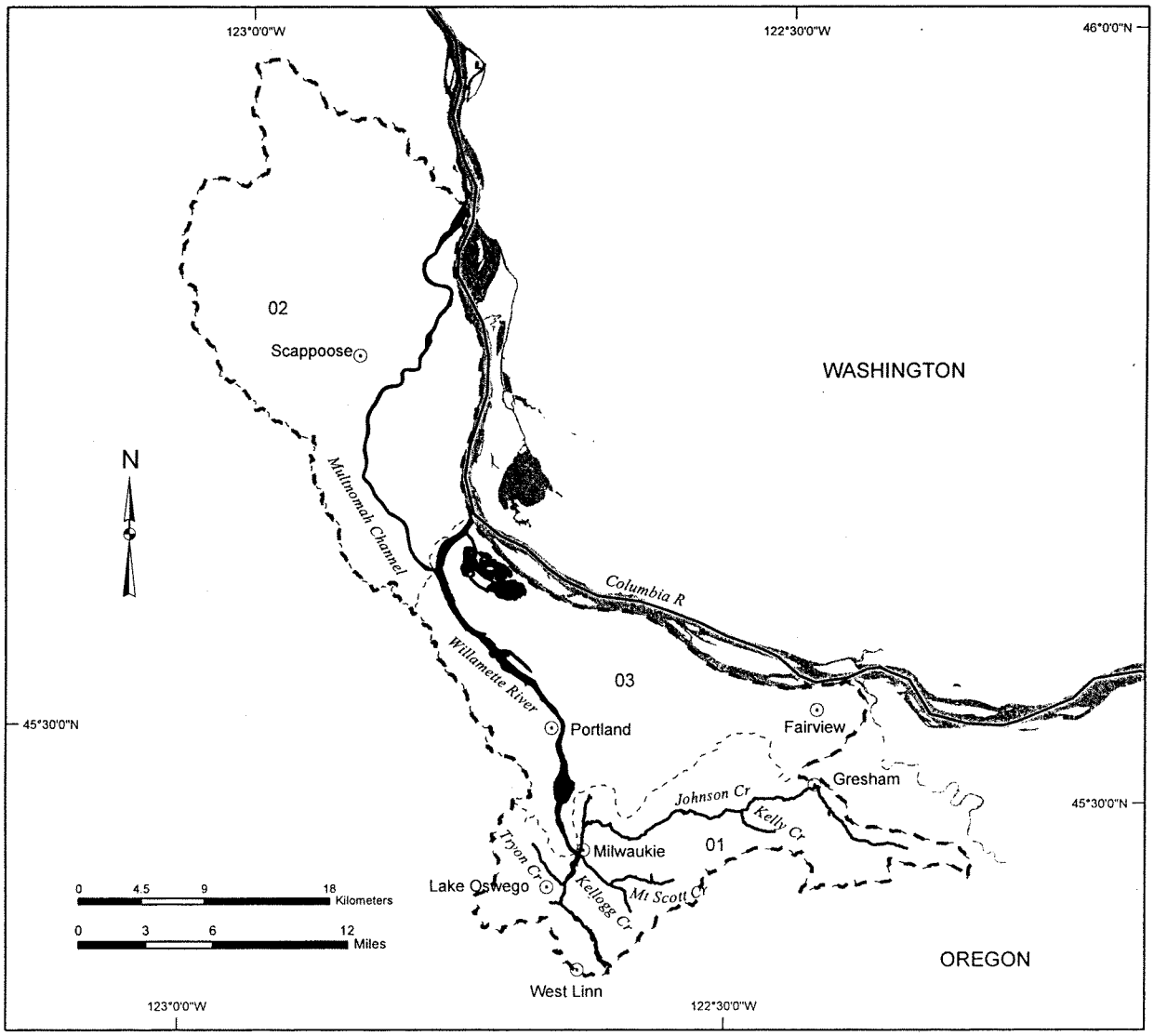
Area of Detail




Final Critical Habitat for the
Lower Columbia River Steelhead ESU
CLACKAMAS SUBBASIN
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Clackamas
Gladstone
Boring
Sandy
Estacada
OREGON
Rock Cr
06
N Fk Deep Cr
Deep Cr
Clear Cr
Bear Cr
N Fk Eagle Cr
Eagle Cr
05
Clackamas R
04
Roaring R
Fish Cr
Oak Grove Fk Clackamas R
03
Wash Cr
Clackamas R
Last Cr
Lowe Cr
Collawash R
Pansy Cr
High Cr
01
Pinhead Cr
02
Berry Cr
Cub Cr
N
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090011xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Lower Columbia River Steelhead ESU

LOWER WILLAMETTE SUBBASIN 17090012

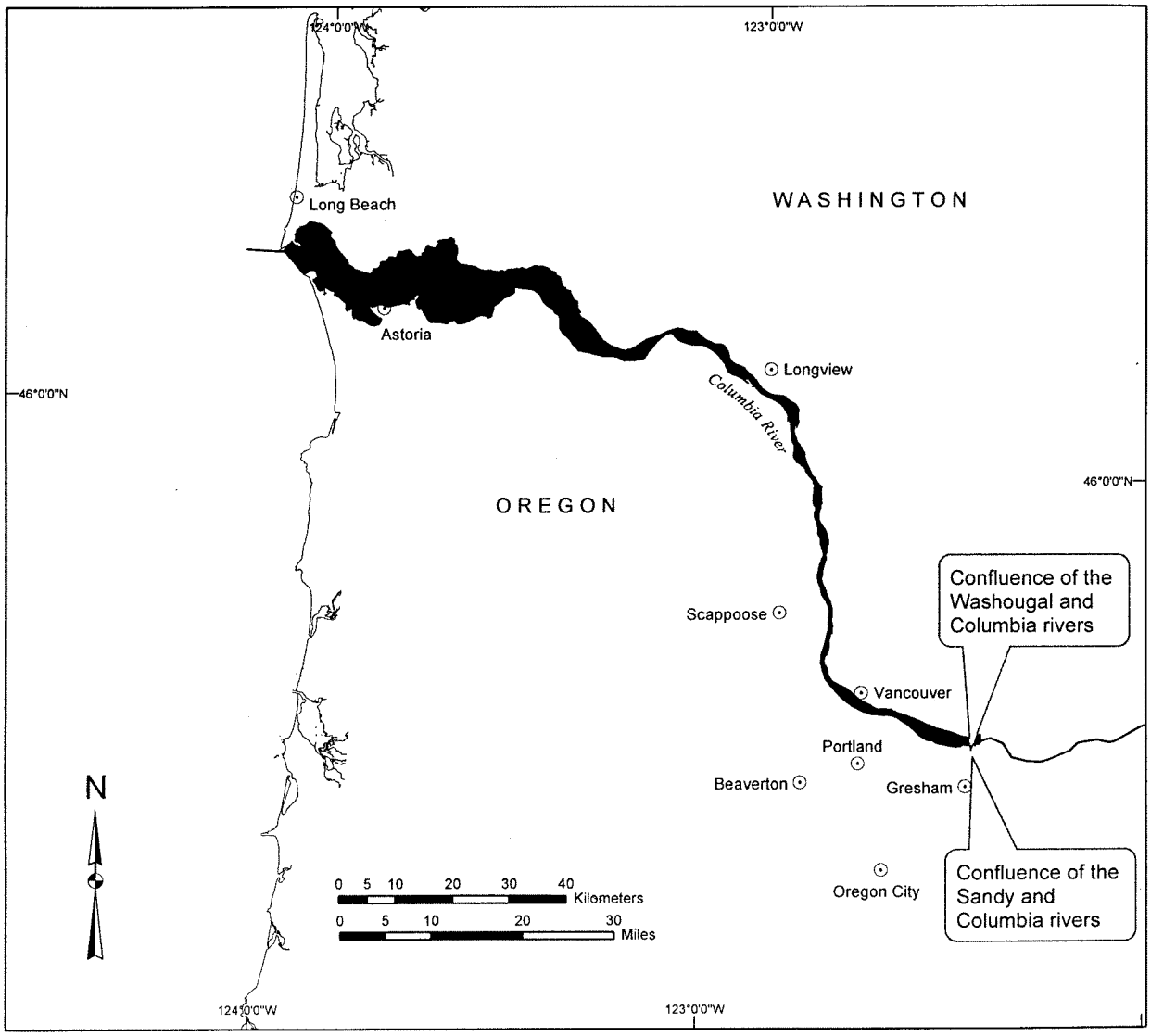


Legend

- Cities / Towns
- State Boundary
- Critical Habitat
- Water Bodies
- Subbasin Boundary
- Watershed Boundaries

01 - 03 = Watershed code - last 2 digits of 17090012xx

Rearing / Migration Corridor for the Lower Columbia River Steelhead ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Lower Columbia River Steelhead ESU

Lower Columbia River Corridor
The lower Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to a line connecting the confluences of the Sandy River (Oregon) and Washougal River (Washington).

BILLING CODE 3510–22–C

(t) *Upper Willamette River Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Upper Willamette Subbasin 17090003—(i) *Calapooia River Watershed 1709000303.* Outlet(s) = Calapooia River (Lat 44.5088, Long –123.1101) upstream to endpoint(s) in: Bigs Creek (44.2883, –122.6133); Butte Creek (44.4684, –123.0488); Calapooia River (44.2361, –122.3664); Hands Creek (44.2559, –122.5127); King Creek (44.2458, –122.4452); McKinley Creek (44.2569, –122.5621); North Fork Calapooia River (44.2497, –122.4094); Potts Creek (44.2581, –122.4756); Spoon Creek (44.4379, –123.0877); United States Creek (44.2244, –122.3825).

(ii) *Oak Creek Watershed 1709000304.* Outlet(s) = Willamette River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Calapooia River (44.5088, –123.1101); Cox Creek (44.6417, –123.0680); Periwinkle Creek (44.6250, –123.0814); Truax Creek (44.6560, –123.0598).

(iii) *Luckiamute River Watershed 1709000306.* Outlet(s) = Luckiamute River (Lat 44.7561, Long –123.1468) upstream to endpoint(s) in: Bonner Creek (44.6735, –123.4849); Burgett Creek (44.6367, –123.4574); Clayton Creek (44.7749, –123.4870); Cooper Creek (44.8417, –123.3246); Grant Creek (44.8389, –123.4098); Little Luckiamute River (44.8673, –123.4375); Luckiamute River (44.7970, –123.5270); Maxfield Creek (44.6849, –123.3427); McTimmonds Creek (44.7622, –123.4125); North Fork Pedee Creek (44.7866, –123.4511); Plunkett Creek (44.6522, –123.4241); Price Creek (44.6677, –123.3732); Sheythe Creek (44.7683, –123.5027); Soap Creek (44.6943, –123.2488); South Fork Pedee Creek (44.7798, –123.4667); Teal Creek (44.8329, –123.4582); Unnamed (44.7562, –123.5293); Unnamed (44.7734, –123.2027); Unnamed (44.7902, –123.6211); Vincent Creek (44.6380, –123.4327); Waymire Creek (44.8725, –123.4128); Woods Creek (44.6564, –123.3905).

(2) North Santiam Subbasin 17090005—(i) *Middle North Santiam River Watershed 1709000504.* Outlet(s) = North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Little Rock Creek (44.7330, –122.3927); Mad Creek (44.7373, –122.3735); North Santiam River (44.7512, –122.2825); Rock Creek (44.7011, –122.4080); Snake Creek (44.7365, –122.4870).

(ii) *Little North Santiam River Watershed 1709000505.* Outlet(s) = Little North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Cedar Creek (44.8439, –122.2682); Elkhorn Creek (44.8139, –122.3451); Evans Creek (44.8412, –122.3601); Fish Creek (44.8282, –122.3915); Little North Santiam River (44.8534, –122.2887); Little Sinker Creek (44.8235, –122.4163); Sinker Creek (44.8211, –122.4210).

(iii) *Lower North Santiam River Watershed 1709000506.* Outlet(s) = Santiam River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Bear Branch (44.7602, –122.7942); Chehulpum Creek (44.7554, –122.9898); Cold Creek (44.7537, –122.8812); Morgan Creek (44.7495, –123.0443); North Santiam River (44.7852, –122.6079); Salem Ditch (44.8000, –122.8120); Santiam River (44.6869, –123.0052); Smallman Creek (44.7293, –122.9139); Stout Creek (44.8089, –122.5994); Trask Creek (44.7725, –122.6152); Unnamed (44.7972, –122.7328); Valentine Creek (44.7999, –122.7311).

(3) South Santiam Subbasin 17090006—(i) *Hamilton Creek/South Santiam River Watershed 1709000601.* Outlet(s) = South Santiam River (Lat 44.6869, Long –123.0052) upstream to endpoint(s) in: Albany—Santiam Canal (44.5512, –122.9032); Hamilton Creek (44.5392, –122.7018); Johnson Creek (44.4548, –122.7080); McDowell Creek (44.4640, –122.6803); Mill Creek (44.6628, –122.9575); Morgan Creek (44.4557, –122.7058); Noble Creek (44.4513, –122.7974); South Santiam River (44.4163, –122.6693).

(ii) *Crabtree Creek Watershed 1709000602.* Outlet(s) = Crabtree Creek (Lat 44.6756, Long –122.9557) upstream to endpoint(s) in: Bald Barney Creek (44.5469, –122.5959); Bald Peter Creek (44.5325, –122.6024); Beaver Creek (44.6337, –122.8537); Camp Creek (44.5628, –122.5768); Crabtree Creek (44.6208, –122.5055); Cruiser Creek (44.5543, –122.5831); Green Mountain Creek (44.5777, –122.6258); Roaring River (44.6281, –122.7148); Rock Creek (44.5883, –122.6000); South Fork Crabtree Creek (44.5648, –122.5441); White Rock Creek (44.6050, –122.5209).

(iii) *Thomas Creek Watershed 1709000603.* Outlet(s) = Thomas Creek (Lat 44.6778, Long –122.9654) upstream to endpoint(s) in: Criminal Creek (44.7122, –122.5709); Ella Creek (44.6815, –122.5228); Hortense Creek (44.6756, –122.5017); Jordan Creek (44.7527, –122.6519); Mill Creek (44.7060, –122.7849); Neal Creek (44.6923, –122.6484); South Fork Neal Creek (44.7016, –122.7049); Thomas Creek (44.6776, –122.4650); West Fork Ella Creek (44.6805, –122.5288).

(iv) *South Santiam River Watershed 1709000606.* Outlet(s) = South Santiam River (Lat 44.3977, Long –122.4473) upstream to endpoint(s) in: Canyon Creek (44.3074, –122.3300); Falls Creek (44.4007, –122.3828); Harter Creek (44.4166, –122.2605); Keith Creek (44.4093, –122.2847); Moose Creek (44.4388, –122.3671), Owl Creek (44.2999, –122.3686); Shuttle Camp Creek (44.4336, –122.2597); Soda Fork South Santiam River (44.4410, –122.2466); South Santiam River (44.3980, –122.2610); Trout Creek (44.3993, –122.3464); Two Girls Creek (44.3248, –122.3346).

(v) *South Santiam River/Foster Reservoir Watershed 1709000607.* Outlet(s) = South Santiam River (Lat 44.4163, Long –122.6693) upstream to endpoint(s) in: Lewis Creek (44.4387, –122.6223); Middle Santiam River (44.4498, –122.5479); South Santiam River (44.3977, –122.4473).

(vi) *Wiley Creek Watershed 1709000608.* Outlet(s) = Wiley Creek (Lat 44.4140, Long –122.6752) upstream to endpoint(s) in: Farmers Creek (44.3383, –122.5812); Jackson Creek (44.3669, –122.6344); Little Wiley Creek (44.3633, –122.5228); Unnamed (44.3001, –122.4579); Unnamed (44.3121, –122.5197); Unnamed (44.3455, –122.5934); Unnamed (44.3565, –122.6051); Wiley Creek (44.2981, –122.4318).

(4) Middle Willamette Subbasin 17090007—(i) *Mill Creek/Willamette River Watershed 1709000701.* Outlet(s) = Mill Creek (Lat 44.9520, Long –123.0381) upstream to endpoint(s) in: Mill Creek (44.8268, –122.8249).

(ii) *Rickreall Creek Watershed 1709000702.* Outlet(s) = Willamette River (Lat 44.9288, Long –123.1124) upstream to endpoint(s) in: Willamette River (44.7504, –123.1421).

(iii) *Willamette River/Chehalem Creek Watershed 1709000703.* Outlet(s) = Willamette River (Lat 45.2552, Long –122.8806) upstream to endpoint(s) in: Willamette River (44.9288, –123.1124).

(iv) *Abernethy Creek Watershed 1709000704.* Outlet(s) = Willamette River (Lat 45.3540, Long –122.6186) upstream to endpoint(s) in: Willamette River (45.2552, –122.8806).

(5) Yamhill Subbasin 17090008—(i) *Upper South Yamhill River Watershed 1709000801.* Outlet(s) = South Yamhill River (Lat 45.0784, Long –123.4753) upstream to endpoint(s) in: Agency Creek (45.1799, –123.6976); Cedar Creek (45.0892, –123.6969); Cockerham Creek (45.0584, –123.5077); Cosper Creek (45.1497, –123.6178); Cow Creek (45.0410, –123.6165); Crooked Creek (45.0964, –123.6611); Doane Creek (45.0449, –123.4929); Ead Creek (45.1214, –123.6969); Elmer Creek (45.0794, –123.6714); Gold Creek

(45.0108, –123.5496); Jackass Creek (45.0589, –123.6495); Joe Creek (45.1216, –123.6216); Joe Day Creek (45.0285, –123.6660); Kitten Creek (45.1110, –123.7266); Klees Creek (45.0784, –123.5496); Lady Creek (45.0404, –123.5269); Little Rowell Creek (45.0235, –123.5792); Mule Tail Creek (45.0190, –123.5547); Pierce Creek (45.1152, –123.7203); Rock Creek (45.0130, –123.6344); Rogue River (45.0613, –123.6550); Rowell Creek (45.0187, –123.5699); Unnamed (45.0318, –123.5421); Unnamed (45.0390, –123.4620); Unnamed (45.0431, –123.5541); Unnamed (45.0438, –123.4721); Unnamed (45.0493, –123.6044); Unnamed (45.0599, –123.4661); Unnamed (45.0945, –123.6110); Unnamed (45.0994, –123.6276); Unnamed (45.1151, –123.6566); Unnamed (45.1164, –123.6717); Unnamed (45.1412, –123.6705); West Fork Agency Creek (45.1575, –123.7032); Wind River (45.1367, –123.6392); Yoncalla Creek (45.1345, –123.6614).

(ii) *Mill Creek/South Yamhill River Watershed 1709000803.* Outlet(s) = Mill Creek (Lat 45.0908, Long –123.4434) upstream to endpoint(s) in: Mill Creek (45.0048, –123.4184).

(iii) *Lower South Yamhill River Watershed 1709000804.* Outlet(s) = South Yamhill River (Lat 45.1616, Long –123.2190) upstream to endpoint(s) in: South Yamhill River (45.0784, –123.4753).

(iv) *Yamhill River Watershed 1709000807.* Outlet(s) = Yamhill River (Lat 45.2301, Long –122.9950) upstream to endpoint(s) in: South Yamhill River (45.1616, –123.2190).

(6) Molalla/Pudding Subbasin 17090009-(i) *Abiqua Creek/Pudding River Watershed 1709000901.* Outlet(s) = Pudding River (Lat 45.0740, Long –122.8525) upstream to endpoint(s) in : Abiqua Creek (44.9264, –122.5666); Little Abiqua Creek (44.9252, –122.6204); Little Pudding River (45.0435, –122.8965); Powers Creek (44.9552, –122.6796); Pudding (44.9998, –122.8412); Silver Creek (44.8981, –122.6799).

(ii) *Butte Creek/Pudding River Watershed 1709000902.* Outlet(s) = Pudding River (Lat 45.1907, Long –122.7527) upstream to endpoint(s) in: Pudding River (45.0740, –122.8525).

(iii) *Rock Creek/Pudding River Watershed 1709000903.* Outlet(s) = Rock Creek (Lat 45.1907, Long –122.7527) upstream to endpoint(s) in: Rock Creek (45.0876, –122.5916).

(iv) *Senecal Creek/Mill Creek Watershed 1709000904.* Outlet(s) = Pudding River (Lat 45.2843, Long –122.7149) upstream to endpoint(s) in: Pudding River (45.1907, –122.7527).

(v) *Upper Molalla River Watershed 1709000905.* Outlet(s) = Molalla River (Lat 45.1196, Long –122.5342) upstream to endpoint(s) in: Camp Creek (44.9630, –122.2928); Cedar Creek (45.0957, –122.5257); Copper Creek (44.8877, –122.3704); Cougar Creek (45.0421, –122.3145); Dead Horse Canyon Creek (45.0852, –122.3146); Gawley Creek (44.9320, –122.4304); Lost Creek (44.9913, –122.2444); Lukens Creek (45.0498, –122.2421); Molalla River (44.9124, –122.3228); North Fork Molalla River (45.0131, –122.2986); Pine Creek (45.0153, –122.4560); Table Rock Fork Molalla River (44.9731, –122.2629); Trout Creek (45.0577, –122.4657).

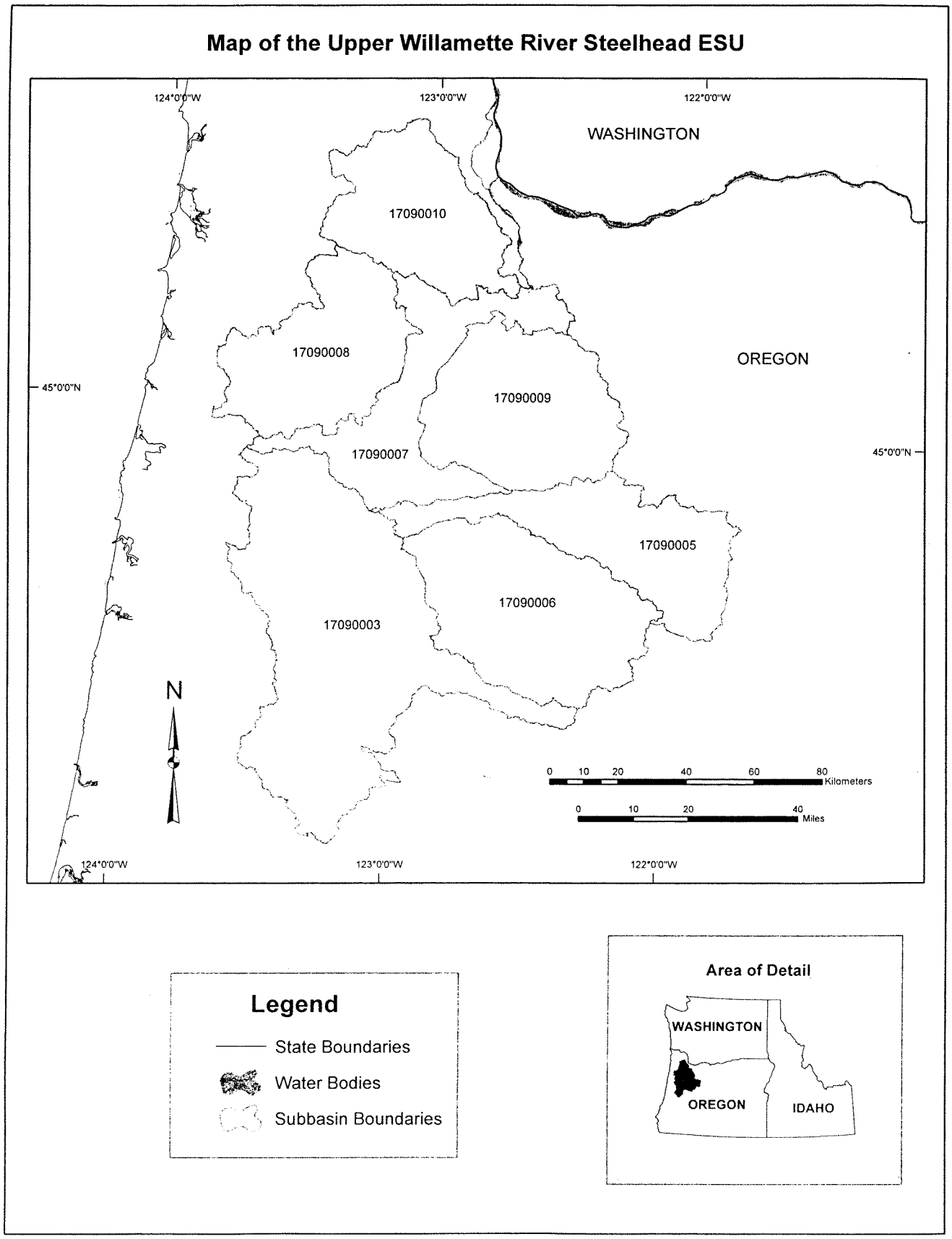
(vi) *Lower Molalla River Watershed 1709000906.* Outlet(s) = Molalla River (Lat 45.2979, Long –122.7141) upstream to endpoint(s) in: Buckner Creek (45.2382, –122.5399); Canyon Creek (45.1317, –122.3858); Cedar Creek (45.2037, –122.5327); Gribble Creek (45.2004, –122.6867); Jackson Creek (45.1822, –122.3898); Milk Creek (45.2036, –122.3761); Molalla River (45.1196, –122.5342); Woodcock Creek (45.1508, –122.5075).

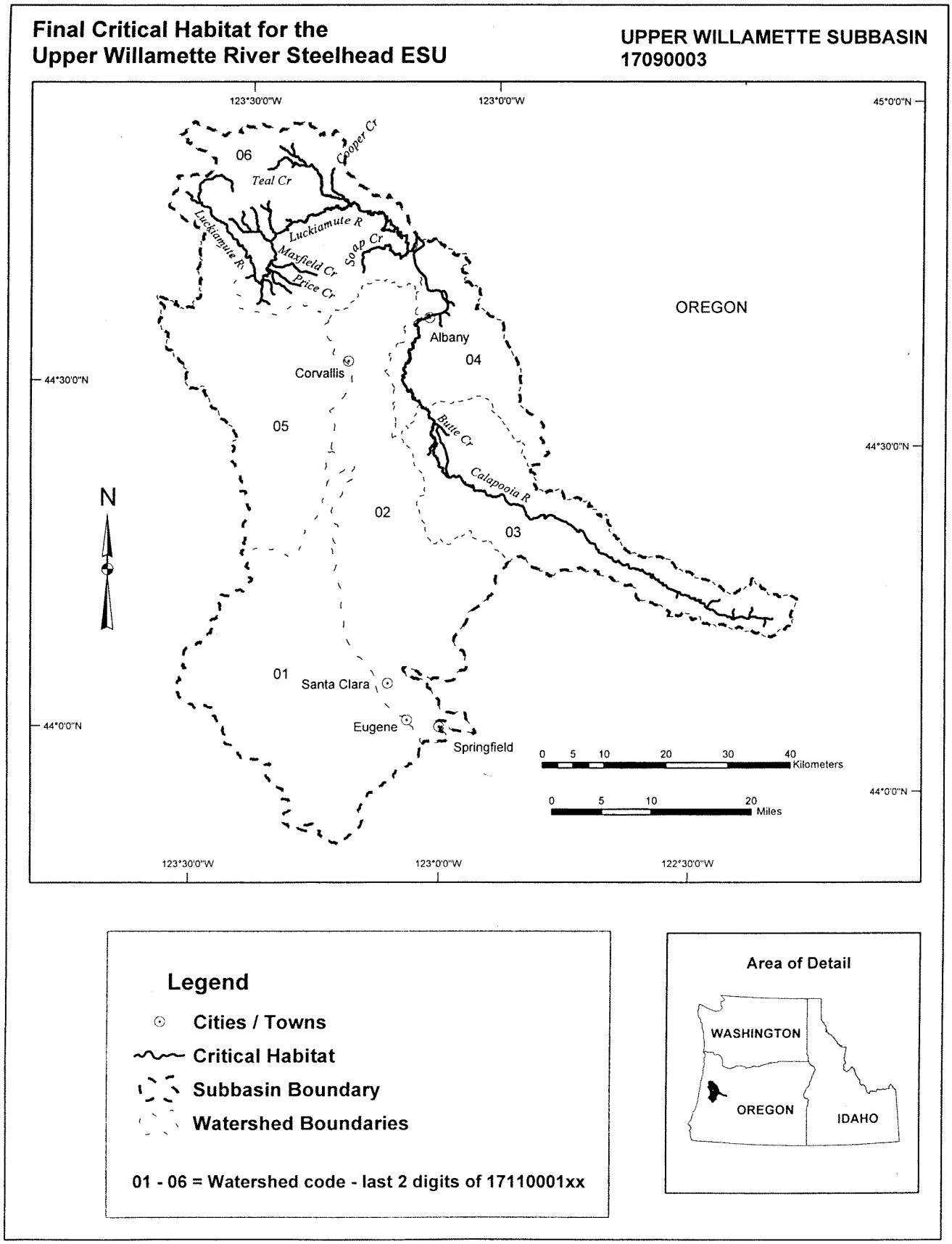
(7) Tualatin Subbasin 17090010—*Gales Creek Watershed 1709001002.* Outlet(s) = Tualatin River (Lat 45.5019, Long –122.9946) upstream to endpoint(s) in: Bateman Creek (45.6350, –123.2966); Beaver Creek (45.6902, –123.2889); Clear Creek (45.5705, –123.2567); Gales Creek (45.6428, –123.3576); Iler Creek (45.5900, –123.2582); North Fork Gales Creek (45.6680, –123.3394); Roaring Creek (45.5620, –123.2574); Roderick Creek (45.5382, –123.2013); South Fork Gales Creek (45.6059, –123.2978); Tualatin River (45.4917, –123.1012).

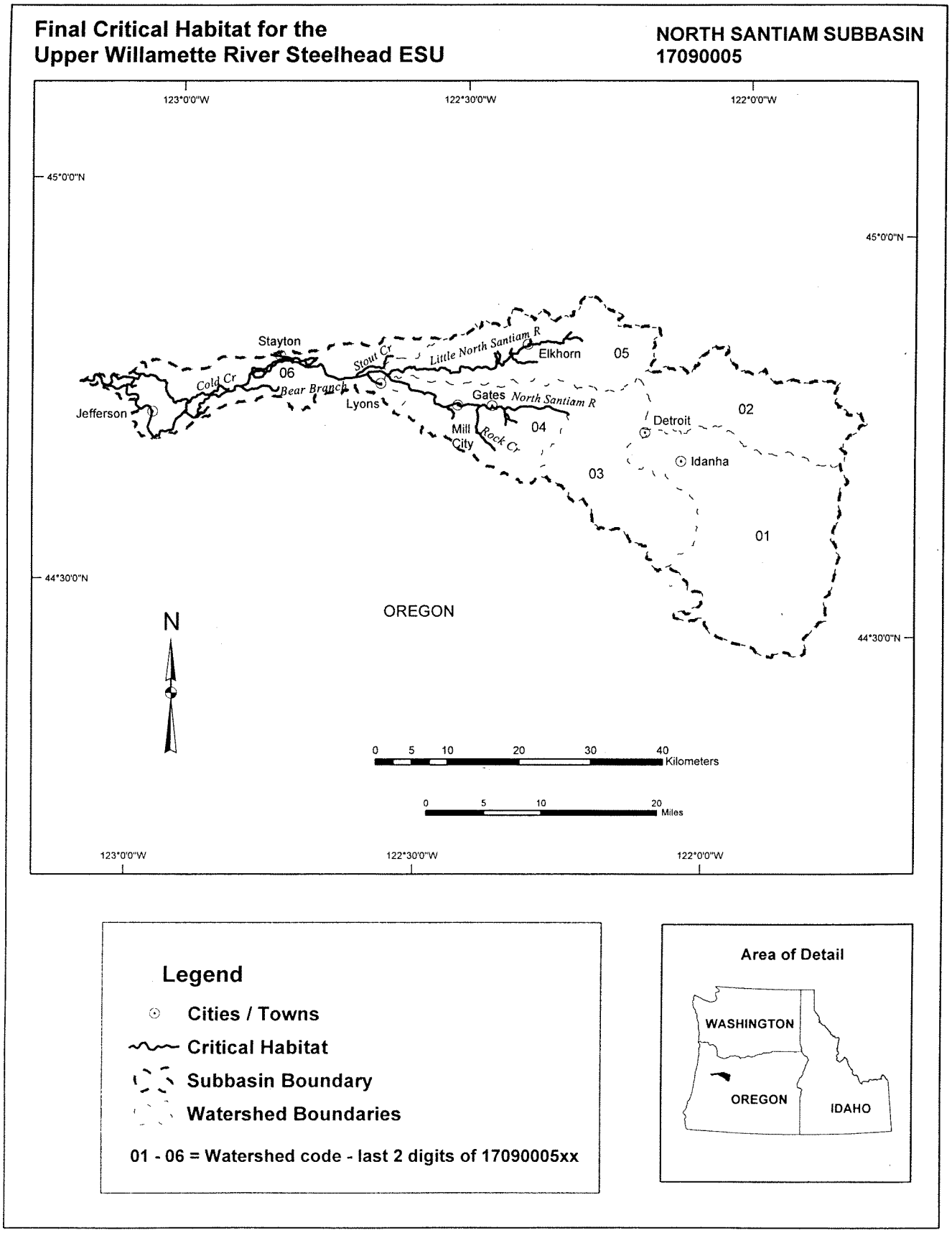
(8) Lower Willamette/Columbia River Corridor—*Lower Willamette/Columbia River Corridor.* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Willamette River (45.3540, –122.6186).

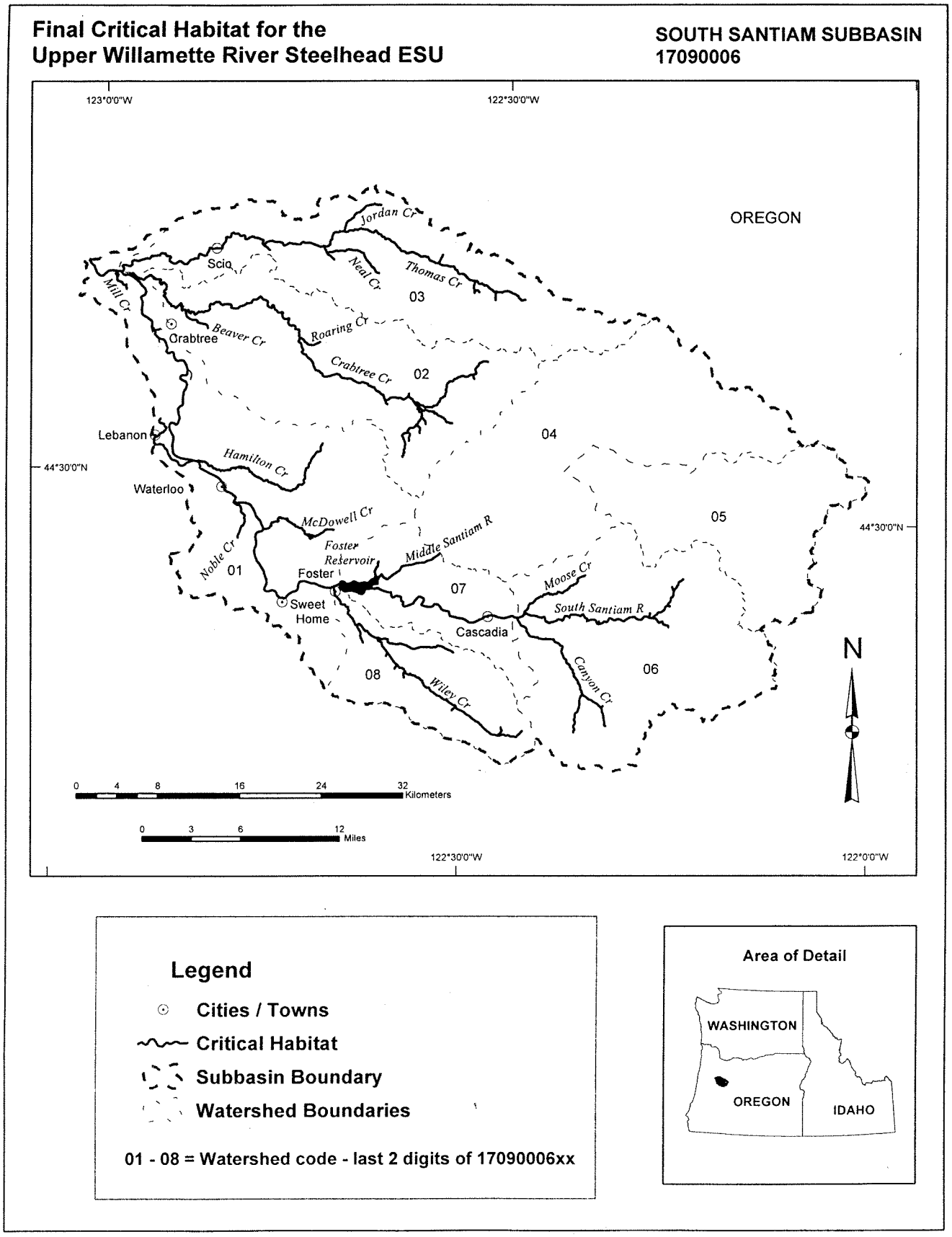
(9) Maps of critical habitat for the Upper Willamette River Steelhead ESU follow:

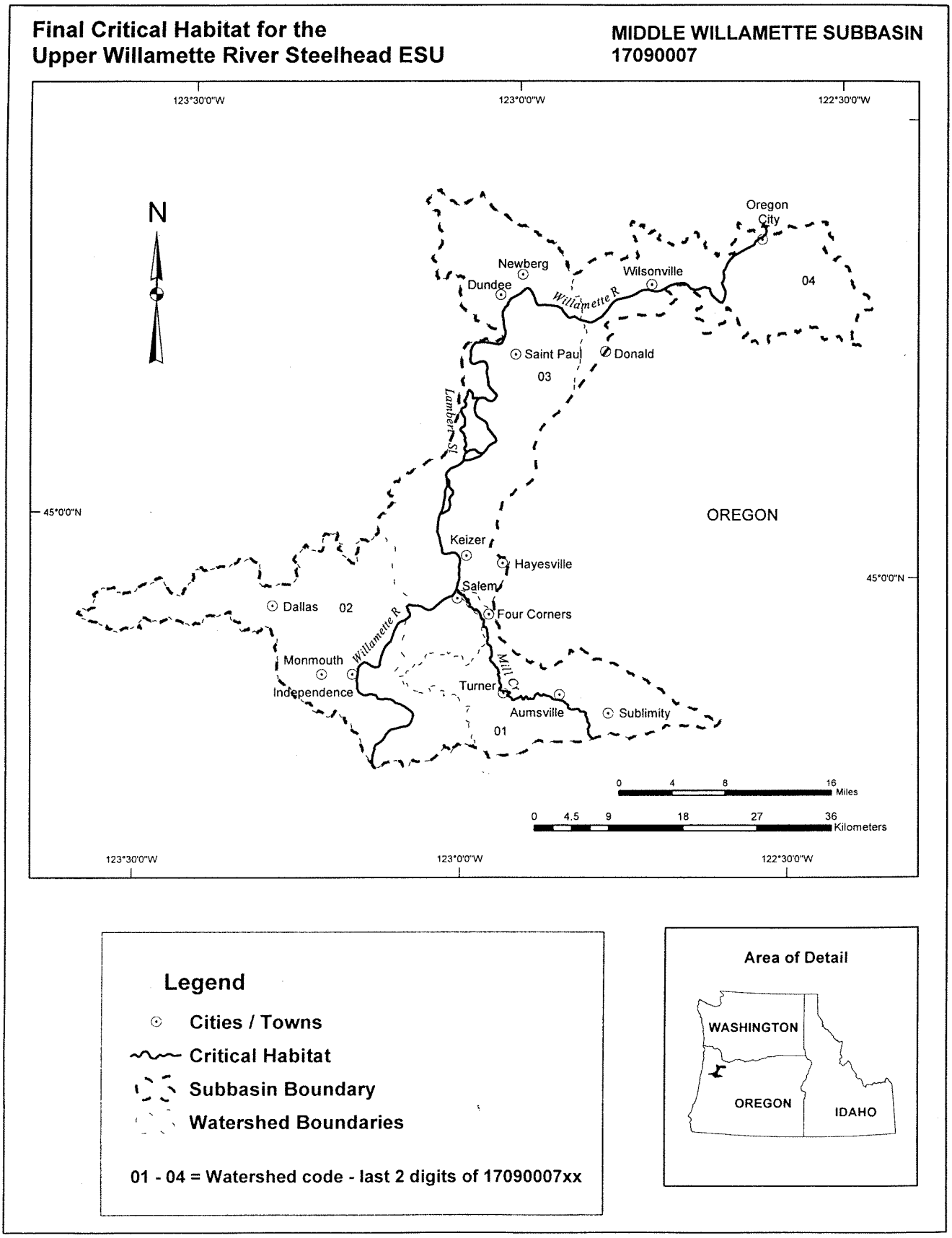
BILLING CODE 3510–22–P


Map of the Upper Willamette River Steelhead ESU
124°0'0"W
123°0'0"W
122°0'0"W
WASHINGTON
OREGON
45°0'0"N
17090010
17090008
17090009
17090007
17090005
17090006
17090003
N
0 10 20 40 60 80 Kilometers
0 10 20 40 Miles
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
UPPER WILLAMETTE SUBBASIN
17090003
123°30'0"W
123°0'0"W
45°0'0"N
44°30'0"N
44°0'0"N
122°30'0"W
06
Teal Cr
Cooper Cr
Luckiamute R
Luckiamute R
Maxfield Cr
Price Cr
Soap Cr
OREGON
Albany
04
Corvallis
05
Butte Cr
Calapooia R
N
02
03
01
Santa Clara
Eugene
Springfield
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17110001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

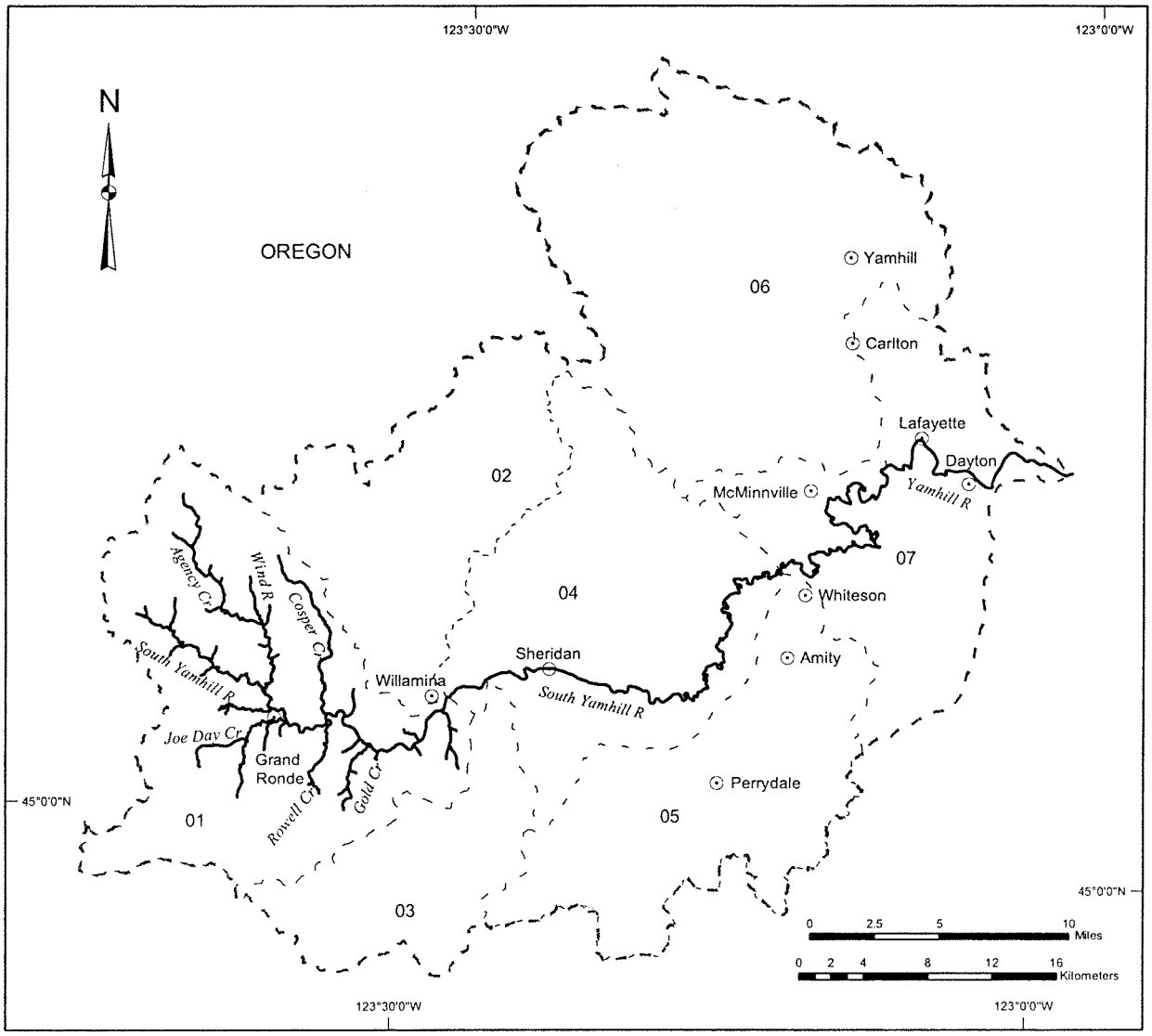

Final Critical Habitat for the
Upper Willamette River Steelhead ESU
NORTH SANTIAM SUBBASIN
17090005
123°0'0"W
122°30'0"W
122°0'0"W
45°0'0"N
44°30'0"N
Stayton
Cold Cr
06
Bear Branch
Stout Cr
Little North Santiam R
Elkhorn
05
Jefferson
Lyons
Gates
North Santiam R
Mill City
Rock Cr
04
Detroit
02
Idanha
03
01
OREGON
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
SOUTH SANTIAM SUBBASIN
17090006
123°0'0"W
122°30'0"W
122°0'0"W
44°30'0"N
OREGON
Jordan Cr
Scio
Neal Cr
Thomas Cr
Mill Cr
03
Crabtree
Beaver Cr
Roaring Cr
Crabtree Cr
02
04
Lebanon
Hamilton Cr
Waterloo
McDowell Cr
05
Foster Reservoir
Middle Santiam R
Noble Cr
01
Foster
07
Moose Cr
Sweet Home
South Santiam R
Cascadia
N
08
Wiley Cr
Canyon Cr
06
0 4 8 16 24 32 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17090006xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
MIDDLE WILLAMETTE SUBBASIN
17090007
123°30'0"W
123°0'0"W
122°30'0"W
45°0'0"N
N
Oregon City
Newberg
Dundee
Wilsonville
Willamette R
04
Saint Paul
Donald
03
Lambert St
OREGON
Keizer
Hayesville
Salem
Four Corners
Dallas
02
Monmouth
Independence
Willamette R
Mill Cr
Turner
Aumsville
Sublimity
01
0 4 8 16 Miles
0 4.5 9 18 27 36 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17090007xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Willamette River Steelhead ESU

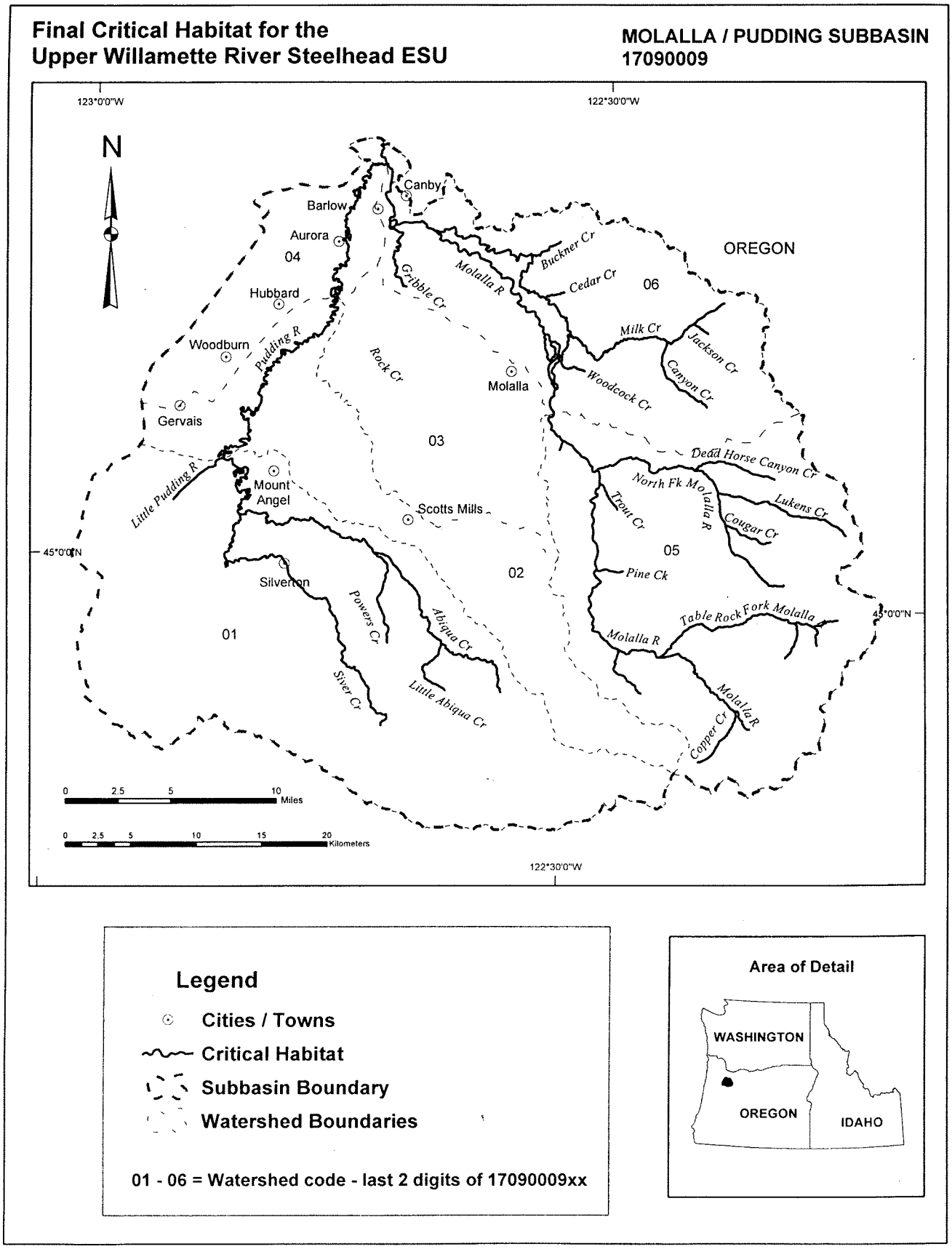
YAMHILL SUBBASIN 17090008

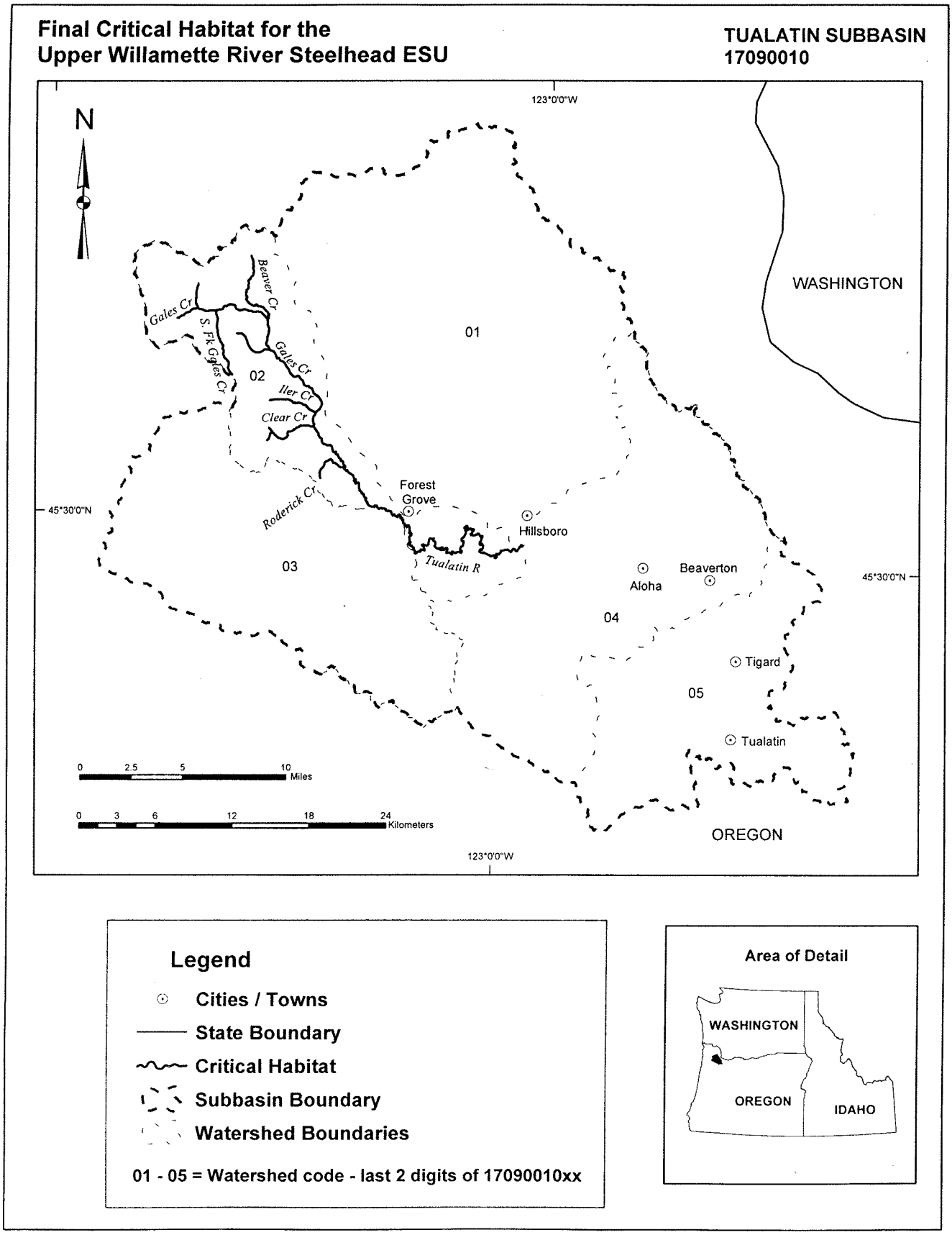


Legend

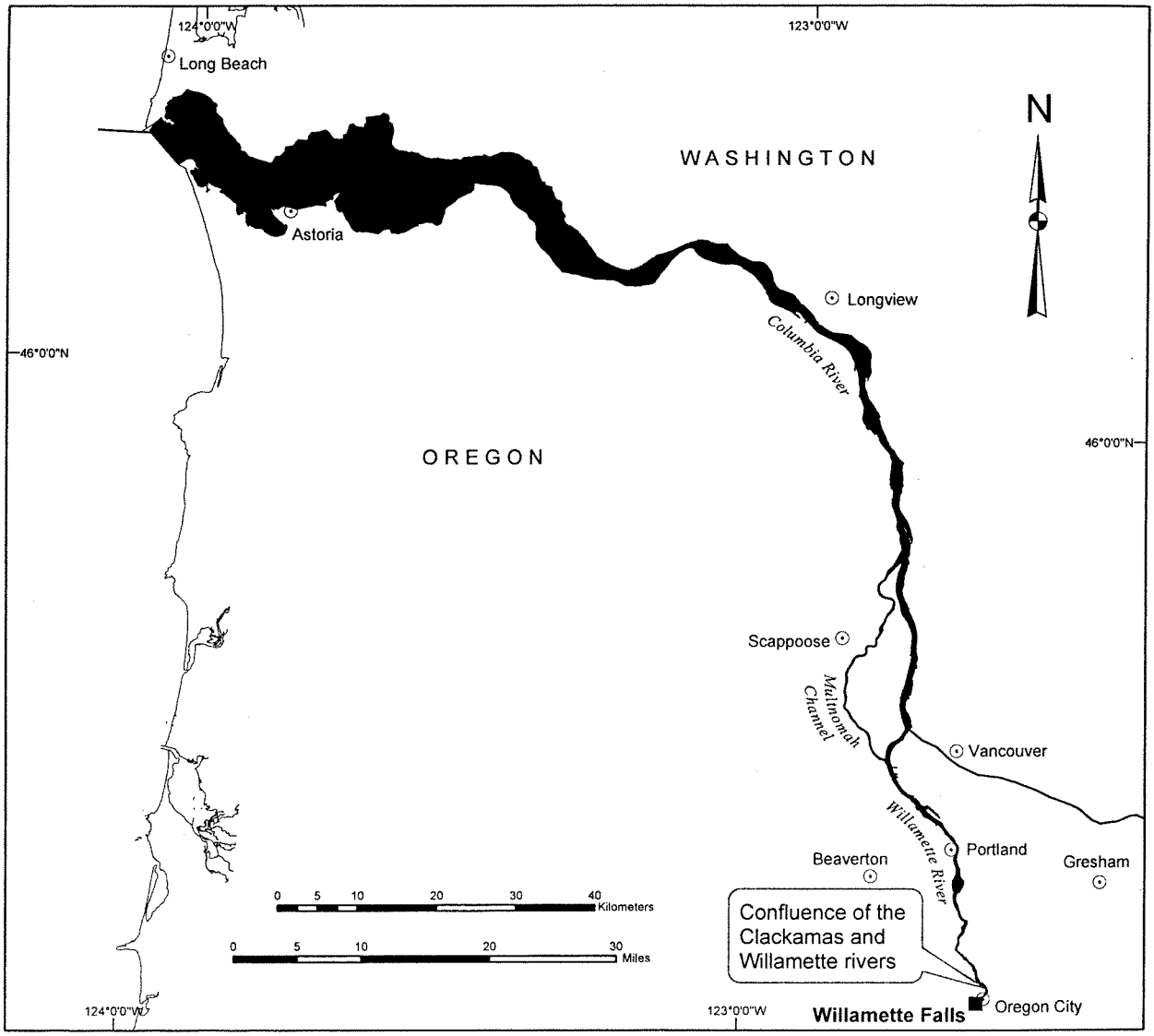
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 07 = Watershed code - last 2 digits of 17090008xx


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
MOLALLA / PUDDING SUBBASIN
17090009
123°0'0"W
122°30'0"W
N
Canby
Barlow
Aurora
04
Hubbard
Woodburn
Pudding R
Gervais
Little Pudding R
Mount Angel
Gribble Cr
Molalla R
Buckner Cr
Cedar Cr
06
OREGON
Milk Cr
Jackson Cr
Canyon Cr
Rock Cr
Molalla
Woodcock Cr
03
Dead Horse Canyon Cr
North Fk Molalla R
Lukens Cr
Trout Cr
Cougar Cr
Scotts Mills
45°0'0"N
05
02
Pine Ck
Silverton
Powers Cr
Abiqua Cr
Table Rock Fork Molalla
01
Molalla R
Siver Cr
Little Abiqua Cr
Molalla R
Copper Cr
0 2.5 5 10 Miles
0 2.5 5 10 15 20 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090009xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
TUALATIN SUBBASIN
17090010
N
123°0'0"W
WASHINGTON
Beaver Cr
Gales Cr
S. Fk Gales Cr
Gales Cr
Iler Cr
Clear Cr
Roderick Cr
01
02
03
04
05
Forest Grove
Hillsboro
Tualatin R
Aloha
Beaverton
Tigard
Tualatin
45°30'0"N
0 2.5 5 10 Miles
0 3 6 12 18 24 Kilometers
OREGON
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17090010xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Rearing / Migration Corridor for the Upper Willamette River Steelhead ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Upper Willamette River Steelhead ESU

Lower Willamette / Columbia River Corridor
The lower Willamette / Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to the confluence of the Clackamas and Willamette rivers, including the Multnomah Channel portion of the lower Willamette River.

[FR Doc. 05–16391 Filed 9–1–05; 8:45 am]
BILLING CODE 3510–22–C

Federal Register

Friday,
September 2, 2005

Part IV

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Heather Ranson, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Air Force: Ms. Kathryn M. Halvorson, Director, Air Force Real Property Agency, 1700 North Moore St., Suite 2300, Arlington, VA 22209–2802; (703) 696–5502; COE: Ms. Shirley Middleswarth, Army Corps of Engineers, Civil Division, Directorate of Real Estate, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–7425; Coast Guard: Commandant, United States Coast Guard, Attn: Teresa Sheinberg, 2100 Second St., SW., Room 6109, Washington, DC 20593; (202) 267–6142; Energy: Mr. Andy Duran, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–4548; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0084; Navy: Mr. Warren Meekins, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; VA: Ms. Amelia E. McLellan, Director, Real Property Service, Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 419, Washington, DC 20420; (202) 565–5398; (These are not toll-free numbers).

Dated: August 25, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report For September 2, 2005

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 7525
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200230009
Status: Unutilized
Comment: 26,226 sq. ft., need rehab, possible asbestos/lead paint, most recent use—dormitory, off-site use only.

California

Federal Building
1125 I Street
Modesto Co: Stanislaus CA 95354–
Landholding Agency: GSA
Property Number: 54200510002
Status: Surplus
Comment: 23,770 sq. ft., needs upgrade, presence of asbestos/lead paint, listed on Natl Register of Historic Places, Federal tenants occupy a portion of bldg.
GSA Number: 9–G–CA–1576

Colorado

Bldg. 2

VAMC
2121 North Avenue
Grand Junction Co: Mesa CO 81501–
Landholding Agency: VA
Property Number: 97200430001
Status: Unutilized
Comment: 3298 sq. ft., needs major rehab, presence of asbestos/lead paint.

Bldg. 3
VAMC
2121 North Avenue
Grand Junction Co: Mesa CO 81501–
Landholding Agency: VA
Property Number: 97200430002
Status: Unutilized
Comment: 7275 sq. ft., needs major rehab, presence of asbestos/lead paint.

Georgia

Bldg. W0–3
West Point Lake
West Point Co: GA 31833–
Landholding Agency: COE
Property Number: 31200520001
Status: Unutilized
Comment: 7 x 7 gatehouse, off-site use only.

Hawaii

Bldg. 849
Bellows AFS
Bellows AFS HI
Landholding Agency: Air Force
Property Number: 18200330008
Status: Unutilized
Comment: 462 sq. ft., concrete storage facility.

Indiana

Bldg. 105, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230006
Status: Excess
Comment: 310 sq. ft., 1 story stone structure, no sanitary or heating facilities, Natl Register of Historic Places.

Bldg. 140, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230007
Status: Excess
Comment: 60 sq. ft., concrete block bldg., most recent use—trash house.

Bldg. 7
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810001
Status: Underutilized
Comment: 16,864 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

Bldg. 10
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810002
Status: Underutilized
Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

Bldg. 11
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810003
Status: Underutilized
Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

Bldg. 18
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810004
Status: Underutilized
Comment: 13,802 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

Bldg. 25
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810005
Status: Unutilized
Comment: 32,892 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

Bldg. 1
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310001
Status: Unutilized
Comment: 20,287 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward.

Bldg. 3
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310002
Status: Unutilized
Comment: 20,550 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward.

Bldg. 4
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310003
Status: Unutilized
Comment: 20,550 sq .ft., needs extensive repairs, presence of asbestos, most recent use—patient ward.

Bldg. 13
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310004
Status: Unutilized
Comment: 8971 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office.

Bldg. 19
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310005
Status: Unutilized
Comment: 12,237 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office.

Bldg. 20
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310006
Status: Unutilized
Comment: 14,039 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office/storage.

Bldg. 42
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310007
Status: Unutilized
Comment: 5025 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office.

Bldg. 60
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310008
Status: Unutilized
Comment: 18,126 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office.

Bldg. 122
N. Indiana Health Care System
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97200310009
Status: Unutilized
Comment: 37,135 sq. ft., needs extensive repairs, presence of asbestos, most recent use—dining hall/kitchen.

Kansas

Dwelling
Admin Area
Wilson Lake
Sylvan Grove Co: KS 67481–

Landholding Agency: COE
Property Number: 31200440001
Status: Excess
Comment: 1600 sq. ft. residence, off-site use only.

Dwelling
Admin Area
Wilson Lake
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200440002
Status: Excess
Comment: 1600 sq. ft., storage, off-site use only.

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Landholding Agency: COE
Property Number: 31199010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Minnesota

Lakes Project Office
307 Main Street East
Remer Co: Cass MN
Landholding Agency: GSA
Property Number: 54200410015
Status: Surplus
Comment: Office bldg/oil shed/ maintenance garage, minor water damage.
GSA Number: 5–D–MN–548–A

Missouri

Bldgs. 90A/B, 91A/B, 92A/B
Jefferson Barracks Housing
St. Louis MO 63125–
Landholding Agency: Air Force
Property Number: 18200220002
Status: Excess
Comment: 6450 sq. ft., needs repair, includes 2 acres.

Trailer
Gasconade Harbor Facility
Gasconade Co: MO 65036–
Landholding Agency: COE
Property Number: 31200430002
Status: Unutilized
Comment: 55 ft. x 12 ft., most recent use—office, off-site use only.

Social Security Building
806 N. Jefferson
Springfield Co: Greene MO 65802–
Landholding Agency: GSA
Property Number: 54200530006
Status: Excess
Comment: 17,346 sq. ft., needs repair, possible asbestos/lead paint, to be vacant approx. 12/2006.
GSA Number: 7–G–MO–0675

Montana

Bldg. 1
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040010
Status: Unutilized
Comment: 22799 sq. ft., presence of asbestos, most recent use—cold storage, off-site use only.

Bldg. 2
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040011
Status: Unutilized
Comment: 3292 sq. ft., most recent use—cold storage, off-site use only.

Bldg. 3
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040012
Status: Unutilized
Comment: 964 sq. ft., most recent use—cold storage, off-site use only.

Bldg. 4
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040013
Status: Unutilized
Comment: 72 sq. ft., most recent use—cold storage, off-site use only.

Bldg. 5
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040014
Status: Unutilized
Comment: 1286 sq. ft., most recent use—cold storage, off-site use only.

New York

Bldg. 240
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340023
Status: Unutilized
Comment: 39108 sq. ft., presence of asbestos, most recent use—Electronic Research Lab.

Bldg. 247
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340024
Status: Unutilized
Comment: 13199 sq. ft., presence of asbestos, most recent use—Electronic Research Lab.

Bldg. 248
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340025
Status: Unutilized
Comment: 4000 sq. ft., presence of asbestos, most recent use—Electronic Research Lab.

Bldg. 302
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340026
Status: Unutilized
Comment: 10288 sq. ft., presence of asbestos, most recent use—communications facility.

Thaddeus J. Dulski
Federal Building
111 West Huron Street
Buffalo Co: Erie NY 14202–
Landholding Agency: GSA
Property Number: 54200530011
Status: Excess
Comment: 17-story, 470,000 gross sq. ft., presence of widespread asbestos, abatement recommended.
GSA Number: 1–G–NY–0911.

Bldg. 3
VA Medical Center
Batavia Co: Genesee NY 14020–
Landholding Agency: VA
Property Number: 97200520001
Status: Unutilized
Comment: 5840 sq. ft., needs rehab, presence of asbestos, most recent use—offices, eligible for Natl Register of Historic Places.

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 31199120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only.

Structure
Deer Creek Lake
Mt. Sterling Co: Pickaway OH 43143–
Landholding Agency: COE
Property Number: 31200530001
Status: Unutilized
Comment: 1321 sq. ft., brick, off-site use only.

Bldg. 402
VA Medical Center
Dayton Co: Montgomery OH 45428–
Landholding Agency: VA
Property Number: 97199920004
Status: Unutilized
Comment: 4 floors, potential utilities, needs major rehab, presence of asbestos/lead paint, historic property.

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242–

Landholding Agency: COE
Property Number: 31199210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only.

Dwelling
Lock & Dam 6, Allegheny River, 1260 River Rd.
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199620008
Status: Unutilized
Comment: 2652 sq. ft., 3-story brick house, in close proximity to Lock and Dam, available for interim use for nonresidential purposes.

Govt. Dwelling
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 31199640002
Status: Unutilized
Comment: 1421 sq. ft., 2-story brick w/ basement, most recent use—residential.

Dwelling
Lock & Dam 4, Allegheny River
Natrona Co: Allegheny PA 15065–2609
Landholding Agency: COE
Property Number: 31199710009
Status: Unutilized
Comment: 1664 sq. ft., 2-story brick residence, needs repair, off-site use only.

Dwelling #1
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740002
Status: Excess
Comment: 2030 sq. ft., most recent use—residential, good condition, off-site use only.

Dwelling #2
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740003
Status: Excess
Comment: 3045 sq. ft., most recent use—residential, good condition, off-site use only.

Govt Dwelling
East Branch Lake
Wilcox Co: Elk PA 15870–9709
Landholding Agency: COE
Property Number: 31199740005
Status: Underutilized
Comment: approx. 5299 sq. ft., 1-story, most recent use—residence, off-site use only.

Dwelling #1
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740006
Status: Excess
Comment: 1996 sq. ft., most recent use—residential, good condition, off-site use only.

Dwelling #2
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740007
Status: Excess
Comment: 1996 sq. ft., most recent use—residential, good condition, off-site use only.

Dwelling #1
Woodcock Creek Lake
Saegertown Co: Crawford PA 16433–0629
Landholding Agency: COE
Property Number: 31199740008
Status: Excess
Comment: 2106 sq. ft., most recent use—residential, good condition, off-site use only.

Dwelling #2
Lock & Dam 6, 1260 River Road
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199740009
Status: Excess
Comment: 2652 sq. ft., most recent use—residential, good condition, off-site use only.

Dwelling #2
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 31199830003
Status: Excess
Comment: 1421 sq. ft., 2-story + basement, most recent use—residential.

Residence A
2045 Pohopoco Drive
Lehighton Co: Carbon PA 18235–
Landholding Agency: COE
Property Number: 31200410007
Status: Unutilized
Comment: 1200 sq. ft., presence of asbestos, off-site use only.

Bldg. 3, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding Agency: VA
Property Number: 97199230012
Status: Underutilized
Comment: portion of bldg. (4046 sq. ft.), most recent use—storage, second floor—lacks elevator access.

South Carolina

24 Bldgs.
Hunley Park/Charleston AFB
Idaho Ave., Unit Type 3S
N. Charleston Co: SC 29404–4827
Landholding Agency: Air Force
Property Number: 18200430011
Status: Excess
Comment: 1624 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only.

6 Bldgs.
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Location: 3510, 3514, 3517, 3528, 3533, 3538
Landholding Agency: Air Force
Property Number: 18200430012
Status: Excess
Comment: 1684 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 3601
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430013
Status: Excess
Comment: 1902 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only.

5 Bldgs.
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Location: 3524, 3603, 3605, 3607, 3608
Landholding Agency: Air Force
Property Number: 18200430014
Status: Excess
Comment: 1788 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only.

5 Bldgs.
Hunley Park/Charleston AFB
Unit Type 4J
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430022
Status: Excess
Comment: 3423 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only.

7 Bldgs.
Charleston AFB
Floor Plan 1
N. Charleston Co: SC 29404–4827
Landholding Agency: Air Force
Property Number: 18200430023
Status: Excess
Comment: 2135 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

11 Bldgs.
Charleston AFB
Floor Plan 4AR
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430024
Status: Excess

Comment: 2652 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

4 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2314A/B, 2327A/B, 2339A/B, 2397A/B
Landholding Agency: Air Force
Property Number: 18200430025
Status: Excess
Comment: 2722 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

5 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2311A/B, 2322A/B, 2329A/B, 2385A/B, 2399A/B
Landholding Agency: Air Force
Property Number: 18200430026
Status: Excess
Comment: 2642 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

4 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2315A/B, 2323A/B, 2330A/B, 2387A/B
Landholding Agency: Air Force
Property Number: 18200430027
Status: Excess
Comment: 2756 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

3 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2321A/B, 2326A/B, 2336A/B
Landholding Agency: Air Force
Property Number: 18200430028
Status: Excess
Comment: 2766 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 2331A/B
Charleston AFB
N. Charleston Co: SC 29494–
Landholding Agency: Air Force
Property Number: 18200430029
Status: Excess
Comment: 2803 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 2341A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430030
Status: Excess
Comment: 2715 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

6 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2346, 2354, 2363, 2382, 2389, 2396
Landholding Agency: Air Force
Property Number: 18200430031
Status: Excess
Comment: 1394 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

15 Bldgs.
Charleston AFB
Floor Plan 6A
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430032
Status: Excess
Comment: 1378 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

12 Bldgs.
Charleston AFB
Floor Plan 6B
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430033
Status: Excess
Comment: 1387 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

13 Bldgs.
Charleston AFB
Floor Plan 1–1
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430034
Status: Excess
Comment: 2305 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 2377
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430035
Status: Excess
Comment: 1662 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

10 Bldgs.
Charleston AFB
Floor Plan D6
N. Charleston Co: SC 29204–
Landholding Agency: Air Force
Property Number: 18200430036
Status: Excess
Comment: 1241 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

7 Bldgs.
Charleston AFB
Floor Plan DIV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430038
Status: Excess
Comment: 1250 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

7 Bldgs.
Charleston AFB
Floor Plan E6
N. Charleston Co: SC 29204–
Landholding Agency: Air Force
Property Number: 18200430040
Status: Excess
Comment: 1249 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

11 Bldgs.
Charleston AFB
Floor Plan F6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430041
Status: Excess
Comment: 1249 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

11 Bldgs.
Charleston AFB
Floor Plan G6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430042
Status: Excess
Comment: 1390 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

9 Bldgs.
Charleston AFB
Floor Plan GV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430043
Status: Excess
Comment: 1390 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

8 Bldgs.
Charleston AFB
Floor Plan H6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430044
Status: Excess
Comment: 1396 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldgs. 1841A/B, 1849A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430045
Status: Excess
Comment: 2249 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

9 Bldgs.
Charleston AFB
Floor Plan I6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430046
Status: Excess
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

7 Bldgs.
Charleston AFB
Floor Plan IV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430047
Status: Excess
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

4 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 1846A/B, 1853A/B, 1862A/B, 2203A/B
Landholding Agency: Air Force
Property Number: 18200430048
Status: Excess
Comment: 2363 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

40 Bldgs.
Charleston AFB
Floor Plan 2A
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430049
Status: Excess
Comment: 2387 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 1765A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430050
Status: Excess
Comment: 2558 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

42 Bldgs.
Charleston AFB
Floor Plan 2R
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430051
Status: Excess
Comment: 2558 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 1828A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430052
Status: Excess
Comment: 2330 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

3 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2309A/B, 2320A/B, 2335A/B
Landholding Agency: Air Force
Property Number: 18200430053
Status: Excess
Comment: 2766 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

South Dakota

West Communications Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199340051
Status: Unutilized
Comment: 2 bldgs. on 2.37 acres, remote area, lacks infrastructure, road hazardous during winter storms, most recent use—industrial storage.

Residence, Tract 139
101 Laurel Avenue
Oahe Dam/Lake Oahe Proj.
Pierre Co: SD 57501–
Landholding Agency: COE
Property Number: 31200520008
Status: Excess
Comment: 996 sq. ft., off-site use only.

Residence, Tract 302
107 E. Main Street
Oahe Dam/Lake Oahe Proj.
Pierre Co: SD 57532–
Landholding Agency: COE
Property Number: 31200520009
Status: Excess
Comment: 1096 sq. ft., off-site use only.

Residence, Tract 525
108 East 7th Ave.
Oahe Dam/Lake Oahe Proj.
Pierre Co: SD 57532–
Landholding Agency: COE
Property Number: 31200520010
Status: Excess
Comment: 1568 sq. ft., off-site use only.

Virginia

Metal Bldg.
John H. Kerr Dam & Reservoir
Co: Boydton VA
Landholding Agency: COE
Property Number: 31199620009
Status: Excess
Comment: 800 sq. ft., most recent use—storage, off-site use only.

Washington

INS Federal Building
815 Airport Way SO
Seattle Co: King WA 98134–
Landholding Agency: GSA
Property Number: 54200530010
Status: Excess
Comment: 9660 sq. ft., presence of asbestos/lead paint, historic property.
GSA Number: 9–G–WA–1226

West Virginia

Army Reserve Center
4200 Emerson Ave.
Parkersburg Co: Wood WV 21203–
Landholding Agency: GSA
Property Number: 54200530009
Status: Excess
Comment: 28,880 sq. ft., current tenant will vacate.
GSA Number: 4–D–WV–550

Wisconsin

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 97199010056
Status: Underutilized
Comment: 2200 sq. ft., 2-story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Land (by State)

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 97199010053
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010071
Status: Unutilized
Comment: 77.6 acres.

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010072
Status: Unutilized
Comment: 198.5 acres.

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010073
Status: Unutilized
Comment: 50.46 acres.

Parcel 04
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010074
Status: Unutilized
Comment: 236.37 acres.

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010075
Status: Unutilized
Comment: 187.30 acres.

Parcel 06
DeGray Lake
Section 13

Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010076
Status: Unutilized
Comment: 13.0 acres.

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010077
Status: Unutilized
Comment: 0.27 acres.

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010078
Status: Unutilized
Comment: 14.6 acres.

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010079
Status: Unutilized
Comment: 6.60 acres.

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010080
Status: Unutilized
Comment: 4.5 acres.

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010081
Status: Unutilized
Comment: 19.50 acres.

Lake Greeson
Section 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 31199010083
Status: Unutilized
Comment: 46 acres.

California

Land 4150 Clement Street
San Francisco Co: San Francisco CA 94121–
Landholding Agency: VA
Property Number: 97199240001
Status: Underutilized
Comment: 4 acres; landslide area.

Indiana

Tanner's Creek
Access Site off Rt. 50
Lawrenceburg Co: IN
Landholding Agency: GSA
Property Number: 54200430022
Status: Excess
Comment: 8.45 acres, boat launch, flowage easement.
GSA Number: 1–D–IN–571–C

Patriot Boat Ramp
Rt 156
Switzerland Co: IN
Landholding Agency: GSA
Property Number: 54200440009
Status: Excess
Comment: 34.11 acres, parking and boat launch, flowage easement.
GSA Number: 1–D–IN–571–B

Iowa

40.66 acres
VA Medical Center 1515 West Pleasant St.
Knoxville Co: Marion IA 50138–
Landholding Agency: VA
Property Number: 97199740002
Status: Unutilized
Comment: Golf course, easement requirements.

Kansas

Parcel 1
El Dorado Lake
Section 13, 24, and 18 (See County) Co: Butler KS
Landholding Agency: COE
Property Number: 31199010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2625
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010028
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 6½ miles west of Cadiz.
Landholding Agency: COE
Property Number: 31199010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 31199010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 3½ miles in a southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 31199010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 31199010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky and Tennessee

Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 31199010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 6½ miles south of Canton, KY.
Landholding Agency: COE
Property Number: 31199010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 31199010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 31199010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 31199010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 31199010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 31199010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 31199010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 31199011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 31199011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–

Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 31199011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 31199011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 31199011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 31199140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements.

Portion of Lock & Dam No. 1
Kentucky River
Carrolton Co: Carroll KY 41008–0305
Landholding Agency: COE
Property Number: 31199320003
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored.

Tract No. F–610
Buckhorn Lake Project
Buckhorn KY 41721–
Landholding Agency: COE
Property Number: 31200240001
Status: Unutilized
Comment: 0.64 acres, encroachments, most recent use—flood control purposes.

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 31199011009
Status: Unutilized
Comment: 10.81 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, La.
Landholding Agency: COE
Property Number: 31199011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Grenada Lake
Sections 16, 17, 18 T24N R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 31199011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Grenada Lake
Section 20 and T23N, R5E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake
Section 2 and 3. T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 31199011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 31199011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38390–10903
Landholding Agency: COE
Property Number: 31199011029
Status: Underutilized

Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 31199011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada MS 28901–0903
Landholding Agency: COE
Property Number: 31199011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 28902–0903
Landholding Agency: COE
Property Number: 31199011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

Missouri

Harry S Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road ''B'', part of Bledsoe Ferry Park Tract 150.
Landholding Agency: COE
Property Number: 31199030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

Ohio

Plats 9–72, 9–73
Davis Street
Niles Co: OH 44446–
Landholding Agency: GSA
Property Number: 54200530007
Status: Excess
Comment: 12,082 sq. ft., narrow right of way, no utilities.
GSA Number: 1–1–OH–826

Oklahoma

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 31199010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 north to Belknap, Road #4
Landholding Agency: COE
Property Number: 31199010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 31199011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Crooked Creek Lake
Co: Armstrong PA 03051–
Location: Left bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 31199011011
Status: Unutilized
Comment: 7.59 acres; potential for utilities.

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226–
Landholding Agency: COE
Property Number: 31199430012
Status: Unutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights.

South Dakota

S. Nike Ed. Annex Land
Ellsworth AFB
Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18200220010
Status: Unutilized
Comment: 7 acres w/five foundations from demolished bldgs. remain on site; with a road and a parking lot.

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 31199010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 31199010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015–
Location: ½ mile downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 31199010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130–
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 31199010930
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130–
Location: Old Jefferson Pike

Landholding Agency: COE
Property Number: 31199010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Across Fall Creek near Fall Creek camping area.
Landholding Agency: COE
Property Number: 31199010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 31199010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 31199010934
Status: Excess
Comment: 6.92 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 31199010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050–
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 31199010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050–
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 31199010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 31199010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 31199010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028–
Location: 4½ miles SW. of Bumpus Mills.
Landholding Agency: COE
Property Number: 31199010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 31199010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 31199010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport.
Landholding Agency: COE
Property Number: 31199011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 31199130007
Status: Underutilized
Comment: 54 acres, (portion in floodway), most recent use—recreation.

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements.

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570–
Landholding Agency: COE
Property Number: 31199140010
Status: Underutilized
Comment: 97 acres, most recent use—hunting, subject to existing easements.

Texas

Land
Olin E. Teague Veterans Center 1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 97199010079
Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 97199010054
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

Suitable/Unavailable Properties Buildings (by State)

Colorado

Bldg. 100
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230001
Status: Excess
Comment: 7760 sq. ft., most recent use—admin/electronic equip. maintenance.

Bldg. 101
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501

Landholding Agency: Air Force
Property Number: 18200230002
Status: Excess
Comment: 336 sq. ft., most recent use—storage.

Bldg. 102
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230003
Status: Excess
Comment: 1056 sq. ft., most recent use—storage.

Bldg. 103
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230004
Status: Excess
Comment: 784 sq. ft., most recent use—storage.

Bldg. 104
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230005
Status: Excess
Comment: 312 sq. ft., most recent use—storage.

Bldg. 106
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230006
Status: Excess
Comment: 100 sq. ft., most recent use—storage.

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010001
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most recent use—residence.

Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame.

Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Montana

VA MT Healthcare
210 S. Winchester
Miles City Co: Custer MT 59301–
Landholding Agency: VA
Property Number: 97200030001
Status: Underutilized
Comment: 18 buildings, total sq. ft. = 123,851, presence of asbestos, most recent use—clinic/office/food production.

New York

Bldg. 1225
Verona Text Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220014
Status: Unutilized
Comment: 3865 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab.

Bldg. 1226
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220015
Status: Unutilized
Comment: 7500 sq. ft., most recent use—storage.

Bldg. 1227
Verona Text Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220016
Status: Unutilized
Comment: 1152 sq. ft., presence of asbestos/lead paint, most recent use—power station.

Bldg. 1231
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220017
Status: Unutilized
Comment: 3865 sq. ft., presence of asbestos/lead paint/volatile organic compounds, access requirements, most recent use—research lab.

Bldg. 1233
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220018
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of asbestos/lead paint/volatile organic compounds, access requirements, most recent use—power station.

Bldgs. 1235, 1239
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220019
Status: Unutilized
Comment: 144/825 sq. ft., need repairs, presence of lead paint, most recent use—electric switch station.

Bldg. 1241
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220020
Status: Unutilized
Comment: 159 sq. ft., presence of lead paint, most recent use—sewage pump station.

Bldg. 1243
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220021
Status: Unutilized
Comment: 25 sq. ft., most recent use—waste treatment.

Bldg. 1245
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220022
Status: Unutilized
Comment: 3835 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab.

Bldg. 1247
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220023
Status: Unutilized
Comment: 576 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—power station.

Bldg. 1250 + land
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220024
Status: Unutilized
Comment: 11,766 sq. ft. offices/lab with 495 acres, presence of asbestos/lead paint/wetlands.

Bldg. 1253
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220025
Status: Unutilized
Comment: 3835 sq. ft., needs repair, presence of asbestos/lead paint/volatile organic compounds, access requirements, most recent use—research lab.

Bldg. 1255
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220026
Status: Unutilized
Comment: 576 sq. ft., needs repair, presence of lead paint/volatile organic compounds, access requirement, most recent use—power station.

Bldg. 1261
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220027
Status: Unutilized
Comment: 3835 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab.

Bldg. 1263
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220028
Status: Unutilized
Comment: 576 sq. ft. needs repair, presence of lead paint, most recent use—power station.

Bldgs. 1266, 1269
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220029
Status: Unutilized
Comment: 3730/3865 sq. ft., need repairs, presence of asbestos/lead paint, most recent use—research lab.

Bldg. 1271
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220030
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of lead paint, most recent use—power station.

Bldg. 1273
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220031
Status: Unutilized
Comment: 87 sq. ft., presence of asbestos, most recent use—sewage pump station.

Bldg. 1277
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220032
Status: Unutilized
Comment: 3865 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab.

Bldg. 1279
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220033
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of lead paint, most recent use—power station.

Bldg. 1285
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220034
Status: Unutilized
Comment: 4690 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab.

Bldg. 1287
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220035
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of lead paint, most recent use—power station.

Social Sec. Admin. Bldg.
517 N. Barry St.
Olean NY 10278–0004
Landholding Agency: GSA
Property Number: 54200230009
Status: Excess
Comment: 9174 sq. ft., poor condition, most recent use—office.
GSA Number: 1–G–NY–0895

Hancock Army Complex
Track 4
Stewart Drive West
Cicero Co: Onondaga NY 13039–
Landholding Agency: GSA
Property Number: 54200310013
Status: Excess
Comment: 3 bunker-style structures and several small outbuildings, presence of asbestos, possible lead paint, most recent use—admin/training/storage.
GSA Number: 1–D–NY–803

Ohio

Bldg.—Berlin Lake 7400 Bedell Road
Berlin Center Co: Mahoning OH 44401–9797
Landholding Agency: COE
Property Number: 31199640001
Status: Unutilized
Comment: 1420 sq. ft., 2-story brick w/garage and basement, most recent use—residential, secured w/alternate access.

Bldg. 116
VA Medical Center
Dayton Co: Montgomery OH 45428–
Landholding Agency: VA
Property Number: 97199920002
Status: Unutilized
Comment: 3 floors, potential utilities, needs major rehab, presence of asbestos/lead paint, historic property.

Pennsylvania

Tract 403A
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430021
Status: Unutilized
Comment: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403B
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430022
Status: Unutilized
Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403C
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430023
Status: Unutilized
Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed.

Tennessee

3 Facilities, Guard Posts
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA

Property Number: 54199930011
Status: Surplus
Comment: 48–64 sq. ft., most recent use—access control, property was published in error as available on 2/11/00.
GSA Number: 4–D–TN–594F

Washington

22 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420001
Status: Unutilized
Comment: 1625 sq. ft., possible asbestos/lead paint, most recent use—residential.

Bldg. 404/Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420002
Status: Unutilized
Comment: 1996 sq. ft., possible asbestos/lead paint, most recent use—residential.

11 Bldgs./Geiger Heights.
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420003
Status: Unutilized
Comment: 2134 sq. ft., possible asbestos/lead paint, most recent use—residential.

Bldg. 297/Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420004
Status: Unutilized
Comment: 1425 sq. ft., possible asbestos/lead paint, most recent use—residential.

9 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420005
Status: Unutilized
Comment: 1620 sq. ft., possible asbestos/lead paint, most recent use—residential.

22 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420006
Status: Unutilized
Comment: 2850 sq. ft., possible asbestos/lead paint, most recent use—residential.

51 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420007
Status: Unutilized
Comment: 2574 sq. ft., possible asbestos/lead paint, most recent use—residential.

Bldg. 402/Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420008
Status: Unutilized
Comment: 2451 sq. ft., possible asbestos/lead paint, most recent use—residential.

5 Bldgs./Geiger Heights
Fairchild AFB
222, 224, 271, 295, 260
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420009
Status: Unutilized
Comment: 3043 sq. ft., possible asbestos/lead paint, most recent use—residential.

5 Bldgs./Geiger Heights
Fairchild AFB
102, 183, 118, 136, 113
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420010
Status: Unutilized
Comment: 2599 sq. ft., possible asbestos/lead paint, most recent use—residential.

Wisconsin

Bldg. 2
VA Medical Center
5000 West National Ave.
Milwaukee WI 53295–
Landholding Agency: VA
Property Number: 97199830002
Status: Underutilized
Comment: 133,730 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage.

Land (by State)

Illinois

Lake Shelbyville
Shelbyville Co: Shelby & Moultrie IL 62565–9804
Landholding Agency: COE
Property Number: 31199240004
Status: Unutilized
Comment: 5 parcels of land equalling 0.70 acres, improved w/4 small equipment storage bldgs. and a small access road, easement restrictions.

Iowa

38 acres
VA Medical Center
1515 West Pleasant St.
Knoxville Co: Marion IA 50138–
Landholding Agency: VA
Property Number: 97199740001
Status: Unutilized
Comment: golf course.

Michigan

IOM Site
Chesterfield Road
Chesterfield Co: Macomb MI–
Landholding Agency: GSA
Property Number: 54200340008
Status: Excess
Comment: approx. 17.4 acres w/concrete block bldg. in poor condition, most recent use—radio antenna field, narrow right-of-way.
GSA Number: 1–D–MI–0603F

VA Medical Center
5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016–
Landholding Agency: VA
Property Number: 97199010015
Status: Underutilized
Comment: 20 acres, used as exercise trails and storage areas, potential utilities.

New Mexico

Sites 69 & 70
Conchas Lake
San Miguel Co: NM
Landholding Agency: COE
Property Number: 31200520006
Status: Excess
Comment: 1/2 acre lots, closest town is approximately 32 miles away.

New York

VA Medical Center
Fort Hill Avenue
Canandaigua Co: Ontario NY 14424–
Landholding Agency: VA
Property Number: 97199010017
Status: Underutilized
Comment: 27.5 acres, used for school ballfield and parking, existing utilities easements, portion leased.

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 31199011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground.

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 31199210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field.

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001–
Landholding Agency: VA
Property Number: 97199010016
Status: Underutilized

Comment: Approx. 9.29 acres, used for patient recreation, potential utilities.

Land No. 645
VA. Medical Center
Highland Drive
Pittsburgh Co: Allegheny PA 15206–
Location: Between Campania and Wiltsie Streets.
Landholding Agency: VA
Property Number: 97199010080
Status: Unutilized
Comment: 90.3 acres, heavily wooded, property includes dump area and numerous site storm drain outfalls.

Land—34.16 acres
VA Medical Center
1400 Black Horse Hill Road
Coatesville Co: Chester PA 19320–
Landholding Agency: VA
Property Number: 97199340001
Status: Underutilized
Comment: 34.16 acres, open field, most recent use—recreation/buffer.

South Dakota

Tract 133
Ellsworth AFB
Box Elder Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18200310004
Status: Unutilized
Comment: 53.23 acres.

Tract 67
Ellsworth AFB
Box Elder Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18200310005
Status: Unutilized
Comment: 121 acres, bentonite layer in soil, causes movement.

Suitable/To Be Excessed Land (by State)

Georgia

Lake Sidney Lanier
Co: Forsyth GA 30130–
Location: Located on Two Mile Creek adj. to State Route 369.
Landholding Agency: COE
Property Number: 31199440010
Status: Unutilized
Comment: 0.25 acres, endangered plant species.

Lake Sidney Lanier—3 parcels
Gainesville Co: Hall GA 30503–
Location: Between Gainesville H.S. and State Route 53 By-Pass.
Landholding Agency: COE
Property Number: 31199440011
Status: Unutilized
Comment: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species.

Kansas

Parcel #1
Fall River Lake
Section 26
Co: Greenwood KS
Landholding Agency: COE
Property Number: 31199010065
Status: Unutilized
Comment: 126.69 acres; most recent use—recreation and leased cottage sites.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado
Co: Butler KS
Landholding Agency: COE
Property Number: 31199210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area.

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landholding Agency: COE
Property Number: 31199010016
Status: Excess
Comment: 1.45 acres.

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015–
Location: Right downstream bank of Sycamore Creek.
Landholding Agency: COE
Property Number: 31199010942
Status: Excess
Comment: 8.93 acres; subject to existing easements.

Texas

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Location: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Landholding Agency: COE
Property Number: 31199240001
Status: Unutilized
Comment: 4.4 acres, most recent use—farm land.

Unsuitable Properties—Buildings (by State)

Alabama

Bldg. 7
VA Medical Center
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 97199730001
Status: Underutilized
Reason: Secured Area.

Bldg. 8
VA Medical Center
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 97199730002
Status: Underutilized
Reason: Secured Area.

Alaska

Bldg. 15532
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200220001
Status: Unutilized
Reasons: Within airport runway clear zone; Secured Area.

Bldg. 8354
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200240001
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 11827
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200240002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 7537
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320001
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 9340
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320002
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 9342
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320003
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 12737
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320004
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 13251
Elmendorf Air Force Base
Elemendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320005
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 29453
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320006

Status: Unutilized
Reason: Extensive deterioration.

Bldg. 6527
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200330001
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 12739
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200330002
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4314
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340001
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 6527
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340002
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 7541
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340003
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 8111
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340004
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 9489
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340005
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 10547
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340006
Status: Unutilized
Reason: Extensive deterioration.

Arkansas

Dwelling
Bull Shoals Lake/Dry Run Road
Oakland Co: Marion AR 72661–
Landholding Agency: COE
Property Number: 31199820001
Status: Unutilized
Reason: Extensive deterioration.

Helena Casting Plant
Helena Co: Phillips AR 72342–
Landholding Agency: COE
Property Number: 31200220001
Status: Unutilized
Reason: Extensive deterioration.

California

Bldg. 30101
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210019
Status: Unutilized
Reason: Secured Area.

Bldgs. 30131, 30709
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210020
Status: Unutilized
Reason: Secured Area.

Bldgs. 30137, 30701
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210021
Status: Unutilized
Reason: Secured Area.

Bldg. 30235
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210022
Status: Unutilized
Reason: Secured Area.

Bldgs. 30238, 30446
Vandenberg AFB
Vandenberg Co: Santa Barbara CA–
Landholding Agency: Air Force
Property Number: 18200210023
Status: Unutilized
Reason: Secured Area.

Bldgs. 30239, 30444
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210024
Status: Unutilized
Reason: Secured Area.

Bldgs. 30306, 30335, 30782
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210025
Status: Unutilized
Reason: Secured Area.

Bldgs. 30339, 30340, 30341
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210026
Status: Unutilized
Reason: Secured Area.

Bldg. 30447
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210027
Status: Unutilized
Reason: Secured Area.

Bldg. 30524
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210028
Status: Unutilized
Reason: Secured Area.

Bldg. 30647
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210029
Status: Unutilized
Reason: Secured Area.

Bldgs. 30710, 30717
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210030
Status: Unutilized
Reason: Secured Area.

Bldgs. 30718, 30607
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210031
Status: Unutilized
Reason: Secured Area.

Bldgs. 30722, 30735
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210032
Status: Unutilized
Reason: Secured Area.

Bldgs. 30775, 30777
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210033
Status: Unutilized
Reason: Secured Area.

Bldgs. 30830, 30837
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210034
Status: Unutilized

Reason: Secured Area.

Bldgs. 30839, 30844, 30854
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210035
Status: Unutilized
Reason: Secured Area.

Bldg. 06522
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200330004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

23 Bldgs.
Edwards AFB
Edwards AFB Co: Kern CA 93524–
Location: 7022–7037, 7039–7040, 7042, 7044, 7046–7048
Landholding Agency: Air Force
Property Number: 18200410002
Status: Unutilized
Reason: Secured Area.

Bldg. 98
Vandenberg AFB
Oak Mountain Annex
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 488
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 535
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldgs. 734, 738–739
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430004
Status: Unutilized
Reason: Secured Area.

Bldg. 946
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430005
Status: Unutilized
Reason: Secured Area.

Bldgs. 1200, 1201
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 1205
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

36 Bldgs.
Edwards AFB
Area F Housing
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200430008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldgs. 7105, 7106
Edwards AFB
Area C
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200430009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

28 Bldgs.
Edwards AFB
Area C
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200440001
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Bldg. 719
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510001
Status: Unutilized
Reason: Secured Area.

Bldg. 725
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510002
Status: Unutilized
Reason: Secured Area.

Bldg. 729
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510003
Status: Unutilized
Reason: Secured Area.

Bldg. 734
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510004
Status: Unutilized
Reason: Secured Area.

Bldg. 737
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510005
Status: Unutilized
Reason: Secured Area.

Bldg. 742
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510006
Status: Unutilized
Reason: Secured Area.

Bldg. 746
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510007
Status: Unutilized
Reason: Secured Area.

87 Buildings
Edwards AFB
Area ''F''
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200510008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

7 Buildings
Edwards AFB
Area ''C''
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200510009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 11237
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200520001
Status: Unutilized
Reason: Secured Area.

Bldg. 02423
Edwards AFB
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200530001
Status: Unutilized
Reason: Secured Area.

205 Bldgs., Area F
Edwards AFB
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200530002
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Soil & Materials Testing Lab
Sausalito CA 00000–
Landholding Agency: COE

Property Number: 31199920002
Status: Excess
Reason: contamination.

Facility 35
Naval Weapons Station
Seal Beach Detachment
Pittsburgh Co: CA
Landholding Agency: GSA
Property Number: 54200520016
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.
GSA Number: 9–N–CA–1630.

Bldgs. 8902–8905
Naval Weapons Station
Seal Beach Co: CA 90740–
Landholding Agency: Navy
Property Number: 77200530003
Status: Excess
Reason: Extensive deterioration.

Bldgs. 8915, 8931
Naval Weapons Station
Seal Beach Co: CA 90740–
Landholding Agency: Navy
Property Number: 77200530004
Status: Excess
Reason: Extensive deterioration.

Bldgs. 11, 112
Naval Weapons Station
Seal Beach Co: CA 90740–
Landholding Agency: Navy
Property Number: 77200530005
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 805
Naval Weapons Station
Seal Beach Co: CA 90740–
Landholding Agency: Navy
Property Number: 77200530006
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 810 thru 823
Naval Weapons Station
Seal Beach Co: CA 90740–
Landholding Agency: Navy
Property Number: 77200530007
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 851, 859, 864
Naval Weapons Station
Seal Beach Co: CA 90740–
Landholding Agency: Navy
Property Number: 77200530008
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1146
Naval Base
Port Hueneme Co: Ventura CA 93042–
Landholding Agency: Navy
Property Number: 77200530009
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1358
Naval Base
Port Hueneme Co: Ventura CA 93042–
Landholding Agency: Navy
Property Number: 77200530010
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 1370, 1371, 1372
Naval Base
Port Hueneme Co: Ventura CA 93042–
Landholding Agency: Navy
Property Number: 77200530011
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 115
Naval Base
San Diego Co: CA –
Landholding Agency: Navy
Property Number: 77200530012
Status: Excess
Reason: Extensive deterioration.

Bldg. 1674
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200530027
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Bldgs. 2636, 2651, 2658
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200530028
Status: Excess
Reasons: Secured Area, Extensive deterioration.

4 Bldgs.
Marine Corps Base
Camp Pendleton Co: CA 92055–
Location: 26053, 26054, 26056, 26059
Landholding Agency: Navy
Property Number: 77200530029
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Bldgs. 53333, 53334
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200530030
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Bldgs. 53507, 53569
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200530031
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Bldg. 170111
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200530032
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Colorado

Bldg. 105
Peterson AFB
Colorado Springs Co: El Paso CO 80914–
Landholding Agency: Air Force
Property Number: 18200310003
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area.

Bldg. 106
Peterson AFB
Colorado Springs Co: El Paso CO 80914–8090
Landholding Agency: Air Force
Property Number: 18200340010
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area.

Bldg. 107
Peterson AFB
Colorado Springs Co: El Paso CO 80914–8090
Landholding Agency: Air Force
Property Number: 18200340011
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area.

Bldg. 108
Peterson AFB
Colorado Springs Co: El Paso CO 80914–8090
Landholding Agency: Air Force
Property Number: 18200340012
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area.

Connecticut

Hezekiah S. Ramsdell Farm
West Thompson Lake
North Grosvenordale Co: Windham CT 06255–9801
Landholding Agency: COE
Property Number: 31199740001
Status: Unutilized
Reasons: Floodway, Extensive deterioration.

Florida

Bldg. 1345
Cape Canaveral AFS
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18200210016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 55122
Cape Canaveral AFS
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18200210018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 1705
Cape Canaveral AFS

Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18200330005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Bldg. 70500 V.I.B.
Cape Canaveral
Brevard Co: FL 32907–
Landholding Agency: Air Force
Property Number: 18200510010
Status: Underutilized
Reason: Secured Area

Bldg. SF–15
Sub-Office Operations
Clewiston Co: Hendry FL 33440–
Landholding Agency: COE
Property Number: 31200430003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. SF–16
Sub-Office Operations
Clewiston Co: Hendry FL 33440–
Landholding Agency: COE
Property Number: 31200430004
Status: Unutilized
Reason: Secured Area.

Bldg. SF–17
Sub-Office Operations
Clewiston Co: Hendry FL 33440–
Landholding Agency: COE
Property Number: 31200430005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldgs. V1221 A&B
Naval Air Station
Sigsbee Park
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200530013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Georgia

Bldg. 340
Savannah IAP
Garden City Co: Chatham GA 31418–
Landholding Agency: Air Force
Property Number: 18200430010
Status: Excess
Reason: Secured Area.

Bldg. #WRSH18
West Point Lake
West Point Co: GA 31833–
Landholding Agency: COE
Property Number: 31200430006
Status: Unutilized
Reason: Secured Area.

Bldg. W03
West Point Lake
West Point Co: GA 31833–
Landholding Agency: COE
Property Number: 31200430007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Gatehouse #W03
West Point Lake
West Point Co: GA 31833–9517
Landholding Agency: COE
Property Number: 31200510001
Status: Unutilized
Reason: Extensive deterioration.

WRSH14, WRSH15, WRSH18
West Point Lake
West Point Co: GA 31833–9517
Landholding Agency: COE
Property Number: 31200510002
Status: Unutilized
Reason: Extensive deterioration.

Pumphouse
Carters Lake
Oakman Co: GA 30732–
Landholding Agency: COE
Property Number: 31200520002
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. ASBC01, ASBC02
Asbury Park
Hartwell Co: GA 30643–
Landholding Agency: COE
Property Number: 31200520003
Status: Unutilized
Reason: Extensive deterioration.

Hawaii

Bldg. 503
Bellows AFS
Bellows AFS HI–
Landholding Agency: Air Force
Property Number: 18200330007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 907
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 954
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 980
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330011
Status: Unutilized
Reason: Secured Area.

Bldg. 992
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330012
Status: Unutilized
Reason: Secured Area.

Bldg. 1035
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330013
Status: Unutilized
Reason: Secured Area.

Bldgs. 1709, 1721
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 2041
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 2044
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 2104
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330017
Status: Unutilized
Reason: Secured Area.

Bldg. 3018
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 3202
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Bldgs. 3338, 3356
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 3432
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 3375
Hickam AFB
Hickam AFB HI–
Landholding Agency: Air Force
Property Number: 18200330031
Status: Unutilized
Reason: Secured Area.

Bldgs. 743, 1002, 6100
Johnston Atoll Airfield
Honolulu HI–
Landholding Agency: Air Force
Property Number: 18200340013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Extensive deterioration.

Bldgs. 1091, 1092
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200510011
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area, Extensive deterioration.

Bldg. 1864
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200510012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 2074
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200510013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 2174
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200510014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 3426
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200510015
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.

Bldg. 3431
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510016
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.

Bldgs. 12, 14
Kokee AFB
Kokee Co: HI–
Landholding Agency: Air Force
Property Number: 18200510017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 3389
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200520002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 4027
Hickam AFB
Hickam Co: HI–
Landholding Agency: Air Force
Property Number: 18200530003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Idaho

Bldg. 1328
Mountain Home AFB
Mountain Home Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18200240003
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. AFD0070
Albeni Falls Dam
Oldtown Co: Bonner ID 83822–
Landholding Agency: COE
Property Number: 31199910001
Status: Unutilized
Reason: Extensive deterioration.

Illinois

Bldg. 3101
Capital MAP, DCFT
Springfield Co: Sangamon IL 62707–
Landholding Agency: Air Force
Property Number: 18200520003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 947
FERMILAB
Batavia Co: DuPage IL 60510–
Landholding Agency: Energy
Property Number: 41200530004
Status: Excess
Reason: Extensive deterioration.

Bldg. 42
Naval Station
Great Lakes Co: IL 60088–
Landholding Agency: Navy
Property Number: 77200530014
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Indiana

Bldgs. 1871, 2636
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200530015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Bldg. 21, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency; VA
Property Number: 97199230001
Status: Excess
Reason: Extensive deterioration.

Bldg. 22, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230002
Status: Excess
Reason: Extensive deterioration.

Bldg. 62, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230003
Status: Excess
Reason: Extensive deterioration.

Iowa

Bldg. B275
Sioux Gateway Airport
Sioux Co: Woodbury IA 51111–
Landholding Agency: Air Force
Property Number: 18200530004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Treatment Plant
South Fork Park
Mystic Co: Appanoose IA 52574–
Landholding Agency: COE
Property Number: 31200220002
Status: Excess
Reason: Extensive deterioration.

Storage Bldg.
Rathbun Project
Moravia Co: Appanoose IA 52571–
Landholding Agency: COE
Property Number: 31200330001
Status: Excess
Reason: Extensive deterioration.

Bldg.
Island View Park
Rathbun Project
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE

Property Number: 31200330002
Status: Excess
Reason: Extensive deterioration.

Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–1902
Landholding Agency: COE
Property Number: 31200410001
Status: Excess
Reason: Extensive deterioration.

Rathbun 29369, 29368
Island View park
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 31200510003
Status: Excess
Reason: Extensive deterioration.

RTHBUN–79326
Buck Creek Park
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 31200520004
Status: Excess
Reason: Extensive deterioration.

Kansas

No. 01017
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landholding Agency: COE
Property Number: 31200210001
Status: Unutilized
Reason: Extensive deterioration.

No. 01020
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landholding Agency: COE
Property Number: 31200210002
Status: Unutilized
Reason: Extensive deterioration.

No. 61001
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landholding Agency: COE
Property Number: 31200210003
Status: Unutilized
Reason: Extensive deterioration.

Bldg. #1
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landholding Agency: COE
Property Number: 31200220003
Status: Excess
Reason: Extensive deterioration.

Bldg. #2
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landholding Agency: COE
Property Number: 31200220004
Status: Excess
Reason: Extensive deterioration.

Bldg. #4
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landholding Agency: COE
Property Number: 31200220005
Status: Excess
Reason: Extensive deterioration.

Comfort Station
Clinton Lake Project
Lawrence Co: Douglas KS 66049–
Landholding Agency: COE
Property Number: 31200220006
Status: Excess
Reason: Extensive deterioration.

Privie
Perry Lake
Perry Co: Jefferson KS 66074–
Landholding Agency: COE
Property Number: 31200310004
Status: Unutilized
Reason: Extensive deterioration.

Shower
Perry Lake
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 31200310005
Status: Unutilized
Reason: Extensive deterioration.

Tool Shed
Perry Lake
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 31200310006
Status: Unutilized
Reason: Extensive deterioration.

Bldg. M37
Minooka Park
Sylvan Grove Co: Russell KS 67481–
Landholding Agency: COE
Property Number: 31200320002
Status: Excess
Reason: Extensive deterioration.

Bldg. M38
Minooka Park
Sylvan Grove Co: Russell KS 67481–
Landholding Agency: COE
Property Number: 31200320003
Status: Excess
Reason: Extensive deterioration.

Bldg. L19
Lucas Park
Sylvan Grove Co: Russell KS 67481–
Landholding Agency: COE
Property Number: 31200320004
Status: Unutilized
Reason: Extensive deterioration.

2 Bldgs.
Tuttle Creek Lake
Near Shelters #3 & #4
Riley KS 66502–
Landholding Agency: COE
Property Number: 31200330003
Status: Excess
Reason: Extensive deterioration.

6 Bldgs.
Cottonwood Point/Hillsboro Cove
Marion Co: Coffey KS 66861–
Landholding Agency: COE
Property Number: 31200340001
Status: Excess
Reason: Extensive deterioration.

20 Bldgs.
Riverside
Burlington Co: Coffey KS 66839–8911
Landholding Agency: COE
Property Number: 31200340002
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Canning Creek/Richey Cove
Council Grove Co: Morris KS 66846–9322
Landholding Agency: COE
Property Number: 31200340003
Status: Excess
Reason: Extensive deterioration.

6 Bldgs.
Santa Fe Trail/Outlet Channel
Council Grove Co: Morris KS 66846–
Landholding Agency: COE
Property Number: 31200340004
Status: Excess
Reason: Extensive deterioration.

Residence
Melvern Lake Project
Melvern Co: Osage KS 66510–
Landholding Agency: COE
Property Number: 31200340005
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Management Park
Vassar KS 66543–
Landholding Agency: COE
Property Number: 31200340006
Status: Excess
Reason: Extensive deterioration.

Bldg.
Hickory Campground
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340007
Status: Excess
Reason: Extensive deterioration.

Bldg.
Rockhaven Park Area
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340008
Status: Excess
Reason: Extensive deterioration.

Bldg.
Overlook Park Area
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340009
Status: Excess
Reason: Extensive deterioration.

Bldg.
Walnut Campground
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340010
Status: Excess
Reason: Extensive deterioration.

Bldg.
Cedar Ridge Campground
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340011

Status: Excess
Reason: Extensive deterioration.

Bldg.
Woodridge Park Area
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340012
Status: Excess
Reason: Extensive deterioration.

8 Bldgs.
Tuttle Cove Park
Manhattan Co: Riley KS 66502–
Landholding Agency: COE
Property Number: 31200410002
Status: Unutilized
Reason: Extensive deterioration.

2 Bldgs.
Old Garrison Campground
Pottawatomie KS–
Landholding Agency: COE
Property Number: 31200410003
Status: Unutilized
Reason: Extensive deterioration.

2 Bldgs.
School Creek ORV Area
Junction City KS 66441–
Landholding Agency: COE
Property Number: 31200410004
Status: Excess
Reason: Extensive deterioration.

Bldg.
Slough Creek Park
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 31200410005
Status: Excess
Reason: Extensive deterioration.

Bldg.
Spillway Boat Ramp
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430008
Status: Excess
Reason: Extensive deterioration.

Bldg.
Minooka Park Area
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430009
Status: Excess
Reason: Extensive deterioration.

Bldg.
Lucas Park Area
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430010
Status: Excess
Reason: Extensive deterioration.

Bldg.
Sylvan Park Area
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430011
Status: Excess
Reason: Extensive deterioration.

Bldg.
North Outlet Area
Junction City Co: KS 66441–
Landholding Agency: COE
Property Number: 31200430012
Status: Excess
Reason: Extensive deterioration.

3 Vault Toilets
West Rolling Hills
Milford Lake
Junction City Co: KS 66441–
Landholding Agency: COE
Property Number: 31200440003
Status: Excess
Reason: Extensive deterioration.

Vault Toilet
East Rolling Hills
Milford Lake
Junction City Co: KS 66441
Landholding Agency: COE
Property Number: 31200440004
Status: Excess
Reason: Extensive deterioration.

Bldgs. 25002, 35012
Lucas Park
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200510004
Status: Excess
Reason: Extensive deterioration.

Bldgs. 25006, 25038
Lucas Group Camp
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200510005
Status: Excess
Reason: Extensive deterioration.

Bldgs. L37, L38
Lucas Park
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200520005
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Mann's Cove PUA
Fall River Co: Greenwood KS 67047–
Landholding Agency: COE
Property Number: 31200530002
Status: Excess
Reason: Extensive deterioration.

16 Bldgs.
Cottonwood Point
Marion Co: KS–
Landholding Agency: COE
Property Number: 31200530003
Status: Excess
Reason: Extensive deterioration.

3 Bldgs.
Damsite PUA
Fall River Co: Greenwood KS 67047–
Landholding Agency: COE
Property Number: 31200530004
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Damsite PUA
Fall River Co: Greenwood KS 6047–
Landholding Agency: COE
Property Number: 31200530005
Status: Excess
Reason: Extensive deterioration.

Bldgs. L05, L06
Lucas Park Overlook
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200530006
Status: Excess
Reason: Extensive deterioration.

Kentucky
Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008–
Landholding Agency: COE
Property Number: 21199040416
Status: Unutilized
Reason: Spring House.

6-Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120010
Status: Unutilized
Reason: Floodway.

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120011
Status: Unutilized
Reason: Floodway.

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120012
Status: Unutilized
Reason: Floodway.

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Landholding Agency: COE
Property Number: 31199120013
Status: Unutilized
Reason: Floodway.

Tract 1379
Barkley Lake & Dam
Eddyville Co: Lyon KY 42038–
Landholding Agency: COE
Property Number: 31200420001
Status: Unutilized
Reason: landlocked.

Tract 4300
Barkley Lake & Dam
Cadiz Co: Trigg KY 42211–
Landholding Agency: COE
Property Number: 31200420002
Status: Unutilized
Reason: Floodway.

Tracts 317, 318, 319
Barkley Lake & Dam
Grand Rivers Co: Lyon KY 42045–
Landholding Agency: COE
Property Number: 31200420003
Status: Unutilized
Reason: Floodway.

Comfort Station
Holmes Bend Access
Green River Lake
Adair Co: KY–
Landholding Agency: COE
Property Number: 31200440005
Status: Excess
Reason: Extensive deterioration.

Steel Structure
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway.

Comfort Station
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway.

Shelter
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440008
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway.

Parking Lot
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway.

Sewage Treatment Plant
Holmes Bend Recreation
Campbellsville Co: KY 42718–9805
Landholding Agency: COE
Property Number: 31200510006
Status: Unutilized
Reason: Extensive deterioration.

Louisiana

Weeks Island Facility
New Iberia Co: LA 70560–
Landholding Agency: GSA
Property Number: 54200530005
Status: Excess
Reason: Extensive deterioration
GSA Number: 7–B–LA–0563.

Maryland

Bloody Pt Bar Lighthouse
Chesapeake Bay
Kent MD
Landholding Agency: GSA
Property Number: 54200330002
Status: Excess
Reason: not accessible
GSA Number: 4–U–MD–0612.

Bldgs. 146B, 146C, 146D, 146E
U.S. Naval Academy
Annapolis Co: Anne Arundel MD 21402–
Landholding Agency: Navy
Property Number: 77200530016
Status: Excess
Reason: Extensive deterioration.

Massachusetts

Annex 2 Bldg.
MIT Labs 246 Wood Street
Lexington Co: MA
Landholding Agency: GSA
Property Number: 54200530008
Status: Excess
Reason: Secured Area
GSA Number: 1–D–MA094.

Westview Street Wells
Lexington MA 02173–
Landholding Agency: VA
Property Number: 97199920001
Status: Unutilized
Reason: Extensive deterioration.

Michigan

U.S. Coast Guard Station
101 South Lakeshore Drive
Ludington Co: Mason MI 49431–
Landholding Agency: GSA
Property Number: 54200510012
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material GSA Number: 1–U–MI–537–D.

Admin. Bldg.
Station Saginaw River
Essexville Co: Bay MI 48732–
Landholding Agency: Coast Guard
Property Number: 88200510001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Minnesota

Parcel B
Twin Cities Army Ammunition Plant
Arden Hills MN 55112–3938
Landholding Agency: GSA
Property Number: 54200240015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–MN–0578B.

Mississippi

Bldg. 6
ANG CRTC
Gulfport Co: Harrison MS 39507–
Landholding Agency: Air Force
Property Number: 18200520004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldgs. 19–22
ANG CRTC
Gulfport Co: Harrison MS 39507–
Landholding Agency: Air Force
Property Number: 18200520005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 38
ANG CRTC
Gulfport Co: Harrison MS 39507–
Landholding Agency: Air Force
Property Number: 18200520006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 6, Boiler Plant
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 97199410001
Status: Unutilized
Reason: Floodway.

Bldg. 67
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 97199410008
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 68
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 97199410009
Status: Unutilized
Reason: Extensive deterioration.

Missouri

Rec Office
Harry S. Truman Dam & Reservoir
Osceola Co: St. Clair MO 64776–
Landholding Agency: COE
Property Number: 31200110001
Status: Unutilized
Reason: Extensive deterioration.

Privy/Nemo Park
Pomme de Terre Lake
Hermitage MO 65668–
Landholding Agency: COE
Property Number: 31200120001
Status: Excess
Reason: Extensive deterioration.

Privy No. 1/Bolivar Park
Pomme de Terre Lake
Hermitage MO 65668–
Landholding Agency: COE
Property Number: 31200120002
Status: Excess
Reason: Extensive deterioration.

Privy No. 2/Bolivar Park
Pomme de Terre Lake

Hermitage MO 65668–
Landholding Agency: COE
Property Number: 31200120003
Status: Excess
Reason: Extensive deterioration.

#07004, 60006, 60007
Crabtree Cove/Stockton Area
Stockton MO 65785–
Landholding Agency: COE
Property Number: 31200220007
Status: Excess
Reason: Extensive deterioration.

Bldg.
Old Mill Park Area
Stockton MO 65785–
Landholding Agency: COE
Property Number: 31200310007
Status: Excess
Reason: Extensive deterioration.

Stockton Lake Proj. Ofc.
Stockton Co: Cedar MO 65785–
Landholding Agency: COE
Property Number: 31200330004
Status: Unutilized
Reason: Extensive deterioration.

House
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420005
Status: Unutilized
Reason: Extensive deterioration.

30x36 Barn
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420006
Status: Unutilized
Reason: Extensive deterioration.

30x26 Barn
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420007
Status: Unutilized
Reason: Extensive deterioration.

30x10 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420008
Status: Unutilized
Reason: Extensive deterioration.

30x26 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420009
Status: Unutilized
Reason: Extensive deterioration.

9x9 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420010
Status: Unutilized
Reason: Extensive deterioration.

Tract 1111
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420011
Status: Excess
Reason: Extensive deterioration.

Shower
Pomme de Terre Lake
Hermitage Co: Polk MO 65668–
Landholding Agency: COE
Property Number: 31200420012
Status: Unutilized
Reason: Extensive deterioration.

11 Bldgs.
Warsaw Co: MO 65355–
Location: Fairfield, Tally Bend, Cooper Creek, Shawnee Bend
Landholding Agency: COE
Property Number: 31200430013
Status: Excess
Reason: Extensive deterioration.

2 Storage Bldgs.
District Service Base
St. Louis Co: MO –
Landholding Agency: COE
Property Number: 31200430014
Status: Excess
Reason: Extensive deterioration.

Privy
Pomme de Terre Lake
Wheatland Co: Hickory MO
Landholding Agency: COE
Property Number: 31200440010
Status: Underutilized
Reason: Floodway.

Vault Toilet
Ruark Bluff
Stockton Co: MO
Landholding Agency: COE
Property Number: 31200440011
Status: Excess
Reason: Extensive deterioration.

Comfort Station
Overlook Area
Stockton Co: MO
Landholding Agency: COE
Property Number: 31200440012
Status: Excess
Reason: Extensive deterioration.

Maintenance Building
Missouri River Area
Napoleon Co: Lafayette MO 64074–
Landholding Agency: COE
Property Number: 31200510007
Status: Excess
Reason: Floodway.

Bldg. 34001
Orleans Trail Park
Stockton Co: MO 65785–
Landholding Agency: COE
Property Number: 31200510008
Status: Excess
Reason: Extensive deterioration.

Bldgs. 34016, 34017
Orleans Trail Park
Stockton Co: MO 65785–
Landholding Agency: COE
Property Number: 31200510009
Status: Excess
Reason: Extensive deterioration.

Bldg. 3
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125–
Landholding Agency: VA
Property Number: 97200340001
Status: Underutilized
Reason: Secured Area.

Bldg. 4
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340002
Status: Underutilized
Reason: Secured Area.

Bldg. 27
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125–
Landholding Agency: VA
Property Number: 97200340003
Status: Underutilized
Reason: Secured Area.

Bldg. 28
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125–
Landholding Agency: VA
Property Number: 97200340004
Status: Underutilized
Reason: Secured Area.

Bldg. 29
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125–
Landholding Agency: VA
Property Number: 97200340005
Status: Underutilized
Reason: Secured Area.

Bldg. 50
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125–
Landholding Agency: VA
Property Number: 97200340006
Status: Underutilized
Reason: Secured Area.

Montana

Bldg. 547
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200240004
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 1084
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200240006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 2025
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200240007
Status: Unutilized
Reason: Secured Area.

Bldg. 1700
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200330022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Bldg. 546
Malmstrom AFB
Cascade Co: MT 59402–
Landholding Agency: Air Force
Property Number: 18200520007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 33
Great Falls IAP
Cascade Co: MT 59404–
Landholding Agency: Air Force
Property Number: 18200530005
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 314
Great Falls IAP
Cascade Co: MT 59404–
Landholding Agency: Air Force
Property Number: 18200530006
Status: Underutilized
Reasons:
Within 2000 ft. of flammable or explosive material, Secured Area.

Nebraska

Vault Toilets
Harlan County Project
Republican NE 68971–
Landholding Agency: COE
Property Number: 31200210006
Status: Unutilized
Reason: Extensive deterioration.

Patterson Treatment Plant
Harlan County Project
Republican NE 68971–
Landholding Agency: COE
Property Number: 31200210007
Status: Unutilized
Reason: Extensive deterioration.

#30004
Harlan County Project
Republican Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 31200220008
Status: Unutilized
Reason: Extensive deterioration.

#3005, 3006
Harlan County Project
Republican Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 31200220009
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 70001, 70002
South Outlet Park
Republican City Co: NE –
Landholding Agency: COE
Property Number: 31200510010
Status: Excess
Reason: Extensive deterioration.

Nevada

6 Bldgs.
Dale Street Complex 300, 400, 500, 600, Block Bldg, Valve House
Boulder City NV 89005–
Landholding Agency: GSA
Property Number: 54200020017
Status: Excess
Reason: Extensive deterioration.
GSA Number: LC–00–01–RP

New Hampshire

CRREL Greenhouse
Lyme Road
Hanover Co: Grafton NH 03755–
Landholding Agency: GSA
Property Number: 54200520009
Status: Excess
Reason: Extensive deterioration.
GSA Number: 1–D–NH–496.

New Jersey

Former NIKE Missile Battery
Site PH–58
Woolwich Co: Gloucester NJ
Landholding Agency: GSA
Property Number: 54200310012
Status: Excess
Reason: Extensive deterioration.
GSA Number: 1–GR–NJ–0538.

New Mexico

Bldg. 14170
Cannon AFB
Cannon AFB Co: Curry NM.
Landholding Agency: Air Force
Property Number: 18200230010
Status: Unutilized
Reason: Secured Area.

Bldg. 14240
Cannon AFB
Cannon AFB NM
Landholding Agency: Air Force
Property Number: 18200230011
Status: Unutilized
Reason: Secured Area.

Bldg. 14270
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230012
Status: Unutilized
Reason: Secured Area.

Bldg. 14330
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230013
Status: Unutilized
Reason: Secured Area.

Bldg. 14350
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230014
Status: Unutilized
Reason: Secured Area.

Bldg. 14370
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230015
Status: Unutilized
Reason: Secured Area.

Bldg. 14390
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230016
Status: Unutilized
Reason: Secured Area.

Bldg. 524
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area.

Bldg. 1076
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330025
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldg. 1190
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330026
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldg. 1264
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330027

Status: Unutilized
Reason: Secured Area.

Bldg. 5001
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330028
Status: Unutilized
Reason: Secured Area.

Bldg. 5012
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330029
Status: Unutilized
Reason: Secured Area.

Bldg. 615
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340014
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldg. 736
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340015
Status: Unutilized
Reason: Secured Area.

Bldg. 1013
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340016
Status: Unutilized
Reason: Secured Area.

Bldg. 20419
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340017
Status: Unutilized
Reason: Secured Area.

Bldgs. 29014, 29016, 29017
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340018
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldg. 30102
Kirtland AFAB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340019
Status: Unutilized
Reason: Secured Area.

Bldgs. 37532, 37534
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340020
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldg. 57005
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340021
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldgs. 57006, 57013
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340022
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Bldgs. 10, 11
Holloman AFB
Holloman Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200410005
Status: Unutilized
Reason: Secured Area.

New York

6 UG Missile Silos
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220003
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 100
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220004
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 101
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220005
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 104
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220006
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 107
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220007
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 109
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220008
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 116
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220009
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 276
106th RQW
Westhamton Beach Co: Suffolk NY 11978–
Landholding Agency: Air Force
Property Number: 18200520008
Status: Excess
Reason: Secured Area.

Bldgs. 442, 465, 466
Hancock Field
Syracuse Co: Onondaga NY 13211–
Landholding Agency: Air Force
Property Number: 18200530007
Status: Unutilized
Reasons: Secured Area Extensive deterioration.

Warehouse
Whitney Lake Project
Whitney Point Co: Broome NY 13862–0706
Landholding Agency: COE
Property Number: 31199630007
Status: Unutilized
Reason: Extensive deterioration.

Bldgs/Pier/Field
USCG/Ft. Totten
Borough of Queens Co: Flushing NY
Landholding Agency: GSA
Property Number: 54200320015
Status: Surplus
Reason: contamination.
GSA Number: 1–U–NY–882.

North Carolina

Bldg. 9
VA Medical Center
1100 Tunnel Road
Asheville Co: Buncombe NC 28805–
Landholding Agency: VA
Property Number: 97199010008
Status: Unutilized
Reason: Extensive deterioration.

Ohio

Army Reserve Activity #56
Jack Gibbs Blvd.
Columbus Co: OH 43215–1795
Landholding Agency: GSA
Property Number: 54200520008
Status: Surplus
Reason: Extensive deterioration.

GSA Number: 1–D–OH–05832A.
Bldg. 105
VA Medical Center
Dayton Co: Montgomery OH 45428–
Landholding Agency: VA
Property Number: 97199920005
Status: Unutilized
Reason: Extensive deterioration.

Oklahoma

Comfort Station
LeFlore Landing PUA
Sallisaw Co: LeFlore OK 74955–9445
Landholding Agency: COE
Property Number: 31200240008
Status: Excess
Reason: Extensive deterioration.

Comfort Station
Braden Bend PUA
Sallisaw Co: LeFlore OK 74955–9445
Landholding Agency: COE
Property Number: 31200240009
Status: Excess
Reason: Extensive deterioration.

Water Treatment Plant
Salt Creek Cove
Sawyer Co: Choctaw OK 74756–0099
Landholding Agency: COE
Property Number: 31200240010
Status: Excess
Reason: Extensive deterioration.

Water Treatment Plant
Wilson Point
Sawyer Co: Choctaw OK 74756–0099
Landholding Agency: COE
Property Number: 31200240011
Status: Excess
Reason: Extensive deterioration.

2 Comfort Stations
Landing PUA/Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240012
Status: Excess
Reason: Extensive deterioration.

Filter Plant/Pumphouse
South PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240013
Status: Excess
Reason: Extensive deterioration.

Filter Plant/Pumphouse
North PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240014
Status: Excess
Reason: Extensive deterioration.

Filter Plant/Pumphouse
Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240015
Status: Excess
Reason: Extensive deterioration.

Comfort Station
Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240016
Status: Excess
Reason: Extensive deterioration.

Comfort Station
Brooken Cove PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240017
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Outlet Channel/Walker Creek
Waurika OK 73573–0029
Landholding Agency: COE
Property Number: 31200340013
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Damsite South
Stigler OK 74462–9440
Landholding Agency: COE
Property Number: 31200340014
Status: Excess
Reason: Extensive deterioration.

19 Bldgs.
Kaw Lake
Ponca City OK 74601–9962
Landholding Agency: COE
Property Number: 31200340015
Status: Excess
Reason: Extensive deterioration.

30 Bldgs.
Keystone Lake
Sand Springs OK 74063–9338
Landholding Agency: COE
Property Number: 31200340016
Status: Excess
Reason: Extensive deterioration.

13 Bldgs.
Oologah Lake
Oologah OK 74053–0700
Landholding Agency: COE
Property Number: 31200340017
Status: Excess
Reason: Extensive deterioration.

14 Bldgs.
Pine Creek Lake
Valliant OK 74764–9801
Landholding Agency: COE
Property Number: 31200340018
Status: Excess
Reason: Extensive deterioration.

6 Bldgs.
Sardis Lake
Clayton OK 74536–9729
Landholding Agency: COE
Property Number: 31200340019
Status: Excess
Reason: Extensive deterioration.

24 Bldgs.
Skiatook Lake
Skiatook OK 74070–9803
Landholding Agency: COE
Property Number: 31200340020
Status: Excess
Reason: Extensive deterioration.

40 Bldgs.
Eufaula Lake
Stigler OK 74462–5135
Landholding Agency: COE
Property Number: 31200340021
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Holiday Cove
Stigler OK 74462–5135
Landholding Agency: COE
Property Number: 31200340022
Status: Excess
Reason: Extensive deterioration.

18 Bldgs.
Fort Gibson
Ft. Gibson Co: Wagoner OK 74434–0370
Landholding Agency: COE
Property Number: 31200340023
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Fort Supply
Ft. Supply Co: Woodward OK 73841–0248
Landholding Agency: COE
Property Number: 31200340024
Status: Excess
Reason: Extensive deterioration.

Game Bird House
Fort Supply Lake
Ft. Supply Co: Woodward OK 73841–0248
Landholding Agency: COE
Property Number: 31200340025
Status: Excess
Reason: Extensive deterioration.

11 Bldgs.
Hugo Lake
Sawyer OK 74756–0099
Landholding Agency: COE
Property Number: 31200340026
Status: Excess
Reason: Extensive deterioration.

5 Bldgs.
Birch Cove/Twin Cove
Skiatook OK 74070–9803
Landholding Agency: COE
Property Number: 31200340027
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Fairview Group Camp
Canton OK 73724–0069
Landholding Agency: COE
Property Number: 31200340028
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Chouteau & D Bluff
Gore Co: Wagoner OK 74935–9404
Landholding Agency: COE
Property Number: 31200340029
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Newt Graham L&D
Gore OK 74935–9404
Landholding Agency: COE
Property Number: 31200340030
Status: Excess
Reason: Extensive deterioration.

6 Bldgs.
Damsite/Fisherman's Landing
Sallisaw OK 74955–9445
Landholding Agency: COE
Property Number: 31200340031
Status: Excess
Reason: Extensive deterioration.

10 Bldgs.
Webbers Falls Lake
Gore OK 74435–5541
Landholding Agency: COE
Property Number: 31200340032
Status: Excess
Reason: Extensive deterioration.

14 Bldgs.
Copan Lake
Copan OK 74022–9762
Landholding Agency: COE
Property Number: 31200340033
Status: Excess
Reason: Extensive deterioration.

Bldg.
Lower Storage Yard
Skiatook Co: Osage OK 74070–
Landholding Agency: COE
Property Number: 31200530007
Status: Excess
Reason: Extensive deterioration.

3 Bldgs.
Birch Cove PUA
Skiatook Co: Osage OK 74070–
Landholding Agency: COE
Property Number: 31200530008
Status: Excess
Reason: Extensive deterioration.

Bldg.
Canadian Public Use Area
Canton Co: Blaine OK 73724–
Landholding Agency: COE
Property Number: 31200530009
Status: Excess
Reason: Extensive deterioration.

3 Bldgs.
Porum Landing PUA
Stigler Co: McIntosh OK 74462–
Landholding Agency: COE
Property Number: 31200530010
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Taylor Ferry
Ft. Gibson Co: Wagoner OK 74434–
Landholding Agency: COE
Property Number: 31200530011
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Bluff/Afton Landing
Ft. Gibson Co: Wagoner OK 74434–
Landholding Agency: COE
Property Number: 31200530012
Status: Excess
Reason: Extensive deterioration.

Bldg.
Lake Office
Ft. Supply Co: Woodward OK 73841–
Landholding Agency: COE
Property Number: 31200530013
Status: Excess
Reason: Extensive deterioration.

4 Bldgs.
Overlook PUA
Ft. Supply Co: Texas OK 73841–
Landholding Agency: COE
Property Number: 31200530014
Status: Excess
Reason: Extensive deterioration.

Bldg.
Hugo Lake
Sawyer Co: Chocktaw OK 74756–
Landholding Agency: COE
Property Number: 31200530015
Status: Excess
Reason: Extensive deterioration.

2 Bldgs.
Sarge Creek PUA
Ponca City Co: Kay OK 74601–
Landholding Agency: COE
Property Number: 31200530016
Status: Excess
Reason: Extensive deterioration.

5 Bldgs.
Hawthorne Bluff
Oologah Co: Rogers OK 74053–
Landholding Agency: COE
Property Number: 31200530017
Status: Excess
Reason: Extensive deterioration.

12 Bldgs.
Trout Stream PUAs
Gore Co: Sequoyah OK 74435–
Landholding Agency: COE
Property Number: 31200530018
Status: Excess
Reason: Extensive deterioration.

14 Bldgs.
Chicken Creek PUAs
Gore Co: Cherokee OK 74435–
Landholding Agency: COE
Property Number: 31200530019
Status: Excess
Reason: Extensive deterioration.

4 Bldgs.
Snake Creek Area
Gore Co: Sequoyah OK 74435–
Landholding Agency: COE
Property Number: 31200530020
Status: Excess
Reason: Extensive deterioration.

3 Bldgs.
Brewer's Bend
Gore Co: Muskogee OK 74435–
Landholding Agency: COE
Property Number: 31200530021
Status: Excess
Reason: Extensive deterioration.

Oregon

2 Floating Docks
Rogue River
Gold Beach Co: Curry OR 97444–
Landholding Agency: COE
Property Number: 31200430015
Status: Excess
Reason: Floodway.

2 Trailers
John Day Project
#1 West Marine Drive
Boardman Co: Morrow OR 97818–
Landholding Agency: COE
Property Number: 31200510012
Status: Unutilized
Reason: Extensive deterioration.

South Carolina

Bldg. 277
McEntire Air National Station
Eastover Co: Richland SC 29044–
Landholding Agency: Air Force
Property Number: 18200520009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 277
McEntire Air Natl Station
Eastover Co: Richland SC 29044–
Landholding Agency: Air Force
Property Number: 18200530008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 5
J. Strom Thurmond Project
Clarks Hill Co: McCormick SC 29821–
Landholding Agency: COE
Property Number: 31200520007
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 102
Marine Corps Recruit Depot
Parris Island Co: Beaufort SC 29905–
Landholding Agency: Navy
Property Number: 77200530017
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.

South Dakota

Bldg. 6000
Ellsworth AFB
Meade Co: SD 57706–
Landholding Agency: Air Force
Property Number: 18200510021
Status: Underutilized
Reason: Secured Area.

Bldgs. 7437, 7513, 7616
Ellsworth AFB
Meade Co: SD 57706–
Landholding Agency: Air Force
Property Number: 18200530009
Status: Unutilized
Reason: Secured Area.

Mobile Home
Tract L–1295
Oahe Dam
Potter SD 00000–

Landholding Agency: COE
Property Number: 31200030001
Status: Excess
Reason: Extensive deterioration.

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project.
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 31199011499
Status: Unutilized
Reason: Floodway.

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 31199011503
Status: Underutilized
Reason: Floodway.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140011
Status: Excess
Reason: water treatment plant.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140012
Status: Excess
Reason: water treatment plant.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140013
Status: Excess
Reason: water treatment plant.

Comfort Station/Land
Cook Campground
Nashville Co: Davidson TN 37214–
Landholding Agency: COE
Property Number: 31200420024
Status: Unutilized
Reason: Floodway.

Tracts 915, 920, 931C–1
Cordell Hull Dam/Reservoir
Cathage Co: Smith TN 37030–
Landholding Agency: COE
Property Number: 31200430016
Status: Unutilized
Reasons: Floodway, landlocked.

Pump House/6 acres
Volunteer Army Ammo Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: GSA
Property Number: 54200440013
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4DTN05943T.

Bldgs. 2, 3, 5
Naval/Marine Corps Rsv Ctr
Knoxville Co: Knox TN 37920–
Landholding Agency: Navy
Property Number: 77200530018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Texas

Bldg. 1307
Hensley Field ANG Station
Dallas TX 75211–9820
Landholding Agency: Air Force
Property Number: 18200330030
Status: Excess
Reason: Extensive deterioration.

Bldgs. 1155, 1188, 1275
Ellington Field
Houston Co: Harris TX 77034–
Landholding Agency: Air Force
Property Number: 18200530010
Status: Unutilized
Reason: Secured Area.

Comfort Station
Overlook PUA
Powderly Co: Lamar TX 75473–9801
Landholding Agency: COE
Property Number: 31200240018
Status: Excess
Reason: Extensive deterioration.

58 Bldgs.
Texoma Lake
Denison TX 75020–6425
Landholding Agency: COE
Property Number: 31200340035
Status: Excess
Reason: Extensive deterioration.

Bldg.
West Burns Run Park
Denison Co: Grayson TX 75020–
Landholding Agency: COE
Property Number: 31200530022
Status: Excess
Reason: Extensive deterioration.

Virginia

PHL–188855, 16498, 16693
Mize Point Campground
Bassett Co: VA 24055–
Landholding Agency: COE
Property Number: 31200510014
Status: Unutilized
Reason: Extensive deterioration.

Bldg. SP–235
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200530019
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. F11
Naval Air Station
Craney Island Fuel Terminal
Portsmouth Co: VA–
Landholding Agency: Navy
Property Number: 77200530020
Status: Excess
Reasons: Floodway, Secured Area.

Bldgs. CI33, CI34
Naval Air Station
Craney Island Fuel Terminal
Portsmouth Co: VA–
Landholding Agency: Navy
Property Number: 77200530021
Status: Excess
Reasons: Floodway, Secured Area.

4 Bldgs.
Naval Air Station
Craney Island Fuel Terminal
Portsmouth Co: VA–
Location: CI89, CI90, CI93A, CI95
Landholding Agency: Navy
Property Number: 77200530022
Status: Excess
Reasons: Floodway, Secured Area.

Bldgs. CI143, CI148, CI155
Naval Air Station
Craney Island Fuel Terminal
Portsmouth Co: VA–
Landholding Agency: Navy
Property Number: 77200530023
Status: Excess
Reasons: Floodway, Secured Area.

Bldgs. CI196, CI197, CI198
Naval Air Station
Craney Island Fuel Terminal
Portsmouth Co: VA–
Landholding Agency: Navy
Property Number: 77200530024
Status: Excess
Reasons: Floodway, Secured Area.

Bldgs. CI453, CI456
Naval Air Station
Craney Island Fuel Terminal
Portsmouth Co: VA–
Landholding Agency: Navy
Property Number: 77200530025
Status: Excess
Reasons: Floodway, Secured Area.

Training Bldg.
USCG Integrated Support Ctr
Portsmouth Co: Norfolk VA 43703–
Landholding Agency: Coast Guard
Property Number: 88200530001
Status: Excess
Reason: Secured Area.

Washington

Rec Storage Bldg.
Richland Parks
Richland Co: Benton WA 99352–
Landholding Agency: COE
Property Number: 31200240019
Status: Unutilized
Reason: Extensive deterioration.

Railroad Club Bldg.
McNary Lock & Dam Proj
Richland Co: Benton WA 99352–

Landholding Agency: COE
Property Number: 31200410006
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. 351
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77200530026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

West Virginia

Radio Transmitter Rcv Site
Greenbrier Street
Charleston WV 25311–
Landholding Agency: GSA
Property Number: 54200340011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–U–WV–0547.

Wyoming

Bldg. 360
F. E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 18200240013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 354
F. E. Warren AFB
Laramie Co: WY 82005–
Landholding Agency: Air Force
Property Number: 18200510022
Status: Underutilized
Reason: Secured Area.

Land (by State)

Alabama

Portions/Tract B263
Demopolis Hwy 43
Greene Co: AL
Landholding Agency: GSA
Property Number: 54200510001
Status: Excess
Reason: Landlocked
GSA Number: 4–D–AL–0564J.

Arizona

58 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313–
Landholding Agency: VA
Property Number: 97190630001
Status: Unutilized
Reason: Floodway.

20 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313–
Landholding Agency: VA
Property Number: 97190630002
Status: Underutilized
Reason: Floodway.

Colorado

Landfill
48th & Holly Streets
Commerce Co: Adams CO 80022–
Landholding Agency: GSA
Property Number: 54200220006
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material contamination
GSA Number: 7–Z–CO–0647.

55 Acres
Denver Federal Center
Lakewood Co: Jefferson CO 80225–
Landholding Agency: GSA
Property Number: 54200530004
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 7–G–CO–0441–6.

Florida

Navy Site Alpha
Homestead Co: Miami/Dade FL
Landholding Agency: GSA
Property Number: 54200330009
Status: Surplus
Reason: Flooding
GSA Number: 4–N–FL–1079.

Wildlife Sanctuary, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 97199230004
Status: Underutilized
Reason: Inaccessible.

Kentucky

Tract 4626
Barkley Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211–
Location: 14 miles from U.S. Highway 68
Landholding Agency: COE
Property Number: 31199010030
Status: Underutilized
Reason: Floodway.

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
US HWY. 27 to Blue John Road
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 31199010038
Status: Underutilized
Reason: Floodway.

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 31199010039
Status: Underutilized
Reason: Floodway.

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038–
Location: US Highway 62 to state highway 93
Landholding Agency: COE
Property Number: 31199010043
Status: Excess
Reason: Floodway.

Red River Lake Project
Stanton Co: Powell KY 40380–
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613
Landholding Agency: COE
Property Number: 31199011684
Status: Unutilized
Reason: Floodway.

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270–
Landholding Agency: COE
Property Number: 31199120008
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120009
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288–
Location: Off State Hwy 403, which is off State Hwy 231
Landholding Agency: COE
Property Number: 31199120014
Status: Underutilized
Reason: Floodway.

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 31199120015
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210–
Location: Off State Highway 259
Landholding Agency: COE
Property Number: 31199120016
Status: Underutilized
Reason: Floodway.

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144–
Landholding Agency: COE
Property Number: 31199120017
Status: Unutilized
Reason: Floodway.

Maryland

Tract 131R
Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD

Landholding Agency: COE
Property Number: 31199240007
Status: Underutilized
Reason: Floodway.

Minnesota

Parcel A
Twin Cities Army Ammunition Plant
Arden Hills MN 55112–3938
Landholding Agency: GSA
Property Number: 54200240014
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.
GSA Number: 1–D–MN–0578A.

3.85 acres (Area #2)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303–
Landholding Agency: VA
Property Number: 97199740004
Status: Unutilized
Reason: landlocked.

7.48 acres (Area #1)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303–
Landholding Agency: VA
Property Number: 97199740005
Status: Underutilized
Reason: Secured Area.

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011018
Status: Underutilized
Reason: Within airport runway clear zone.

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden
Co: Dunklin MO
Landholding Agency: COE
Property Number: 31199130001
Status: Unutilized
Reason: Floodway.

Montana

Sewage Lagoons/40 acres
VA Center
Ft. Harrison MT 59639–
Landholding Agency: VA
Property Number: 97200340007
Status: Excess
Reason: Floodway.

New York

Tract 1
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010011
Status: Unutilized
Reason: Secured Area.

Tract 2
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010012
Status: Underutilized
Reason: Secured Area.

Tract 3
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010013
Status: Underutilized
Reason: Secured Area.

Tract 4
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010014
Status: Unutilized
Reason: Secured Area.

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440007
Status: Underutilized
Reason: Floodway.

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440008
Status: Underutilized
Reason: Floodway.

36 Site Campground
German Church Campground
Berlin Center Co: Portage OH 44401–9707
Landholding Agency: COE
Property Number: 31199810001
Status: Unutilized
Reason: Floodway.

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Location: Left hand side of entrance roadway to project.
Landholding Agency: COE
Property Number: 31199011564
Status: Unutilized
Reason: Floodway.

Mercer Recreation Area
Shenango Lake
Transfer Co: Mercer PA 16154–
Landholding Agency: COE
Property Number: 31199810002
Status: Unutilized
Reason: Floodway.

Tract No. B–212C
Upstream from Gen. Jadwin Dam & Reservoir
Honesdale Co: Wayne PA 18431–
Landholding Agency: COE
Property Number: 31200020005
Status: Unutilized
Reason: Floodway.

Puerto Rico

Parcel 2R
Naval Security Group
Sabana Seca Co: Toa Baja PR–
Landholding Agency: GSA
Property Number: 54200210025
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–PR–494.

Landfill Parcel
Naval Security Group
Sabana Sera
Toa Baja Co: PR
Landholding Agency: GSA
Property Number: 54200520015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–PR–0513–1D.

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 21199040413
Status: Underutilized
Reason: Floodway.

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015–
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE
Property Number: 21199040415
Status: Underutilized
Reason: Floodway.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 31199010935
Status: Excess
Reason: landlocked.

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058–
Location: U.S. Highway 79/TN Highway 761

Landholding Agency: COE
Property Number: 31199011478
Status: Underutilized
Reason: Floodway.

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011479
Status: Excess
Reason: Floodway.

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 31199011480
Status: Unutilized
Reason: Floodway.

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011481
Status: Unutilized
Reason: Floodway.

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011482
Status: Underutilized
Reason: Floodway.

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011483
Status: Underutilized
Reason: Floodway.

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 31199011484
Status: Underutilized
Reason: Floodway.

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011485
Status: Underutilized
Reason: Floodway.

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011486
Status: Unutilized
Reason: Floodway.

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011487
Status: Unutilized
Reason: Floodway.

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011488
Status: Underutilized
Reasons: Within airport runway clear zone, Floodway.

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011489
Status: Unutilized
Reason: Floodway.

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011490
Status: Unutilized
Reason: Floodway.

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 31199011491
Status: Unutilized
Reason: Floodway.

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011492
Status: Unutilized
Reason: Floodway.

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214–
Location: Interstate 40 to S. Mount Juliet Road
Landholding Agency: COE
Property Number: 31199011493
Status: Underutilized
Reason: Floodway.

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167–
Location: Florence Road near Enon Springs Road
Landholding Agency: COE
Property Number: 31199011494
Status: Underutilized
Reason: Floodway.

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 31199011495
Status: Underutilized
Reason: Floodway.

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 31199011496
Status: Underutilized
Reason: Floodway.

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson TN 37214–
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike
Landholding Agency: COE
Property Number: 31199011497
Status: Underutilized
Reason: Floodway.

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 31199011498
Status: Unutilized
Reason: Floodway.

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 31199011500
Status: Unutilized
Reason: Floodway.

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564–
Landholding Agency: COE
Property Number: 31199011501

Status: Unutilized
Reason: Floodway.

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011502
Status: Unutilized
Reason: Floodway.

Tract 104 et al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030–
Location: Highway 70 N
Landholding Agency: COE
Property Number: 31199011504
Status: Underutilized
Reason: Floodway.

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 31199120007
Status: Underutilized
Reason: Floodway.

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138–
Landholding Agency: COE
Property Number: 31199130008
Status: Underutilized
Reason: Floodway.

Tract D, 7 acres
Cheatham Lock & Dam
Nashville Co: Davidson TN 37207–
Landholding Agency: COE
Property Number: 31200020006
Status: Underutilized
Reason: Floodway.

Tract F–608
Cheatham Lock & Dam
Ashland Co: Cheatham TN 37015–
Landholding Agency: COE
Property Number: 31200420021
Status: Unutilized
Reason: Floodway.

Tracts G702–G706
Cheatham Lock & Dam
Ashland Co: Cheatham TN 37015–
Landholding Agency: COE
Property Number: 31200420022
Status: Unutilized
Reason: Floodway.

6 Tracts
Shutes Branch Campground
Lakewood Co: Wilson TN—
Landholding Agency: COE
Property Number: 31200420023
Status: Unutilized
Reason: Floodway.

51 acres
Volunteer Army Ammo Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: GSA
Property Number: 54200440014
Status: Surplus
Reason: contamination
GSA Number: 4DTN05943V.

11 acres
Volunteer Army Ammo Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: GSA
Property Number: 54200440015
Status: Surplus
Reason: contamination
GSA Number: 4DTN05943W.

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010397
Status: Underutilized
Reason: Floodway.

Part of Tract 201–3
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010398
Status: Underutilized
Reason: Floodway.

Part of Tract 323
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010399
Status: Underutilized
Reason: Floodway.

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010401
Status: Unutilized
Reason: Floodway.

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010402
Status: Unutilized
Reason: Floodway.

Virginia

275.390 acres
adjacent/Ft. Lee Military Rsv.
Petersburg Co: Prince George VA
Landholding Agency: GSA
Property Number: 54200430017
Status: Surplus
Reason: Secured Area
GSA Number: 4–GR–VA–545E.

Washington

2.8 acres
Tract P–1003
Kennewick Co: Benton WA 99336–
Landholding Agency: COE
Property Number: 31200240020
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.

West Virginia

Morgantown Lock and Dam
Box 3 RD # 2
Morgantown Co: Monongahelia WV 26505–
Landholding Agency: COE
Property Number: 31199011530
Status: Unutilized
Reason: Floodway.

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126–
Location: 20 miles east of Charleston, W. Virginia.
Landholding Agency: COE
Property Number: 31199011690
Status: Unutilized
Reason: .03 acres; very narrow strip of land.

Portion of Tract #101
Buckeye Creek
Sutton Co: Braxton WV 26601–
Landholding Agency: COE
Property Number: 31199810006
Status: Excess
Reason: inaccessible.

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Location: Vacant land within plant boundaries.
Landholding Agency: GSA
Property Number: 21199013783
Status: Excess
Reason: Secured Area
GSA Number: GSA–WI.

[FR Doc. 05–17243 Filed 9–1–05; 8:45 am]
BILLING CODE 4210–29–P

Reader Aids

Federal Register

Vol. 70, No. 170

Friday, September 2, 2005

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

51999–52282 1
52283–52892 2

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7921 52281

7 CFR

1405 52283

8 CFR

Proposed Rules:
Ch. I 52037

9 CFR

Proposed Rules:
94 52158

14 CFR

39 ..... 51999, 52001, 52004, 52005, 52009, 52285
71 ..... 52012, 52288
95 52013
97 52288
Proposed Rules:
39 ..... 52040, 52041, 52043, 52046

17 CFR

242 52014

18 CFR

Proposed Rules:
153 52328
157 52328
375 52328

19 CFR

Proposed Rules:
101 52336

21 CFR

510 52291
558 52291
Proposed Rules:
310 52050

22 CFR

41 52292
Proposed Rules:
Ch. I 52037

23 CFR

1327 52296

26 CFR

1 52299
Proposed Rules:
1 52051

32 CFR

706 52302

33 CFR

100 ..... 52303, 52305
117 52307
165 52308
Proposed Rules:
100 ..... 52052, 52054, 52338
117 ..... 52340, 52343

38 CFR

14 52015
41 52248
49 52248

39 CFR

265 52016

40 CFR

300 52018
Proposed Rules:
136 52485

42 CFR

403 52019
422 52023
Proposed Rules:
405 52056
410 52056
411 52056
413 52056
414 52056
426 52056

43 CFR

3834 52028

46 CFR

Proposed Rules:
531 52345

48 CFR

225 52030
232 52031
237 52032
242 52034
252 ..... 52030, 52031, 52032

50 CFR

17 ..... 52310, 52319
226 ..... 52488, 52630
300 52324
660 52035
679 ..... 52325, 52326
Proposed Rules:
17 52059
679 52060
697 52346

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 2, 2005

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans:
- Preparation, adoption, and submittal—
  - 8-hour ozone national ambient air quality standard; 1-hour standard revoked; Phase 1 technical correction; published 8-3-05

Solid waste:
- Hazardous waste; identification and listing—
  - Exclusions; published 8-3-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Sponsor name and address changes—
  - Pharmaq AS; published 9-2-05

HOMELAND SECURITY DEPARTMENT

Coast Guard

Regattas and marine parades:
- Patuxent River Air Expo; published 8-18-05

INTERIOR DEPARTMENT

Administrative wage garnishment; collection of debts; published 8-3-05

STATE DEPARTMENT

Visas; nonimmigrant documentation:
- Treaty trader, treaty investor, or treaty alien in specialty occupation; definition and clarification; new E-3 visa classification; published 9-2-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Standard instrument approach procedures; published 9-2-05

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
- Estimated income tax regulations; update; published 9-2-05

RULES GOING INTO EFFECT SEPTEMBER 3, 2005

HOMELAND SECURITY DEPARTMENT

Coast Guard

Regattas and marine parades:
- Ragin' on the River; published 8-18-05
- South Lake Tahoe, CA; Labor Day fireworks display; published 9-2-05

RULES GOING INTO EFFECT SEPTEMBER 4, 2005

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Deep-water species; closure to vessels using trawl gear in Gulf of Alaska; published 9-2-05
  - Shallow-water species; closure to vessels using trawl gear in Gulf of Alaska; published 9-2-05

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance awards to U.S. non-Governmental organizations; marking requirements; Open for comments until further notice; published 8-26-05 [FR 05-16698]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:
- Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Kiwifruit grown in—
- California; comments due by 9-6-05; published 8-16-05 [FR 05-16207]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, foreign:
- Cut flowers from countries with chrysanthemum white rust; comments due by 9-6-05; published 7-7-05 [FR 05-13313]

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:
- Conservation Security Program; comments due by 9-9-05; published 7-20-05 [FR 05-14297]

AGRICULTURE DEPARTMENT

Farm Service Agency

Special programs:
- Interest Assistance Program; correction; comments due by 9-6-05; published 8-11-05 [FR 05-15864]

AGRICULTURE DEPARTMENT

Grain Inspection, Packers and Stockyards Administration

Graded commodities; review inspection requirements; comments due by 9-6-05; published 7-7-05 [FR 05-13297]

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Loan and purchase programs:
- Conservation Security Program; comments due by 9-9-05; published 7-20-05 [FR 05-14297]

Reports and guidance documents; availability, etc.:
- National Handbook of Conservation Practices; Open for comments until further notice; published 5-9-05 [FR 05-09150]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Recovery plans—
  - Pacific salmon and steelhead; 16 evolutionary significant units; comments due by 9-6-05; published 7-7-05 [FR 05-13394]

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Groundfish Observer Program; comments due by 9-7-05; published 8-8-05 [FR 05-15646]
- Northeastern United States fisheries—
  - Northeast multispecies; comments due by 9-7-05; published 8-8-05 [FR 05-15644]
- West Coast States and Western Pacific fisheries—
  - Pacific whiting; comments due by 9-6-05; published 8-22-05 [FR 05-16608]

COMMODITY FUTURES TRADING COMMISSION

Commodity Futures Modernization of 2000; implementation:
- Trading facilities; exempt markets, derivatives transaction execution facilities and designated contract markets, etc.; technical and clarifying amendments; comments due by 9-9-05; published 7-11-05 [FR 05-13467]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:
- Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:
- Vocational and adult education—
  - Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

Special education and rehabilitative services:
- Individuals with Disabilities Education Act (IDEA)—
  - Children with disabilities programs; assistance to States; comments due by 9-6-05; published 6-21-05 [FR 05-11804]

ENERGY DEPARTMENT

Meetings:
- Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:

Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Cellulose products manufacturing; comments due by 9-9-05; published 8-10-05 [FR 05-15733]

Oil and natural gas production facilities; comments due by 9-6-05; published 7-8-05 [FR 05-13480]

Air pollution; standards of performance for new stationary sources:

Stationary compression ignition internal combustion engines; comments due by 9-9-05; published 7-11-05 [FR 05-13338]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 9-8-05; published 8-9-05 [FR 05-15741]

North Dakota; comments due by 9-7-05; published 8-8-05 [FR 05-15609]

Ohio; comments due by 9-8-05; published 8-9-05 [FR 05-15747]

Texas; comments due by 9-9-05; published 8-10-05 [FR 05-15830]

Environmental statements; availability, etc.:

Coastal nonpoint pollution control program—

Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]

Pesticide programs:

Conventional chemicals; registration data requirements; comments due by 9-7-05; published 3-11-05 [FR 05-04466]

Pesticide, food, and feed additive petitions:

Interregional Research Project (No. 4); comments due by 9-9-05; published 8-10-05 [FR 05-15738]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Alpha-cyclodextrin, etc.; comments due by 9-6-05; published 7-6-05 [FR 05-13263]

Fenpropathrin; comments due by 9-6-05; published 7-6-05 [FR 05-13174]

Superfund program:

National oil and hazardous substances contingency plan priorities list; comments due by 9-6-05; published 8-5-05 [FR 05-15435]

Water pollution control:

National Pollutant Discharge Elimination System—

Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]

Texas; general permit for territorial seas; Open for comments until further notice; published 9-6-05 [FR 05-17614]

Water pollution; effluent guidelines for point source categories:

Iron and steel manufacturing; comments due by 9-9-05; published 8-10-05 [FR 05-15834]

Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

FEDERAL COMMUNICATIONS COMMISSION

Committees; establishment, renewal, termination, etc.:

Technological Advisory Council; Open for comments until further notice; published 3-18-05 [FR 05-05403]

Common carrier services:

Interconnection—

Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]

Satellite communications—

Satellite licensing procedures; comments due by 9-6-05; published 6-8-05 [FR 05-11172]

Radio stations; table of assignments:

Texas; comments due by 9-6-05; published 8-3-05 [FR 05-14963]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare and medicaid:

Outpatient drugs and biologicals under part B; competitive acquisition; comments due by 9-6-05; published 7-6-05 [FR 05-12938]

Medicare:

Home health prospective payment system; 2006 CY rates update; comments due by 9-6-05; published 7-14-05 [FR 05-13674]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Reports and guidance documents; availability, etc.:

Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]

Medical devices—

Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

HOMELAND SECURITY DEPARTMENT

Customs and Border Protection Bureau

Organization, functions; field organization, ports of entry, etc.:

New River Valley, VA; port establishment; comments due by 9-6-05; published 7-5-05 [FR 05-13120]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:

Maryland; Open for comments until further notice; published 1-14-04 [FR 04-00749]

Drawbridge operations:

New Jersey; comments due by 9-6-05; published 7-21-05 [FR 05-14322]

Inspection and certification:

Potable water on inspected vessels; availability; comments due by 9-9-05; published 7-11-05 [FR 05-13074]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Homeless assistance; excess and surplus Federal properties; Open for comments until further notice; published 8-5-05 [FR 05-15251]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species permit applications

Recovery plans—

Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]

Endangered and threatened species:

Findings on petitions, etc.—

American eel; comments due by 9-6-05; published 7-6-05 [FR 05-12971]

JUSTICE DEPARTMENT

Federal Bureau of Investigation

Privacy Act; implementation; comments due by 9-6-05; published 7-28-05 [FR 05-14850]

JUSTICE DEPARTMENT

Justice for All Act:

Crime victims' rights obligation; compliance procedures; comments due by 9-6-05; published 7-7-05 [FR 05-13322]

LABOR DEPARTMENT

Occupational Safety and Health Administration

Construction safety and health standards:

Lead in construction; comments due by 9-6-05;

published 6-6-05 [FR 05-11149]

NUCLEAR REGULATORY COMMISSION

Environmental statements; availability, etc.:
Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

SMALL BUSINESS ADMINISTRATION

Cosponsorship, fee and non-fee based SBA-sponsored activities and gifts; implementation and minimum requirements; comments due by 9-9-05; published 7-11-05 [FR 05-13508]

Disaster loan areas:
Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

SOCIAL SECURITY ADMINISTRATION

Supplemental security income:
Aged, blind and disabled—
Plans to achieve self-support; time limit criteria; comments due by 9-9-05; published 7-11-05 [FR 05-13584]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:
2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 9-7-05; published 8-8-05 [FR 05-15594]
Bell; comments due by 9-6-05; published 7-6-05 [FR 05-13237]
Boeing; comments due by 9-6-05; published 7-21-05 [FR 05-14395]
Empresa Basileira de Aeronautica S.A. (EMBRAER); comments due by 9-6-05; published 8-11-05 [FR 05-15880]
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 9-7-05; published 8-8-05 [FR 05-15592]
Hamilton Sundstrand Power Systems; comments due by 9-6-05; published 7-5-05 [FR 05-13134]
Rolls-Royce Deutschland Ltd. & Co. KG; comments due by 9-6-05; published 7-5-05 [FR 05-13135]
Rolls-Royce plc; comments due by 9-6-05; published 7-8-05 [FR 05-13425]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:
Preconstruction procedures; project authorizations and agreements; comments due by 9-9-05; published 7-11-05 [FR 05-13514]

TRANSPORTATION DEPARTMENT

Pipeline and Hazardous Materials Safety Administration

Hazardous materials:
Transportation—
Cylinders and multi-element gas containers; design, construction, maintenance, and use; United Nations recommended standards adoption; comment extension; comments due by 9-6-05; published 6-23-05 [FR 05-12459]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:
Military retired pay and veterans disability compensation for certain military retirees; full concurrent receipt phase-in; comments due by 9-6-05; published 7-7-05 [FR 05-13396]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 3423/P.L. 109–43

Medical Device User Fee Stabilization Act of 2005 (Aug. 1, 2005; 119 Stat. 439)

H.R. 38/P.L. 109–44

Upper White Salmon Wild and Scenic Rivers Act (Aug. 2, 2005; 119 Stat. 443)

H.R. 481/P.L. 109–45

Sand Creek Massacre National Historic Site Trust Act of 2005 (Aug. 2, 2005; 119 Stat. 445)

H.R. 541/P.L. 109–46

To direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries. (Aug. 2, 2005; 119 Stat. 448)

H.R. 794/P.L. 109–47

Colorado River Indian Reservation Boundary Correction Act (Aug. 2, 2005; 119 Stat. 451)

H.R. 1046/P.L. 109–48

To authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming. (Aug. 2, 2005; 119 Stat. 455)

H.J. Res. 59/P.L. 109–49

Expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States. (Aug. 2, 2005; 119 Stat. 457)

S. 571/P.L. 109–50

To designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building". (Aug. 2, 2005; 119 Stat. 459)

S. 775/P.L. 109–51

To designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office". (Aug. 2, 2005; 119 Stat. 460)

S. 904/P.L. 109–52

To designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building". (Aug. 2, 2005; 119 Stat. 461)

H.R. 3045/P.L. 109–53

Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Aug. 2, 2005; 119 Stat. 462)

H.R. 2361/P.L. 109–54

Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Aug. 2, 2005; 119 Stat. 499)

H.R. 2985/P.L. 109–55

Legislative Branch Appropriations Act, 2006 (Aug. 2, 2005; 119 Stat. 565)

S. 45/P.L. 109–56

To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes. (Aug. 2, 2005; 119 Stat. 591)

S. 1395/P.L. 109–57

Controlled Substances Export Reform Act of 2005 (Aug. 2, 2005; 119 Stat. 592)

Last List August 2, 2005

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.