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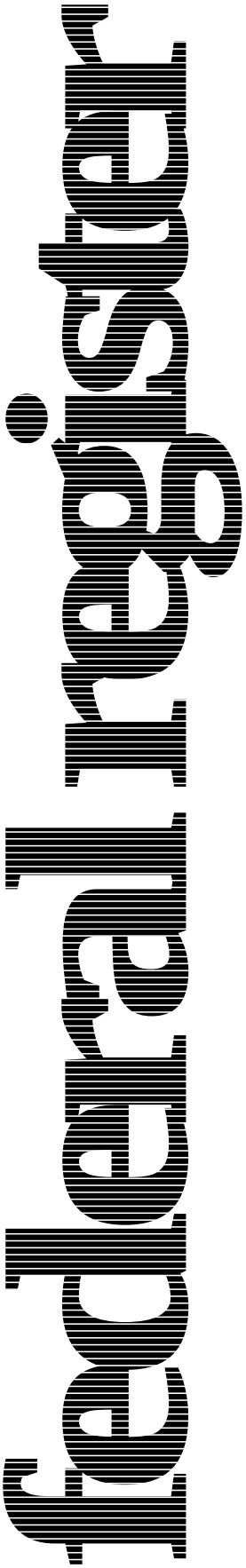

Thursday
June 15, 1995

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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 874

RIN 3206–AG79

Federal Employees' Group Life Insurance Program: Living Benefits

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the ''FEGLI Living Benefits Act'' of 1994. This law requires OPM to issue regulations which state: that under the Federal Employees' Group Life Insurance (FEGLI) Program, basic life insurance may be elected to be paid to an insured individual who is certified as terminally ill with a life expectancy of 9 months or less; that an employee may elect that the basic benefit be paid in total or, in part in multiples of $1,000; that annuitants may elect only the total amount of basic; that there will be no increase in the actuarial value of the benefit; that OPM will have an Open Season of at least 8 weeks duration beginning prior to the effective date of the law, during which employees who are not currently enrolled in basic may elect it; and that define an application process.

DATES: These interim regulations are effective June 15, 1995. Comments must be received on or before August 14, 1995.

ADDRESSES: Send written comments to Lucretia F. Myers, Assistant Director for Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 3451, 1900 E Street NW., Washington, DC; or FAX to (202) 606–0633.

FOR FURTHER INFORMATION CONTACT: Faith M. Hannon, (202) 606–0004.

SUPPLEMENTARY INFORMATION: Public Law 103–409, the ''FEGLI Living Benefits Act'', requires OPM to regulate a FEGLI Open Season in 1995 of at least 8 weeks duration prior to the effective date of the law, July 25, 1995. The law also requires OPM to regulate provisions for: the election by a terminally ill individual covered by FEGLI basic insurance of a lump sum payment of basic insurance as a Living Benefit; the reduction of the Living Benefit so that it is actuarially equivalent to the basic insurance benefit that would have been paid in the absence of a Living Benefit election; and an application process. These interim regulations allow OPM to implement the statutory requirements of the law prior to its effective date.

Open Season

The interim regulations provide that OPM will hold a 9-week FEGLI Open Season from May 22, 1995, through July 21, 1995. The Open Season will be of 9 weeks duration to allow for the 2 legal holidays during this period. During this Open Season, employees who have waived or cancelled basic insurance and who are not excluded from eligibility by law or regulation, may enroll in basic insurance only. Optional insurance may not be elected or increased during this Open Season. This Open Season is limited to election of basic insurance because its purpose is to implement the Living Benefits Act which only applies to basic insurance.

Employees who have been on Leave Without Pay for 12 or more months, compensationers who have been on Leave Without Pay for 12 or more months, and annuitants, may not participate in this Open Season. The law specifically limits participation in the Open Season to employees as defined by section 8701(a) of title 5, United States Code.

The effective date of basic insurance elected during this Open Season will be the first day of the first pay period beginning on or after the date the employing office received the enrollment form. Unlike in previous Open Seasons, there will be no requirement for the employee to be in a pay and duty status for the enrollment elected during this Open Season to become effective. The legislative intent of this law clearly was to make a Living Benefit available to the greatest number of eligible employees possible. It would be contrary, therefore, to the intent of the law to require that employees be in a pay and duty status before the Open Season election becomes effective. However, we must emphasize that it is OPM's firm intent to have a pay and duty status requirement for coverage elections to be effective in any and all future FEGLI Open Seasons.

An election during this Open Season will not be considered a first opportunity to enroll for purposes of meeting the requirements to carry life insurance into retirement. In order to carry coverage elected during this Open Season into retirement, the coverage must be in effect for the 5 years of service immediately preceding the date of retirement, or for the entire period(s) of service during which it was available, if less than 5 years.

Living Benefits

Public Law 103–409 requires that terminally ill employees who have FEGLI basic insurance be allowed to elect as a Living Benefit either a lump-sum payment of the total amount of their basic insurance or a partial payment of their basic insurance in a multiple of $1,000. Eligible compensationers and annuitants may only elect to receive a lump-sum payment of the total amount of their basic insurance. The law also defines a terminally ill individual as one who has been certified as having a life expectancy of 9 months or less. The Living Benefits Act does not apply to and has no effect on Optional Insurance.

This interim regulation specifies the parameters of the total/partial requirements of the law and also explains that a Living Benefit election will either reduce the accidental death and dismemberment coverage upon an effective election of a partial Living Benefit or terminate the accidental death and dismemberment coverage upon an effective election of a total Living Benefit. In addition, this regulation describes how the Basic Insurance Amount (BIA) will be reduced in proportion to the amount elected for a partial Living Benefit. The remaining BIA, or post-election BIA, will not change after the computation of the partial Living Benefit regardless if there is a change in other circumstances, e.g., salary, or age. When the insured

dies, the remaining BIA will be multiplied by the age factor that was in effect at the time the completed Living Benefit application was received by the Office of Federal Employees' Group Life Insurance (OFEGLI) in order to compute the final payment of basic insurance benefits.

Once an insured has made an effective Living Benefit election, that election is irrevocable. In addition, an insured may make only one Living Benefit election. That is to say, the insured who has made a partial Living Benefit election may not make a subsequent Living Benefit election for any portion of the remaining basic insurance.

Assignments

This regulation stipulates that individuals who have assigned their insurance under the authority of 5 U.S.C. 8706(e) may not elect a Living Benefit and that those individuals who have elected a Living Benefit may not assign their insurance.

Actuarial Reduction

OPM is required by law to assure that there is not an increase in the actuarial value of the benefit paid. This is accomplished by regulating that the amount of Living Benefit payment is actuarially reduced to account for the amount of interest lost to the Employees' Life Insurance Fund (Fund) and the time difference between when the Living Benefit payment is made and when the death benefits would have been paid in the absence of a Living Benefit election. The actuarial reduction will be based on an assumption of the interest rate and the time period that reflects the earlier payment date. Initially, the actuarial reduction will be 4.9 percent of the benefit. This 4.9 percent actuarial reduction factor will change, if necessary, after Living Benefits have been in effect long enough to analyze the experience. Any change in the actuarial reduction factor will be published in the **Federal Register**.

Withholdings and Contributions

This interim regulation specifies that the withholdings and contributions for basic insurance will terminate at the end of the pay period in which a total Living Benefit election is effective. The withholdings and contributions for basic insurance after a partial Living Benefit has been elected will be based on the remaining BIA (post-election BIA) in effect at the end of the pay period in which the Living Benefit election is effective. A Living Benefit election is effective on the date the Living Benefit payment check is cashed or deposited.

Application Process

OPM is required by law to regulate the application process. Therefore, this regulation provides how an insured individual may apply for the Living Benefit through OFEGLI and the subsequent steps that need to occur in order for a Living Benefit to be paid. Only the insured individual may make a Living Benefit election. No one else, e.g., a spouse, a guardian, or someone with a power of attorney, may make a Living Benefit election on the insured's behalf. It also explains that, if the physician's certification of the nature of the illness and the life expectancy of the insured are not sufficient for OFEGLI to approve or disapprove the application, OFEGLI may request additional medical evidence from the attending physician. If necessary, OFEGLI may then also request a medical examination of the insured at OFEGLI's expense.

Additional Information

Detailed guidance will be provided to agencies and employing offices through Benefits Administration Letters (BAL's) and Payroll Office Letters. This information and guidance will address the obligations of the agencies and employing offices in the administration of the Living Benefit.

OPM believes that, at this time, it is required to withhold 10% of the Living Benefit payment for Federal and/or State taxes unless the insured requests on the application that the amount for taxes not be withheld. This policy is subject to change if applicable tax law or regulations change.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. OPM must issue regulations to implement Public Law 103–409, which is effective July 25, 1995. In addition, employing offices need a certain amount of lead time in order to implement the regulations by the effective date. These concerns make it impractical to publish proposed regulations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations primarily affect individuals currently enrolled under the Federal Employees' Group Life Insurance Program and those Federal employees who would enroll during this mandated Open Season.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

5 CFR Part 871

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 872

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 874

Government employees, Life insurance, Retirement.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR parts 870, 871, 872, 873, and 874 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; § 870.202(c) also issued under 5 U.S.C. 7701(b)(2); subpart J is also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; subpart K is also issued under Pub. L. 103–409.

2. In § 870.203, paragraph (e) is added to read as follows:

§ 870.203 Effective dates of insurance.

* * * * *

(e) An open enrollment election of basic life insurance filed during the period from May 22, 1995, through July 21, 1995, is effective on the 1st day of the first pay period beginning on or after the date the employing office received the enrollment form. There is no requirement to be in a pay and duty status for the enrollment to be effective.

3. In § 870.204, paragraph (h) is added to read as follows:

§ 870.204 Waiver and cancellation of waiver of insurance coverage.

* * * * *

(h)(1) An Open Season will be held from May 22, 1995, through July 21, 1995, during which time employees otherwise eligible for coverage may

cancel their existing waivers of coverage by affirmatively electing to be insured on a form designated by OPM.

(2) An employing office may make a determination, within 6 months after the May 22, 1995, through July 21, 1995, Open Season, that an employee was unable, for cause beyond his/her control, to cancel his/her then existing waiver of coverage by affirmatively electing to be insured during the 1995 Open Season. The employee will be permitted to submit an affirmative election of coverage within 31 days after he/she is advised of that determination. Basic life insurance coverage in that case is retroactive to the 1st day of the first pay period beginning on or after July 21, 1995.

4. In § 870.301, paragraph (c) is added to read as follows:

§ 870.301 Basic insurance amount (BIA).

* * * * *

(c) The post-election BIA of an employee who elected a partial Living Benefit is the BIA as of the date OFEGLI received the completed Living Benefit application reduced by the percentage which the partial lump-sum payment represents of the pre-election BIA multiplied by the age factor as stated in § 870.301(b)(rounded up or down to the nearest multiple of $1,000 or, if midway between multiples, to the next higher multiple of $1,000). The post-election BIA will not change after the effective date of the partial Living Benefit election. For purposes of computing the payment of benefits upon the death of the insured individual who elected a partial Living Benefit, the BIA will be multiplied by the age factor in effect as of the date OFEGLI received the completed Living Benefit application.

5. Section 870.402 is added to read as follows:

§ 870.402 Withholdings and contributions following a Living Benefits election.

(a) The basic insurance withholding for an insured individual who has elected a total payment of basic insurance for a Living Benefit will cease the end of the pay period in which the election of Living Benefits is effective.

(b) The amount withheld for basic insurance from the pay of an insured employee who has elected a partial Living Benefit will be based on the amount of BIA remaining after the partial Living Benefit election is effective.

(c) The amount withheld for basic insurance from the annuity of an annuitant who elected a partial Living Benefit as an employee will be based on the amount of BIA remaining after the partial Living Benefit election is effective.

(d) The amount withheld for basic insurance from the compensation of a compensationer who elected a partial Living Benefit as an employee will be based on the amount of BIA remaining after the partial Living Benefit election is effective.

6. In § 870.501, paragraph (a) is revised to read as follows:

§ 870.501 Termination and conversion of insurance coverage.

(a) Except as provided in §§ 870.601 and 870.701, the basic insurance of an insured employee stops on the date of his/her separation from the service, subject to a 31-day extension of basic life insurance coverage, or on the effective date of a full Living Benefits election.

* * * * *

7. In § 870.601, paragraphs (c) introductory text and (c)(4) are revised to read as follows:

§ 870.601 Eligibility for life insurance.

* * * * *

(c) An individual who makes an election under paragraph (b) of this section must select one of the following options, except that those individuals who have elected a partial Living Benefit must select the option under paragraphs (c)(1) or (c)(4) of this section:

* * * * *

(4) Continuation or reinstatement of basic life insurance coverage with no reduction after age 65, and with continuous premiums withheld from annuity. An insured individual may cancel an election under paragraphs (c)(3) or (c)(4) of this section at any time, except for those individuals who have elected a partial Living Benefit as an employee. An insured individual who has elected a partial Living Benefit may only cancel an election under paragraph (c)(4) of this section if he/she is electing to terminate the insurance under paragraph (c)(1) of this section.

* * * * *

8. In § 870.602 the current paragraph is redesignated as paragraph (a) and paragraph (b) is added to read as follows:

§ 870.602 Amount of life insurance.

* * * * *

(b) The post-election BIA of an annuitant who elected a partial Living Benefit as an employee is the BIA as of the date OFEGLI received the completed Living Benefit application reduced by the percentage which the partial lump-sum payment represents of the pre-election BIA multiplied by the age factor as stated in § 870.301(b) (rounded up or down to the nearest multiple of $1,000 or, if midway between multiples, to the next higher multiple of $1,000). For the purpose of computing the payment of benefits upon the death of an insured annuitant who elected a partial Living Benefit as an employee, the BIA will be multiplied by the age factor in effect as of the date OFEGLI received the completed Living Benefit application.

9. In § 870.701, paragraphs (c) introductory text and (c)(4) are revised to read as follows:

§ 870.701 Eligibility for life insurance.

* * * * *

(c) An individual who makes an election under paragraph (b) of this section must select one of the following options, except that those individuals who have elected a partial Living Benefit must select the option under paragraphs (c)(1) or (c)(4) of this section:

* * * * *

(4) Continuation or reinstatement of basic life insurance coverage with no reduction after age 65, and with continuous premiums withheld from compensation. An insured individual may cancel an election under paragraphs (c)(3) or (c)(4) of this section at any time, except for those individuals who have elected a partial Living Benefit as an employee. An insured individual who has elected a partial Living Benefit may only cancel an election under paragraph (c)(4) of this section if he/she is electing to terminate the insurance under paragraph (c)(1) of this section.

* * * * *

10. In § 870.702 the current paragraph is redesignated as paragraph (a) and paragraph (b) is added to read as follows:

§ 870.702 Amount of life insurance.

* * * * *

(b) The post-election BIA of a compensationer who elected a partial Living Benefit as an employee is the BIA as of the date OFEGLI received the completed Living Benefit application reduced by the percentage which the partial lump-sum payment represents of the pre-election BIA multiplied by the age factor as stated in § 870.301(b) (rounded up or down to the nearest multiple of $1,000 or, if midway between multiples, to the next higher multiple of $1,000). For the purpose of computing the payment of benefits upon the death of an insured compensationer who elected a partial Living Benefit as an employee, the BIA will be multiplied by the age factor in effect as of the date OFEGLI received the completed Living Benefit application.

11. In § 870.801 the current paragraph is redesignated as paragraph (a) and paragraph (b) is added to read as follows:

§ 870.801 Assignments.

* * * * *

(b) If an individual has assigned his/her insurance, he/she may not elect a Living Benefit and if an individual has elected a Living Benefit, he/she may not assign his/her insurance.

12. In part 870, subpart K is added to read as follows:

Subpart K—FEGLI Living Benefits

Sec.

870.1101 Purpose.
870.1102 Definitions.
870.1103 Open season.
870.1104 Living benefits.
870.1105 Actuarial reduction.
870.1106 Withholdings and contributions for basic insurance.
870.1107 Application procedures.

Subpart K—FEGLI Living Benefits

§ 870.1101 Purpose.

This subpart sets forth the circumstances under which employees may enroll in basic insurance during the 1995 Open Season and terminally ill individuals enrolled in basic insurance may elect to receive a payment of their basic insurance as a Living Benefit on or after July 25, 1995.

§ 870.1102 Definitions.

In this subpart—

Effective date of Living Benefits election means the date on which the Living Benefits payment is cashed or deposited.

Terminally ill means the individual has a medical prognosis of a life expectancy of 9 months or less.

§ 870.1103 Open season.

(a) An Open Season will be held from May 22, 1995, through July 21, 1995, during which time an employee who has waived or cancelled basic insurance and is not excluded from eligibility by law or under § 870.202 of subpart B, may enroll in basic insurance only. Optional insurance may not be elected or increased during this Open Season. Employees who have been on Leave Without Pay for 12 or more months, compensationers who have been on Leave Without Pay for 12 or more months, and annuitants, may not participate in this Open Season.

(b) The effective date of basic insurance elected during this Open Season is the 1st day of the first pay period beginning on or after the date the employing office received the enrollment form. There is no requirement to be in a pay and duty status for the enrollments elected during this Open Season to become effective.

§ 870.1104 Living benefits.

(a) An individual who is covered by basic insurance and who is certified as terminally ill, as defined in § 870.1102, may elect to receive a lump-sum payment of basic insurance on or after July 25, 1995. Only the insured individual may make a Living Benefits election.

(b)(1) An employee may elect to receive the basic insurance in total or in part, in a multiple of $1,000.

(2) A compensationer or an annuitant may only elect to receive a lump-sum payment of the total amount of basic insurance.

(c) If the employee elects to receive a partial payment of basic insurance, the remaining BIA, the post-election BIA, will be reduced in proportion to the amount of basic insurance elected as a Living Benefit, as prescribed by Pub. L. 103–409. The post-election BIA will not change after the effective date of the partial Living Benefit election. Only the basic benefits remaining will be payable at death.

(d)(1) If the employee receives the total amount of basic insurance as a Living Benefit, accidental death and dismemberment coverage will terminate as of the effective date of election.

(2) If the employee receives a partial payment of basic insurance as a Living Benefit, accidental death and dismemberment coverage will be reduced to equal the post-election BIA.

(e) Once an election of Living Benefits has become effective, the election may not be revoked and no further election of Living Benefits may be made.

(f) If an individual has assigned his/her insurance, he/she may not elect a Living Benefit and if an individual has elected a Living Benefit, he/she may not assign his/her insurance.

§ 870.1105 Actuarial reduction.

The amount of basic insurance elected as a Living Benefit will be reduced in order to produce a basic insurance benefit that is actuarially equivalent, to the extent practicable, to the basic insurance benefit of those who do not elect to receive a Living Benefit. The actuarial reduction will be based on assumptions of the amount of interest lost to the Fund because of the early payment and the time difference between when the Living Benefit payment is made and when the death benefits would have been paid in the absence of a Living Benefits election.

§ 870.1106 Withholdings and contributions for basic insurance.

(a) Withholdings and contributions for basic insurance for those individuals who receive a lump-sum payment of their total basic insurance as a Living Benefit will terminate at the end of the pay period in which the Living Benefit election is effective.

(b) Withholdings and contributions for basic insurance for those employees who receive a lump-sum payment of a partial amount of their basic insurance as a Living Benefit will be reduced in proportion to the amount of benefit elected and will be based on the post-election BIA in effect at the end of the pay period in which the Living Benefit election is effective.

§ 870.1107 Application procedures.

(a) The insured individual must request information on Living Benefits and an application form directly from OFEGLI.

(b) The insured individual must complete the first part of the application (General Information) and have his/her physician complete the second part of the application (Physician's Statement). The insured then submits the completed application directly to OFEGLI.

(c)(1) OFEGLI will review the application and the certification by the physician of the nature of the illness and that the insured is terminally ill, with a life expectancy of 9 months or less.

(2) If additional information is needed, OFEGLI will contact the insured or the insured's physician.

(3) Under certain circumstances, OFEGLI may require a medical examination prior to making an approval decision. In these cases, OFEGLI will be financially responsible for the cost of the medical examination.

(d)(1) If the application is approved, OFEGLI will send the insured a check for the Living Benefit payment and an explanation of benefits. In addition, once the payment has been cashed or deposited, OFEGLI will send explanations of benefits to the insured's employing office and payroll office so that they will change basic insurance withholdings and contributions in accordance with § 870.1106.

(2) If the application is not approved, OFEGLI will notify the insured individual and the employing office. The decision will not be subject to administrative review. However, the insured individual may reapply at a later date if future circumstances warrant.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

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

Authority: 5 U.S.C. 8716.

14. In § 871.501, paragraph (a) is revised to read as follows:

§ 871.501 Termination and conversion of insurance.

(a) The standard optional insurance of an insured person stops when his/her basic insurance stops as provided in § 870.501 of this chapter, subject to a 31-day extension of standard optional life insurance coverage, except when the basic insurance stops due to a full Living Benefits election, in which case the standard optional insurance will continue unless voluntarily cancelled by the insured.

* * * * *

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

15. The authority citation for part 872 continues to read as follows:

Authority: 5 U.S.C. 8716.

16. In § 872.501, paragraph (a) is revised to read as follows:

§ 872.501 Termination and conversion of insurance.

(a) The additional optional insurance of an insured person stops when his/her basic insurance stops as provided in § 870.501 of this chapter, subject to a 31-day extension of additional optional insurance coverage, except when the basic insurance stops due to a full Living Benefits election, in which case the additional optional insurance will continue unless voluntarily cancelled by the insured.

* * * * *

PART 873—FAMILY OPTIONAL LIFE INSURANCE

17. The authority citation for part 873 continues to read as follows:

Authority: 5 U.S.C. 8716.

18. In § 873.501, paragraph (a) is revised to read as follows:

§ 873.501 Termination and conversion of insurance.

(a) The family optional insurance of an insured person stops when his/her basic insurance stops as provided in § 870.501 of this chapter, subject to a 31-day extension of family optional insurance coverage, except when the basic insurance stops due to a full Living Benefits election, in which case the family optional insurance will continue unless voluntarily cancelled by the insured.

* * * * *

PART 874—ASSIGNMENT OF LIFE INSURANCE

19. The authority citation for part 874 continues to read as follows:

Authority: 5 U.S.C. 8716.

20. In § 874.201, paragraph (g) is added to read as follows:

§ 874.201 Assignments permitted.

* * * * *

(g) An insured individual who has elected a Living Benefit may not assign his/her insurance and an insured individual who has assigned his/her insurance may not elect a Living Benefit.

[FR Doc. 95–14574 Filed 6–14–95; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AA96

Common Crop Insurance Regulations; Nursery Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby adopts regulations for specific crop provisions to insure nursery plants. These provisions will supplement the Common Crop Insurance Policy Basic Provisions which contains standard terms and conditions common to most crops. The intended effect of this rule is to move specific crop provisions for insuring nursery from the Nursery Crop Insurance Regulations (7 CFR part 406) to the Common Crop Insurance Policy (§ 457.8) for ease of use by the public and conformance among policy terms, and to add a nursery frost, freeze, and cold damage exclusion option to better meet the needs of the insured.

EFFECTIVE DATE: June 15, 1995.

FOR FURTHER INFORMATION CONTACT: Diana Moslak, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under United States Department of Agriculture (''USDA'') procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is June 1, 2000.

This rule has been determined to be ''not significant'' for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (''OMB'').

The information collection or record-keeping requirements contained in these regulations (7 CFR part 457) were submitted to OMB in accordance with the provisions of 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 0563–0050.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. This action reduces the paperwork burden on the insured and the reinsured company. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J or promulgated by the National Appeals Division, whichever is applicable, must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an

Environmental Assessment nor an Environmental Impact Statement is needed.

By separate rule, FCIC will amend 7 CFR part 406 to restrict the crop years of application to those prior to the crop year for which this rule will be effective. FCIC will terminate the provisions of the present policy at the end of the crop year and later remove that part.

On Friday, January 27, 1995, FCIC published a notice of proposed rulemaking in the **Federal Register** at 60 FR 5339 proposing to revise the Common Crop Insurance Regulations by adding new provisions for nursery crop insurance.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. The comments received and FCIC responses are as follows:

Comment: One comment received from an insurance company disagreed with using the insured's wholesale price list in determining the insurance coverage rather than using the projected market price because:

(1) The proposed rule ties price levels (i.e., ''monthly market value'') to growers' wholesale price lists, while the Federal Crop Insurance Reform Act of 1994 (Act) ties price levels to projected market prices. Wholesale price lists represent offers; however, market prices represent offers and acceptance. It was questioned whether FCIC had the authority to determine that wholesale price lists are the ''projected market prices'' when: (a) FCIC has never seen and never validated such price lists; (b) they are not the product of independent economic forces or analysis; and (c) they are the estimates of insureds who have an economic interest in inflating the prices on their wholesale price lists. The company believes that allowing each grower to define his or her own market price by quoting an offering price invites fraud; and

(2) The Act requires FCIC, not individual growers, to determine ''projected market price''. The company acknowledged that FCIC has the authority to determine that a grower's wholesale price list is the ''projected market price'' but questions whether this is a lawful exercise of that authority. It was recommended that FCIC base the price level for nursery crops on the actual market price at the time of harvest (as determined by the Corporation).

Response: FCIC believes using the growers' wholesale price lists to establish the projected market prices does not violate the Act because the Act authorizes the Corporation to determine the wholesale market price as the projected market price. Due to numerous varieties of nursery plants eligible for insurance, FCIC believes that it is impractical to establish a price for each insured plant in the various states prior to the crop year. FCIC will determine whether the wholesale market price of the plant is reasonable before accepting it as the projected market price. The Federal Crop Insurance Corporation will investigate options on how nursery prices should be established for the 1997 crop year. Therefore, FCIC does not believe that it is necessary to change these provisions at this time.

Comment: One comment received from an insurance company disagreed with the elimination of the 10 percent reduced valuation in subsection 1.(a) (definition of ''Amount of insurance''). The company stated that the 10 percent value reduction must remain in the policy to account for salvage valuation because many damaged plants can be restored to marketability or the Standard Reinsurance Agreement should be amended to reimburse insurance companies for this change. A concern was raised that deletion of the 10 percent reduction would result in increased premiums to insureds.

Response: The 10 percent reduction was originally incorporated to eliminate costs for packing, shipping, sales commissions and other expenses that would not be incurred due to the loss. The proposal to eliminate this 10 percent reduction was made to offset the expense of disposing of the destroyed inventory. However, eliminating the 10 percent factor would increase premium by 10% to cover the additional liability. No data is available at this time to determine if the costs of inventory disposal approximates the amount of 10%. Therefore, FCIC agrees that the 10 percent reduced valuation should remain in the nursery provisions and has amended the provisions accordingly.

Comment: One comment received from an insurance company requested the term ''Annual loss deductible'' contained in subsection 1.(b) be changed to ''Crop year loss deductible''.

Response: FCIC agrees with the comment and has adopted this change.

Comment: One comment received from an insurance company suggested that the word ''unit'' be removed from the definition of ''Field market value A'' in subsection 1.(e) and from the definition of ''Field market value B'' in subsection 1.(f) because it is redundant and invites the unintended interpretation that field market value A and field market value B include both insured and uninsured plants.

Response: FCIC agrees with this comment. FCIC has added ''insurable plants'' or ''insured plants'' to the term to clarify these provisions.

Comment: One comment received from an insurance company suggested the definition of ''Standard nursery containers'' contained in subsection 1.(n) be changed to read as follows: ''Rigid containers not less than three (3) inches across the smallest dimension which are commercially sold to nurseries, and for the plant contained, are appropriate in size with the proper drainage holes and used in conjunction with an appropriate growing medium''. Justification for this change was that too often growers permit plants to become root bound or use containers with drainage holes that are too high or too low for the plant or use an inappropriate growing medium. The company stated that FCIC should make clear that insurance does not attach unless all of these conditions are satisfied.

Response: FCIC agrees with the comment and has modified the provisions with language similar to that recommended.

Comment: One comment received from a national trade organization for the nursery industry strongly disagreed with the proposed definition of ''Standard Nursery Containers'' which excludes trays and cellpacks. This organization stated that trays and cell packs are indeed standard containers for a large segment of the nursery industry and that many trays, flats, and cell packs are larger than three inches across the smallest dimension. FCIC was urged to reconsider the proposed definition to explicitly incorporate flats, trays, and cell packs.

Response: FCIC disagrees with this comment. These types of containers are not insurable under the nursery policy. The nursery policy is based on plants grown in standard nursery containers not less than three (3) inches across the largest dimension at the top of the container. FCIC will study the feasibility of insuring nursery plants grown in other types of containers for the 1997 crop year. Therefore, FCIC does not believe that it is necessary to amend these provisions at this time.

Comment: One comment received from an insurance company suggested that subsection 6.(d) be amended to specify that insurers have no duty or contractual obligation to consent to a revision of the nursery plant inventory summary. The company also recommended that paragraphs 6.(d)(1) and 6.(d)(2) be deleted. The company stated that an inspection should be made before insurance attaches on any proposed increase in inventory and that

because an insurer has no duty to accept a proposed increase, it should have no duty to inspect it. The company stated that the policy should state that a refusal to inspect constitutes a refusal to accept a proposed increase.

Response: FCIC disagrees with the comment. The proposed provisions do not require an insurer to make an inspection in some cases. However, an inspection is necessary for insurance to attach if the conditions of paragraphs 6(f)(1) and 6(f)(2) apply. FCIC believes removing paragraphs 6(f)(1) and 6(f)(2) would require the insured to request an inspection for any inventory increase. Therefore, FCIC does not believe that it is necessary to amend these provisions.

Comment: One comment received from an insurance company stated that the proposed nursery regulations do not contain provisions for the inclusion of an amount for operating and administrative expenses in the calculation of premium and, therefore, are in violation of the Federal Crop Insurance Corporation Reform Act of 1994.

Response: FCIC disagrees with this comment. All information concerning subsidies, including the producer premium subsidy and administrative expenses, is contained in the actuarial table. Therefore, FCIC does not believe that it is necessary to amend these provisions.

Comment: One comment received from an FCIC Regional Service Office suggested that subsection 8.(a), paragraph (4) be amended to read as follows: ''Are grown in standard nursery containers (not planted in the ground), at least three (3) inches across the smallest dimension unless provided for on the actuarial table.'' Justification for this change was that many requests to insure trays or ''flatted stock'' containers with multiple plantings have been received. To alleviate the time and personnel needed to process the number of written agreements, the actuarial table could authorize such coverage.

Response: FCIC disagrees with this comment. The nursery policy does not allow insuring trays or ''flatted stock'' containers with multiple plantings. Only plants grown in standard nursery containers that are at least three (3) inches across the largest dimension at the top of the container are insurable. FCIC will study the feasibility of providing insurance coverage for nursery plants not grown in standard nursery containers for the 1997 crop year. Therefore, FCIC has amended the proposed provisions to delete the availability of written agreements for such plants.

Comment: One comment from a national trade organization for the nursery industry expressed concern that as many of 5,000 or more plant species are commercially produced by nursery growers, yet the Nursery Eligible Plant Listing for the 1994 crop year contained only 494 species. The organization urged FCIC to expand the Nursery Eligible Plant Listing as soon as possible and stated that until the listing is more inclusive, the nursery program will remain unattractive to a sizable segment of the industry.

Response: The Nursery Eligible Plant Listing was amended for the 1995 crop year and will be amended for the 1996 crop year to include additional plant species. FCIC is continuing to work with nursery experts to evaluate additional plant species that may be added to this listing.

Comment: One comment was received from an insurance company regarding paragraphs 10.(a) (3) and (4) which specify that insects and plant disease are insured causes of loss. The company stated that: (a) the only insect and plant disease that should be insured against are those determined by a state department of agriculture or an accredited agriculture college in the state to be an unprecedented affliction in that state to that plant and for which no effective control is available, because most insect and plant-disease losses are the result of poor nursery practices; and (b) paragraphs 10.(a) (3) and (4) should make it clear that policyholders have an obligation to keep all receipts for purchases of sprays and maintain spraying records.

Response: FCIC disagrees with the comment. The crop provisions already exclude damage due to insufficient or improper application of pest and disease control measures. The Common Crop Insurance Policy Basic Provisions, to which the Nursery Crop Provisions attach, exclude losses due to failure to follow recognized good practices, and also require policyholders to maintain records. Therefore, FCIC does not believe that it is necessary to amend these provisions.

Comment: One comment received from an insurance company disagreed with providing coverage specified in paragraph 10.(a)(9) for failure or breakdown of frost/freeze protection equipment or facilities due to direct damage to such equipment or facilities from an insurable cause of loss. The company questioned how the loss adjuster is to determine: that ''direct damage'' caused the loss if protection equipment or facilities were not properly maintained; whether the proximate cause of the loss was from owner negligence or insurable causes, or if from both, how the adjuster makes allowance for contributory negligence; and that the plants are damaged within 72 hours after the failure of the equipment or facilities. For the reasons stated above, it was recommended that paragraph 10.(a)(9) be deleted in its entirety and paragraph 10.(b)(5) be amended to delete the clause ''unless due to an insured cause of loss.''

Response: FCIC disagrees with this comment. The intent of the Nursery Crop Provisions is to protect the producer from unavoidable causes of loss. Therefore, failure or breakdown of the frost/freeze protection equipment or facilities due to an unavoidable insurable cause of loss will be covered. It is the loss adjuster's responsibility to determine whether an insurable cause of loss directly caused the damage in accordance with loss adjustment procedure approved by FCIC.

Comment: One comment received from an insurance company stated that because nursery plants are portable, section 11 should require that the insurer's permission to dump be in writing and signed by a loss adjuster and should require the insured to identify, in advance, the location where plants will be dumped and require the insured to keep dumping records.

Response: Section 11 requires the insured to obtain written consent from the insurer prior to destroying, selling or otherwise disposing of any plant inventory that is damaged. Further, the Common Crop Insurance Policy Basic Provisions already require the insured to keep records of the disposition of the crop. FCIC will study and address this issue for the 1997 crop year. Therefore, for the reasons stated, FCIC does not believe that it is necessary to amend these provisions.

Comment: Two comments were received requesting that insurance be allowed to attach to nursery inventory that produce edible berries, fruits, or nuts as follows:

(1) One comment received from a national trade organization for the nursery industry stated that the production and irrigation practices for nursery plants that are produced as entire plants for subsequent sale to others, where the purchaser's intent is to use the plants to produce edible berries, fruits, and nuts for market are similar to the production and irrigation practices for ornamental plant types. The organization strongly urged FCIC to allow insurance coverage for nursery plants that are produced for the wholesale market as entire plants, and not for berry, fruit, or nut sales; and

(2) One comment received from an FCIC Regional Service Office requested that insurance be allowed to attach to plants that produce edible berries, fruits, or nuts due to numerous requests to insure such plants.

Response: FCIC disagrees with these comments. These plants are primarily hardwoods with tap roots. The roots are usually severed or otherwise constricted and stressed when the tree is placed into a container. These trees are usually grafted as well. When stressed, disease can more easily attack these trees through the roots or the graft. Nursery operators cannot assess the quality of the merchandise and may not be aware of the tree condition if the trees are purchased from a supplier, nor can the insurer who accepts the risk. FCIC will study the feasibility of providing insurance on these types of plants for the 1997 crop year. Therefore, FCIC does not believe that it is necessary to amend these provisions at this time.

Comment: One comment received from a national trade organization for the nursery industry questioned the reasoning for and disagreed with the proposed clarification that stock plants used for reproduction, growing cuttings, air layering or propagating will not be insured.

Response: The intent of the nursery crop insurance policy is to provide coverage for nursery plants that are grown to be sold as entire plants. Premium rates have been established on this basis. Therefore, FCIC does not believe that it is necessary to amend subsection 8.(h).

Comment: One comment from a national trade organization for the nursery industry expressed concern regarding the requirement that the insured must report monthly market values of nursery inventory. The organization perceived this as excessively burdensome and, thus, a strong disincentive to the purchase of crop insurance.

Response: FCIC agrees that this requirement is time consuming and costly for all parties. However, since indemnity payments are based on the monthly market values, the insured must continue to provide the reports until an alternative method is derived. FCIC will study alternative methods to offer nursery insurance coverage that may eliminate this requirement. Therefore, FCIC does not believe that it is necessary to delay implementation of these provisions at this time.

In addition to the changes indicated in the responses to comments, FCIC has determined that:

1. Subsections 1. (d), (e), (f), and (i), subsection 7.(a) paragraph (3), subsection 7.(a) paragraph (3), and subsection 12.(a) paragraph (1)(ii) reference the 10% reduced valuation due to the comment above regarding subsection 1.(a). FCIC has amended these provisions accordingly.

2. Subsection 1. (h) and (n), definitions of ''Largest dimension'' and ''Standard nursery containers'' is amended to clarify that standard nursery containers must be at least three (3) inches across the largest dimension at the top of the container. This will be consistent with the nursery industry definition of the largest dimension and standard nursery containers.

3. Section 6 is amended to: (1) Allow an insured to revise the Nursery Plant Inventory Summary after the sales closing date to add plants not listed on the Nursery Plant Listing, if the insured requested a written agreement to insure such plants by the sales closing date and it has been offered and accepted; (2) allow the insured to revise the Nursery Plant Inventory Summary to correct or change the value of the insurable inventory if a new plant species is being added which was not originally reported on the nursery plant inventory summary without regard to the 10%/ $25,000 limitation; and (3) remove the restriction requiring that the increase in inventory value must have been due to a quantity change.

4. Subsection 9.(b) is amended to clarify that the date of final adjustment of a loss on the unit, when the total indemnities paid for the unit equal the amount of insurance for that unit is one of the events that ends the insurance period.

Accordingly, the rule, ''Common Crop Insurance Regulations; Nursery Crop Insurance Provisions and Nursery Frost, Freeze, and Cold Damage Exclusion Option'' published at 60 FR 5339 as revised and set out below is hereby adopted as final rule.

List of Subjects in 7 CFR Part 457

Crop insurance, nursery crop.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1996 and succeeding crop years, to read as follows:

PART 457—[AMENDED]

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1).

2. 7 CFR part 457 is amended by adding §§ 457.114 and 457.115 to read as follows:

§ 457.114 Nursery Crop Insurance Provisions.

The Nursery Crop Insurance Provisions for the 1996 and succeeding crop years are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Nursery Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions, the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

(a) *Amount of insurance*—The result of multiplying the highest monthly market value reported on the nursery plant inventory summary (including inventory reported by you and accepted by us on a revised nursery plant inventory summary) by .9, multiplied by the percentage for the coverage level you elect.

(b) *Brownout*—A reduction in electric power that affects the unit.

(c) *Crop year*—The 12 month period beginning October 1 and extending through September 30 of the next calendar year, designated by the year in which it ends. (The 1996 crop year begins October 1, 1995, and ends September 30, 1996).

(d) *Crop year loss deductible*—The value calculated by multiplying the highest monthly market value reported on the nursery plant inventory summary by .9 and subtracting from this product the amount of insurance.

(e) *Field market value A*—Ninety percent (90%) of the wholesale market value for the insured plants in the unit immediately prior to the occurrence of the loss.

(f) *Field market value B*—Ninety percent (90%) of the wholesale market value remaining for the insurable plants in the unit immediately following the occurrence of the loss as determined by our appraisal conducted as soon as reasonably possible after the loss is reported.

(g) *Irrigated practice*—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to maintain the amount of insurance on the nursery plant inventory.

(h) *Largest dimension*—The distance measured at the top of the standard nursery container from one side directly across to the opposite at the widest point.

(i) *Monthly loss deductible*—The smaller of: (1) The highest monthly market value reported on the nursery plant inventory summary multiplied by .9; or (2) field market value A; multiplied by the number derived by subtracting the coverage level percent from one hundred percent (100%), not to exceed the crop year loss deductible.

(j) *Monthly market value*—The dollar amount determined by multiplying the quantity of each insurable plant by its wholesale market value for that month, less the maximum discount (stated in dollar terms) granted to any buyer, and totalling the resulting values for all insurable plants in the unit.

(k) *Nursery*—A business enterprise that produces ornamental plants in standard nursery containers for the wholesale market.

(l) *Nursery eligible plant listing*—A listing contained in the Actuarial Table that specifies the plants eligible for insurance and any mandatory or recommended storage required for such plants in each hardiness zone defined by the United States Department of Agriculture.

(m) *Nursery plant inventory summary*—A report that specifies the numbers, growing locations, and wholesale prices of plants included in the nursery inventory.

(n) *Standard nursery containers*—Rigid containers not less than three (3) inches across the largest dimension at the top of the container, and which are appropriate in size and with proper drainage holes for the plant contained. Grow bags, trays, cellpacks, and burlap are not standard nursery containers under these crop provisions.

(o) *Stock plants*—Plants used for reproduction, for growing cuttings, for air layering or for propagating.

(p) *Wholesale market value*—The total dollar valuation of the insurable plants actually contained within the unit at any time. The values used will be based on your wholesale price list if properly supported by your records, less the maximum discount (stated in dollar terms) granted to any buyer.

(q) *Written agreement*—Designated terms of this policy may be altered by written agreement. Each agreement must be applied for by the insured in writing no later than the sales closing date and is valid for one year only. If not specifically renewed the following year, continuous insurance will be in accordance with the printed policy. All variable terms including, but not limited to, plant type and premium rate must be contained in the written agreement. Notwithstanding the sales closing date restriction contained herein, in specific instances, a written agreement may be applied for after the sales closing date and approved if, after a physical inspection of the nursery plant inventory, there is a determination that the inventory has the expectancy of meeting the amount of insurance. All applications for written agreements as submitted by the insured must contain all variable terms of the contract between the company and the insured that will be in effect if the written agreement is disapproved. A written agreement will not be approved for other than standard nursery containers.

2. Unit Division

In lieu of the definition of ''unit'' contained in section 1 (Definitions) of the Basic Provisions (§ 457.8), a unit consists of all growing locations in the county within a five mile radius of the named insured locations designated on your nursery plant inventory summary. Any growing location more than five miles from any other growing location, but within the county, may be designated as a separate basic unit or be included in the closest unit listed on your nursery plant inventory summary.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8) are not applicable to the Nursery Crop Provisions.

4. Contract Changes

The contract change date is June 30 preceding the crop year (see the provisions of section 4 (Contract Changes) of the Basic Provisions (§ 457.8)).

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are September 30 preceding the crop year.

6. Nursery Plant Inventory Summary

(a) Section 6 (Report of Acreage) of the Basic Provisions (§ 457.8) is not applicable to the Nursery Crop Provisions.

(b) You must submit a nursery plant inventory summary to us on or before September 30 preceding the crop year.

(c) The nursery plant inventory summary is a projection of the expected inventory for the following 12 months. This summary must include, by unit and by month for each type of plant in the inventory, the:

(1) Container sizes, as measured at the largest dimension at the top of the container;

(2) Number of plants;

(3) Wholesale price for each month of the crop year; and

(4) Your share.

If your inventory usually changes within a specific month, report the largest inventory that you expect to have for that month.

(d) Your annual nursery plant inventory summary will be used to determine your premium and the amount of insurance for each unit. If you do not submit the summary by the reporting date, we may elect to determine the nursery plant inventory for each unit or we may deny liability on any unit. Errors in reporting units may be corrected by us at the time of loss adjustment.

(e) Your wholesale price list may be examined to determine whether the prices listed are reasonable. If the prices are determined to be unreasonable, the previous acceptable wholesale price list will be used or we may establish the wholesale price for each type of plant.

(f) With our consent, you may revise your reported nursery plant inventory summary to correct or change the value of the insurable inventory if the amount of the revision is at least ten percent (10%) of the highest monthly market value reported on the nursery plant inventory summary or $25,000, whichever is smaller, or if a new plant species is being added that was not originally reported on your nursery plant inventory summary or was approved by written agreement. If you wish to revise the nursery plant inventory summary, you must notify us in writing at least 14 days before a change in inventory value. We must inspect and accept the nursery before insurance attaches on any proposed increase in inventory if:

(1) The storage facilities have changed in any way since our previous inspection; or

(2) The revision includes plants that have specific over-wintering storage requirements and that were not previously reported on your nursery plant inventory summary.

(g) You may not revise your nursery plant inventory summary after the sales closing date to add plants not listed on the Nursery Eligible Plant Listing unless a request for a written agreement to add such plants has been submitted by the sales closing date.

(h) Insurable plants that are not reported on your nursery plant inventory summary will not be insured, but the value of such plants after a loss will be included as production to count. Such unreported inventory may reduce the amount of any indemnity payable to you.

(i) You must designate separately any plant inventory that is not insurable.

7. Annual Premium

We will determine your premium as follows:

(a) The annual premium for each unit will be calculated by:

(1) Determing the total value of each plant type and container size designated on your nursery plant inventory summary for each month by multiplying the number of plants by the price for that type and container size shown on your accepted wholesale price list for that month, less the maximum discount (stated in dollar terms) granted to any buyer, and totalling the resulting values for each separate classification shown on the actuarial table;

(2) Adding the total values of all plant types and container sizes (determined in (1) above) for each month separately to determine the monthly market values. Then compare the resulting twelve (12) monthly market values to determine the highest monthly market value for the crop year;

(3) Taking the total value of each plant type and container size obtained in (1) above for the month having the highest monthly market value for the crop year (determined in (2) above) for each classification specified in the actuarial table and multiplying these values by .9, then multiplying the results by the percentage coverage level you have elected;

(4) Multiplying each product obtained in (3) above by the appropriate premium rate listed on the actuarial table;

(5) Adding the products obtained in (4) above; and

(6) Multiplying the total obtained in (5) above by your share.

(b) The annual premium will be earned in full when insurance attaches. It is due and payable as follows:

(1) Forty percent (40%) on the later of September 30 preceding each crop year or the date we accept the inventory for insurance;

(2) Thirty percent (30%) on January 1 of the crop year; and

(3) Thirty percent (30%) on April 1 of the crop year.

(c) Additional premium earned from an increase in the nursery plant inventory summary is due and payable when the revised nursery plant inventory summary is approved by us.

(d) Premium will not be reduced due to a decrease in the nursery plant inventory summary, unless such decrease results from the deletion of uninsurable inventory from the summary that was erroneously reported as insurable.

8. Insured Plants

In lieu of the provisions of section 8 (Insured Crop) and section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), the insured nursery plant inventory will be all nursery plants in the county reported by you or determined by us for which an application is accepted, a premium rate is provided by the actuarial table, and that:

(a) Are grown under an irrigated practice for which you have adequate facilities and water at the time coverage begins in order to carry out a good irrigation practice;

(b) Are classified as woody, herbaceous, or foliage landscape plants;

(c) Do not include plants that produce edible berries, fruits, or nuts;

(d) Are grown in standard nursery containers;

(e) Are grown in an appropriate growing medium;

(f) Are inspected by us and determined to be acceptable;

(g) Are listed on the Nursery Eligible Plant Listing unless a written agreement provides otherwise;

(h) Are not stock plants;

(i) Are grown in accordance with the production practices for which premium rates have been established; and

(j) Meet the ''mandatory'' or ''recommended'' storage requirements, unless you have applied for and received the Frost/Freeze, and Cold Damage Exclusion Option for those nursery plants.

9. Insurance Period

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), coverage begins on each unit or part of a unit the later of October 1 or the date we accept the inventory for insurance, provided you have complied with the terms of paragraph 7.(b)(1). Coverage will not attach for plant inventory added due to a revised nursery plant inventory summary until any additional premium is paid in full. Insurance ends for each unit at the earliest of:

(a) The date all plant inventory within the unit is sold or otherwise removed unless that inventory is replaced and additional earned premium is paid (If a portion of the plants are sold or otherwise removed from inventory, and are not replaced, insurance only ends on that part of the unit.);

(b) The date of final adjustment of a loss on the unit when the total indemnities paid for the unit equal the amount of insurance for that unit; or

(c) September 30 of the crop year.

10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided for unavoidable damage caused only by the following causes of loss which occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire, except as specified in (b)(4);

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption;

(8) Failure of the irrigation water supply, due to an unavoidable cause of loss occurring within the insurance period; or

(9) Frost or freeze if there is a failure or breakdown of frost/freeze protection equipment or facilities and the failure or breakdown is directly caused by an insurable cause of loss, provided the insured nursery plants are damaged by freezing temperatures within 72 hours after the failure of such equipment or facilities and you establish that repair or replacement was not possible between the time of failure or breakdown and the time the freezing temperatures occurred.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we do not insure against any loss caused by:

(1) Brownout;

(2) Failure of the power supply unless such failure is due to an insurable cause of loss;

(3) The inability to market the nursery plants as a direct result of quarantine, boycott, or refusal of a buyer to accept production;

(4) Fire, where weeds and other forms of undergrowth in the vicinity of the building and on your property have not been controlled; or

(5) Collapse or failure of buildings or structures.

11. Duties in the Event of Damage or Loss

In addition to your duties contained under section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), you must:

(a) Obtain our written consent prior to:

(1) Destroying, selling or otherwise disposing of any plant inventory that is damaged; or

(2) Changing or discontinuing your normal growing practices with respect to care and maintenance of the insured plant inventory.

(b) Upon our request, provide complete copies of your nursery plant inventory wholesale price list for the 12 month period immediately preceding the loss and your marketing records including plant shipping invoices for the same period.

(c) Submit a claim for indemnity to us on our form, not later than 60 days after the earliest of:

(1) The date of your loss; or

(2) The end of the insurance period.

12. Settlement of Claim

(a) The indemnity will be the amount calculated by us for each unit as follows:

(1) Subtracting field market value B from the lesser of:

(i) Field market value A; or

(ii) The highest monthly market value for the unit reported on the nursery plant inventory summary multiplied by .9;

(2) Subtracting the monthly loss deductible (not to exceed the remaining crop year loss deductible) from the product obtained in (1) above; and

(3) Multiplying the result by your share.

(b) Individual insured losses occurring on the same unit during the crop year may be accumulated if each loss is reported and valued by us to satisfy the crop year loss deductible. Paragraph 12.(a)(2) will not apply to any subsequent individual loss determinations when the total amount of accumulated monthly loss deductibles is equal to or greater than the crop year loss deductible. Total indemnities for a unit will not exceed the amount of insurance for the unit.

(c) The value of any insured plant inventory may be determined on the basis of our appraisals conducted after the end of the insurance period.

§ 457.115 Nursery Frost, Freeze, and Cold Damage Exclusion Option.

This is not a continuous option. Application for this option must be made on or before the sales closing date for each crop year this Option is to be in effect (see exception in item 2 below).

Insured's Name _____

Address _____

Contract Number _____

Identification Number _____

SSN/EIN _____

Tax I.D. _____

Crop Year _____

Unit Number _____

Hardiness Zone _____

For the crop year designated above, the Nursery Crop Provisions (§ 457.114) are amended in accordance with the following terms and conditions:

1. You must have the Common Crop Insurance Policy Basic Provisions and Nursery Crop Provisions in force.

2. This option must be submitted to us on or before the final date for accepting applications for the crop year in which you wish to insure your nursery plant inventory under this option. If the provisions of paragraph 6.(f)(2) of the Nursery Crop Provisions apply, we may accept this option after the sales closing date, or we may allow additional plants to be added to this option after such date.

3. Executing this option does not reduce the premium rate for nursery crop insurance.

4. All provisions of the Basic Provisions (§ 457.8) and Nursery Crop Provisions (§ 457.114) not in conflict with this option are applicable.

5. Upon execution of this option, the following plant varieties will not have frost, freeze, or cold damage coverage on this unit because the mandatory (Risk Group A) or recommended (Risk Group B) over-wintering requirements will not be met.

Scientific name	Common name	Over-wintering requirements to be excluded

Insured's Signature

Date

Insurance Company Representative's Signature and Code Number

Date

Done in Washington, DC, on June 9, 1995.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 95–14710 Filed 6–14–95; 8:45 am]

BILLING CODE 3410–08–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 104, 110, and 114

[Notice 1995–8]

Repeal of Obsolete Rules

AGENCY: Federal Election Commission.

ACTION: Final rule with request for comments.

SUMMARY: The Commission is repealing three obsolete provisions of its regulations. The repealed provisions involve contributions to retire pre-1975 debts; certain 1976 payroll deductions for separate segregated funds; and an alternative reporting option for candidates in presidential elections held prior to January 1, 1981.

DATES: Comments must be received on or before July 17, 1995. If no adverse comments are received, the rules will be sent to Congress for a 30 legislative day review period pursuant to 2 U.S.C. 438(d) at the close of this comment period. Further action, including the announcement of an effective date, will be taken at the close of the legislative review period. A document announcing the effective date will be published in the **Federal Register**.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is repealing three obsolete provisions in its rules. All regulate activity that has now been concluded and that cannot recur.

The Commission is issuing these rules as final rules subject to a 30 day public comment period. If no adverse comments are received, the rules will be sent to Congress at the close of this comment period, for a 30 legislative day review period pursuant to 2 U.S.C. 438(d). Further action, including the announcement of an effective date, will take place following this 30 legislative day review period.

If adverse comments are received during the public comment period, the Commission will withdraw these final rules, and publish a Notice of Proposed Rulemaking addressing these issues.

Explanation and Justification

Part 104—Reports by Political Committees

Section 104.17 Content of Reports; Presidential and Vice Presidential Committees

The Commission is repealing 11 CFR 104.17, which established alternative filing procedures for authorized committees of candidates for President and Vice President for elections occurring prior to January 1, 1981. The last committees following these procedures were administratively terminated by the Commission on May 25, 1995. No such committees are currently operating under these provisions.

Part 110—Contribution and Expenditure Limitations and Prohibitions

Section 110.1 Contributions by Persons Other Than Multicandidate Political Committees

The Commission is repealing 11 CFR 110.1(g), *Contributions to retire pre-1975 debts.* This paragraph exempts contributions made to retire debts resulting from elections held prior to January 1, 1975, from the 11 CFR part 110 contribution limits as long as certain requirements are met. The last committee with pre-1975 debts has resolved these obligations. There are currently no committees registered with the Commission that are paying off pre-1975 election debts.

Part 114—Corporate and Labor Organization Activity

Section 114.12 Miscellaneous Provisions

The Commission is repealing 11 CFR 114.12(d). That paragraph allowed a corporation that offered all of its employees a payroll deduction plan prior to May 11, 1976, for contributions made to the corporation's separate segregated fund to continue to make such deductions for those employees who were not executive or administrative personnel, or stockholders, until December 31, 1976.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that these rules repeal obsolete provisions of the Commission's rules and thus have no impact on any current activity.

List of Subjects

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For reasons set out in the preamble, chapter I of title 11 of the Code of Federal Regulations is amended to read as follows:

PART 104—REPORTS BY POLITICAL COMMITTEES

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

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b).

§ 104.17 [Removed]

2. Section 104.17 is removed.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

3. The authority citation for part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

§ 110.1 [Amended]

4. Section 110.1 is amended by removing and reserving paragraph (g).

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

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

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

§ 114.12 [Amended]

6. Section 114.12 is amended by removing paragraph (d).

Dated: June 9, 1995.

Danny Lee McDonald,

Chairman.

[FR Doc. 95–14592 Filed 6–14–95; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 304, 308, 309, 324, 337, 341, 343, 346, 361 and 362

Applications, Requests, Submittals, Delegations of Authority, and Notices Required To Be Filed by Statute or Regulation; Forms, Instructions and Reports; Rules of Practice and Procedure; Disclosure of Information; Agricultural Loan Loss Amortization; Unsafe and Unsound Banking Practices; Registration of Securities Transfer Agents; Insured State Nonmember Banks Which Are Municipal Securities Dealers; Foreign Banks; Minority and Women Outreach Program—Contracting; Activities and Investments of Insured State Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is adopting final amendments concerning delegations of authority and other technical amendments to its regulations in order to reflect a recent internal reorganization. Under the revised organizational structure, which becomes effective June 18, 1995, the FDIC's divisions and offices will report to one of three deputies to the Chairman. As part of the restructuring, a new Division of Insurance is being established to identify and assess risks to the deposit insurance funds, which the FDIC administers. In addition, a new Division of Administration is being created by abolishing the Offices of Personnel Management, Corporate Services, and Training and Educational Services and transferring their functions to the new division. As a result of the reorganization, the position of Executive Director for Compliance, Resolutions, and Supervision is being abolished as no longer necessary. The intended effect of these amendments is to provide the Director of the Division of Supervision with appropriate delegated authority and to make other technical and conforming amendments to implement the agency's reorganization.

EFFECTIVE DATE: June 18, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Acting Senior Counsel, Legal Division (202–898–7349), or Lori J. Sommerfeld, Attorney, Legal Division (202–898–8515).

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1995, the FDIC's Board of Directors adopted a resolution approving an internal reorganization of the agency, which will result in several organizational and management changes that become effective June 18, 1995. Under the revised organizational structure, the FDIC's divisions and offices will report to one of three deputies to the Chairman: the Deputy to the Chairman/Chief Operating Officer (Deputy/COO), the Deputy to the Chairman for Finance/Chief Financial Officer (Deputy/CFO), and the Deputy to the Chairman for Policy (Deputy/Policy). Specifically, the Divisions of Supervision, Compliance and Consumer Affairs, Research and Statistics, and Information Resources Management, as well as the Offices of the Executive Secretary and Equal Employment Opportunity, will report to the Chairman through the Deputy/COO. The Deputy/CFO will provide general oversight over the operations of the Divisions of Resolutions, Depositor and Asset Services, and Finance, and the Deputy/Policy will serve the same function with respect to the Offices of Corporate Communications, Legislative Affairs, and Ombudsman. The General Counsel and the Inspector General, however, will continue to report directly to the Chairman.

As part of the reorganization, a new Division of Insurance is being established to identify and assess existing and emerging risks to the deposit insurance funds, which the FDIC administers. Furthermore, a new Division of Administration is being created by abolishing the Offices of Personnel Management, Corporate Services, and Training and Educational Services and transferring their functions to the new division. As a result of the reorganization, the position of Executive Director for Compliance, Resolutions, and Supervision (Executive Director), which provided general oversight for the Divisions of Compliance and Consumer Affairs, Resolutions and Supervision, is being abolished as no longer necessary. Other management changes are being made as part of the restructuring, but those do not require regulatory amendments.

Discussion

The FDIC has identified portions of its regulations that will be directly affected by the aforementioned corporate reorganization and thus require modification. The first set of technical changes amend Parts 303, 337, 346 and 362 to delete all references to the position of Executive Director and to provide the Director of the Division of Supervision (DOS) with appropriate delegated authority. The second set of amendments involve conforming changes to reflect the new names of a division affected by the reorganization and to conform obsolete names of divisions found throughout the FDIC's regulations to their current nomenclature. Specifically, most references to the Division of Accounting and Corporate Services (DACS) are being changed to either the Division of Administration, which will assume part of the duties and functions of DACS as part of the restructuring, or the Division of Finance (DOF), which already assumed a portion of DACS' duties and functions during a prior reorganization. Two references to DACS are being changed to DOS to reflect the availability of forms from the latter division. Further, references to the obsolete terms ''Division of Liquidation'' and ''Division of Bank Supervision'' are being amended to reflect their current names, the Division of Depositor and Asset Services (DDAS) and DOS, respectively.

A. Technical Amendments to Parts 303, 337, 346 and 362

1. Part 303 (Applications, Requests, Submittals, Delegations of Authority, and Notices Required To Be Filed by Statute or Regulation)

Part 303 of the FDIC's regulations generally describes the procedures to be followed by both the FDIC and applicants with respect to applications, requests, or notices required to be filed by statute or regulation. Part 303 also sets forth delegations of authority from the FDIC's Board of Directors to the Directors of DOS and the Division of Compliance and Consumer Affairs (DCA) and, in some cases, their designees to act on certain applications and other matters. Section 303.0(c)(1) of the FDIC's regulations (12 CFR 303.0(c)(1)) provides that, for purposes of Part 303, the Executive Director may exercise any authority delegated to the Director of DOS or the Director of DCA or, in the event the title Executive Director becomes obsolete, an official of equivalent of authority. Since the title of Executive Director has been abolished and an ''official of equivalent authority''

does not exist, this provision is no longer necessary. Accordingly, § 303.0(c)(1) is removed.

2. Part 337 (Unsafe and Unsound Banking Practices)

Part 337 of the FDIC's regulations governs certain banking practices which are likely to have adverse effects on the safety and soundness of insured state nonmember banks or which are likely to result in violations of law or regulations. Sections 337.6(e) and 337.6(h)(3) of the FDIC regulations (12 CFR 337.6(e), (h)(3)) provide delegated authority to both the Executive Director and the Director of DOS in connection with brokered deposits. Section 337.6(e) provides that the Executive Director, the Director of DOS and, when confirmed in writing by the Director, an associate director or appropriate regional director or deputy regional director may approve waiver applications to accept, renew or roll over brokered deposits. Section 337.6(h)(3) provides that the Executive Director or the Director of DOS or any of their designees may request, from time to time, quarterly written reports from deposit brokers regarding the volume of brokered deposits placed with a specific insured depository institution and the maturities, rates and costs associated with such deposits. These sections are amended only to delete the reference to Executive Director; the Director of DOS or designee will retain this delegated authority.

3. Part 346 (Foreign Banks)

The activities and operations of branches of foreign banks (both insured and uninsured) are governed by Part 346 of the FDIC's regulations. Section 346.101(g) (12 CFR 346.101(g)) delegates authority to the Executive Director and the Director of DOS and, where confirmed in writing by the Director, to an associate director or appropriate regional director or deputy regional director to approve divestiture and cessation plans submitted by insured state branches of foreign banks. This section is amended to delete the reference to Executive Director. Again, the Director of DOS or designee will retain this delegated authority.

4. Part 362 (Activities and Investments of Insured State Banks)

Part 362 implements section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a), which sets forth certain restrictions and prohibitions on the activities and investments of insured state banks and their subsidiaries. Section 362.6 of the FDIC's regulations (12 CFR 362.6) delegates to the Executive Director the authority to act on applications by state banks to engage in activities or make equity investments not permissible for national banks and to take related actions. The Executive Director may then subdelegate this authority in writing to the Director of DOS or designee. Since the position Executive Director has been abolished, this section is being amended to delegate such authority directly from the Board of Directors to the Director of DOS, who may then subdelegate the authority in writing to appropriate officials within DOS.

B. Conforming Amendments: Division Names

Several conforming amendments are being made to reflect the new names of a division directly affected by the reorganization. Specifically, most references to DACS are being changed to either the ''Division of Administration'' or the ''Division of Finance'' in order to reflect the names of the divisions to which DACS' duties and functions have been transferred. Two references to DACS are being changed to DOS to indicate the availability of certain forms (Form 8020/05 [Summary of Deposits] and FFIEC Form 001 [Annual Report of Trust Assets]) from the latter division.

In addition, the FDIC is taking this opportunity to correct obsolete references to two divisions within the Corporation that are found throughout the agency's regulations. All references to the Division of Liquidation and the Division of Bank Supervision are being changed to ''Division of Depositor and Asset Services'' and ''Division of Supervision,'' respectively, to reflect the current names of those divisions.

Exemption From Public Comment

Rules of agency organization, procedure or practice are exempt from the public comment requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553(b)(A)). The FDIC believes that it is unnecessary to seek public comment in this case because these amendments clearly concern rules of agency organization, procedure or practice which fall within this exemption. Therefore, the amendments are being issued as a final, rather than proposed, rule.

Effective Date of Amendments

Section 553 of the Administrative Procedure Act (5 U.S.C. 553) generally requires that a final rule be published 30 days prior to its effective date, subject to certain exceptions. One such exception is that if an agency finds good cause for making a rule immediately effective and publishes the basis for its determination, then the rule need not be published 30 days before it becomes effective. 5 U.S.C. 553(d)(3). These amendments merely pertain to internal organization and delegations of authority and do not affect any substantive rights of entities regulated by the FDIC. Accordingly, the FDIC Board of Directors finds good cause to waive the 30-day delayed effective date in order to quickly effectuate the corporate reorganization and to reflect the name of the newly created Division of Administration.

Regulatory Flexibility Act

The Board of Directors hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It will not impose burdens on depository institutions of any size and will not have the type of economic impact addressed by the Act. Therefore, the Act's requirements regarding an initial and final regulatory flexibility analysis (*Id.* at 603 & 604) do not apply.

Paperwork Reduction Act

This rulemaking does not require any collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Accordingly, no information has been submitted to the Office of Management and Budget for review.

Authority

These amendments are promulgated under the FDIC's general authority to prescribe, through its Board of Directors, such rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act or any other law which the FDIC has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency). 12 U.S.C. 1819(a)(Tenth).

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Insured depository institutions, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 337

Banks, banking, Reporting and recordkeeping requirements, Securities.

12 CFR Part 346

Bank deposit insurance, Foreign banking, Reporting and recordkeeping requirements.

12 CFR Part 362

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Insured depository institutions, Investments.

The Board of Directors of the Federal Deposit Insurance Corporation, under the authority of 12 U.S.C. 1819(a)(Tenth), hereby amends Parts 303, 304, 308, 309, 324, 337, 341, 343, 346, 361 and 362 of title 12 of the Code of Federal Regulations as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

1. The authority citation for Part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(a)(2)(b), 1817(j), 1818, 1819 (''Seventh,'' ''Eighth'' and ''Tenth''), 1828, 1831e, 1831o, 1831p–1(a); 15 U.S.C. 1607.

§ 303.0 [Amended]

2. In § 303.0, the heading for paragraph (c) and paragraph (c)(1) are removed and paragraph (c)(2) is redesignated as paragraph (c).

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1821(f), 1828(j)(2), 1831f, 1831f–1.

2. Section 337.6 is amended by revising the first sentence of paragraph (e)(1) and paragraph (h)(3) to read as follows:

§ 337.6 Brokered deposits.

* * * * *

(e) *Decision.* (1) The Director of the Division of Supervision and, when confirmed in writing by the Director, an associate director or the appropriate regional director or deputy regional director, shall each have the authority to approve any waiver application properly filed. * * *

* * * * *

(h) * * *

(3) The Director of the Division of Supervision or designee may request, from time to time, quarterly written reports from any deposit broker regarding the volume of brokered deposits placed with a specified insured depository institution and the maturities, rates and costs associated with such deposits.

* * * * *

PART 346—FOREIGN BANKS

1. The authority citation for Part 346 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

2. Section 346.101 is amended by revising paragraph (g) to read as follows:

§ 346.101 Applications.

* * * * *

(g) *Delegation of authority.* Authority is hereby delegated to the Director of the Division of Supervision and, when confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve plans of divestiture and cessation submitted pursuant to paragraph (f) of this section.

PART 362—ACTIVITIES AND INVESTMENTS OF INSURED STATE BANKS

1. The authority citation for Part 362 continues to read as follows:

Authority: 12 U.S.C. 1816, 1818, 1819(Tenth), 1831a.

2. Section 362.6 is revised to read as follows:

§ 362.6 Delegation of authority.

The authority to review and act upon divestiture plans submitted pursuant to § 362.3(c)(2); the authority to approve or deny notices filed pursuant to § 362.3(d); the authority to approve or deny applications pursuant to § 362.3(b)(7)(ii); and the authority to approve or deny requests for consent pursuant to § 362.4(d) as well as to take any other action authorized by § 362.4(d) is delegated to the Director of the Division of Supervision or the Director's designee.

PARTS 304, 308, 309, 324, 341, 343, 346 AND 361—[AMENDED]

§ 304.5 [Amended]

1. In § 304.5(a) and (c), by removing the words ''Bank Financial Reporting Section, Division of Accounting and Corporate Services'' and adding in lieu thereof the words ''Division of Supervision'' each place they appear.

§ 309.4 [Amended]

2. In § 309.4(e) introductory text, by removing the words ''Information Center Unit, Bank Systems Section, Management Information Services Branch, Division of Accounting and Corporate Services'' and adding in lieu thereof the words ''Division of Finance'' and by removing the semicolon at the end of the paragraph and adding a colon in its place.

§ 361.7 [Amended]

3. In § 361.7(b), by removing the words ''Corporate Services Branch, Division of Accounting and Corporate Services'' and adding in lieu thereof the words ''Division of Administration''.

§§ 308.145, 309.4, 309.5 [Amended]

4. By removing the words ''Division of Liquidation'' and adding in lieu thereof the words ''Division of Depositor and Asset Services'' where they appear in the following places:

a. § 308.145
b. § 309.4(g)
c. § 309.5(h)

§§ 324.2, 324.7, 341.3, 341.5, 343.3, 346.20 [Amended]

5. By removing the words ''Division of Bank Supervision'' and adding in lieu thereof the words ''Division of Supervision'' where they appear in the following places:

a. § 324.2(d)
b. § 324.7(a)
c. § 341.3(c)
d. § 341.5(b)
e. § 343.3(e)
f. § 346.20(a)

By Order of the Board of Directors.

Dated at Washington, D.C. this 8th day of June, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 95–14661 Filed 6–14–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–110; Special Conditions No. 25–ANM–100]

Special Conditions: Modified Gulfstream American Corporation Model 1159 Airplane; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream American Corporation (GAC) Model 1159 airplane, modified by Learjet, Inc., of Denver, Colorado. This airplane will be

equipped with a digital Electronic Flight Instrument System (EFIS) that will perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of the EFIS from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions performed by this system are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is May 26, 1995. Comments must be received on or before July 31, 1995.

ADDRESSES: Comments on these final special conditions, request for comments, may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–110, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked ''Docket No. NM–110.'' Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM–110.'' The postcard will be date stamped and returned to the commenter.

Background

On March 27, 1995, Learjet, Inc., of Denver, Colorado, applied for a supplemental type certificate to modify the Gulfstream American Corporation (GAC) Model 1159 airplane. The GAC Model 1159 airplane is a business jet with two aft-mounted turbofan engines. The airplane can carry two pilots and 19 passengers, depending on the exit and interior configuration, and is capable of operating to an altitude of 45,000 feet. The original equipment installed in these airplanes presented the required flight information in the form of analog displays. The proposed modification incorporates the installation of a five tube digital Electronic Flight Instrument System (EFIS) that displays required flight critical information and critical functions. The installation of the EFIS system displaying critical functions is potentially vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.101 of the Federal Aviation Regulations (FAR), Learjet, Inc., must show that the altered GAC Model 1159 airplane continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.''

The regulations incorporated by reference in Type Certificate No. A12EA include the following for the GAC Model 1159 airplanes: Civil Aviation Regulation (CAR) 4b dated December 31, 1953, including Amendments 4b–1 through 4b–14, Special Regulations SR422B and SR450A. In addition, under § 21.101(b)(1), the following sections of the FAR apply to the EFIS installation: 25.1301(d), 25.1303, and 25.1322, as amended by Amendment 25–38; and 25.1309, 25.1321(a)(b)(d), and (e), 25.1331, 25.1333, and 25.1335, as amended by Amendment 25–41. These special conditions will form an additional part of the supplemental type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., CAR 4b or part 25, as amended) do not contain adequate or appropriate safety standards for the GAC Model 1159 airplane because of a novel of unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion

There is no specific regulation that addresses protection requirements for electrical and electric systems from high-intensity radiated fields (HIRF). Increased power levels from ground-based radio transmitters, and the growing use of sensitive electrical and electronic systems to command and control airplanes, have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the modified GAC Model 1159 airplanes that would require that the EFIS be designed and installed to preclude component damage and interruption of function due to the effects of HIRF.

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplanes will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The treat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated:

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, these special conditions are applicable to the GAC Model 1159 airplane, modified by Learjet, Inc. Should Learjet, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A12EA to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain unusual or novel design features on GAC Model 1159 airplanes modified by Learjet, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on this airplane.

The substance of these special conditions has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority. 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the GAC Model 1159 airplane, as modified by Learjet, Inc.:

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition: *Critical Function.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 26, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14660 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–98–AD; Amendment 39–9254; AD 95–12–04]

Airworthiness Directives; Airbus Industrie Model A320–231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Model A320–231 series airplanes, that requires repetitive functional checks to detect leakage of the distribution piping of the engine fire extinguishing system, and repair, if necessary; and modification of the piping, which would terminate the inspection requirements. This amendment is prompted by reports of cracking of the engine fire extinguisher pipe, which resulted in leakage of the fire extinguisher agent. The actions specified by this AD are intended to prevent leakage of the fire extinguishing agent, which could prevent the proper distribution of the agent within the nacelle in the event of a fire.

DATES: Effective July 17, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320–231 series airplanes was published in the **Federal Register** on January 30, 1995 (60 FR 5599). That action proposed to require repetitive visual inspections to detect leakage of the distribution piping of the engine fire extinguishing system, and repair, if necessary; and modification of the piping, which would terminate the inspection requirements.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air

safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 48 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $40,320, or $2,880 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–12–04 Airbus Industrie: Amendment 39–9254. Docket 94–NM–98–AD.

Applicability: Model A320–231 series airplanes; manufacturer's serial numbers (MSN) 028, 035, 037, 038, 043, 045 through 058 inclusive, 064 through 067 inclusive, 074 through 077 inclusive, 080 through 082 inclusive, 089 through 092 inclusive, 095, and 096; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of the fire extinguishing agent, which could prevent the proper distribution of the agent within the nacelle in the event of a fire, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform a functional check to detect leakage of fire extinguishing agent from the distribution piping of the engine fire extinguishing system, in accordance with either Airbus All Operators Telex (AOT) 26–11, dated January 3, 1994, or Airbus Service Bulletin A320–26–1032, dated March 31, 1994.

(1) If no leakage is found, or if leakage is within the limits specified in the AOT or the service bulletin, repeat the functional check thereafter at intervals not to exceed 500 flight hours.

(2) If any leakage is beyond the limits specified in the AOT or the service bulletin, prior to further flight, modify the piping in accordance with either the AOT or Airbus Service Bulletin A320–26–1031, dated March 31, 1994.

(b) Within 4,000 flight hours after the effective date of this AD, modify the piping in accordance with either Airbus AOT 26–11, dated January 3, 1994, or Airbus Service Bulletin A320–26–1031, dated March 31, 1994. Accomplishment of this modification constitutes terminating action for the repetitive functional check requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The functional checks and modification shall be done in accordance with either Airbus AOT 26–11, dated January 3, 1994, or Airbus Service Bulletin A320–26–1031, dated March 31, 1994; or Airbus Service Bulletin A320–26–1032, dated March 31, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 17, 1995.

Issued in Renton, Washington, on May 26, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–13506 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–96–AD; Amendment 39–9246; AD 95–11–13]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes Equipped With Pratt & Whitney Model PW4460 and PW4462 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in paragraph (c) of the above-captioned airworthiness directive (AD) that was published in the Federal Register June 1, 1995 (60 FR 28527). A typographical error in paragraph (c) of the AD resulted in a reference to a part number that is inaccurate.

DATES: Effective June 16, 1995.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of June 16, 1995 (60 FR 28527, June 1, 1993).

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5324; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 95–11–13, amendment 39–9246, applicable to certain McDonnell Douglas Model MD–11 series airplanes, was published as a final rule in the **Federal Register** on June 1, 1995 (60 FR 28527). As published, that final rule contained a typographical error in paragraph (c). Paragraph (c) indicated that no person shall install an aft mount beam assembly, part number (P/N) 221–021–501. However, the correct P/N is 221–0261–501, which is cited correctly throughout the rest of the final rule.

This document corrects the reference to the P/N cited in the paragraph (c) of AD 95–11–13, to read as follows:

''(c) As of the effective date of this AD, no person shall install an aft mount beam assembly, P/N 221–0261–501, on any airplane, unless it has been previously inspected and re-identified in accordance with the paragraph 3.B., Phase 2, of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD11–71A073, Revision 1, dated May 16, 1995.''

Since no other part of the regulatory information has been changed, the final rule is not being republished.

Issued in Renton, Washington, on June 9, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14629 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–20; Amendment 39–9270; AD 95–12–19]

Airworthiness Directives; Pratt & Whitney JT8D–200 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) JT8D–200 series turbofan engines. This action requires periodic inspection of fan blades for locked fan blade shrouds and foreign object damage (FOD); unlocking of fan blade shrouds, if necessary; and lubrication of fan blade shrouds. This amendment is prompted by reports of six recent fan blade failures, two of which resulted in the separation of the engine nose cowl from the aircraft. The actions specified in this AD are intended to prevent fan blade failure, which can result in damage to the aircraft.

DATES: Effective June 30, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 30, 1995.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–20, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received six recent reports of engine failures due to fan blade failures on Pratt & Whitney (PW) JT8D–200 series turbofan engines. Fan blade failures can have serious secondary effects such as inlet cowl penetration or liberation, engine flange separation, fuel leaks, or impact damage to the aircraft. Most of these failures result from fractures that originate in the leading edge of the blade just above the platform. The FAA has determined that the primary cause of the failures is high cycle fatigue (HCF) cracking that is initiated by foreign object damage (FOD) to this area of the blade. Other factors have been found to increase the blade stresses such that the blade is more susceptible to FOD induced HCF cracking. These factors include locked fan blade shrouds, which increase blade stresses, and leading edge erosion, which can produce blade flutter. This condition, if not corrected, could result in fan blade failure, which can result in damage to the aircraft.

The FAA has reviewed and approved the technical contents of PW All Operators Wire (AOW) No. JT8D/72–33/CTS: CRC–5–4–5–1, dated April 5, 1995, that describes procedures for periodic inspection of fan blades for locked rotors and FOD; unlocking of fan blade shrouds, if necessary; and lubrication of fan blade shrouds.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this airworthiness directive (AD) is being issued to prevent fan blade failure, which can result in damage to the aircraft. This AD requires periodic inspection of fan blades for locked rotors and FOD; unlocking of fan blade shrouds, if necessary; and lubrication of fan blade shrouds. The actions are required to be accomplished in accordance with the AOW described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–20.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–12–19 Pratt & Whitney: Amendment 39–9270. Docket 95–ANE–20.

Applicability: Pratt & Whitney (PW) Models JT8D–209, –217, –217A, –217C, and –219 turbofan engines that have installed fan blades, Part Numbers 798821, 798821–001, 808121, 808121–001, 809221, 811821, 851121, 851121–001, 5000021–02, 5000021–022, and 5000021–032. These engines are installed on but not limited to McDonnell Douglas MD–80 series aircraft.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fan blade failure, which can result in damage to the aircraft, accomplish the following:

(a) Inspect fan blades and shrouds, unlock fan blade shrouds, and lubricate fan blade shrouds, in accordance with the intervals and procedures described in Parts 1 and 2 of PW All Operators Wire (AOW) No. JT8D/72–33/CTS: CRC–5–4–5–1, dated April 5, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The requirements of this AD shall be done in accordance with the following service document:

Document no.	Pages	Date
PW AOW No. JT8D/72–33/CTS: CRC–5–4–5–1. Total pages: 5.	1–5	April 5, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 30, 1995.

Issued in Burlington, Massachusetts, on June 5, 1995.

Ronald L. Vavruska,

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

[FR Doc. 95–14638 Filed 6–13–95; 9:16 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM95–11–000]

Annual Update of Filing Fees

June 9, 1995.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: In accordance with the Commission's regulations, the Commission issues this update of its filing fees. This document provides the yearly update using data in the Commission's Payroll Utilization Reporting System to calculate the new fees. The purpose of updating is to adjust the fees on the basis of the Commission's costs for Fiscal Year 1994.

EFFECTIVE DATE: July 17, 1995.

FOR FURTHER INFORMATION CONTACT: Maria Bondarenko, Office of the Executive Director and Chief Financial Officer, Federal Energy Regulatory Commission, 810 First Street, N.E., Room 631, Washington, D.C. 20426, (202) 219–2877.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of

this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3308, 941 North Capitol Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format. After 60 days the document will be archived, but still accessible. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3308, 941 North Capitol Street, N.E., Washington, D.C. 20426.

The Federal Energy Regulatory Commission (Commission), by its designee the Executive Director and Chief Finanical Officer [1] is issuing this document to update filing fees the Commission assesses for specific services and benefits provided to identifiable beneficiaries. Pursuant to § 381.104 of the Commission's regulations, the Commission is establishing updated fees on the basis of the Commission's Fiscal Year 1994 costs. The adjusted fees announced in this document are effective July 17, 1995. The new fee schedule is as follows:

Fees Applicable to the Natural Gas Policy Act	
1. Review of jurisdictional agency determinations. (18 CFR 381.402)	$100
2. Petitions for rate approval pursuant to 18 CFR 284.123(b)(2). (18 CFR 381.403)	5,740
3. Initial or extension reports for Title III transactions. (18 CFR 381.404)	120
Fees Applicable to General Activities	
1. Petition for issuance of a declaratory order (except under Part I of the Federal Power Act). (18 CFR 381.302)	11,550
2. Review of a Department of Energy remedial order:	
Amount in Controversy	
$0–9,999. (18 CFR 381.303(b))	100
$10,000–29,999. (18 CFR 381.303(b))	600
$30,000 or more. (18 CFR 381.303(a))	16,860
3. Review of a Department of Energy denial of adjustment:	
Amount in Controversy	
$0–9,999. (18 CFR 381.304(b))	100
$10,000–29,999. (18 CFR 381.304(b))	600
$30,000 or more. (18 CFR 381.304(a))	8,840
4. Written legal interpretations by the Office of the General Counsel. (18 CFR 381.305(a))	3,310
Fees Applicable to Natural Gas Pipelines	
1. Pipeline certificate applications pursuant to 18 CFR 284.224. (18 CFR 381.207(b))	1,000
Fees Applicable to Cogenerators and Small Power Producers	
1. Certification of qualifying status as a small power production facility. (18 CFR 381.505(a))	9,930
2. Certification of qualifying status as a cogeneration facility. (18 CFR 381.505(a))	11,240
3. Applications for exempt wholesale generator status. (18 CFR 381.801)	1,020

List of Subjects in 18 CFR Part 381

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

Christie McGue,

Executive Director and Chief Financial Officer.

In consideration of the foregoing, the Commission amends Part 381, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 381—FEES

1. The authority citation for Part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 381.302 [Amended]

2. In § 381.302, paragraph (a) is amended by removing ''$10,930'' and inserting ''$11,550'' in its place.

3. In § 381.303, paragraph (a) is amended by removing ''$15,960'' and inserting ''$16,860'' in its place.

§ 381.304 [Amended]

4. In § 381.304, paragraph (a) is amended by removing ''$8,370'' and inserting ''$8,840'' in its place.

§ 381.305 [Amended]

5. In § 381.305, paragraph (a) is amended by removing ''$3,130'' and inserting ''$3,310'' in its place.

[1] 18 CFR 375.313(a)

§ 381.403 [Amended]

6. Section 381.403 is amended by removing ''$5,440'' and inserting ''$5,740'' in its place.

§ 381.505 [Amended]

7. In § 381.505, paragraph (a) is amended by removing ''$9,400'' and inserting ''$9,930'' in its place and by removing ''$10,640'' and inserting ''$11,240'' in its place.

§ 381.801 [Amended]

8. Section 381.801 is amended by removing ''$1,350'' and inserting ''$1,020'' in its place.

[FR Doc. 95–14595 Filed 6–14–95; 8:45 am]
BILLING CODE 6717–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Parts 803, 804 and 805

Review and Approval of Projects; Special Regulations and Standards; Hearings/Enforcement Actions

AGENCY: Susquehanna River Basin Commission (SRBC)

ACTION: Final rule.

SUMMARY: This action finalizes adoption of a reorganized and revised set of regulations and procedures for review of projects. These regulations implement the commission's general project review authority set forth in Section 3.10 of the Susquehanna River Basin Compact and its authority under other portions of the compact to set standards for the operation of projects and to enforce its regulations. Other regulations cover registration of water withdrawals and water conservation.

EFFECTIVE DATE: May 11, 1995.

ADDRESSES: 1721 N. Front Street, Harrisburg, Pa. 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo or John D. Graham, 717–238–0422.

SUPPLEMENTARY INFORMATION:

History

These regulations were first proposed on May 12, 1994 and appeared in the **Federal Register** on June 8, 1994 at p. 29563. They replace the commission's existing project review regulations found in Part 803 of the Code of Federal Regulations. Their purpose is to improve the overall precision and clarity of the regulations; to reorganize the regulations into an integrated format that is more readily understood by the regulated community; and to address subject matter not addressed or inadequately addressed in the existing regulations.

A series of eight public hearings were held throughout the river basin during the summer of 1994. The hearings produced a large number of comments, most of which were directed to the revised consumptive use regulation. Agriculture and public water suppliers provided most of these comments. After considering these comments and making a number of changes in the originally proposed regulation, the commission held a final hearing on March 9, 1995. Additional changes were made in response to the comments received at this hearing. A copy of a document showing all of these changes may be obtained upon request to the commission at the above address or phone.

Due to the many comments and questions raised on the consumptive use portion of the regulations, and because of the complexity and potential regulatory impacts of that particular regulation, the Commission determined that further consultations and discussions with the regulated community will be needed before final action. At the same time, the Commission feels that the remaining portion of the regulations will greatly improve the Commission's regulations and procedures for review of projects and should be adopted as soon as possible. Therefore, the Commission is proceeding with final rulemaking on these regulations, except for the proposed revisions to the regulation on the consumptive use of water which are deferred. The current consumptive use regulation found at 18 CFR 803.61 is substantially retained and renumbered as § 803.42. The Commission will continue the consultation process with the regulated community in an effort to develop a future strategy for the management of agricultural and public water supply uses. The current suspension of the consumptive use regulation with respect to agricultural consumptive uses under Commission Resolution 94–05 also remains in effect.

The comments relating to the non-consumptive use portion of the regulations are summarized below and responses provided.

Comments/Responses

1. Public water suppliers do not have the legal authority to enforce water conservation requirements.

Response: The water conservation standards which are set forth in the omnibus package have been in effect since 1979 without burdening public water suppliers on the issue of enforcement of conservation measures. The regulation says that such measures shall be implemented ''as circumstances warrant.'' We see no real difficulty for water suppliers to distribute literature to customers describing water conservation techniques and implementing a water pricing structure that encourages conservation. As for requiring installation of conservation devices, at least this could be implemented as a requirement for hookups to the system if not directly mandated.

2. The duration of approvals should be the same as that of accompanying permits issued by the state. If no state permit duration is specified, the SRBC approval should be perpetual. Making the approval duration retroactive to projects already approved by SRBC is unfair and perhaps an unconstitutional taking of a vested right. Twenty-five years may not enough time to amortize investments some in big, complex plants where large sums of money were invested.

Response: The proposed regulation does tie permit duration to any accompanying permit issued by a signatory party. We feel that 25 years is a reasonable duration to otherwise give to a project sponsor so that the investment he has made in the project can be sufficiently amortized. To cover those situations where, for some good reason, 25 years is not appropriate, we propose to add a sentence to § 803.30(a) stating, ''The Commission, upon its own motion or that of a project sponsor, may modify this duration in consideration of such factors as the time needed to amortize a project investment, the time needed to secure project financing, the potential risks of interference with an existing project, and other equitable factors.'' To address the concern over the retroactive application of the 25 year duration to projects already approved by the Commission, we propose to now add five years to this permit duration from the time of the Commission's initial approval. This will help to mitigate the effects of the retroactive application of the permit duration and stagger the time periods when these previously approved projects come up for renewal.

3. Three years is not enough time for a project sponsor to implement an approved project. This should be extended to four years.

Response: The proposed regulation (§ 803.3(b)) already allows the extension or renewal of an approval upon the request of the applicant. The Commission is not likely to refuse any reasonable request for an extension.

4. Hydroelectric projects should be specifically exempted from § 803.44,

and electric generating plants in general should be exempted from § 804.20. Such plants do not properly fit into the category of projects covered by these sections.

Response: In most cases, run of river hydroelectric projects, by their very process of passing water through, will not be considered a withdrawal of water. But what if there is a scenario wherein a hydroelectric facility is somehow conveying water that would normally pass directly into the tail race to supply another water use? The commission needs to be able to deal with such an eventuality.

We therefore propose to add a provision exempting hydroelectric projects from § 803.44 except to the extent that such projects constitute a withdrawal as defined in § 803.3. Hydroelectric sponsors should keep in mind the fact that, while hydro projects will generally be exempt under § 803.44, they may still be subject to commission approval under the general project review requirements of Section 3.10 of the Compact and these regulations.

With respect to § 804.20 on water conservation standards, electric generating (fossil-nuclear) facilities are basically industrial type activities. The current proposal does allow sufficient flexibility for the calculations in lieu of metering if indeed metering is impractical for an electric generating station. We recognize that the utilities have undertaken practices such as recirculation which have contributed to water conservation efforts. The commission is willing to work with the utilities to identify other conservation techniques that would be considered unique to utility operations.

5. Under §§ 803.43 & 803.44, the commission should not require metering for water use by electric generating facilities and should require only monthly reporting.

Response: We agree that more flexibility is needed on surface withdrawals, so we would propose to add the words ''or other suitable methods of measurement'' to § 803.44 (c). We also agree to allow the commission to designate, on an ad hoc basis, whether daily, weekly, or monthly records shall be kept. (§ 803.44 (d).

With respect to § 803.43, the commission has the ability to waive any requirements of the regulations so long as the purposes of the regulations are not violated. If there are good reasons for not doing the normal metering or for having only monthly data reported, the commission will listen and is not likely to refuse any reasonable request. Meanwhile, the commission generally feels that some interval more frequent than one month is desirable for ground water management.

6. The regulations should not be applied on a retroactive basis. This may even be illegal and is unfair to the owners of existing facilities.

Response: The consumptive use regulation has been retroactive since 1976. The only new retroactive application in proposed revisions to Part 803 is the approval durations. However, we are not proposing to revise it at this time. The ground water and conservation regulation effective dates, which were previously established, are simply preserved. The surface water regulation is made only prospectively effective. There is nothing inherently illegal with a retroactive effective date so long as proper safeguards are included.

7. In Section 803.3, a better definition of trigger flow is needed to provide clarification of the intent and purpose of trigger flow, relative to what becomes triggered.

Response: The definition of trigger flow relates to Section 803.42 and has been removed for the present time.

8. SRBC should not place the onus of responsibility for notifying the public of an application on the applicant. The regulation calling for notification of municipalities needs clarified. It sounds like an applicant must notify every municipality in the county.

Response: Agree that the wording on municipal notification needs revised to make clear that SRBC is not requiring that every municipality in the county be notified, only those in which the project is situated. As for notification responsibilities, agree that the portion of the regulation requiring project sponsor to notify other interested parties known to the project sponsor and SRBC is a vague requirement and we would agree to delete it.

9. In Subpart D—Standards for Review and Approval of Projects, the factors for disapproval of a project by the SRBC are too broad and allow too much discretion on the part of the Commission. Approval/disapproval should be based on evidentiary standards.

Response: The standards for review and approval of projects set forth in Subpart D come directly from the Susquehanna River Basin Compact, Section 3.10.

10. Water conservation standards need to be strengthened. For example, the type of water conservation devices mentioned in § 804.20 could be specified.

Response: We agree that the water conservation requirement could be made more specific. As an interim measure, we will retain the existing language and develop more specific criteria for future consideration.

11. Ten days notice in a state bulletin, as required in § 805.1 is not sufficient time before a public hearing regarding rulemaking.

Response: The notices in state bulletins will not be the only means of publishing such hearings. There will be a 20-day notice in the **Federal Register**, a publication that is distributed generally throughout all three signatory states. Such hearings will also be announced in various Commission news releases, the Guardian newsletter and the meeting minutes. The news releases alone receive widespread dissemination throughout the basin to media and other interested parties who have expressed an interest in Commission activities. Staff has found that, unlike the **Federal Register**, the state bulletins and registers appear only weekly and are slower in publishing hearing notices. The lead times for publishing in the state bulletins 20 days in advance of hearings can be difficult to meet; hence, the 10-day requirement for state registers and bulletins.

12. The project review procedures set forth in Part 803 are too closely tied to the project review authority under Section 3.10 of the compact. There needs to be a clearer statement that this part is also intended to implement the Commission's authority under Section 3.4 of the compact to set standards for the operation of projects and facilities.

Response: Staff agrees and is inserting language to make it clear that Part 803 also covers the setting of standards under Section 3.4 of the compact and that neither Section 3.10 of the compact nor anything else in the proposed regulations should be construed as a limitation on the exercise of Section 3.4 powers.

13. The Commission's authority to set standards for the operation of projects under § 3.4 (2) of the Compact does not give the commission authority to ''approve'' such projects unless they also fall into the category of projects listed in § 3.10—Review and Approval.

Response: We disagree. Both sections 3.4 (9) and 15.2 provide authority to the commission to make rules and regulations to implement, effectuate and enforce the compact. If an agency sets standards for the operation of projects, it may adopt procedures whereby it can review the project and confirm that the project sponsor has complied with the standards set for the project. We would also point to § 3.10 (2) which states that ''(a)pproval of the commission shall be

required for, but not limited to, the following * * *''

14. There are no specific provisions in the proposed rules pertaining to wetlands.

Response: While there are no specific references to wetlands in the proposed regulations, § 803.41—General Standards for Review of Projects, stipulates that: (a) A project shall not be detrimental to the proper conservation, development, management or control of the water resources of the basin; and (b) The Commission may modify and approve as modified, or may disapprove, a project if it determines that the project is not in the best interest of the conservation, development, management or control of the basin's water resources, or is in conflict with the comprehensive plan. The comprehensive plan does call for the avoidance of dredging and other human alterations of wetlands. All applicants must also obtain applicable federal and state approvals, in addition to SRBC approvals. Thus, the Commission is adequately equipped to deal with threats to wetlands within the project review process.

15. In proposed § 803.5, projects which may require review and approval, there are no objective standards or methodologies to determine whether a project falls into one of the categories that ''may'' need approval and thus a request for determination. An example is the reference to ''projects that have a significant effect upon the comprehensive plan.'' Such specific standards might allow an applicant to by-pass the ''request for determination'' procedure outlined in § 803.22 and apply directly to the Commission for approval.

Response: The compact itself uses this language and does not attempt to define it, leaving it to the discretion and judgment of the Commission. As long as the Commission does not act arbitrarily or abuse its discretion, it seems appropriate for the Commission to make this judgment on a case-by-case basis. Hard and fast definitions of what constitutes a significant effect on the comprehensive plan would detract from the flexibility and discretion accorded the Commission by the compact.

16. Under § 803.22, a project sponsor cannot rely on the Executive Director's determination on whether a project requires commission approval.

Response: The commission feels that there ought to be some method of appeal of the Director's determination to the full commission. This is not unlike the appeal that is always available to the town council or zoning hearing board on a decision made by the local zoning officer. This proposed procedure is patterned after a similar and very successful regulation of the Delaware River Basin Commission.

17. The form of certification of the giving of notice of an application under § 803.25 is not clear. The Commission should provide the form of certification.

Response: Agreed. Wording is added providing that notice shall be given on a form provided by the Commission.

18. § 803.26(5) states that the staff will determine the appropriate application fee. The regulations should state how and on what basis the application fee will be determined.

Response: Agreed. Wording is added indicating that the fee will be determined in accordance with SRBC's project review fee schedule, which has been adopted under separate resolution.

19. Under § 803.32—Reopening/ Modifications, it is not prudent to allow any ''interested party'' to reopen a project docket at any time. Once a project docket is reopened by any ''interested party,'' it may set an undesirable precedent. If any party can request a reopening, it undermines the reliance that a project sponsor can place on an approval granted by the Commission. Considerable resources may have already been expended by the project sponsor in reliance on such an approval.

Response: Since it is the Commission which ultimately decides whether a reopening of a docket has merit, we are not alarmed at the use of the term ''interested party.'' We feel that broad public participation in the project review process is to be encouraged, not discouraged by stringent limits placed on those who can and cannot come before the Commission. The Commission is an administrative forum where projects affecting the public interest are evaluated, not a judicial forum where there is a specific controversy involving defined parties who must have standing to participate. We have further concerns about trying to differentiate between those persons who are ''interested parties'' under § 803.21(e) and those persons who would, under the utilities' proposal, be ''affected parties.'' Nevertheless, we do understand the need for a project sponsor to be able to rely on an approval given by the Commission. We are therefore adding language to § 803.32 requiring an interested party to show by a preponderance of the evidence that an impact or a threat to public health, safety and welfare exists and giving the executive director the authority to determine whether an interested party has made out a prime facie case favoring reeopening of the docket.

20. The Commission should clarify whether a project subject to renewed approval under § 803.30(c) is to be considered a ''proposed project'' for purposes of the approval standards set forth in subpart D of Part 803.

Response: Agreed. Wording is added to § 803.30(c) clarifying this point.

21. In § 805.2, it is unfair to assess all of the adjudicatory hearing costs to the project sponsor.

Response: The regulation states that the hearing officer shall assess these costs to the project sponsors or others, *as deemed equitable.* The hearing officer will be able to weigh the equities and then assess costs accordingly. Costs will not necessarily be wholly assessed against a sponsor in each and every case. There is room for the officer to use his/her discretion to be fair to all parties. This regulation is based on procedures successfully implemented by the Delaware River Basin Commission.

22. A joint permitting process with the signatory agencies should be developed as part of or concurrent with this rulemaking process.

Response: § 803.6 of the proposed regulation allows for such cooperation with the signatory parties. Staff will attempt to work out such cooperative arrangement once the rulemaking package is in place.

23. Definition of ''diversion'' should be broadened to include transfers between subbasins.

Response: The definition of ''diversion'' comes from the compact. The Commission cannot broaden its scope, though certainly the effects of a trans-subbasin withdrawal can be considered as part of the project review evaluation process.

24. The costs of an adjudicatory hearing should not be assessed against a signatory party.

Response: This should be left to the discretion of the hearing officer as he/ she deems equitable.

25. § 803.24(b)(4) should include the word ''estimated'' before the words ''completion date'' and ''construction schedule.''

Response: Agreed.

26. Water is not owned by any single person. It may be used by individuals, but it is a resource belonging to all the people of the basin. Water must be managed comprehensively by the SRBC. All users must contribute in some fashion to wise management of the basin's waters.

Response: Agreed, though in managing the basin's waters, the Commission understands the need to consider the special needs and challenges facing various users.

27. Some farmers, particularly those in New York State, expressed opposition to water use registration as increasing their paper work loads and setting them up for future regulation. It was suggested that the commission either withdraw the registration regulation or apply it only in the signatory states who desired such registration.

Response: The Commission believes that registration will give farmers equitable standing with the SRBC and perhaps with the courts if use conflicts develop with another water user. Registration will also help the Commission do a better job of managing the resource. The State of Maryland's experience with registering agricultural water uses has been very positive and has won the support of Maryland farmers. Pennsylvania farmers also support registration for this reason. Because support for registration does not appear universal, however, the commission is adding language to § 804.1 making the requirement for the registration of water withdrawals exceeding 10,000 gpd subject to the consent of the affected signatory state.

28. With respect to § 803.24 (b)(2)(vi) and § 803.43, the PF&B believes that the use of the word ''substantial'' before ''adverse impact'' in each of these sections introduces potentially unintended ambiguity to the regulations. No where is the term ''substantial'' defined.

Response: The use of the word ''substantial'' is intended to prevent the application of these sections to the most deminimus effects. The word ''substantial,'' though not defined, is used to describe the level of evidence that must be present for an administrative agency to justify a regulatory action. Under the ''substantial evidence'' criteria, only a relatively small amount of evidence is needed to justify agency action. Thus, we do not believe that the word ''substantial'' introduces ambiguity anymore than the widespread use in thousands of statutes and judicial decisions of the word ''reasonable.''

29. With respect to § 803.44(d), new subsection should be added which would require the immediate reporting of violations of release or flow-by conditions along with documentation of the reasons for the violations.

Response: The commission does not wish to suggest to such users that it may be acceptable to violate the flow by requirements. If they do so, there are sanctions available to deal with such violations.

30. The commission should permit an applicant to by pass a request for determination under § 803.22 when it is fairly certain that approval will ultimately be required. The need for a project to submit a ''request for determination'' and an application for approval is duplicative.

Response: In fact, the Commission would not require that an applicant submit a ''request for determination'' in all cases. If an applicant's project falls into one of the categories listed in § 803.4 (Projects requiring review and approval), the applicant then submits an application directly to the commission.

The ''request for determination'' proceeding is provided largely for the benefit of potential applicants whose projects fall into the category of projects listed in § 803.5 (Projects which may require review and approval). The ''request for determination'' procedure could possibly remove the need for them to make a formal application.

The level of information to be provided to the Executive Director in a request for determination will be far less than that required for an application so that duplication should be minimal. Nevertheless, to accommodate applicants who feel that their projects are likely to be classified as requiring the commission's approval, the commission is adding a clause allowing the Executive Director, at an applicant's request, to waive the ''request for determination'' and proceed directly to the filing of an application for approval.

31. The definition for ''withdrawal'' in § 803.3 is inconsistent with the definition of withdrawal in the Susquehanna River Basin Compact.

Response: Agreed. The definition of ''withdrawal'' in the compact should be substituted for the proposed definition of withdrawal.

32. A phrase should be added to § 803.28, Application/monitoring fees, indicating that a public hearing shall be held prior to the imposition of such fees.

Response: Under Section 3.9 of the compact, such hearings are already required.

List of Subjects

18 CFR Part 803

Administrative practice and procedure, water resources.

18 CFR Part 804

Water resources.

18 CFR Part 805

Administrative practice and procedure.

Dated: June 9, 1995.

Paul O. Swartz,

Executive Director.

Accordingly, Chapter VIII of title 18 of the Code of Federal Regulations is amended as set forth below:

1. Part 803 is revised to read as follows:

PART 803—REVIEW AND APPROVAL OF PROJECTS

Subpart A—General Provisions

Sec.
803.1 Introduction.
803.2 Purposes.
803.3 Definitions.
803.4 Projects requiring review and approval.
803.5 Projects which may require review and approval.
803.6 Concurrent project review by signatory parties.
803.7 Waiver/modification.

Subpart B—Application Procedure

803.20 Purpose of this subpart.
803.21 Preliminary consultations.
803.22 Request for determination.
803.23 Submission of application.
803.24 Contents of application.
803.25 Notice of application.
803.26 Staff review/action/recommendations.
803.27 Emergencies.
803.28 Application/monitoring fees.

Subpart C—Terms and Conditions of Approval

803.30 Duration of approvals.
803.31 Transferability of approvals.
803.32 Reopening/modification.
803.33 Waiver/modification.
803.34 Interest on fees.

Subpart D—Standards for Review and Approval/Special Standards

803.40 Purpose of this subpart.
803.41 General standards.
803.42 Standards for consumptive uses of water.
803.43 Standards for ground-water withdrawals.
803.44 Standards for surface-water withdrawals.

Authority: Secs. 3.4, 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

Subpart A—General Provisions

§ 803.1 Introduction.

(a) This part establishes the scope and procedures for review and approval of projects under Section 3.10 of the Susquehanna River Basin Compact, Public Law 91–575, 84 Stat. 1509 et seq., (the compact) and establishes special standards under Section 3.4 (2) of the compact governing water withdrawals and the consumptive use of water. The special standards established pursuant to Section 3.4 (2) shall be applicable to all water withdrawals and

consumptive uses in accordance with the terms of those standards, irrespective of whether such withdrawals and uses are also subject to project review under Section 3.10.

(b) Except for activities relating to site evaluation, no person or governmental entity shall begin construction or operation of any project subject to commission review and approval until such project is approved by the commission.

(c) When projects subject to commission review and approval are sponsored by governmental entities, the commission shall submit recommendations and findings to the sponsoring agency which shall be included in any report submitted by such agency to its respective legislative body or to any committee thereof in connection with any request for authorization or appropriation therefor. The commission review will ascertain the project's compatibility with the objectives, goals, guidelines and criteria set forth in the comprehensive plan. If determined compatible, the said project will also be incorporated into the comprehensive plan if so required by the compact. This part, and every other part of 18 CFR chapter VIII, shall also be incorporated into and made a part of the comprehensive plan.

(d) If any portion of this part, or any other part of 18 CFR chapter VIII, shall, for any reason, be declared invalid by a court of competent jurisdiction, all remaining provisions shall remain in full force and effect.

(e) Except as otherwise stated in this part this part shall be effective on May 11, 1995; provided, however, that nothing in this paragraph shall be deemed to exempt:

(1) Any project which has been or could have been subject to review and approval by the commission under the authority set forth in Section 3.10 of the compact or any prior regulations of the commission; or

(2) Any withdrawal or consumptive use which has been or could have been subject to special standards adopted pursuant to Section 3.4 (2) of the compact.

(f) When any period of time is referred to in this part, such period in all cases shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the law of the United States, such day shall be omitted from the computation.

(g) Any forms or documents referenced in this part may be obtained from the commission at 1721 N. Front Street, Harrisburg, PA 17102–2391.

§ 803.2 Purposes.

(a) The general purposes of this part are to advance the purposes of the compact and include but are not limited to:

(1) The promotion of interstate comity;

(2) The conservation, utilization, development, management, and control of water resources under comprehensive, multiple purpose planning; and

(3) The direction, supervision and coordination of water resources efforts and programs of federal, state and local governments and of private enterprise.

(b) In addition, §§ 803.42, 803.43 and 803.44 contain the following specific purposes: Protection of public health, safety and welfare; stream quality control; economic development; protection of fisheries and aquatic habitat; recreation; dilution and abatement of pollution; the regulation of flows and supplies of surface and ground waters; the avoidance of conflicts among water users; the prevention of undue salinity; and protection of the Chesapeake Bay.

(c) The objective of all interpretation and construction of this part is to ascertain and effectuate the purposes and the intention of the commission set out in paragraph (b) of this section.

§ 803.3 Definitions.

For purposes of this part, the words listed in this section are defined as follows:

Agricultural water use. A water use associated primarily with the raising of food or forage crops, trees, flowers, shrubs, turf, aquaculture and livestock.

Application. A request for action by the commission in written form including without limitation thereto a letter, referral by any agency of a signatory party, or an official form prescribed by the commission.

Basin. The Susquehanna River basin.

Commission. The Susquehanna River Basin Commission, a body politic created under Article 2, Section 2.1 of the compact.

Compensation. Water utilized or provided from storage as makeup for a consumptive use.

Comprehensive plan. The ''Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin'' prepared and adopted by the commission pursuant to Article 3, Section 3.3 of the compact.

Construction. Clearing or excavation of the site or installation of any portion of the project on the site.

Consumptive use. Consumptive use is the loss of water from a ground-water or surface water source through a manmade conveyance system (including such water that is purveyed through a public water supply system), due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion from the Susquehanna River basin, or any other process by which the water withdrawn is not returned to the waters of the basin undiminished in quantity. Deep well injection shall not be considered a return to the waters of the basin.

Dedicated augmentation. Release from an upstream storage facility which is required for any other instream or withdrawal use.

Deep well injection. Injection of waste or wastewater substantially below aquifers containing fresh water.

Diversion. The transfer of water into or from the basin.

Executive Director. The chief executive officer of the commission appointed pursuant to Article 15, Section 15.5 of the compact.

Facility. Any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery, and equipment acquired, constructed, operated, or maintained for the beneficial use of water resources or related land uses or otherwise including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful, or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale, or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; of the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them. For purposes of this part and every other part contained in this chapter, a facility shall be considered a project (see definition of project in this section).

Governmental entity. The federal government, the signatory states, their political subdivisions, public corporations, public authorities and special purpose districts.

Ground-water source. (1) Pumped wells or well fields;

(2) Flowing wells;

(3) Pumped quarries, pits, and underground mines having no significant surface water inflow

(significant meaning that any surface water inflow is greater than the withdrawal); or

(4) A spring in which the water level is sufficiently lowered by pumping to eliminate the surface flow. All other springs will be considered to be surface water.

Person. An individual, corporation, partnership, unincorporated association, and the like and shall have no gender and the singular shall include the plural.

Pre-compact use. The maximum average quantity or volume of water consumptively used over any consecutive 30 day period prior to January 23, 1971 expressed in ''gallons per day'' (gpd).

Project. Any work, service, activity, or facility undertaken which is separately planned or financed for the conservation, utilization, control, development, or management of water resources which can be established and utilized independently, or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation.

Signatory party. The States of Maryland and New York, the Commonwealth of Pennsylvania, and the United States of America.

Signatory state. The States of Maryland and New York, the Commonwealth of Pennsylvania.

Sponsor. Any person or governmental entity proposing to undertake a project. The singular shall include the plural.

Surface water source. Any river, perennial stream, natural lake or pond, spring, wetland or other body of surface water situated in the basin.

Susquehanna River basin. The area of drainage of the Susquehanna River and its tributaries into the Chesapeake Bay to the southern edge of the former Pennsylvania Railroad Bridge between Havre de Grace and Perryville, Maryland.

Water(s). Surface and ground water(s) contained within the Susquehanna River basin either before or after withdrawal.

Withdrawal. A taking or removal of water from any source within the basin for use within the basin.

§ 803.4 Projects requiring review and approval.

(a) The following projects are subject to review and approval by the commission and require an application to be submitted to the commission in accordance with the procedures outlined in § 803.23:

(1) Projects on or crossing the boundary between two signatory states;

(2) Projects involving the diversion of water;

(3) Projects resulting in a consumptive use of water exceeding an average of 20,000 gallons per day (gpd) for any consecutive thirty-day period or such other amounts as stipulated in § 803.42;

(4) Projects withdrawing in excess of an average of 100,000 gpd for any consecutive thirty-day period from a ground-water or surface water source or such other amounts as stipulated in §§ 803.43 and 803.44; and

(5) Projects which have been included by the commission in its comprehensive plan.

(b) Sponsors of projects who feel that their projects are likely to be classified as requiring the commission's approval may request that the executive director waive the ''request for determination'' procedure and may thereafter proceed directly to the filing of an application for approval.

§ 803.5 Projects which may require review and approval.

The following projects, if not already covered under § 803.4, may be subject to commission review and approval and require, in accordance with the procedures outlined in § 803.22, a ''request for determination'' to be submitted to the executive director:

(a) Projects which may change interstate water quality standards or criteria.

(b) Projects within a signatory state that have the potential to affect waters within another signatory state. This includes but is not limited to projects which have the potential to alter the physical, biological, chemical or hydrological characteristics of water and related natural resources of interstate streams designated by the commission under separate resolution.

(c) Projects which may have a significant effect upon the comprehensive plan.

(d) Projects not included in paragraphs (a) through (c) of this section, but which could have an adverse, adverse cumulative, or interstate effect on the water resources of the basin; provided that the project sponsor is notified in writing by the executive director that it shall submit a ''request for determination''.

§ 803.6 Concurrent project review by signatory parties.

(a) The commission recognizes that agencies of the signatory parties will exercise their review authority and evaluate many proposed projects in the basin. The commission will adopt procedures to assure compatibility between signatory review and commission review.

(b) To avoid duplication of work and to cooperate with other government agencies, the commission may develop agreements of understanding, in accordance with the procedures outlined in this part, with appropriate agencies of the signatory parties regarding joint review of projects. These agreements may provide for joint efforts by staff, delegation of authority by an agency or the commission, or any other matter to support cooperative review activities. Permits issued by a signatory agency shall be considered commission approved if issued pursuant to an agreement of understanding with the commission specifically providing therefor.

§ 803.7 Waiver/modification.

The commission may, in its discretion, waive or modify the requirements of this part if the essential purposes set forth in § 803.2 continue to be served.

Subpart B—Application Procedure

§ 803.20 Purpose of this subpart.

The purpose of this subpart is to set forth procedures governing applications required by §§ 803.4 and 803.5.

§ 803.21 Preliminary consultations.

(a) Any sponsor of a proposed project that is or may be subject to the commission's review jurisdiction under § 803.4 or § 803.5 is encouraged, prior to making application for commission review, to request a preliminary consultation with the commission staff for an informal discussion of preliminary plans for the proposed project. To facilitate preliminary consultations, it is suggested that the sponsor provide a general description of the proposed project, a map showing its location and, to the extent available, data concerning dimensions of any proposed structures and the environmental impacts.

(b) Preliminary consultations shall be optional with the project sponsor and shall not relieve the sponsor from complying with the requirements of the compact or with this part.

§ 803.22 Request for determination.

(a) Sponsors of projects which may require review and approval, as described in § 803.5, shall submit a ''request for determination'' to the executive director with such accompanying information and data as the executive director shall prescribe.

(b) If a project sponsor is uncertain whether a ''request for determination'' should be filed with the commission, the sponsor may ask for and, within thirty days after submission of information in such form and manner as will allow the executive director to

make a decision, receive from the executive director a letter stating whether a ''request for determination'' should be filed. The executive director may also direct a project sponsor to submit a ''request for determination.''

(c) Within thirty days of the receipt of such ''request for determination,'' the executive director shall determine whether the said project must be reviewed and approved by the commission. In making such determination, the executive director shall be guided primarily by his/her findings as to the following factors:

(1) Whether the proposed project will have a significant interstate effect on water supply, stream flows, aquifers, water quality, flooding, sensitive land areas, aquatic or terrestrial forms of plant or animal life, historical or cultural resources, or any other water-related resource.

(2) Whether the proposed project will have a significant impact upon the goals, objectives, guidelines, plans, or projects included in the comprehensive plan.

(3) Whether the proposed project may have an adverse or adverse cumulative effect on the water resources of the basin.

(d) The executive director shall notify the sponsor of the project, the agency of the signatory party, if any, reviewing the project, the governing body of each municipality and the planning agency of each county in which the project is located of his/her initial determination under this section. Notice to the sponsor shall be by certified mail, and to all other interested parties by regular, first class mail. At a cost to be assessed to the project sponsor, the executive director shall also publish in a newspaper of general circulation in that municipality, at least once, a notice of such determination. If no objection is made to the executive director's initial determination, it shall become final ten days after publication as set forth in this paragraph.

(e) Any interested party objecting to the determination may, within ten days of the newspaper publication, object to such determination and appeal to the executive director by letter for reconsideration. Following such reconsideration, if requested, the executive director shall serve notice upon the agency of the signatory party, the applicant and each such objector of his/her determination. Any such party may appeal such final determination to the commission by notice in writing served upon the executive director within 14 days after the service of the executive director's decision upon reconsideration. The commission will determine such appeal at a regular meeting thereafter.

§ 803.23 Submission of application.

(a) Sponsors of projects requiring the review and approval of the commission under § 803.4, or determined to require the approval of the commission under § 803.22, shall, prior to the time the project is undertaken, submit an application to the commission. The application shall be submitted to the commission at its headquarters, 1721 N. Front Street, Harrisburg, Pennsylvania 17102–2391, and shall contain the information prescribed in § 803.24.

(b) An application shall not be deemed to be pending before the commission until such time as the information required under § 803.24 has been provided and any applicable fee has been paid.

(c) As determined from applications or otherwise, the commission shall review and either approve, approve with conditions or modifications, or disapprove such projects.

§ 803.24 Contents of application.

(a) Applications shall be submitted on forms prescribed by the commission.

(b) If no forms are prescribed by the commission for a particular type of project, the sponsor shall submit an application addressing the following items applicable to the project:

(1) Identification of sponsor and name of person authorized to speak for the sponsor.

(2) Description of project and site in terms of:

(i) Water use and availability.

(ii) Engineering feasibility.

(iii) Ability of sponsor to fund the project or action.

(iv) Project location.

(v) Project purpose.

(vi) Identification and description of reasonable alternatives, the extent of their economic and technical investigation, and an assessment of their potential environmental impact. In the case of a proposed diversion, the sponsor should include information:

(A) Detailing the efforts that have been made to develop its own in-basin sources of water; and

(B) Demonstrating that the proposed diversion will not have substantial adverse effects on the ability of the Susquehanna River basin to meet its own water needs.

(vii) Supporting studies, reports and other information upon which assumptions and assertions have been based.

(viii) Compatibility of proposed project with existing and anticipated uses.

(ix) Plans for avoiding or compensating for consumptive use during low flow periods.

(x) Anticipated impact of the proposed project on:

(A) Flood damage potential considering the location of the project with respect to the flood plain and flood hazard zones;

(B) Surface water characteristics (quality, quantity, flow regimen, other hydrologic characteristics);

(C) Recreation potential;

(D) Fish and wildlife (habitat quality, kind and number of species);

(E) Natural environment uses (scenic vistas, natural and manmade travel corridors, wild and wilderness areas, wild, scenic and recreation rivers);

(F) Site development considerations (geology, topography, soil characteristics, adjoining and nearby land uses, adequacy of site facilities); and

(G) Historical, cultural and archaeological impacts.

(3) Governmental considerations:

(i) Need for governmental services or finances.

(ii) Commitment of government to provide services or finances.

(iii) Status of application with other governmental regulatory bodies.

(4) Project estimated completion date and estimated construction schedule.

(c) A report about the project prepared for any other purpose, or an application for approval prepared for submission to a signatory party, may be accepted by the commission *provided* the said report or application addresses the applicable items listed in paragraph (b) of this section.

§ 803.25 Notice of application.

(a) The project sponsor shall, within ten days of the submission of an application to the commission, notify area and regional news media, the municipality(ies) in which the project is situated, the county planning agency of the county(ies) in which the project is situated, and contiguous property owners that an application has been submitted to the commission. The commission shall compile a list of additional interested parties who comment on the application, request a hearing or make inquiries concerning the application. The project sponsor shall also publish at least once in a newspaper of general circulation in that municipality a notice of the submission of the application which contains a sufficient description of the project, its purpose and its location. Both the notification and the notice shall contain the address and phone number of the commission.

(b) The project sponsor shall provide the commission with a copy of the return receipt for the required municipal notification and a proof of publication for the required newspaper notice. The project sponsor shall also provide certification on a form provided by the commission that it has made such other notifications as required under paragraph (a) of this section. Until these items are provided to the commission, processing of the application will not proceed.

§ 803.26 Staff review/action/recommendations.

(a) The commission's staff shall review the application, and if necessary, request the sponsor to provide any additional information that is deemed pertinent for proper evaluation of the project. The staff review shall include:

(1) Determination of completeness of the application. An application deemed incomplete will not be processed.

(2) Identification of the issues pertinent to commission review.

(3) Assessment of the project's compatibility with the compact, comprehensive plan, and with the other requirements of this part.

(4) Consultation with the project sponsor if requested or deemed necessary.

(5) Determination of the appropriate application fee in accordance with the commission's project review fee schedule and the transmission of a billing to the project sponsor for that fee. Applications will not be presented to the commission for review and action until such application fee has been paid.

(6) Formal docketing of the project and, within 90 days of receipt of a complete application, presentation to the commission along with the recommendations of the staff for disposition of the application. The executive director may, for good cause, extend this review period for up to an additional 60 days. Any further extension must be approved by the commission.

(b) If the project sponsor fails to respond to the commission's request for additional information, the commission may notify the project sponsor that the application process has been terminated. To reactivate the closed file, the project sponsor shall reapply and may be required to submit new or updated evaluations.

§ 803.27 Emergencies.

In the event of an emergency requiring immediate action to protect the public health, safety and welfare or to avoid substantial and irreparable injury to any person, property, or natural resources and the circumstances do not permit a review and determination in the regular course of the regulations in this part, the executive director, with the concurrence of the chairperson of the commission and the member from the affected signatory state, may issue an emergency certificate authorizing a project sponsor to take such action as the executive director may deem necessary and proper in the circumstances, pending review and determination by the commission as otherwise required by this part.

§ 803.28 Application/monitoring fees.

The commission may, by separate resolution, establish and modify fees for the submission and processing of applications and for the monitoring of project compliance with this part.

Subpart C—Terms and Conditions of Approval

§ 803.30 Duration of approvals.

(a) Approvals issued under this part shall have a duration equal to the term of any accompanying signatory license or permit regulating the same subject matter. If there is no such accompanying license or permit or if no term is specified in such accompanying license or permit, the duration of a commission approval issued under this part shall be 25 years. The commission, upon its own motion or that of a project sponsor, may modify this duration in consideration of such factors as the time needed to amortize a project investment, the time needed to secure project financing, the potential risks of interference with an existing project, and other equitable factors. Unless there is an accompanying signatory license or permit regulating the same subject matter and specifying a duration, the 25 year duration for projects previously approved by the commission under this part shall commence five years from the date on which such projects were initially approved.

(b) For projects that have been approved by the commission but not implemented, approval by the commission under this part shall expire three years from the date of commission action. Likewise, if the use of a project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the commission may rescind a prior approval for such abandoned project. In either case, an approval may be extended or renewed by the commission upon request.

(c) The sponsors of projects previously approved by the commission should apply for renewal of their approvals no later than six months prior to the expiration of their previous approval. Such applications for renewal shall be reviewed under the same procedures and standards as for newly proposed projects.

§ 803.31 Transferability of approvals.

Approvals by the commission are transferable to new owners of projects, provided that the transferors or the transferees notify the commission of the transfer either before or within 60 days after the date of the transfer and that the new owners, within 30 days of being requested to do so by the commission, submit in writing their intention to comply with all conditions of the project's docket approval and assume all other associated obligations. The commission may waive or extend any of these deadline periods for good cause.

§ 803.32 Reopening/modification.

Once approved, the commission, upon its own motion, or upon application of the project sponsor or any interested party, may at any time reopen any project docket and make additional orders that may be necessary to mitigate or avoid adverse impacts or to otherwise protect the public health, safety, and welfare or natural resources. Whenever an application for reopening is filed by an interested party, the burden shall be upon that interested party to show, by a preponderance of the evidence, that a substantial adverse impact or a threat to the public health, safety or welfare exists that warrants reopening of the docket. Before such application may be submitted to the commission for action, the executive director shall first determine that an interested party has made out a prima faci case favoring the reopening of the docket. The executive director shall inform the commission of any negative finding in this regard so that the commission is afforded the opportunity to over-rule his/her decision.

§ 803.33 Interest on fees.

The commission may, by resolution, establish interest to be paid on all overdue or outstanding fees of any nature that are payable to the commission.

Subpart D—Standards for Review and Approval/Special Standards

§ 803.40 Purpose of this subpart.

The purpose of this subpart is to set forth standards that shall be used by the commission to evaluate proposed projects pursuant to §§ 803.4 and 803.5, and to establish special standards applicable to certain water withdrawals and consumptive uses irrespective of

whether such withdrawals and consumptive uses are subject to project review pursuant to Section 3.10 of the compact. General standards applying to all projects and special standards applying to certain types of projects are set forth in this subpart. This subpart does not identify all the aspects of a proposed project that will be evaluated, nor should it be construed as a self-imposed limitation upon the commission's authority and scope of review. The special standards established pursuant to Section 3.4 (2) of the compact shall be applicable to all water withdrawals and consumptive uses in accordance with the terms of those standards, irrespective of whether such withdrawals and uses are also subject to project review under Section 3.10 of the compact.

§ 803.41 General standards.

(a) A project shall not be detrimental to the proper conservation, development, management, or control of the water resources of the basin.

(b) The commission may modify and approve as modified, or may disapprove, a project if it determines that the project is not in the best interest of the conservation, development, management, or control of the basin's water resources, or is in conflict with the comprehensive plan.

§ 803.42 Standards for consumptive uses of water.

(a) *Requirement.* (1) Compensation shall be required for consumptive uses of water during periods of low flow. Compensation is required during periods of low flow for the purposes set forth in § 803.2.

(i) *Surface water source.* Compensation in an amount equal to the project's total consumptive use shall be required when the streamflow at the point of taking equals or is anticipated to equal the low flow criterion which is the 7-day 10-year low flow plus the project's total consumptive use and dedicated augmentation. The commission reserves the right to apply a higher low flow criterion for a particular stream reach when it finds, as the result of evidence presented at a public hearing that it is needed to serve the purposes outlined in paragraph (b) (1) of this section.

(ii) *Ground-water source.* Compensation for the project's consumptive use of ground water shall be required when the stream flow is less than the applicable low flow criterion. For the purposes of implementing this regulation, the commission will identify the appropriate stream gaging station for determining the applicable low flow.

(2) Consumptive uses by a project not exceeding an average of 20,000 gpd for any consecutive thirty-day period from surface or groundwaters are exempt from the requirement unless such uses adversely affect the purposes outlined in paragraph (b) (1) of this section.

(b) *Method of Compensation.* (1) Methods of compensation acceptable to the commission will depend upon the character of the project's source of water supply and other factors noted in this paragraph (b) (1).

(i) The required amount of compensation shall be provided by the applicant or project sponsor at the point of taking (for a surface source) or another appropriate site as approved by the commission to satisfy the purposes outlined in this paragraph (b) (1). If compensation for consumptive use from a surface source is to be provided upstream from the point of taking, such compensation shall reasonably assure no diminution of the flow immediately downstream from the point of taking which would otherwise exist naturally, plus any other dedicated augmentation.

(ii) Compensation may be provided by one, or a combination of the following:

(A) Construction or acquisition of storage facilities.

(B) Purchase of available water supply storage in existing public or private storage facilities, or in public or private facilities scheduled for completion prior to completion of the applicant's project.

(C) Purchase of water to be released as required from a water purveyor.

(D) Releases from an existing facility owned and operated by the applicant.

(E) Use of water from a public water supplier utilizing raw water storage that maintains a conservation release or flow-by, as applicable, of Q7–10 or greater at the public water supplier's point of taking.

(F) Ground water.

(G) Purchase and release of waters stored in other subbasins or watersheds.

(H) Other alternatives.

(2) Alternatives to compensation may be appropriate such as discontinuance of that part of the project's operation that consumes water, imposition of conservation measures, utilization of an alternative source that is unaffected by the compensation requirement, or a monetary payment to the commission in an amount to be determined by the commission from time-to-time.

(3) The commission shall, in its sole discretion, determine the acceptable manner of compensation or alternatives to compensation, as applicable, for consumptive uses by a project. Such a determination will be made after considering the project location, anticipated amount of consumptive use and its effect on the purposes set forth in § 803.2 of this part, and any other pertinent factors.

(c) *Quantity of consumptive use.* For purposes of evaluating a proposed project, the commission shall require estimates of anticipated consumptive use from the project sponsor. The commission, as part of the project review, shall evaluate the proposed methodology for monitoring consumptive losses and compensating flows including flow metering devices, stream gages, and other facilities used to measure the consumptive use of the project or the rate of streamflow. If the commission determines that additional flow measuring devices are required, these shall be provided at the expense of the project sponsor and shall be subject to inspection by the commission at any time. When the project is operational, the commission shall be responsible for determining when compensation is required and shall notify the project sponsor accordingly. The project sponsor shall provide the commission with periodic reports in the time and manner as it requires showing actual consumptive uses associated with the project. The commission may use this data to modify, as appropriate, the magnitude and timing of the compensating releases initially required when the project was approved.

(d) *Quality of compensation water.* The physical, chemical and biological quality of water used for compensation shall at all times meet the quality requirements for the purposes listed in § 803.2, as applicable.

(e) *Effective date.* Notwithstanding the overall effective date for other portions of this part set forth in § 803.1(e), this section shall apply to all consumptive uses initiated on or after January 23, 1971, the effective date of the compact.

(f) Public water suppliers, except to the extent that they are diverting the waters of the basin, shall be exempt from the requirements of this section; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply system from the requirements of this section.

§ 803.43 Standards for ground-water withdrawals.

(a) *Requirement.* (1) With respect to projects coming into existence on or after the effective date of this section, any project sponsor proposing to withdraw from a ground-water source in excess of an average of 100,000 gpd for any consecutive thirty-day period, proposing to increase a withdrawal to more than an average of 100,000 for any

consecutive thirty-day period or proposing to increase a withdrawal above that amount which was previously approved by the commission, shall apply for approval pursuant to subpart B of this part. These withdrawals may be denied or may be limited by the commission to the amount (quantity and rate) of ground water that is needed to meet the reasonably foreseeable needs of the project sponsor and that can be withdrawn from an aquifer or aquifer system without causing adverse lowering of ground-water levels, rendering competing supplies unreliable, causing water quality degradation that may be injurious to any existing or potential ground or surface water use, causing permanent loss of aquifer storage capacity, or having a substantial adverse impact on low flow of perennial streams.

(2) With respect to projects withdrawing any quantity of water prior to the effective date of this section, any project sponsor proposing to increase the said withdrawal in excess of 100,000 gpd above that which such project was withdrawing prior to the said effective date, shall apply for approval pursuant to subpart B of this part.

(3) After obtaining approval for the withdrawal pursuant to this paragraph, the sponsor shall also comply with metering, monitoring and reporting requirements as set forth in this section.

(b) *Withdrawal application.* Information required by the commission is specified in the commission's ground-water withdrawal application and includes but is not limited to the results of a constant rate pumping test. Review and approval by SRBC staff of the test procedures to be used by the applicant are necessary before the test is started.

(c) *Metering.* Projects approved under this section shall meter all approved ground-water withdrawals. The meters shall be accurate to within 5 percent of the actual flow.

(d) *Monitoring and reporting.* (1) Monitoring and periodic reporting of water levels, well production, and ground-water quality are required of all approved ground-water withdrawals. The required information is listed in Form SRBC #30 (Ground-water Withdrawal Reporting Form) and includes but is not limited to the following:

(i) Ground-water levels shall be measured weekly in all approved production wells and reported to the commission annually. Additional water level measurements may be required in one or more observation wells as determined by the commission.

(ii) Production from approved ground-water sources shall be recorded weekly and reported to the commission annually.

(iii) Samples of ground water for water quality analysis shall be obtained and the results reported to the commission every three years. The required chemical constituents to be included in the analysis are listed in Form SRBC #30.

(2) The information in paragraph (d)(1) of this section may be provided to the commission either on Form SRBC #30 or other similar document containing all of the required information.

(e) *Planning.* If projections indicate that a project's ground-water supply will be constrained in the future by either the quantity or quality of available ground water, the commission may, in its discretion, require the submission of a water resource development plan prior to accepting any new withdrawal applications for the same or related projects.

(f) *Interference with existing withdrawals.* If review of the application or substantial data demonstrates that operation of a proposed ground-water withdrawal will significantly affect or interfere with an existing ground-water or surface water withdrawal, the project may be denied or the project sponsor may be required to provide, at its expense, an alternate water supply or other mitigating measures.

(g) *Effective date.* Notwithstanding the overall effective date for other portions of this part set forth in § 803.1(e), this section shall apply to all ground-water withdrawals initiated on or after July 13, 1978.

§ 803.44 Standards for surface water withdrawals.

(a) *Requirement.* (1) With respect to projects coming into existence on or after the effective date of this section, any project sponsor proposing to withdraw either directly or a public water supplier proposing to withdraw indirectly (through another user) from a surface source in excess of an average of 100,000 gpd for any consecutive thirty-day period, proposing to increase a withdrawal to more than an average of 100,000 gpd for any consecutive thirty-day period or proposing to increase a withdrawal above that amount which was previously approved by the commission, shall obtain commission approval of the withdrawal. These withdrawals may be denied or may be limited by the commission to the amount (quantity and rate) of water that is needed to meet the reasonably foreseeable needs of the project sponsor and that can be withdrawn without causing adverse lowering of streamflow levels, rendering competing supplies unreliable, causing water quality degradation that may be injurious to any existing or potential water use, adversely affecting fish, wildlife or other living resources or their habitat, or having a substantial adverse impact on the low flow of perennial streams.

(2) With respect to projects withdrawing any quantity of water prior to the effective date of this section, any project sponsor proposing to increase the said withdrawal in excess of 100,000 gpd above that which such project was withdrawing prior to the said effective date, shall apply for approval pursuant to subpart B of this part.

(3) Any sponsor of a project subject to this section shall complete a surface water withdrawal application. After obtaining approval under this section, the sponsor shall comply with metering, monitoring, and conservation requirements as set forth in this section.

(b) *Withdrawal application.* Information required by the commission is specified in the commission's application for withdrawal from surface water sources.

(c) *Metering.* Project sponsors shall meter or use other suitable methods of measuring surface withdrawals approved under this section. The meters shall be accurate to within 5 percent of the actual flow.

(d) *Monitoring and reporting.* Monitoring and periodic reporting of surface water withdrawals approved under this section is required. The required information includes but is not limited to the following:

(1) Daily, weekly, or monthly records of withdrawals by source, as specified by the commission, and reported annually;

(2) Description of conservation activity; and

(3) Records of releases or flowby for instream protection reported annually.

(e) *Planning.* If projections indicate that a project's surface water supply will be constrained in the future by either the quantity or quality of available surface water, the commission may, in its discretion, require the submission of a water resource development plan prior to accepting any new withdrawal applications for the same or related projects.

(f) *Interference with existing withdrawals.* If review of the application or substantial data demonstrates that operation of a proposed surface water withdrawal will significantly affect or interfere with an existing ground-water or surface water withdrawal, the project may be denied or the project sponsor

may be required to provide, at its expense, an alternate water supply or other mitigating measures.

(g) *Effective date.* This section shall be effective six months after the effective date set forth in § 803.1(e), except for projects previously reviewed and approved by the commission under the general authority of section 3.10 of the compact. Commission authority shall continue over such previously approved projects.

(h) *Hydroelectric projects.* Hydroelectric projects, except to the extent that such projects constitute a withdrawal, shall be exempt from the requirements of this section; provided, however, that nothing in this paragraph shall be construed as exempting hydroelectric projects from review and approval under any other category of project requiring review and approval as set forth in §§ 803.4 and 803.5.

2. Parts 804 and 805 are added to read as follows:

PART 804—SPECIAL REGULATIONS AND STANDARDS

Subpart A—Water Withdrawal Registration

Sec.
804.1 Requirement.
804.2 Time limits.
804.3 Administrative agreements.
804.4 Effective date.
804.5 Definitions.

Subpart B—Water Conservation Requirements

804.20 Requirement.
804.21 Effective date.
804.22 Definitions.

Authority: Secs. 3.4(2) and (9), 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

Subpart A—Water Withdrawal Registration

§ 804.1 Requirement.

In addition to any other requirements of commission regulations, and subject to the consent of the affected signatory state to this requirement, all persons withdrawing or diverting in excess of an average of 10,000 gpd for any consecutive thirty-day period, from surface or ground-water sources, as defined in Part 803 of this chapter, shall register the amount of this withdrawal with the commission and provide such other information as requested on forms prescribed by the commission.

§ 804.2 Time limits.

(a) Except for agricultural water use projects, all registration forms shall be submitted within one year after May 11, 1995, or within six months of their initiation, whichever is later; provided, however, that nothing in this section shall limit the responsibility of an applicant to apply for and obtain an approval as may be required under part 803 of this chapter. All registered withdrawals shall re-register with the commission within five years of their initial registration, and at five-year intervals thereafter, unless sooner discontinued.

(b) Sponsors of existing agricultural water use projects (i.e. projects coming into existence prior to March 31, 1997) withdrawing or diverting in excess of an average of 10,000 gpd for any consecutive 30-day period from a surface or ground-water source shall register their use no later than March 31, 1997. Thereafter, the sponsors of new projects proposing to withdraw or divert in excess of 10,000 gpd for any consecutive 30-day period from a surface or ground-water source shall be registered prior to project initiation.

§ 804.3 Administrative agreements.

The commission may complete appropriate administrative agreements or informal arrangements to carry out this registration requirement through the offices of signatory agencies. Forms developed by the commission shall apprise registrants of any such agreements or arrangements and provide appropriate instructions to complete and submit the form. Permits issued by a signatory party agency shall be considered a registration with the commission if issued pursuant to an agreement of understanding with the commission specifically providing therefor.

§ 804.4 Effective date.

This subpart shall be effective on May 11, 1995 and shall apply to all present and future withdrawals or diversions irrespective of when such withdrawals or diversions were initiated.

§ 804.5 Definitions.

Terms used in this subpart shall be defined as set forth in § 803.3 of this chapter.

Subpart B—Water Conservation Requirements

§ 804.20 Requirement.

Any project sponsor whose project is subject to commission approval under this part or part 803 of this chapter proposing to withdraw water either directly or indirectly (through another user) from surface or ground-water sources or both shall comply with the following requirements:

(a) *Public water suppliers.* As circumstances warrant, the public water supplier shall:

(1) Reduce distribution system losses to a level not exceeding 20 percent of the gross withdrawal.

(2) Install meters for all users.

(3) Establish a program of water conservation that will:

(i) Require installation of water conservation devices, as applicable, by all classes of users;

(ii) Prepare and distribute literature to customers describing available water conservation techniques;

(iii) Implement a water pricing structure which encourages conservation; and

(iv) Encourage water reuse.

(b) *Industrial water users.* Industrial users shall:

(1) Designate a company representative to manage plant water use.

(2) Install meters or other suitable devices or utilize acceptable flow measuring methods for accurate determination of water use by various parts of the company operation.

(3) Install flow control devices which match the needs of the equipment being used for production.

(4) Evaluate and utilize applicable recirculation and reuse practices.

(c) *Agricultural and other irrigation.* Water users for irrigation purposes shall utilize irrigation systems properly designed for the user's respective soil characteristics, topography and vegetation.

§ 804.21 Effective date.

Notwithstanding the effective date for other portions of this part, this subpart shall apply to all surface and ground-water withdrawals initiated on or after January 11, 1979.

§ 804.22 Definitions.

Terms used in this subpart shall be defined as set forth in § 803.3 of this chapter.

PART 805—HEARINGS/ ENFORCEMENT ACTIONS

Subpart A—Conduct of Hearing

Sec.
805.1 Public hearings.
805.2 Adjudicatory hearing.
805.3 Consolidation of hearing.
805.4 Joint hearings.
805.5 Transcript.
805.6 Continuance.
805.7 Effective date.
805.8 Definitions.

Subpart B—Enforcement Actions and Settlements

805.20 Scope of subpart.
805.21 Notice to possible violators.
805.22 The record for decision-making.
805.23 Adjudicatory hearings/alleged violations.

805.24 Assessment of a penalty/abatement or remedial action.
805.25 Factors to be applied in fixing penalty amount.
805.26 Enforcement of penalties/abatement or remedial orders.
805.27 Settlement by agreement.
805.28 Effective date.
805.29 Definitions.

Authority: Secs. 3.4(9), 3.5(5), 3.10, 15.2 and 15.17, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

Subpart A—Conduct of Hearing

§ 805.1 Public hearings.

(a) A public hearing shall be conducted in the following instances:

(1) Addition of projects or adoption of amendments to the comprehensive plan except as otherwise provided by Section 14.1 of the compact.

(2) Rulemaking.

(3) Approval of projects.

(4) Hearing requested by a signatory party.

(5) When in the opinion of the commission, a hearing is necessary to give adequate consideration to issues relating to public safety, protection of the environment, or other important societal factors.

(6) To decide factual disputes.

(7) At all other times required by the compact or commission regulations in this chapter.

(b) *Notice of public hearing.* At least 20 days before any public hearing required by the compact, notices stating the date, time, place and purpose of the hearing including issues of interest to the commission shall be published at least once in a newspaper or newspapers of general circulation in the area affected. Occasions when public hearings are required by the compact include, but are not limited to, amendments to the comprehensive plan, drought emergency declarations, and review and approval of diversions. In all other cases, at least 10 days prior to the hearing, notice shall be posted at the office of the commission, mailed by first class mail to the parties who, to the commission's knowledge, will participate in the hearing, and mailed by first class mail to persons, organizations, news media and governmental entities who have made requests to the commission for notices of hearings or of a particular hearing. In the case of hearings held in connection with rulemaking, notices need only be forwarded to the directors of the New York Register, the Pennsylvania Bulletin, the Maryland Register, and the **Federal Register**, and it is sufficient that this notice appear only in the **Federal Register** at least 20 days prior to the hearing and in each individual state publication at least 10 days prior to any hearing scheduled in that state.

(c) *Participants to a public hearing.* (1) Hearings shall be open to the public. Participants to a public hearing shall be the project sponsor and the commission staff. Participants may also be any person or governmental entity wishing to appear at the hearing and make an oral or written statement. Statements may favor or oppose the project/proposal or may simply express a position without specifically favoring or opposing the project/proposal. Statements shall be made a part of the record of the hearing, and written statements may be received up to and including the last day on which the hearing is held, or within a reasonable time thereafter as may be specified by the presiding officer, which time shall be not less than ten days nor more than 30 days, except that a longer time may be specified if requested by a participant.

(2) Participants (except the project sponsor and the commission staff) are encouraged to file with the commission at its headquarters written notice of their intention to appear at the hearing. The notice should be filed at least three days prior to the opening of the hearing.

(d) *Representative capacity.* Participants wishing to be heard at a public hearing may appear in person or be represented by an attorney or other representative. A governmental entity may be represented by one of its officers, employees or by a designee of the governmental entity. Any person intending to appear before the commission in a representative capacity on behalf of a participant shall give the commission written notice of the nature and extent of his/her authorization to represent the person or governmental entity on whose behalf he/she intends to appear.

(e) *Description of project.* When notice of a public hearing is issued, there shall be available for inspection at the commission offices such plans, summaries, maps, statements, orders or other supporting documents which explain, detail, amplify, or otherwise describe the project the commission is considering. Instructions on where and how the documents may be obtained will be included in the notice.

(f) *Presiding officer.* A public hearing shall be conducted by the commission, the executive director, or any member or designee of the commission. The presiding officer shall have full authority to control the conduct of the hearing and make a record of the same.

§ 805.2 Adjudicatory hearing.

(a) *Generally.* The commission, upon application by any interested party or upon its own motion, may determine that, due to outstanding issues of fact, an adjudicatory hearing shall be conducted. If, for any reason, the commission determines that there are not sufficient issues of fact to schedule an adjudicatory hearing, it may still require briefs or oral argument on any issues of law.

(b) *Hearing procedure.* (1) The presiding officer shall have the power to rule upon offers of proof and the admissibility of evidence, to regulate the course of the hearings, to hold conferences for the settlement or simplification of issues, to determine the proper parties to the hearing, to determine the scope of any discovery procedures, and to delineate the issues to be adjudicated.

(2) The presiding officer shall cause each witness to be sworn or to make affirmation.

(3) Any party to a hearing shall have the right to present evidence and to examine and cross-examine witnesses.

(4) When necessary, in order to prevent undue prolongation of the hearing, the presiding officer may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses, or the extent of corroborative or cumulative testimony.

(5) The presiding officer shall exclude irrelevant, immaterial or unduly repetitious evidence, but the parties shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received.

(6) Any party may appear and be heard in person or be represented by an attorney at law.

(7) Briefs and oral argument may be required by the presiding officer and shall be permitted upon request made prior to the close of the hearing by any party. They shall be part of the record unless otherwise ordered by the presiding officer.

(c) *Staff and other expert testimony.* The executive director shall arrange for the presentation of testimony by the commission's technical staff and other experts, as he/she may deem necessary or desirable, to incorporate in the record or support the administrative action, determination or decision which is the subject of the hearing.

(d) *Written testimony.* If the direct testimony of an expert witness is expected to be lengthy or of a complex, technical nature, the presiding officer may order that such direct testimony be submitted to the commission in sworn,

written form. Copies of said testimony shall be served upon all parties appearing at the hearing at least ten days prior to said hearing. Such written testimony, however, shall not be admitted whenever the witness is not present and available for cross-examination at the hearing unless all parties have waived the right of cross-examination.

(e) *Assessment of costs.* (1) Whenever an adjudicatory hearing is required, the costs thereof, as herein defined, shall be assessed by the presiding officer to the project sponsor or such other party as the hearing officer deems equitable. For the purposes of this section, costs include all incremental costs incurred by the commission, including, but not limited to, hearing examiner and expert consultants reasonably necessary in the matter, stenographic record, rental of the hall and other related expenses.

(2) Upon the scheduling of a matter for adjudicatory hearing, the commission secretary shall furnish to the applicant a reasonable estimate of the costs to be incurred under this section. The applicant may be required to furnish security for such costs either by cash deposit or by a surety bond of a corporate surety authorized to do business in a signatory state.

(f) *Findings and report.* The presiding officer shall prepare a report of his/her findings and recommendations. The report shall be served by personal service or certified mail (return receipt requested) upon each party to the hearing or its counsel unless all parties have waived service of the report. Any party may file objections to the report within 20 days after the service upon the party of a copy of the report. A brief shall be filed together with objections and briefs shall be promptly submitted to the commission. The commission may require or permit oral argument upon such submission prior to its decision.

(g) *Action by the commission.* The commission will act upon the findings and recommendations of the presiding officer pursuant to law. The determination of the commission will be in writing and shall be filed together with any transcript of the hearing, report of the hearing officer, objections thereto, and all plans, maps, exhibits and other papers, records or documents relating to the hearing.

§ 805.3 Consolidation of hearing.

The commission may order any two or more public hearings involving a common or related question of law or fact to be consolidated for hearing on any or all the matters at issue in such hearings.

§ 805.4 Joint hearings.

The commission may conduct public hearings in concert with any other agency of a signatory party.

§ 805.5 Transcript.

A verbatim transcript of the adjudicatory hearings shall be kept by the commission. Other public hearings may be electronically recorded and a transcript made only if deemed necessary by the executive director or general counsel. A certified copy of the transcript and exhibits shall be available for review during business hours at the commission's headquarters to anyone wishing to examine them. Persons wishing to obtain a copy of the transcript of any hearing shall make arrangements to obtain it directly from the recording stenographer at their expense.

§ 805.6 Continuance.

The sponsor and all other persons wishing to be heard should be prepared to proceed on the date of the hearing. Applications for continuances will not be granted, except when good cause is shown.

§ 805.7 Effective date.

This subpart shall be effective on May 11, 1995.

§ 805.8 Definitions.

Terms used in this subpart shall be defined as set forth in 803.3 of this chapter.

Subpart B—Enforcement Actions and Settlements

§ 805.20 Scope of subpart.

This subpart shall be applicable where the commission has information indicating that a person or governmental entity (hereafter referred to as alleged violator) has violated or attempted to violate any provision of the compact or any of the commission's rules, regulations or orders

§ 805.21 Notice to possible violators.

Upon direction of the commission, the executive director shall, and in all other instances, the executive director may require an alleged violator to show cause before the commission why a penalty should not be assessed in accordance with the provisions of this chapter and Section 15.17 of the compact. The notice to the alleged violator shall:

(a) Set forth the date on which the alleged violator shall respond;

(b) Set forth any information to be submitted or produced by the alleged violator; and

(c) Specify the violation that is alleged to have occurred.

§ 805.22 The record for decision-making.

(a) *Written submission.* In addition to the information required by the commission, any alleged violator shall be entitled to submit in writing any other information that it desires to make available to the commission before it shall act. The executive director may require documents to be certified or otherwise authenticated and statements to be verified. The commission may also receive written submissions from any other persons as to whether a violation has occurred and the adverse consequences resulting from a violation of the compact or the commission's rules, regulations and orders.

(b) *Presentation to the commission.* On the date set in the notice, the alleged violator shall have the opportunity to supplement its written presentation before the commission by any oral statement it wishes to present and shall be prepared to respond to any questions from the commission or its staff or to the statements submitted by persons affected by the alleged violation.

§ 805.23 Adjudicatory hearings/alleged violations.

(a) An adjudicatory hearing (which may be in lieu of or in addition to proceedings pursuant to §§ 805.21 and 805.22) shall not be scheduled unless the executive director or the commission determines that a hearing is required to have an adequate record for the commission, or the commission directs that such a hearing be held.

(b) If an adjudicatory hearing is scheduled, the alleged violator shall be given at least 14 days written notice of the hearing date unless waived by consent. Notice of such a hearing shall be given to the general public and the press in the manner provided in § 805.1(b).

(c) Except to the extent inconsistent with the provisions of this subpart, adjudicatory hearings shall be conducted in accordance with the provisions of §§ 805.2 through 805.6.

§ 805.24 Assessment of a penalty/abatement or remedial action.

The executive director may recommend to the commission the amount of the penalty to be imposed or the abatement and remedial actions to be required. Such a recommendation shall be in writing and shall set forth the basis for the penalty amount proposed. Based upon the record submitted to the commission, the commission shall decide whether a violation has occurred that justifies the imposition of a penalty

pursuant to Section 15.17 of the compact or the requirement of abatement or remedial action. If it is found that such a violation has occurred, the commission shall determine the amount of the penalty to be paid and the nature of the abatement or remedial action to be undertaken.

§ 805.25 Factors to be applied in fixing penalty amount.

(a) Consideration shall be given to the following factors in deciding the amount of any penalty or any settlement:

(1) Previous violation, if any, of the compact, commission regulations or orders;

(2) The intent of the alleged violator;

(3) The extent to which the violation caused adverse environmental consequences;

(4) The costs incurred by the commission or any signatory party relating to the failure to comply with the compact, commission regulations or orders;

(5) The extent to which the violator has cooperated with the commission in correcting the violation and remediating any adverse consequences or harm that has resulted therefrom;

(6) The extent to which the failure to comply with the commission's compact and regulations was economically beneficial to the violator; and

(7) The length of time over which the violation occurred and the amount of water used during that time period.

(b) The commission retains the right to waive any penalty or reduce the amount of the penalty should it determine that, after consideration of the factors in paragraph (a) of this section, extenuating circumstances justify such action.

§ 805.26 Enforcement of penalties/ abatement or remedial orders.

Any penalty imposed or abatement or remedial action ordered by the commission shall be paid or completed within such time period as shall be fixed by the commission. The executive director and commission counsel are authorized to take such action as may be necessary to assure enforcement of this subpart. If a proceeding before a court becomes necessary, the action of the commission in determining a penalty amount shall constitute the penalty amount recommended by the commission to be fixed by the court pursuant to Section 15.17 of the compact.

§ 805.27 Settlement by agreement.

An alleged violator may request settlement of an enforcement proceeding by agreement. If the executive director determines that settlement by agreement is in the best interest of the commission, he/she may submit to the commission a proposed settlement agreement. No settlement will be considered by the commission unless the alleged violator has indicated in writing to the commission acceptance of the terms of the agreement and the intention to comply with all requirements of the settlement agreement including payment of any settlement amount or completion of any abatement or remedial action within the time period provided. If the commission determines not to approve a settlement agreement, the commission may proceed with an enforcement action in accordance with this subpart.

§ 805.28 Effective date.

This subpart shall be effective on May 11, 1995.

§ 805.29 Definitions.

Terms used in this subpart shall be defined as set forth in § 803.3 of this chapter.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in July 1995, and to multiemployer plans with valuation dates in July 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the July 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the ''single-employer regulation'') and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the ''multiemployer regulation'').

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and ''benefit liabilities,'' *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Stantard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C Formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-

employer plans that have termination dates during July 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during July 1995.

For annuity benefits, the interest rates will be 6.30% for the first 20 years following the valuation date and 5.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.75% for the period during which benefits are in pay status and 4.00% during the period preceding the benefit's placement in pay status. The above annuity interest assumptions represent a decrease (from those in effect for June 1995) of .50 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent a decrease (from those in effect for June 1995) of .75 percent for the period during which benefits are in pay status and the seven years directly preceding that period; they are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the Federal Register by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during July 1995, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during July 1995, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does no apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, Rate Set 21 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I.—LUMP SUM VALUATIONS

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
21	7–1–95	8–1–95	4.75	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II.—ANNUITY VALUATIONS

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*	*		*
July 1995	.0630	1–20	.0575	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 21 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used to Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interested rate i_1 shall apply for the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I.—LUMP SUM VALUATION

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
21	7–1–95	8–1–95	4.75	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II.—ANNUITY VALUATIONS

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=γ
* * *	*		*	*		*
July 1995	.0630	1–20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 12th day of June 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–14699 Filed 6–14–95; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–95–012]

RIN 2115–AA97

Safety Zone: Annual Burlington Independence Day Celebration Fireworks Display, Burlington Bay, Vermont

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual Burlington Independence Day Celebration fireworks display located in Burlington Bay, Burlington, Vermont. The safety zone is in effect annually on the third of July from 7:45 p.m. until 10:15 p.m. The safety zone temporarily closes all waters of Burlington Bay within a 250 yard radius of the fireworks platform anchored approximately 250 yards west of Burlington, Vermont, at or near 44°28′33″N latitude and 073°13′33″W longitude (NAD 1983).

EFFECTIVE DATE: This rule is effective on July 3, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 22, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 15102). Interested persons were requested to submit comments on or before May 22, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this final rule as proposed with a minor correction. The NPRM contained incorrect coordinates due to a publishing error. The coordinates were published as 44°29′33″N latitude, 073°13′33″W longitude. The coordinates should have been published as 44°28′33″N, 073°13′33″W longitude. This final rule states the coordinates correctly.

Due to the NPRM comment period deemed necessary to give adequate public notice, there was insufficient time to publish this final rule 30 days prior to the event. Good cause exists for making this rule effective less than 30 days after publication. Adequate measures are being taken to ensure mariners are made aware of this regulation. This rule will be locally published in the First Coast Guard District's Local Notice to Mariners, and announced via Safety Marine Information Broadcasts.

Background and Purpose

For the last several years, the Burlington Department of Parks and Recreation has submitted an application to hold a fireworks program on Burlington Bay. This regulation establishes a permanent safety zone on all waters of Burlington Bay within a 250 yard radius of the fireworks platform anchored approximately 250 yards west of Burlington, Vermont, at or near 44°28′33″N latitude and 073°13′33″W longitude (NAD 1983). The safety zone is in effect annually on the third of July from 7:45 p.m. until 10:15 p.m., unless extended or terminated sooner by the Captain of the Port New York. The safety zone precludes all vessels from transiting this portion of Burlington Bay and is needed to protect mariners from the hazards associated with fireworks exploding in the area. The effective period of the safety zone will be announced annually via Safety Marine Information Broadcasts and by locally issued notices.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The safety zone closes a portion of Burlington Bay to all vessel traffic annually on the third of July from 7:45 p.m. until 10:15 p.m., unless extended or terminated sooner by the Captain of the Port New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation is not significant for several reasons: the limited duration of the event; the late hour of the event; that traffic can safely transit to the west of the safety zone; the event has been held annually for the past several years without incident or complaint; and the extensive, advance advisories that will be made. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program under the

National Environmental Policy Act will be conducted in conjunction with the marine event permitting process each year.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.166, is added to read as follows:

§ 165.166 Safety Zone; Annual Burlington Independence Day Celebration Fireworks Display, Burlington Bay, Vermont.

(a) *Location.* All waters of Burlington Bay within a 250 yard radius of a fireworks platform anchored approximately 250 yards west of Burlington, Vermont, at or near 44°28′33″N latitude and 073°13′33″W longitude (NAD 1983).

(b) *Effective period.* The safety zone is in effect annually on the third of July from 7:45 p.m. until 10:15 p.m., unless extended or terminated sooner by the Captain of the Port New York. The effective period will be announced annually via Safety Marine Information Broadcasts and locally issued notices.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 2, 1995.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 95–14557 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP St. Louis 95–006]

RIN 2115–AA97

Safety Zone; Meramec River, Mile 0.0 to 21.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Meramec River between mile 0.0 and 21.0. This regulation is required for the prevention of damage to property and protection of flooded areas. This regulation will restrict general navigation in the regulated area for the protection of life and property along the shore.

EFFECTIVE DATES: This regulation is effective on May 20, 1995 and will remain in effect until June 19, 1995 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG A.B. Cheney, Project Officer, Maine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Meramec River Basin has caused portions of the Meramec River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a rule without waiting for comment period since high water conditions present an immediate hazard.

Background and Purpose

The Meramec River from the mouth, mile 0.0, to mile 21.0, has seen a rapid rise in the water level and is above flood stage. This rule is required to protect property along the Meramec River, therefore, all vessels are restricted from the regulated area.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A temporary section 165.T02–039 is added, to read as follows:

§ 165.T02–039 Safety Zone: Meramec River.

(a) *Location.* The Meramec River between mile 0.0 and 21.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 20, 1995 and will terminate on June 19, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: May 20, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–14561 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP St. Louis 95–005]

RIN 2115–AA97

Safety Zone; Osage River, mile 0.0 to 6.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Osage River between mile 0.0 and 6.0. This regulation is required for the prevention of damage to levees and protection of flooded areas. This regulation will restrict general navigation in the regulated area for the protection of life and property along the shore.

EFFECTIVE DATES: This regulation is effective on May 19, 1995 and will remain in effect until June 18, 1995 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG A.B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exist for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Osage River Basin has caused portions of the Osage River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a rule without waiting for comment period since high water conditions present an immediate hazard.

Background and Purpose

The Osage River from the mouth, mile 0.0, to mile 6.0, has seen a rapid rise in the water level and is above flood stage. This rule is required to protect saturated levees, therefore, all vessels are restricted from the regulated area.

Regulatory Evaluation

This regulation is not major under Executive Order 122291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160–5.

2. A temporary section 165.T02–031 is added, to read as follows:

§ 165.T02–031 Safety Zone: Osage River.

(a) *Location.* The Osage River between mile 0.0 and 6.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 19, 1995 and will terminate on June 18, 1995, unless

terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: May 19, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–14562 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Part 674

RIN 1840–AB71

Federal Perkins Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Federal Perkins Loan Program to add the Office of Management and Budget (OMB) control number to § 674.34(e) of the regulations. The section contains information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved, and therefore affected parties must comply with them.

EFFECTIVE DATE: These regulations are effective on July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Sylvia R. Ross, Federal Perkins Loan Program, U.S. Department of Education, 600 Independence Avenue SW., (Room 4018, ROB–3), Washington, D.C. 20202–5447. Telephone (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Final regulations for the Federal Perkins Loan Program were published in the **Federal Register** on November 30, 1994 (59 FR 61392). Compliance with information collection requirements in § 674.34(e) of these regulations was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of 1980. OMB approved the information collection requirements in the regulations on May 19, 1995. The information collection requirements in § 674.34(e) will therefore become effective with the other provisions of the regulations on July 1, 1995.

Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 674

Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: June 9, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary amends part 674 of title 34 of the Code of Federal Regulations as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087–ii, and 421–429, unless otherwise noted.

§ 674.34 [Amended]

2. Section 674.34(e) is amended by adding the OMB control number following the section to read as follows:

(Approved by the Office of Management and Budget under control number 1840–0535)

[FR Doc. 95–14666 Filed 6–14–95; 8:45 am]

BILLING CODE 4000–01–P

34 CFR Part 682

RIN 1840–AC09

Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Federal Family Education Loan Program to add the Office of Management and Budget (OMB) control number to certain sections of the regulations. Those sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved, and therefore affected parties must comply with them.

EFFECTIVE DATE: The information collection requirements included in the regulations published on November 30, 1994 become effective on July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Pamela Moran, Loans Branch, Division of Policy Development, Policy, Training, and Analysis Service, U.S. Department of Education, 600 Independence Avenue, S.W., (Room 3053, ROB–3), Washington, D.C. 20202. Telephone (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Final regulations for the Federal Family Education Loan Program were published in the **Federal Register** on November 30, 1994 (59 FR 61424). Compliance with information collection requirements in certain sections of these regulations was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of 1980. OMB approved the information collection requirements in the regulations on December 5, 1994. The information collection requirements in these regulations will therefore become effective with all of the other provisions of the regulations on July 1, 1995.

Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: June 9, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary amends part 682 of Title 34 of the Code of Federal Regulations as follows:

PART 682—FEDERAL FAMILY EDUCATION LOAN PROGRAM

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§§ 682.305, 682.401, 682.404, 682.603 [Amended]

2. Sections 682.305, 682.401, 682.404, and 682.603 are amended by republishing the OMB control number following each section to read as follows:

''(Approved by the Office of Management and Budget under control number 1840–0538)''

[FR Doc. 95–14665 Filed 6–14–95; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ50–1–6966a; FRL–5187–8]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Arizona State Implementation Plan. On June 23, 1994 EPA published the Notice of Proposed Rulemaking to partially approve and partially disapprove the State Implementation Plan (SIP) revision submitted by the State of Arizona for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). The cause of the proposed disapproval has since been corrected by the State. Thus, EPA is finalizing approval of these revisions into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals and plan requirements for establishing a PROGRAM.

DATES: This action is effective on August 14, 1995 unless adverse or critical comments are received by July 17, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105

U.S. Environmental Protection Agency, Air Docket 6102, 401 ''M'' Street, S.W. Washington, D.C. 20460

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: R. Michael Stenburg, A–1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1102.

SUPPLEMENTARY INFORMATION:

1. Background

Implementation of the provisions of the Clean Air Act (CAA), as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the Federally approved SIP. In addition, the CAA directs the Environmental Protection Agency (EPA) to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in Section 507 of Title V of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

On November 13, 1992, the State of Arizona submitted a SIP revision to EPA in order to satisfy the requirements of Section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. A detailed discussion of the background for each of the above PROGRAM elements is provided in the June 23, 1994 **Federal Register** Notice of Proposed Rulemaking (NPR). EPA proposed to partially disapprove the November 13, 1992 submittal for not satisfying the Small Business Assistance Program requirement to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. On September 12, 1994 the State held a public hearing which adopted the aforementioned procedure for considering modification requests. On February 1, 1995 the State submitted the procedure which became effective on February 1, 1995, for approval as a SIP revision.

EPA has evaluated all of the above PROGRAM elements for consistency with the requirements of the CAA and the EPA policy guidance document. EPA has found that all the PROGRAM elements now meet the applicable EPA requirements. A detailed discussion of the background for each of the above PROGRAM elements is provide both in this **Federal Register** and in the June 23, 1994 **Federal Register** Notice of Proposed Rulemaking (NPR).

II. Response to Public Comments

A 30-day public comment period was provided in the June 23, 1994 **Federal Register** NPR. EPA received no public comments.

III. Final Action

EPA is approving the SIP revisions submitted by the State of Arizona. The revisions were made to satisfy the requirements of Section 507 of the CAA.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 14, 1995 unless, by July 17, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 14, 1995.

The OMB has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By this action, EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 27, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c) (72) and (76) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(72) Program elements were submitted on November 13, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted on November 13, 1993.

* * * * *

(76) Program elements were submitted on February 1, 1995 by the Governor's designee.

(i) Incorporation by reference.

(A) Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted on February 1, 1995.

* * * * *

[FR Doc. 95–14625 Filed 6–14–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IN32–2–7011; FRL–5208–4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On March 31, 1995, the USEPA proposed approval of a State Implementation Plan (SIP) request for Lake County, Indiana. The request was submitted by the State of Indiana for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM). Public comments were solicited on the proposed SIP revision, and on USEPA's proposed rulemaking action. The public comment period ended on May 1, 1995, and no public comments were received. This rulemaking action approves, in final, the PM SIP revision request for Lake County, Indiana as requested by Indiana.

EFFECTIVE DATE: This final rule is effective on July 17, 1995.

ADDRESSES: Copies of the State's submittal, and other materials relating to this rulemaking are available at the following address for review: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The docket may be inspected between the hours of 8:30 a.m. and 12 noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by the USEPA for copying docket material.

A copy of this SIP revision is available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), Room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Branch, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–3299. Anyone wishing to visit the Region 5 offices should first contact David Pohlman.

SUPPLEMENTARY INFORMATION:

Background

Under section 107(d)(4)(B) of the Clean Air Act (Act), as amended on November 15, 1990 (amended Act), certain areas (''initial areas'') were designated nonattainment for PM. Under section 188 of the amended Act these initial areas were classified as ''moderate''. The initial areas include the Lake County, Indiana, nonattainment area. (See 40 CFR 81.314 for a complete description of these areas.) Section 189 of the amended Act required State submission of a PM SIP for the initial areas by November 15, 1991.

Section 110(k) of the Act sets out provisions governing USEPA's review of SIP submittals (see 57 FR 13565–13566). In this final rule, USEPA is approving the SIP revision request submitted to USEPA on June 16, 1993, and supplemented on December 9, 1993, September 8, 1994, and November 17, 1994, for the Lake County nonattainment area. The submittal repeals rules 326 Indiana Administrative Code (IAC) 5–1–6, 6–1–10, and 6–1–11. The submittal contains the following new or revised rules:

326 IAC 1–2–32.1 *	''Gooseneck cap'' definition.
326 IAC 1–2–34.1 *	''Jumper pipe'' definition.
326 IAC 1–2–62.1 *	''Quench car'' definition.
326 IAC 1–2–63.1 *	''Quench reservoir'' definition.
326 IAC 1–2–63.2 *	''Quench tower'' definition.
326 IAC 5–1–1 *	Applicability of rule.
326 IAC 5–1–2 *	Visible emission limitations.
326 IAC 5–1–3 *	Temporary exemptions.
326 IAC 5–1–4 *	Compliance determination.
326 IAC 5–1–5 *	Violations.
326 IAC 5–1–7 *	State implementation plan revisions.
326 IAC 6–1–10.1 (a–k)	Lake County PM10 emissions requirements.
326 IAC 6–1–10.2	Lake County PM10 coke battery emissions requirements.
326 IAC 6–1–11.1	Lake County fugitive particulate matter control requirements.
326 IAC 11–3–2 (a–f and i) *	Emission limitations.
326 IAC 11–3–4 *	Compliance determination.

While some of these rules apply strictly to Lake County, others (marked above with an asterisk) are intended to have state-wide applicability. The USEPA is approving the rules marked above with an asterisk for the entire state of Indiana. The other rules are being approved for sources in Lake County only.

The limitations on point sources in Lake County include source-specific emissions limits in terms of pounds per ton (lb/ton), pounds per hour (lbs/hr), pounds per Million British Thermal Units (lb/MMBTU), and grains per dry standard cubic foot (gr/dscf). There are also source-specific opacity limits ranging from 5–20 percent on certain sources in the nonattainment area. Other limitations on point sources include emission limits on coke ovens located in Lake County and a general 20 percent opacity limit for all sources in the nonattainment area. Limitations on sources of fugitive emissions in Lake County include a 10 percent opacity limit for paved roads and parking lots, unpaved roads and parking lots, and wind erosion from storage piles.

Indiana also submitted air quality modeling which shows that the Lake County PM nonattainment area will attain the 24-hour PM standard. The highest sixth high predicted 24-hour concentration is 149.9 $\mu g/m^3$ (the 24-hour PM standard is 150 $\mu g/m^3$). The final modeling also predicts attainment of the annual PM standard. The highest 5-year average predicted PM concentration is 47.7 $\mu g/m^3$ (the standard is 50 $\mu g/m^3$). In addition, a preliminary review of the available monitored air quality data for the Lake County area shows that this area is attaining the NAAQS.

The USEPA proposed approval of and solicited public comments on this SIP revision request on March 31, 1995. The public comment period ended on May 1, 1995, and no comments were received.

Final Rulemaking Action

The USEPA is approving the plan revision submitted to USEPA by the State of Indiana on June 16, 1993, and supplemented on December 9, 1993, September 8, 1994, and November 17, 1994, for the Lake County PM nonattainment area. Among other things, the State of Indiana has demonstrated through modeling that the Lake County moderate PM nonattainment area will attain the PM NAAQS. In addition, a preliminary review of the monitored air quality data for the Lake County area shows that this area is attaining the NAAQS.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 8, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(99) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(99) On June 16, 1993, December 9, 1993, September 8, 1994, and November 17, 1994, Indiana submitted a part D particulate matter (PM) nonattainment area plan for the Lake County moderate nonattainment area.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 2: Definitions, Section 32.1: ''Gooseneck cap'' definition, Section 34.1: ''Jumper pipe'' definition, Section 62.1: ''Quench car'' definition, Section 63.1: ''Quench reservoir'' definition, and Section 63.2: ''Quench tower'' definition. Added at 16 *Indiana Register* 2363, effective June 11, 1993.

(B) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 5: Opacity Regulations, Rule 1: Opacity Limitations, Section 1: Applicability of rule, Section 2: Visible emissions limitations, Section 3:

Temporary exemptions, Section 4: Compliance determination, Section 5: Violations, and Section 7: State implementation plan revisions. Amended at 16 *Indiana Register* 2363, effective June 11, 1993.

(C) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Nonattainment Area Limitations, Opacity Limitations, Section 10.1: Lake County PM10 emissions requirements (subsections a through k), Section 10.2: Lake County PM10 coke battery emissions requirements, and Section 11.1: Lake County fugitive particulate matter control requirements. Added at 16 *Indiana Register* 2363, effective June 11, 1993.

(D) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 11: Emissions Limitations for Specific Types of Operations, Rule 3: Coke Oven Batteries, Section 2: Emissions limitations (subsections a through f, and i), and Section 4: Compliance determination. Amended at 16 *Indiana Register* 2363, effective June 11, 1993.

[FR Doc. 95–14627 Filed 6–14–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5220–7]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Koch Refining Company Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Koch Refining Company site in Minnesota from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Minnesota have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further response by responsible parties is appropriate. Moreover, EPA and the State of Minnesota have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: June 15, 1995.

FOR FURTHER INFORMATION CONTACT: Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Office of Superfund, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Minnesota Pollution Agency Public Library, 520 Laffayette Rd. St Paul, MN 55155–4194.

Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The point of contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: The Koch Refining Company located in Rosemount, Minnesota. A Notice of Intent to Delete was published March 23, 1995 (60 FR 15273) for this site. The closing date for comments on the Notice of Intent to Delete was April 24, 1995. EPA received no comments and therefore has not prepared a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 28, 1995.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region V.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site ''Koch Refining Co./N-Ren Corp., Pine Bend, Minnesota''.

[FR Doc. 95–14545 Filed 6–14–95; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 60, No. 115
Thursday, June 15, 1995

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.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2635

RIN 3209–AA04

Widely Attended Gatherings Gifts Exception Under the Standards of Ethical Conduct for Employees of the Executive Branch

AGENCY: Office of Government Ethics (OGE).

ACTION: Proposed rule.

SUMMARY: The Office of Government Ethics proposes to revise the gift exception contained in the Standards of Ethical Conduct for Employees of the Executive Branch to permit employees to accept invitations to certain widely attended gatherings from persons other than the sponsors of those events and to clarify that only those events attended by large number of persons qualify as widely attended gatherings. The Office of Government Ethics also proposes to permit authorization for a guest, other than the employee's spouse, to accompany the employee to a widely attended gathering or to an event at which the employee is assigned to participate as a speaker, panelist or other information presenter at which other guests will be in attendance. These proposed changes would provide more flexibility in attendance at such events while preserving agencies' ability to monitor compliance by their employees.

DATES: Comments by agencies and the public are invited and are due by August 14, 1995.

ADDRESSES: Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917, Attention: Mr. Gressman.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics; telephone: 202–523–5757; FAX: 202–523–6325.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) for codification at 5 CFR part 2635. See 57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions for certain existing agency provisions at 59 FR 4779–4780 and 60 FR 6390–6391. The Standards, which took effect on February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel. They include regulations implementing the gift restrictions contained in 5 U.S.C. 7353 and section 101(d) of Executive Order 12674 as modified by Executive Order 12731. In accordance with those authorities, § 2635.204 sets forth exceptions to § 2635.202(a), which provides that, in the absence of an exception, an employee shall not directly or indirectly solicit or accept a gift from a prohibited source or a gift that is given because of the employee's official position.

One of several exceptions set forth in § 2635.204 is the exception at § 2635.204(g)(2) by which an employee may accept a sponsor's unsolicited gift of free attendance at all or part of a widely attended gathering. Unlike the de minimis exception at § 2635.204(a) for unsolicited gifts having a market value of $20 or less per occasion (with a calendar year aggregate limit of $50), § 2635.204(g)(2) imposes no limitation on the market value of the gifts of free attendance that may be accepted. While the tickets or other fees for attendance at such gatherings ordinarily cost much less, this exception would permit acceptance of free attendance at events for which the ticket price exceeds even $1,000. In part to ensure that prohibited sources do not use this exception to provide lavish entertainment to employees of the agencies with which they do business or otherwise interact, § 2635.204(g)(2) specifies that an invitation to a widely attended gathering can be accepted only if it is from the sponsor of the event.

On March 9, 1993, shortly after the Standards first took effect, the White House declared a six-month suspension of application to press dinners of that portion of § 2635.204(g)(2) that limits acceptance of invitations to widely attended gatherings to those issued by the sponsor of the event. During that six-month period, executive branch officials were authorized to attend press dinners as guests of individuals or organizations other than the sponsor of the event, if the event otherwise met the conditions of the widely attended gathering exception. On December 21, 1993, with another round of press association events in the offing, the White House issued a memorandum to all agency heads once again temporarily suspending administrative enforcement of the rule affecting widely attended gatherings solely as it relates to dinners sponsored by news associations for which admission for executive branch officials is paid by news organizations.

In a letter of December 21, 1993 addressed to OGE, the White House asked OGE to consider a revision to § 2635.204(g)(2) to provide that an employee may accept an invitation received directly from a news organization to attend a widely attended gathering sponsored by a news association where there has been a determination that the employee's attendance is in the interest of the agency. In the alternative, the White House suggested that OGE might wish to consider revising § 2635.204(g)(2) to provide an exemption for invitations to a broader range of widely attended gatherings from persons other than the sponsors of those events. The White House specified in its memorandum of the same date that the suspension was to extend until August 1, 1994, or until such later date as OGE responded to its request for revision of § 2635.204(g)(2). This proposed rule is the first step in OGE's response to the White House request. Thus, the suspension effected by the White House's most recent memorandum of December 21, 1993 will extend until OGE has issued an interim or final rule determination as to this matter after receiving and reviewing comments in response to this notice of proposed rulemaking.

In asking that OGE treat the press differently than others for purposes of permitting employees to attend press association events, the White House expressed the view that the press is not like other individuals, organizations or entities. The press, it suggested, provides the public with access to the institution of Government and, thus, functions on behalf of the greater public

good in seeking to gather, record and disseminate information about current events. In the view of the White House, members of the press and press organizations do not seek to do business with, nor do they seek official action from, the Government officials about whom they report. The White House suggested that this provides a justification for treating invitations from press organizations differently than invitations from others who are prohibited sources or who invite Government employees because of their official positions.

It may be true that members of the press, in some instances, do not seek to do business with or seek official action from the particular Government official about whom they are reporting. More often than not, however, those who report about the actions of Government officials or about Government programs do interview, or seek to interview, those who are the subject of their reporting or who have official knowledge about the subject. When that occurs they and the press organizations they represent often are seeking official information from Government officials and are seeking to occupy their official time. They are ''prohibited sources'' within the meaning of 5 CFR 2635.203(d)(1) to the same extent as are others who seek official action from the employees of a Federal agency. How successful they are in obtaining that official information impacts upon their work product and redounds to their benefit or detriment and, ultimately, to the benefit or detriment of the news organizations they serve. Members of the press and press organizations have interests that may be substantially affected by the performance or nonperformance of the official duties of the Government officials of whom they seek information and, thus, also meet the definition of prohibited sources in 5 CFR 2635.203(d)(4). See OGE informal advisory memorandum 87x13 issued October 23, 1987, as published in the ''Informal Advisory Letters and Memoranda and Formal Opinions of the United States Office of Government Ethics'' (at pp. 743–755 of the 1979–1988 bound volume), which is available from the U.S. Government Printing Office. We agree with the White House view that reporting by the press often serves the public good. Whether the product or service is a new cancer medication approved by the Food and Drug Administration or a blockbuster documentary on World War I funded, in part, by a grant from the National Endowment for the Humanities, the same can be said of the products or services of many others who are prohibited sources.

For the reasons stated above, we cannot concur in the White House view that invitations from the press to widely attended gatherings should be treated differently than invitations from other prohibited sources or from others who invite Government officials because of their official positions. We do agree with the White House view, however, that § 2635.204(g)(2) may be unnecessarily restrictive in prohibiting acceptance of invitations to all widely attended gatherings from a person other than the sponsor of the event. By this notice, OGE proposes to adopt the White House's alternative suggestion to modify § 2635.204(g)(2) to permit acceptance of invitations to widely attended gatherings from persons other than the sponsors of those events where more than 100 will be in attendance and where the gift of free attendance has a market value of $250 or less. The Office of Government Ethics also proposes to modify § 2635.204(g)(2) to clarify that events attended by a few, rather than many, are not widely attended gatherings. In addition, OGE is proposing to amend § 2635.204(g)(6) to permit authorization for a person other than a spouse to accompany an employee to a widely attended gathering or to an event at which the employee is assigned to participate as a speaker, panel participant or other presenter of information (pursuant to § 2635.204(g)(1)), where an invitation has been extended to the spouse or a guest and where others in attendance will generally be accompanied by a spouse or a guest.

The proposed amendments to § 2635.204(g) are incorporated in this notice of proposed rulemaking after consultation with the Department of Justice and the Office of Personnel Management.

II. Analysis of the Proposed Changes

As an exception to the gift prohibitions set forth in 5 CFR 2635.202(a), § 2635.204(g)(2) now permits an employee to accept an unsolicited gift of free attendance at a widely attended gathering where the agency makes a determination that the employee's attendance is in the interest of the agency, provided that the gift is from the sponsor of the event. One of the two changes to § 2635.204(g)(2) proposed by this rule would permit an employee to accept an unsolicited gift of free attendance at a widely attended gathering from a person other than the sponsor of the event where there has been a determination of agency interest, provided that more than 100 persons are expected to attend the event and provided that the gift of free attendance has a market value of $250 or less. The requirement that attendance be expected to exceed 100 persons is proposed to limit the use of this exception to events which, by their larger, more public nature are unlikely to prompt questions regarding the appropriateness of their characterization as widely attended. The $250 ceiling on the value of free attendance that may be accepted from a person other than the event's sponsor coincides generally with the public financial disclosure reporting exclusion at 5 U.S.C. app. § 102(a)(2)(A) of the Ethics in Government Act (and 5 CFR 2634.304(a) of OGE's implementing regulations) for gifts of less than $250 and, thus, comports with legislative consensus that gifts below that amount are of a value that need not be subjected to public scrutiny. Together, the two limitations reduce the possibility that the exception for widely attended gatherings might be used to provide lavish entertainment for Government employees.

To accommodate the proposed change to § 2635.204(g)(2), a conforming change to § 2635.204(g)(3)(i) is proposed to require a written finding of agency interest where the person who has extended the invitation may be substantially affected by performance or nonperformance of the employee's duties. The phrase ''person who has extended the invitation'' means the person who is the donor of the gift of free attendance. A conforming change to § 2635.204(g)(4) is proposed to clarify that the market value of free attendance by an accompanying spouse or other guest, when authorized under § 2635.204(g)(6), is to be added to the market value of the employee's own free attendance in determining the market value of the gift of free attendance for the purpose of applying the $250 limit and for the purpose of considering the relevant factors under § 2635.204(g)(3)(i). A new example 2 is proposed to be added following § 2635.204(g) to illustrate this modification. Example 1 would be modified to incorporate a free attendance value in excess of $250 so that the example will continue to illustrate that higher value gifts of free attendance may be accepted with agency approval only from the sponsor of the event.

The other change proposed to § 2635.204(g)(2) is to add language to clarify that widely attended gatherings are only those attended by a large number of persons. As presently in effect, the paragraph states that a gathering ''is widely attended if, for

example, it is open to members from throughout a given industry or profession or if those in attendance represent a range of persons interested in a given matter.'' This sentence was intended to help describe the types of events that would qualify as widely attended gatherings and was not intended to alter the normal meaning of the phrase ''widely attended'' as encompassing those attended by many. It has been read otherwise by some who have argued that small gatherings of fewer even than 20 qualify if the few in attendance represent the range of persons interested in a given matter. Proposed new example 3 would help to illustrate the meaning of the phrase widely attended gathering.

The Office of Government Ethics also proposes to revise § 2635.204(g)(6) so that an employee who has received an invitation to a widely attended gathering that includes an invitation to bring a guest may be authorized by the agency designee to accept on behalf of an accompanying guest, without regard to whether that guest is the employee's spouse. Under paragraph (g)(6) as presently in effect, an agency may only authorize an employee to accept a sponsor's invitation to an accompanying spouse. The Office of Government Ethics agrees with those who have observed that it is unfair to an employee who is not married or whose spouse is unable or does not wish to attend an event to restrict acceptance to spouses only. The expanded authority for an accompanying guest would extend to an employee who, under § 2635.204(g)(1), is assigned to participate as a speaker, panel participant or other presenter of information at a conference or other event where others in attendance will generally be accompanied by a spouse or other guest. The change proposed would include language clarifying that the invitation to bring an accompanying spouse or other guest may be accepted only if it is unsolicited. The expanded authority could not be used for more than one accompanying guest.

In the last sentence of § 2635.204(g)(3)(i) the phrase ''monetary value'' is proposed to be changed to ''market value'' to comport with the definition at § 2635.203(c). Other language changes to § 2635.204(g)(2)–(g)(6) are proposed simply to conform to the proposed substantive changes discussed above.

III. Matters of Regulatory Procedure

Executive Order 12866

In promulgating this proposed rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These proposed amendments have also been reviewed by the Office of Management and Budget under that Executive Order.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this proposed amendatory rule will not have a significant economic impact on a substantial number of small businesses because it primarily affects Federal executive branch employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this proposed amendment because it does not contain information collection requirements that require approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2635

Conflict of interests, Executive branch standards of conduct, Government employees.

Approved: April 5, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to amend part 2635 of subchapter B of chapter XVI of title 5 of the Code of Federal Regulations as follows:

PART 2635—[AMENDED]

1. The authority citation for part 2635 continues to read as follows:

Authority: 5 U.S.C. 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

Subpart B—Gifts From Outside Sources

2. Section 2635.204 is amended as set forth below:

A. Revising paragraphs (g)(2) through (g)(6);

B. Republishing the note following paragraph (g)(4);

C. Revising example 1 following paragraph (g)(6);

D. Redesignating examples 2, 3 and 4 following paragraph (g)(6) as examples 4, 5 and 6, respectively; and

E. Adding new examples 2 and 3 following paragraph (g)(6).

The revisions, republication and addition read as follows:

§ 2635.204 Exceptions.

* * * * *

(g) * * *

(1) * * *

(2) *Widely attended gatherings.* When there has been a determination that his attendance is in the interest of the agency because it will further agency programs and operations, an employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties from the sponsor of the event or, if more than 100 persons are expected to attend the event and the gift of free attendance has a market value of $250 or less, from a person other than the sponsor of the event. A gathering is widely attended if it is attended by a large number of persons and if, for example, it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter. For employees subject to a leave system, attendance at the event shall be on the employee's own time or, if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account.

(3) *Determination of agency interest.* The determination of agency interest required by paragraph (g)(2) of this section shall be made orally or in writing by the agency designee.

(i) If the person who has extended the invitation has interests that may be substantially affected by the performance or nonperformance of an employee's official duties or is an association or organization the majority of whose members have such interests, the employee's participation may be determined to be in the interest of the agency only where there is a written finding by the agency designee that the agency's interest in the employee's participation in the event outweighs the concern that acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his official duties. Relevant factors that should be considered by the agency designee include the importance of the event to the agency, the nature and sensitivity of any pending matter affecting the interests of the person who has extended the invitation, the significance of the employee's role in any such matter, the purpose of the event, the identity of other expected participants and the market value of the gift of free attendance.

(ii) A blanket determination of agency interest may be issued to cover all or

any category of invitees other than those as to whom the finding is required by paragraph (g)(3)(i) of this section. Where a finding under paragraph (g)(3)(i) of this section is required, a written determination of agency interest, including the necessary finding, may be issued to cover two or more employees whose duties similarly affect the interests of the person who has extended the invitation or, where that person is an association or organization, of its members.

(4) *Free attendance.* For purposes of paragraphs (g)(1) and (2) of this section, free attendance may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees. Where the invitation has been extended to an accompanying spouse or other guest (see paragraph (g)(6) of this section), the market value of the gift of free attendance includes the market value of free attendance by the spouse or other guest as well as the market value of the employee's own attendance.

Note: There are statutory authorities implemented other than by part 2635 under which an agency or an employee may be able to accept free attendance or other items not included in the definition of free attendance, such as travel expenses.

(5) *Cost provided by sponsor of event.* The cost of the employee's attendance will not be considered to be provided by the sponsor, and the invitation is not considered to be from the sponsor of the event, where a person other than the sponsor designates the employee to be invited and bears the cost of the employee's attendance through a contribution or other payment intended to facilitate that employee's attendance. Payment of dues or a similar assessment to a sponsoring organization does not constitute a payment intended to facilitate a particular employee's attendance.

(6) *Accompanying spouse or other guest.* When others in attendance will generally be accompanied by a spouse or other guest, and where the invitation is from the same person who has invited the employee, the agency designee may authorize an employee to accept an unsolicited invitation to an accompanying spouse or to another accompanying guest to participate in all or a portion of the event at which the employee's free attendance is permitted under paragraph (g) (1) or (2) of this section. The authorization required by this paragraph may be provided orally or in writing.

Example 1. An aerospace industry association that is a prohibited source sponsors an industry-wide, two-day seminar for which it charges a fee of $400 and anticipates attendance of approximately 400. An Air Force contractor pays $2,000 to the association so that the association can extend free invitations to five Air Force officials designated by the contractor. The Air Force officials may not accept the gifts of free attendance. Because the contractor specified the invitees and bore the cost of their attendance, the gift of free attendance is considered to be provided by the company and not by the sponsoring association. Had the contractor paid $2,000 to the association in order that the association might invite any five Federal employees, an Air Force official to whom the sponsoring association extended one of the five invitations could attend if his participation were determined to be in the interest of the agency. The Air Force official could not in any event accept an invitation directly from the contractor because the market value of the gift exceeds $250.

Example 2. An employee of the Department of Transportation is invited by a news organization to an annual press dinner sponsored by an association of press organizations. Tickets for the event cost $250 per person and attendance is limited to 400 representatives of press organizations and their guests. If the employee's attendance is determined to be in the interest of the agency, she may accept the invitation from the news organization because more than 100 persons will attend and the cost of the ticket does not exceed $250. However, if the invitation were extended to the employee and an accompanying guest, her guest could not be authorized to attend since the market value of the gift of free attendance would be $500 and the invitation is from a person other than the sponsor of the event.

Example 3. An employee of the Department of Energy and his wife have been invited by a major utility to a dinner party for 20 people. Others invited include eight officials of the utility and their spouses and a representative of a consumer group concerned with utility rates and her husband. The DOE official believes the dinner party will provide him an opportunity to socialize with and get to know those in attendance. The employee may not accept, even if his attendance could be determined to be in the interest of the agency. The dinner party is not a widely attended gathering; twenty is not a large number of persons and, notwithstanding the presence of another person who is not an official of the utility, those in attendance do not represent a range of persons interested in any identifiable matter.

* * * * *

[FR Doc. 95–14611 Filed 6–14–95; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1046

[DA–95–18]

Milk in the Louisville-Lexington-Evansville Marketing Area; Proposed Suspension/Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension/termination of rule.

SUMMARY: This document invites written comments on a proposal to suspend or terminate the base-excess plan of the Louisville-Lexington-Evansville Federal milk marketing order, effective September 1, 1995. The proposed suspension/termination was submitted by Holland Dairies, Inc., which contends the action is necessary to allow handlers in the area to compete equally for a supply of milk and to ensure that producers will continue to have their milk priced and pooled under the Order.

DATES: Comments are due on or before July 17, 1995.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090–6456 (202) 690–1932.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would lessen the

regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension or termination of the following provisions of the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is being considered:

1. Section 1046.32(d).

2. In the heading of § 1046.61, the words ''and uniform prices for base and excess milk''; in § 1046.61(a), the words ''for each month'' and ''of July and February''; in § 1046.61(a)(5), the words ''for each month'', the ''s'' on the end of the word ''months'', and the words ''for the months of July through February''; and § 1046.61(b) in its entirety.

3. In §§ 1046.62(b) and 1046.71(a)(2)(i), the letter ''(s)'' on the end of the word ''prices''.

4. In § 1046.73(a), the last sentence.

5. In § 1046.73(b), the letter ''(s)'' on the end of the word ''prices'' and the words ''or base milk and excess milk''.

6. In § 1046.73, paragraphs (d)(3) and (e)(3).

7. In § 1046.73(d)(4), the letter ''(s)'' on the end of the word ''rate(s)''.

8. In § 1046.73(d)(5), the letter ''(s)'' on the end of the word ''rate(s)'' wherever it appears.

9. In § 1046.75(a), the words ''and the uniform price'' and the word ''base''.

10. Sections 1046.90 through 1046.94.

All persons who want to send written data, views, or arguments about the proposed suspension/termination should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 30th day after the publication of this notice in the **Federal Register**.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend or terminate the base-excess plan of the Louisville-Lexington-Evansville Federal milk marketing order (Order 46), effective September 1, 1995, the first month of the base-forming period. Holland Dairies, Inc. (Holland), a fully regulated distributing plant under Order 46 that procures its milk from over 100 nonmember producers and Associated Milk Producers, Inc., states that the Order's base-excess plan has created significant milk procurement problems in the area in recent years.

Holland claims that the base-excess plan limits its ability to obtain milk from new producers because these producers have no base. As a result, the handler states that it has been forced to purchase supplemental milk during the summer months from producers located outside the region at an additional cost.

According to Holland, the cooperatives in the southern Indiana area which compete with it for producers do not pay their member-producers base and excess prices. Additionally, Holland states that the Indiana and Ohio Valley Federal milk orders, which border Order 46 to the north, do not contain a producer base-excess plan. Holland contends that both of these factors place it at a competitive disadvantage in procuring milk and are unreasonable and detrimental to its long-term ability to retain nonmember producers.

Therefore, comments are sought to determine whether the aforementioned provisions should be suspended or terminated.

List of Subjects in 7 CFR Part 1046

Milk marketing orders.

The authority citation for 7 CFR Part 1046 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: June 9, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–14694 Filed 6–14–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–01–AD]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes. The proposed action would require installing foreign object damage (FOD) barriers in the floorboards of the cockpit between the pedestal and floor from Fuselage Station (FS) 79.38 to FS 88.06 and on the outboard forward edge of the left-hand and right-hand cockpit forward floorboards at FS 79.38. Two incidents of objects falling through openings of the cockpit floor and jamming the elevator controls and the yoke prompted the proposed action. The actions specified by the proposed AD are intended to prevent airplane flight control jammings caused by objects falling through the cockpit floor openings.

DATES: Comments must be received on or before August 21, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone

(210) 824–9421. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5133; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–01–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports of two incidents of flight control jammings on Fairchild Aircraft SA227 series airplanes caused by objects falling through openings of the cockpit floor.

In one instance, the air vent in the cockpit broke and the ball section of the vent fell through one of the openings in the floor and lodged in the elevator control linkage. The airplane crew experienced a momentary restriction in elevator control during a pre-flight control check. In the other instance, a bottle (Coca-Cola) fell through one of the floor openings and jammed the yoke until the crew overcame the jam by breaking the bottle.

These openings are located in the floorboards of the cockpit of Fairchild Aircraft SA226 and SA227 series airplanes between the pedestal and floor from Fuselage Station (FS) 79.38 to FS 88.06 and on the outboard forward edge of the left-hand and right-hand cockpit forward floorboards at FS 79.38.

Fairchild Aircraft has issued Service Bulletin (SB) 226–53–012, SB 227–53–005, and SB CC7–53–002, all Issued: September 22, 1994. These service bulletins contain procedures for installing cockpit floorboard foreign object damage (FOD) barriers on Fairchild Aircraft SA226 and SA227 series airplanes in the areas referenced above.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent airplane flight control jammings caused by objects falling through the cockpit floor openings.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA226 and SA227 series airplanes of the same type design, the proposed AD would require installing FOD barriers in the floorboards of the cockpit between the pedestal and floor from FS 79.38 to FS 88.06 and on the outboard forward edge of the left-hand and right-hand cockpit forward floorboards at FS 79.38. Accomplishment of the proposed action would be in accordance with Fairchild SB 226–53–012, Fairchild SB 227–53–005, or Fairchild SB CC7–53–002, all Issued: September 22, 1994, as applicable.

The FAA estimates that 855 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $50 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $247,950. This figure is based on the assumption that no affected airplane owner/operator has incorporated the proposed modification. Parts have not been distributed to any owner/operator of the affected airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

Fairchild Aircraft: Docket No. 95–CE–01–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model	Serial numbers
SA226–T	All serial numbers.
SA226–T(B)	All serial numbers.
SA226–AT	All serial numbers.
SA226–TC	All serial numbers.
SA227–AT	All serial numbers.
SA227–AC	All serial numbers.
SA227–BC	All serial numbers.
SA227–TT	All serial numbers.

Model	Serial numbers
SA227–CC	CC784 and CC790 through CC863.
SA227–DC	DC784 and DC790 through DC863.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required within the next 600 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent airplane flight control jammings caused by objects falling through the cockpit floor openings, accomplish the following:

(a) Install foreign object damage (FOD) barriers in the floorboards of the cockpit between the pedestal and floor from Fuselage Station (FS) 79.38 to FS 88.06 and on the outboard forward edge of the left-hand and right-hand cockpit forward floorboards at FS 79.38. Accomplish this action in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of either Fairchild Service Bulletin (SB) 226–53–012, Fairchild SB 227–53–005, or Fairchild SB CC7–53–002, all Issued: September 22, 1994, as applicable.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(d) All persons affected by this directive may obtain copies of the service bulletins referred to herein upon request to Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; or may examine these service bulletins at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 9, 1995.

Gerald W. Pierce,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14637 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–ANE–53]

Airworthiness Directives; Teledyne Continental Motors and Rolls-Royce, plc O–200 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Teledyne Continental Motors (TCM) O–200 series reciprocating engines, that currently requires resetting engine timing to 24° Before Top Center (BTC). This action would return to the 28° BTC engine timing for those engines equipped with improved cylinders that have strengthened heads. This action would also add license-built Rolls-Royce, plc O–200 series engines to the AD's applicability and drop the TCM O–200C model which never went into production. This proposal is prompted by the availability of improved cylinders. The actions specified by the proposed AD are intended to prevent possible cylinder cracking with subsequent loss of engine power.

DATES: Comments must be received by August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–53, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, AL 36601; telephone (334) 438–3411. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Campus Building, 1701 Columbia Ave., Suite 2–160, College Park, GA 30337–2748; telephone (404) 305–7371, fax (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–ANE–53.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–53, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On June 9, 1977, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 77–13–03, Amendment 39–2925 (42 FR 31770, June 23, 1977), applicable to Teledyne Continental Motors (TCM) O–200A, O–200B, and O–200C series reciprocating engines, to require resetting engine timing to 24° Before Top Center (BTC). That action was prompted by reports of cylinder cracking. Reduction of engine timing reduced cylinder head stress and lowered cylinder head temperature for

any given cooling air flow, thereby substantially reducing the likelihood of cylinder head problems. Reducing engine timing results in a power loss of approximately 1.5% at full power during an engine calibration test. That condition, if not corrected, could result in possible cylinder cracking with subsequent loss of engine power.

Since the issuance of that AD, TCM has redesigned the cylinder head for additional strength. Cylinder, Part Number (P/N) 641917, and subsequent (higher) numbers (the P/N is stamped on the cylinder barrel flange) have the strengthened head. Accordingly, any O–200A or B engine with P/N 641917 cylinders or any combination of 641917 and subsequent (higher) part number cylinders installed can return the timing to 28° BTC. Airworthiness directive 77–13–03 applies to the TCM O–200C engine as well as the O–200A and B engines; since there was never a production TCM O–200C engine built, that engine model has been dropped from this proposed AD. The current AD also does not apply to the Rolls-Royce, plc O–200 series engines that were built under a licensing agreement with TCM. Teledyne Continental Motors now has the continuing airworthiness responsibility for these engines and they have been included in this proposed AD.

The FAA has reviewed and approved the technical contents of TCM Service Bulletin (SB) No. SB94–8, dated September 14, 1994, that lists the magneto to engine timing for each TCM engine and specifically addresses the O–200A and B engines in Note 5.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 77–13–03 to retain the 24° BTC engine timing for engines with cylinders that have P/N lower than 641917; allow the return to 28° BTC engine timing for those engines with cylinder P/N 641917 and subsequent (higher) part numbers, restamp the engine data plate to indicate engine timing of 28° BTC; adds the Rolls-Royce, plc O–200A, O–200B, and O–200C series engines to the AD's applicability; and drops the TCM O–200C series engines from the AD's applicability.

The FAA estimates that 23,500 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. This AD adds no additional requirements; the resetting of engine timing for engines with the improved cylinders is option. Therefore, there would be no cost imposed by the proposed actions. However, if the timing was reset on all applicable engines, based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,820,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–2925 (42 FR 31770, June 23, 1977) and by adding a new airworthiness directive to read as follows:

Teledyne Continental Motors and Rolls-Royce, plc.: Docket No. 94–ANE–53. Supersedes AD 77–13–03, Amendment 39–2925.

Applicability: Teledyne Continental Motors (TCM) Model O–200A and O–200B and Rolls-Royce, plc. Model O–200A, O–200B, and O–200C reciprocating engines. These engines are installed on but not limited to American Champion Models 7ECA and 402; Cessna Model 150, 150A through 150M, A150K through A150M; Reims Models F–150G through F–150M, FA–150K and FA–150L; and Taylorcraft Model F19 aircraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible cylinder cracking with subsequent loss of engine power, accomplish the following:

(a) For engines that have one or more cylinders with part numbers (P/N) lower than 641917, within the next 50 hours time in service (TIS) after the effective date of this airworthiness directive (AD), reset the engine timing to 24° (+1°, −0°) Before Top Center (BTC) on both magnetos in accordance with the magneto to engine timing procedure for direct drive engines in TCM Service Bulletin (SB) No. SB94–8, dated September 14, 1994.

(b) For engines that have all four cylinders with P/N 641917 or higher, the engine timing may be reset to 28° (±1°, −0°) BTC on both magnetos in accordance with the magneto engine timing procedure for direct drive engines in TCM SB No. SB94–8, dated September 14, 1994.

(c) Subsequent installation of cylinders must be of the P/N listed in paragraph (b) of this AD to retain the 28° BTC timing.

Note: The P/N is stamped on the cylinder barrel flange.

(d) This AD supersedes AD 77–13–03.

(e) When paragraph (a) is accomplished, restamp the engine data plate to indicate magneto timing of 24° BTC.

(f) When paragraph (b) is accomplished, restamp the engine data plate to indicate magneto timing of 28° BTC.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of

compliance with this airworthiness directive, if any, may be obtained from the Atlanta Aircraft Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on June 7, 1995.

Ronald L. Vavruska,

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

[FR Doc. 95–14639 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 95–AWP–16]

Proposed Establishment of Class D Airspace Area, Chandler Municipal Airport, AZ

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class D airspace area at Chandler Municipal Airport, AZ. The intent of this proposal is to provide adequate airspace for instrument flight rules (IFR) operations at Chandler Municipal Airport, Chandler, AZ.

DATES: Comments must be received on or before July 31, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–16, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT:

Scott Speer, System Management Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWP–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawdale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class D airspace area to Chandler Municipal Airport, AZ. The intended effect of this proposal is to provide adequate Class D airspace for aircraft executing instrument approach procedures at Chandler Municipal Airport, Chandler, AZ. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; 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 proposed rule 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended follows:

Paragraph 5000 Class D Airspace

* * * * *

AWP AZ D Chandler Municipal Airport, AZ [New]

Chandler Municipal Airport, AZ
(Lat. 33°16′09″ N, long. 111°48′40″ W)

That airspace extending upward from the surface to and including 3700 feet MSL within a 4-mile radius of Chandler Municipal Airport, excluding the portion within the Chandler Williams-Gateway Airport, AZ, Class D airspace area. The Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on June 5, 1995.

Dennis T. Koehler,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–14651 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ASW–35]

Proposed Establishment of Class E Airspace; Osceola, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace extending upward from 700 feet above ground level (AGL) at Osceola Municipal Airport, Osceola, AR. The development of a new nondirectional radio beacon (NDB) standard instrument approach procedure (SIAP) to Runway (RWY) 19 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace to contain Instrument Flight Rules (IFR) operations at Osceola, AR.

DATES: Comments must be received on or before August 1, 1995.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 92–ASW–35, Fort Worth, TX 76193–0530. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Federal Aviation Administration, Sowthwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, System Management Branch, Air Traffic Division, Federal Aviation Administration, Forth Worth, TX 76193–0530; telephone: (817) 222–5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: ''Comments to Airspace Docket No. 92–ASW–35.'' The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, Air Traffic Division, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace, controlled airspace extending upward from 700 feet AGL, a transition area, at Osceola Municipal Airport, Osceola, AR. The development of a NDB RWY 19 SIAP has made this proposal necessary. Designated airspace extending upward from 700 feet above the ground (AGL) is now Class E airspace. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the NDB RWY 19 SIAP as well as to provide adequate Class E airspace for departing aircraft at Osceola Municipal Airport, Osceola, AR.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant 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).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, *Airspace Designations and Reporting Points,* dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ASW TX E5 Osceola, AR [New]

Osceola Municipal Airport, AR
(lat. 35°41′28″ N., long. 090°00′36″ W.)
Osceola NDB
(lat. 35°41′34″ N., long. 090°00′47″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Osceola Municipal Airport and within 8 miles west and 4 miles east of the 021° bearing from the Osceola NDB to 9.9 miles.

* * * * *

Issued in Fort Worth, TX on June 5, 1995.

Helen Fabian Parke,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 95–14652 Filed 6–14–95; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 93–AWP–8]

Proposed Modification of Restricted Areas R–2303A and R–2303B, and Establishment of R–2303C, Fort Huachuca, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This supplemental notice proposes to amend special use airspace at Fort Huachuca, AZ, as proposed in a prior notice of proposed rulemaking (NPRM). In the NPRM, the FAA proposed to amend Restricted Area R–2303A to exclude the Fort Huachuca/Libby AAF/Sierra Vista Municipal Airport from the restricted area and provide airspace for visual flight rules (VFR) access to the airport when R–2303A is in use. Based upon comments received in response to the NPRM the FAA is considering increasing the airport exclusion and VFR access to the airport by increasing the ceiling from 1,500 feet above ground level (AGL) to 7,000 feet mean sea level (MSL) (2,284 AGL). These changes are proposed to accommodate increased training requirements and to return unneeded special use airspace to the National Airspace System (NAS).

DATES: Comments must be received on or before June 30, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP–500, Docket No. 93–AWP–8, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: James R. Robinson, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 493–4050.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 93–AWP–8.'' The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land use aspects to: Commander, U.S. Army Garrison, Attn: Mr. John Murray ATZS-EHB, Fort Huachuca, AZ 85613–6000. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Supplemental Notice of Proposed Rulemaking (SNPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this SNPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

The FAA previously published an NPRM proposing to amend R–2303B by relocating the northern boundary 3 miles south of its existing position. This would better accommodate hang gliding activity that takes place just outside of the northwest corner of existing R–2303B. R–2303B would also be subdivided to designate the southeastern section as a separate restricted area, R–2303C. This NPRM also proposed to lower the floor of R–2303B from 15,000 feet MSL to 8,000 feet MSL, excluding that airspace within R–2303A when activated, in order to accommodate unmanned aerial vehicle training profiles. This amendment of R–2303B prevents the airspace between 8,000 and 15,000 feet within the lateral confines of R–2303A from simultaneously being reflected in both restricted areas, R–2303A and R–2303B. The ceiling of R–2303B would be lowered from FL 450 to FL 300. The U.S. Army has determined that there is no longer a requirement for restricted airspace above FL 300, therefore, that airspace would be returned to the NAS. Lastly, the times of designation for R–2303A and R–2303B would be reduced from ''Monday–Saturday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' to ''Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance.''

Activation of R–2303C would be intermittent by NOTAM at least 24 hours in advance. Designation of R–2303C is proposed to accommodate hang gliding activities that occur just outside of the southeastern corner of existing R–2303B.

The Proposal

The FAA is considering an amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) to amend R–2303A, R–2303B, and establish R–2303C at Fort Huachuca, AZ. The FAA published an earlier NPRM concerning these restricted areas on July 21, 1994 (59 FR 37188). As a result of comments received in response to the NPRM, the FAA is considering increasing the ceiling of the airport exclusion and VFR access corridor at the Libby AAF/Sierra Vista Municipal Airport. R–2303A would be amended to exclude from the restricted area the airspace from the surface to 7,000 feet MSL, within a 3-nautical-mile radius of the Fort Huachuca/Libby AAF/Sierra Vista Municipal Airport. The airspace from the surface to 7,000 feet MSL within 1-nautical-mile either side of U.S. Highway 90 would also be excluded. This would provide VFR access to the airport when R–2303A is in use. Comments received in response to the NPRM and this SNPRM will be addressed in the final disposition of the rule. The coordinates for this airspace docket are based on North American Datum 83. Section 73.23 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8B dated March 9, 1994.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

An environmental review of the proposal will be conducted by the U.S. Army and the FAA prior to an FAA final decision on the proposal. The results of the review will be addressed in any subsequent rulemaking action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as proposed in the **Federal Register** on July 21, 1994, (59 FR 37188; July 21, 1994) as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

2. Section 73.23 is amended as follows:

§ 73.23 [Amended]

R–2303A Fort Huachuca, AZ [Revised]

Boundaries. Beginning at lat. 31°40′40″ N., long. 110°11′02″ W.; to lat. 31°34′00″ N., long. 110°08′32″ W.; to lat. 31°34′00″ N., long. 110°22′02″ W.; to lat. 31°33′00″ N., long. 110°23′02″ W.; to lat. 31°29′00″ N., long. 110°23′02″ W.; to lat. 31°29′00″ N., long. 110°41′32″ W.; to lat. 31°34′00″ N., long. 110°43′32″ W.; to lat. 31°38′30″ N., long. 110°42′02″ W.; to lat. 31°38′30″ N., long. 110°39′32″ W.; to lat. 31°41′00″ N., long. 110°33′32″ W.; to lat. 31°41′00″ N., long. 110°12′02″ W.; to the point of beginning.

Altitudes. Surface to 15,000 feet MSL, excluding the airspace from the surface to 7,000 feet MSL within a 3-nautical-mile radius of the Fort Huachuca/Libby AAF/ Sierra Vista Municipal Airport, AZ, and excluding the airspace from the surface to 7,000 feet MSL within 1-nautical-mile either side of U.S. Highway 90.

Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Army Intelligence Center, Fort Huachuca, AZ.

R–2303B Fort Huachuca, AZ [Revised]

Boundaries. Beginning at lat. 31°45′00″ N., long. 110°20′02″ W.; to lat. 31°41′00″N., long. 110°12′02″ W.; to lat. 31°40′40″ N., long. 110°11′02″ W.; to lat. 31°34′00″ N., long. 110°08′32″ W.; to lat. 31°34′00″ N., long. 110°22′02″ W.; to lat. 31°33′00″ N., long. 110°23′02″ W.; to lat. 31°29′00″ N., long. 110°23′02″ W.; to lat. 31°29′00″ N., long. 110°25′02″ W.; to lat. 31°24′00″ N., long. 110°25′02″ W.; to lat. 31°24′00″ N., long. 110°45′02″ W.; to lat. 31°45′00″ N., long. 110°45′52″ W.; to the point of beginning.

Altitudes. 8,000 feet MSL to FL 300, excluding that airspace within R–2303A when activated.

Time of designation. Monday-Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency, U.S. Army Intelligence Center, Fort Huachuca, AZ.

R–2303C Fort Huachuca, AZ [New]

Boundaries. Beginning at lat. 31°35′00″ N., long. 110°00′02″ W.; to lat. 31°24′00″ N., long. 110°00′02″ W.; to lat. 31°24′00″ N., long. 110°25′02″ W.; to lat. 31029′00″ N., long. 110°25′02″ W.; to lat. 31°29′00″ N., long. 110°23′02″ W.; to lat. 31°33′00″ N., long. 110°23′02″ W.; to lat. 31°34′00″ N., long. 110°22′02″ W.; to lat. 31°34′00″ N., long. 110°08′32″ W.; to lat. 31°40′40″ N., long. 110°11′02″ W.; to the point of beginning.

Altitudes. 15,000 feet MSL to FL 300.

Time of designation. Intermittent by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC. Using agency. U.S. Army Intelligence Center, Fort Huachuca, AZ.

Issued in Washington, DC, on June 7, 1995.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 95–14653 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 73

[Airspace Docket No. 94–ASO–18]

Proposed Establishment of Restricted Areas, Camp Lejeune, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the establishment of restricted areas at Camp Lejeune, NC. The United States Marine Corps (USMC) has determined that the existing ranges at Camp Lejeune are inadequate to meet both current and projected Marine Corps training requirements. The proposed restricted areas would accommodate an expansion of the Camp Lejeune facilities to improve range training capabilities.

DATES: Comments must be received on or before July 31, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 94–ASO–18, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9361.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 94–ASO–18.'' The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land-use aspects to: Commanding General, Operations, MCAS, PSC Box 8011, Cherry Point, NC 28533, ATTN: Lt. Col. Clark. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) to establish restricted areas at Camp Lejeune, NC. The USMC requested that the FAA establish these restricted areas because the existing facilities at Camp Lejeune do not have adequate firing ranges, maneuver areas, and impact areas to accommodate the expanded, complex training requirements that have evolved over the years. These documented range shortfalls preclude Camp Lejeune from satisfying a number of basic Fleet Marine Force training requirements, forcing the USMC to conduct periodic, multi-million dollar deployments of personnel and equipment to other locations to complete essential training events. The proposed restricted areas are necessary to accommodate the training facilities at Camp Lejeune. The proposed restricted areas would be designated over a Government-purchased tract of land contiguous to Camp Lejeune, known as the Greater Sandy Run Area. The restricted areas, designated R–5303 and R–5304, would extend from the surface up to but not including Flight Level (FL) 180. R–5303 and R–5304 would each be subdivided vertically into three sections (A, B, and C) to facilitate the real-time activation of the restricted areas, and to enable release of the airspace to accommodate nonparticipating air traffic. These subdivisions would be configured as follows: R–5303A and R–5304A would extend from the surface to but not including 7,000 feet MSL; R–5303B and R–5304B would extend from 7,000 feet MSL to but not including 10,000 feet MSL; and R–5303C and R–5304C would extend from 10,000 feet MSL to but not including FL 180. The activities to be conducted in the restricted areas would include the firing of various surface weapons and air-delivered ordnance. Aerial ordnance delivery would be limited to helicopters only. Most training activities would be conducted in the lowest portion of the restricted areas (i.e., R–5303A and R–5304A, below 7,000 feet MSL). The proposed time of designation for R–5303A and R–5304A would be 0600 to 1800 local time, Monday through Friday; with a provision for activation at other times by a Notice To Airmen (NOTAM) at least 6 hours in advance. R–5303B, R–5303C, R–5304B, and R–5304C would be activated by NOTAM at least 6 hours in advance when required for training. It is estimated that the highest altitude strata of the restricted areas would be required approximately 10 percent of the time. An estimated 75 percent of the total training activities would take place during daylight hours. On a yearly basis, it is projected that the restricted areas would be used on 30- to 40-week nights. Training would also be conducted on 30- to 40-weekend days, which may include additional night-time operations. Peak firing periods are expected to occur between the hours of 0800–1600, Tuesday, Wednesday, and Thursday; with March through October projected as the peak firing months. The proposed restricted areas were configured to maximize training flexibility, and to facilitate the activation of only those portions of the restricted areas actually needed for training operations. The proposed restricted areas would affect the utilization of the segment of V–139 between Wilmington, NC (ILM) and New Bern, NC (EWN). In order to minimize the affect on air traffic utilizing V–139, the restricted areas would be subject to real-time activation procedures. The lowest subareas (R–5303A and R–5304A, extending from the surface to but not including 7,000 feet MSL) would be the most frequently used portions of the restricted areas. Normally, V–139 above 7,000 feet MSL would remain available for transit by nonparticipating aircraft. Procedures for real-time use of the restricted areas would be specified in a joint-use letter of procedure (LOP) between the using agency and the appropriate ATC facilities. The LOP also would include provisions to give ATC priority for use of the areas when necessary during periods of severe weather, or other emergency situations. The coordinates for this airspace docket are based on North American Datum 83. Section 73.53 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8B dated March 9, 1994.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subjected to appropriate environmental impact analysis by the proponent and the FAA prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.53 [Amended]

2. Section 73.53 is amended as follows:

R–5303A Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°41′40″ N., long. 77°33′09″ W.; to lat. 34°39′16″ N., long. 77°28′31″ W.; to lat. 34°36′51″ N., long. 77°29′01″ W.; to lat. 34°36′13″ N., long. 77°31′51″ W.; to lat. 34°37′03″ N., long. 77°35′25″ W.; to lat. 34°38′49″ N., long. 77°37′31″ W.; to point of beginning.

Designated altitudes. Surface to but not including 7,000 feet MSL, excluding the airspace 1,500 feet AGL and below within a 3NM radius of Sky Manor Airport.

Time of designation. 0600–1800 Monday–Friday; other times by NOTAM at least 6 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5303B Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°41′40″ N., long. 77°33′09″ W.; to lat. 34°39′16″ N., long. 77°28′31″ W.; to lat. 34°36′51″ N., long. 77°29′01″ W.; to lat. 34°36′13″ N., long. 77°31′51″ W.; to lat. 34°37′03″ N., long. 77°35′25″ W.; to lat. 34°38′49″ N., long. 77°37′31″ W.; to point of beginning.

Designated altitudes. 7,000 feet MSL to but not including 10,000 feet MSL.

Time of designation. By NOTAM at least 6 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5303C Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°41′40″ N., long. 77°33′09″ W.; to lat. 34°39′16″ N., long. 77°28′31″ W.; to lat. 34°36′51″ N., long. 77°29′01″ W.; to lat. 34°36′13″ N., long. 77°31′51″ W.; to lat. 34°37′03″ N., long. 77°35′25″ W.; to lat. 34°38′49″ N., long. 77°37′31″ W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Time of designation. By NOTAM at least 6 hours in advance.

Controlling agency. FAA, Washington ARTCC.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5304A Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°37′03″ N., long. 77°35′25″ W.; to lat. 34°36′13″ N., long. 77°31′51″ W.; to lat. 34°36′51″ N., long. 77°29′01″ W.; to lat. 34°32′16″ N., long. 77°30′13″ W.; to lat. 34°29′43″ N., long. 77°33′15″ W.; to lat. 34°32′42″ N., long. 77°34′54″ W.; to point of beginning.

Designated altitudes. Surface to but not including 7,000 feet MSL, excluding the airspace 1,500 feet AGL and below within a 3NM radius of Holly Ridge airport.

Time of designation. 0600–1800, Monday–Friday; other times by NOTAM at least 6 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5304B Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°37′03″ N., long. 77°35′25″ W.; to lat. 34°36′13″ N., long. 77°31′51″ W.; to lat. 34°36′51″ N., long. 77°29′01″ W.; to lat. 34°32′16″ N., long. 77°30′13″ W.; to lat. 34°29′43″ N., long. 77°33′15″ W.; to lat. 34°32′42″ N., long. 77°34′54″ W.; to point of beginning.

Designated altitudes. 7,000 feet MSL to but not including 10,000 feet MSL.

Time of designation. By NOTAM at least 6 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5304C Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°37′03″ N., long. 77°35′25″ W.; to lat. 34°36′13″ N., long. 77°31′51″ W.; to lat. 34°36′51″ N., long. 77°29′01″ W.; to lat. 34°32′16″ N., long. 77°30′13″ W.; to lat. 34°29′43″ N., long. 77°33′15″ W.; to lat. 34°32′42″ N., long. 77°34′54″ W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Time of designation. By NOTAM at least 6 hours in advance.

Controlling agency. FAA, Washington ARTCC.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

Issued in Washington, DC, on June 7, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–14656 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141 and 388

[Docket No. RM95–9–000]

Real-Time Information Networks; Order on Motions for Extension of Time for Filing Preliminary Comments

May 26, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on motions for extension of time for filing preliminary comments.

SUMMARY: On March 29, 1995, the Federal Energy Regulatory Commission issued a notice of technical conference and request for comments (60 FR 17726, Apr. 7, 1995) to announce a technical conference to be scheduled at a later date, and, in preparation for that conference, to request comments on: Whether real-time information networks (RINS) or some other option is the best method to ensure that potential purchasers of transmission services receive access to information to enable them to obtain open access transmission service on a non-discriminatory basis from public utilities that own and/or control facilities used for the transmission of electric energy in interstate commence; and what standards should be adopted if the Commission requires such public utilities to institute RINS systems. By this order, the Commission grants an extension of time for filing preliminary comments.

DATES: The time for filing preliminary comments is extended to July 6, 1995.

ADDRESSES: Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Gary D. Cohen, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 208–0321.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J.

Hoecker, William L. Massey, and Donald F. Santa, Jr.

Introduction

For the reasons stated below, we will allow a 30-day extension of time, until July 6, 1995, for the filing of preliminary comments in this proceeding.

Background

On March 29, 1995, the Commission issued *Real-Time Information Networks*, Notice of Technical Conference and Request for Comments, 60 FR 17726 (Apr. 7, 1995), 70 FERC ¶61,360 (1995) (Notice), that initiated this proceeding and invited comments in preparation for a forthcoming technical conference. The Notice invited interested persons to file preliminary comments on or before June 6, 1995, and to participate in a technical conference where they can make oral presentations on their positions.

On May 4, 1995, New England Power Pool (NEPOOL) participants filed a motion that requested a 60-day extension, until August 7, 1995, for the filing of comments in response to the Notice. This same request was made in a similar motion filed by members of the Pennsylvania-New Jersey-Maryland Interconnection (PJM) on May 5, 1995, in a letter from the Northeast Power Coordinating Council (NPCC) filed on May 8, 1995, and in a joint motion by the Edison Electric Institute (EEI) and the American Public Power Association (APPA) filed on May 19, 1995. Additionally, the member systems of the New York Power Pool filed a letter in support of the NEPOOL request on May 16, 1995.

Discussion

We will allow a 30-day extension of time—until July 6, 1995—to file preliminary comments. In granting this extension, we have balanced the nature and complexity of the issues presented and the efforts that interested persons need to exert in order to respond to these issues, against the need to take final action in this proceeding no later than the time that we take final action on our notice of proposed rulemaking on open access non-discriminatory transmission service.[1] We emphasize that the two proceedings need to run on parallel tracks if we are to successfully implement non-discriminatory open access and minimize uncertainty to utilities who will be required to comply with the Commission's final requirements in both proceedings. We believe a 30-day extension of time properly balances these competing concerns.

Additionally, we emphasize that we are requesting parties to file *preliminary* comments. The Notice describes a process—of which the preliminary comments, now due on or before July 6, 1995, are just the first step. These comments are being solicited to help the Commission prepare for the forthcoming technical conference, by identifying the issues important to the participants, how far along the participants are in identifying possible means to accomplish the Commission's objectives, or possible obstacles to particular approaches that the Commission needs to consider. Following the technical conference, there will be other opportunities for participants to comment. Moreover, participants will not be limited to the issues, approaches, arguments, and concerns that they present at this stage of the proceeding. We fully expect that participants' recommendations may change as the proceeding progresses.

We are now only at the beginning of what we hope will be an iterative, consensus-building process. Given the important and complex work yet to be done, it is imperative that we avoid any additional delay at this early stage of the process. We, therefore, will grant only a 30-day extension of time, and will deny the requested 60-day extension of time.

The Commission Orders

The motions filed by NEPOOL, PJM, EEI, APPA, and NPCC for extensions of time to file comments are hereby granted in part, to allow a 30-day extension of time. All preliminary comments will now be due on or before July 6, 1995.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14662 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–P

[1] *See* Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking, 60 FR 17662 (Apr. 7, 1995), IV FERC Stats. & Regs. ¶ 32,514 (1995).

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations and Rules: Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada publish joint Seaway Regulations. As a result of discussions with the Authority, it has been determined that a number of existing regulations need to be amended for clarification or simplification. In addition, several substantive changes are being proposed, specifically: changing the maximum allowable beam from 23.16 m (76 feet) to 23.8 m (78 feet), with certain, practical conditions applied; reducing the security deposit for certain vessels; and requiring permanent fenders, with a phase-in period. The first two of these proposals are intended to encourage increased usage of the Seaway while the third is intended to increase the safety for both the Corporation's and the Authority's locks and the vessels transiting.

DATES: Any party wishing to present views on the proposed amendments may file comments with the Corporation on or before July 17, 1995.

ADDRESSES: Send comments to Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION: As a result of discussions with the Saint Lawrence Seaway Authority of Canada, the Saint Lawrence Seaway Development Corporation proposes to amend the Seaway Regulations and Rules in 33 CFR Part 401 as described in the following summary.

Section 401.3, ''Maximum vessel dimensions'', would be amended by revising paragraph (a), removing paragraph (d)(1), and adding a new paragraph (e) to change the maximum allowable beam from 23.16 m (76 feet) to 23.8 m (78 feet) and simplify the approval process for vessels exceeding 23.2 m., with practical conditions applied for such things as vessel configuration and weather conditions.

Section 401.6, ''Markings'', would be amended by revising paragraphs (a) and (b) to round off the length requirements from 19.8 m to 20.0 m and from 117 m to 110 m, respectively, for simplification and consistency with the international collision regulations. To alleviate safety problems caused by portable fender usage, § 401.7, ''Fenders'', would be revised to require, as a rule, permanent fenders of a specified type, with only occasional deployment of portable fenders allowed on a single transit basis,

with a phase-in period until the beginning of the 1997 navigation season to ease transition.

Section 401.9, ''Radiotelegraph equipment'', would be amended by revising paragraph (a) to round off the length requirement for self-propelled vessels from 19.8 m to 20.0 m for simplification.

Section 401.10, ''Mooring lines'', would be amended by revising paragraphs (b) and (c) to routinely allow synthetic lines since vessels now use them routinely and safely worldwide.

Section 401.13, ''Hand lines'', would be amended by revising paragraph (b) to require hand lines to have a diameter of between 12 and 20 mm and a minimum length of 35 m with uniform thickness throughout to avoid jamming on the car haulers and bollards that has occurred because of splicing of uneven pieces.

Section 401.26, ''Security for tolls'', would be amended by revising paragraph (d) to reduce the security required where a number of vessels, for each of which a preclearance application has been approved, are owned or controlled by the same individual or company and have the same representative. Security for tolls for these vessels would not be required if every toll account received in the preceding five years has been paid within forty-five days after the vessel enters the Seaway.

Section 401.42, ''Passing hand lines'', would be amended by revising paragraph (a)(1) to change ''linesmen'' to ''linehandlers'' for gender neutrality.

Section 401.43, ''Mooring table'', would be amended by deleting the unnecessary references to specific locations for simplification.

Section 401.45, ''Emergency procedure'', would be amended to requiring the Master to be responsible for giving the signal in an emergency upon entering the locks to make the practice consistent in both Canadian and U.S. locks and, for safety purposes, by requiring mooring lines to be put out as quickly as possible.

Section 401.52,''Limit of approach to a bridge'', would be amended by revising paragraph (b) to change ''Caughnawaga'' to ''Kahnawake'', as it is now commonly known.

Section 401.64, ''Calling in'', would be amended by revising paragraph (e) to make the master solely responsible because it is his or hers, not the pilot's responsibility.

Section 401.65,''Communication—ports, docks, and anchorages'', would be amended by revising paragraph (a)(1) to round off 0.87 of a nautical mile to 1 nautical mile for simplification and by removing that part of paragraph (c) that refers to dangerous cargo reporting and placing its substance in § 401.66, which is a more appropriate location.

Section 401.66, ''Applicable laws'', would be amended by redesignating the current text as paragraph (a) and adding a new paragraph (b), which would be the text removed from § 401.65(c) amended to change the dangerous cargo reporting and filing requirements to reflect the practice instituted by the Canadian Authority under Seaway Notice No. 2 of 1993.

Section 401.71, ''Signals—explosive or hazardous cargo vessels'', would be amended by deleting paragraph (b) and revising current paragraph (a) to combine the requirements for explosive and hazardous vessels into one to be consistent with the international collision regulations.

Section 401.72, ''Reporting—explosive and hazardous cargo vessels'', would be amended by adding new paragraphs (e), (f), (g), and (h) to require certain information on load plans concerning dangerous cargo to ensure enhanced safety, reflecting the practice instituted by the Authority under Seaway Notice No. 2 of 1993.

Section 401.75, ''Payment of tolls'', would be amended to provide that every toll invoice shall be paid in Canadian or American funds within forty-five days after the vessel enters the Seaway and any adjustment of the amount payable shall be provided for in a subsequent invoice, which is consistent with the proposed new policy on reduced security as proposed for § 401.26(d).

Section 401.84, ''Reporting of impairment or other hazard by vessels transiting within the Seaway'', would be amended by revising paragraph (c) to reflect that the reporting requirements cover the equipment listed in Schedule I as well.

Section 401.89, ''Transit refused'', would be amended by revising paragraph (a)(1) to transit refusal may be based upon the equipment requirements in Schedule I as well when transiting Canadian waters.

Section 401.91, ''Removal of obstructions'', would be amended to remove the words ''take such action * * * as the Corporation or the Authority deem necessary'' as superfluous.

Section 401.94, ''Keeping copy of regulations'', would be amended to require that, in addition to a copy of the Regulations, a copy of the vessel's latest Ship Inspection Report, and Seaway Notices for the navigation year shall be kept on board each vessel, which reflects the routine requirement for this documentation for inspection and reference purposes.

Schedule I, ''VESSELS TRANSITING U.S. WATERS'', would be amended by revising paragraph (d)(3) to require, for each vessel with a fixed propeller, a table of shaft revolutions per minute, for a representative range of speeds, and a notice showing any critical range of revolutions at which the engine designers recommend that the engine not be operated on a continuous basis because this information is necessary for officers or pilots having conduct of the vessel.

Schedule II, ''Table of Speeds'', would be amended by revising item 4 to reduce the allowable speeds in the area covered, by revising item 6 to reduce the allowable speeds the area covered and include the areas now covered by items 7 through 10 under item 6's allowable speed limits to eliminate varying speed areas, reduce speeding violations, and reduce vessel wake damages. Current items 7 through 10 would be removed and current items 11 through 15 would be renumbered accordingly.

Appendix I, ''Vessel Dimensions'', would be amended by revising the second undesignated paragraph after paragraph (b) to round off ''23.16 m'' to ''23.2 m'' for simplification and conformity with the proposed amendment to § 401.3.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States, and therefore, Executive Order 12866 does not apply. This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C.

4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

Federalism

The Corporation has analyzed this proposal under the principles and criteria in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Radio reporting and record keeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend Part 401—Seaway Regulations and Rules (33 CFR part 401) as follows:

PART 401—[AMENDED]

1. The authority citation for part 401 continues to read as follows:

Authority: 68 Stat. 93–96 (33 U.S.C. 981–990), as amended; Sec. 104, Pub. L. 92–340, 86 Stat 424 (49 CFR 1.50a) (37 FR 21943), unless otherwise noted.

2. Section 401.3 would be amended by revising paragraphs (a) and (d) and adding a new paragraph (e) to read as follows:

§ 401.3 Maximum vessel dimensions.

(a) Subject to paragraph (e) of this section, no vessel of more than 222.5 m in overall length or 23.8 m in extreme breadth shall transit.

* * * * *

(d) No vessel's hull or superstructure when alongside a lock wall shall extend beyond the limits of the lock wall, as illustrated in Appendix I of this part.

(e) A vessel having a beam width in excess of 23.2 m and having dimensions that do not exceed the limits set out in the block diagram in Appendix I of this part:

(1) Shall, upon application to the Authority, be considered for transit after review of the vessels drawings; and

(2) If accepted, shall transit in accordance with directions issued by the Authority or Corporation.

3. Section 401.6 would be amended by revising paragraphs (a) and (b) to read as follows:

§ 401.6 Markings.

(a) Vessels of more than 20.0 m in overall length shall be correctly and distinctly marked and equipped with draft markings on both sides at the bow and stern.

(b) In addition to the markings required by paragraph (a) of this section, vessels of more than 110 m in overall length shall be marked on both sides with midship draft markings.

* * * * *

4. Section 401.7 would be revised to read as follows:

§ 401.7 Fenders.

(a) Where any structural part of a vessel protrudes so as to endanger Seaway installations, the vessel shall be equipped with fenders—

(1) That are made of steel, hardwood, or teflon or a combination of two or all of these materials, are of a thickness not exceeding 15 centimeters, with well tapered ends, and are located along the hull, close to the main deck level; and

(2) That by no later than the beginning of the 1997 navigation season are permanently attached to the vessel, except that portable fenders, other than rope hawsers, are allowed for a single transit basis if the portable fenders are—

(i) Made of a material that will float; and

(ii) Securely fastened and suspended from the vessel in a horizontal position by a steel cable or a fiber rope in such a way that they can be raised or lowered in a manner that does not damage Seaway installations.

5. Section 401.9 would be amended by revising paragraph (a) to read as follows:

§ 401.9 Radiotelephone equipment.

(a) Self-propelled vessels, other than pleasure craft of less than 20.0 m in overall length, shall be equipped with VHF (very high frequency) radiotelephone equipment.

* * * * *

6. Section 401.10 would be amended by revising paragraphs (b) and (c) to read as follows:

§ 401.10 Mooring lines.

* * * * *

(b) Unless otherwise permitted by an officer, only wire rope mooring lines with a breaking strength that complies with the minimum specifications set out in the table in this section shall be used for securing a vessel in lock chambers.

(c) Synthetic lines may be used for mooring at approach walls, tie-up walls and docks within the Seaway.

* * * * *

7. Section 401.13 would be amended by revising paragraph (b) to read as follows:

§ 401.13 Hand lines.

* * * * *

(b) be of uniform thickness and have a diameter of not less than 12 mm and not more than 20 mm and a minimum length of 35 m.

8. Section 401.26 would be amended by revising paragraph (d) to read as follows:

§ 401.26 Security for tolls.

* * * * *

(d) Notwithstanding paragraph (c) of this section, where a number of vessels, for each of which a preclearance has been given, are owned or controlled by the same individual or company and have the same representative, the security for tolls is not required if the individual, company, or representative has paid every toll account received in the preceding five years within the period set out in § 401.75.

* * * * *

9. Paragraphs (a)(1) and (2) of section 401.42 would be amended by removing the word ''linesmen'' and adding, in its place, the word ''linehandlers''.

10. Section 401.43 would be amended by revising the introductory text as follows:

§ 401.43 Mooring table.

Unless otherwise directed by an officer, vessels passing through the locks shall moor at the side of the tie-up wall or lock as shown in the table to this section.

* * * * *

11. Section 401.45 would be revised to read as follows:

§ 401.45 Emergency procedure.

When the speed of a vessel entering a lock chamber has to be checked in an emergency, a signal consisting of five blasts on a horn shall be given by the master and all mooring lines shall be put out as quickly as possible.

§ 401.52 [Amended]

12. Paragraph (b) of § 401.52 would be amended by removing the word ''Caughnawaga'' and adding, in its place, the word ''Kahnawake''.

§ 401.64 [Amended]

13. Paragraph (e) of § 401.64 would be amended by removing the words ''or pilot''.

14. Section 401.65 would be amended by revising paragraphs (a)(1) and (2) and paragraph (c) to read as follows:

§ 401.65 Communication—ports, docks and anchorages.

(a) * * *

(1) For the lake ports of Toronto and Hamilton, 1 nautical mile outside the harbor limits; and

(2) For other lake ports, when crossing the harbor entrance.

* * * * *

(c) Every vessel departing from a port, dock or anchorage, shall report to the

appropriate Seaway station its destination and the expected time of arrival at the next check point.

15. Section 401.66 would be amended by redesignating the current text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 401.66 Applicable laws.

* * * * *

(b) Every vessel carrying dangerous cargo, as described in §§ 401.66 through 401.73, and all tankers carrying liquid cargo in bulk, shall, before transiting any part of the Seaway, file with the Corporation and the Authority a copy of the current load plan as described in § 401.72(e).

16. Section 401.71 would be revised to read as follows:

§ 401.71 Signals—explosive or hazardous cargo vessels.

An explosive or hazardous cargo vessel shall display at the masthead or at an equivalent conspicuous position a ''B'' flag.

17. Section 401.72 would be amended by adding new paragraphs (e), (f), (g), and (h) to read as follows:

§ 401.72 Reporting—explosive and hazardous cargo vessels.

* * * * *

(e) Every vessel carrying dangerous cargo, as defined in § 401.66, and all tankers carrying liquid cargo in bulk shall, before transiting any part of the Seaway, file with the Corporation and the Authority a copy of the current load plan that includes the following information:

(1) The name of the cargo, its IMO class and UN number as set out in the IMO Code, if applicable, or, if the cargo is not classed by the IMO and does not have a UN number, the words ''NOT CLASSED'';

(2) The weight in metric tonnes and the stowage location of each commodity;

(3) The approximate weight in metric tonnes or the approximate volume in cubic meters in each hold or tank;

(4) The flashpoint of the cargo, if applicable; and

(5) The estimated date of entry into the Seaway and the date and time that the load plan was last issued or amended.

(f) For tankers, the information required under this section 401.72 shall be detailed on a plan showing the general layout of the tanks and, if a tanker is so fitted, a midship cross-section showing double bottom tanks and ballast side tanks.

(g) If a Material Safety Data Sheet (MSDS) on a hazardous cargo that a vessel is carrying is not available in a Seaway Traffic Control Center, the vessel shall provide one.

(h) Every vessel shall submit its load plan to the nearest Seaway Traffic Control Center and, if there are subsequent changes in stowage including loading and discharging during a transit, the vessel shall submit an updated plan before departing from any port between St. Lambert and Long Point.

18. Section 401.75 would be revised to read as follows:

§ 401.75 Payment of tolls.

Every toll invoice shall be paid in Canadian or American funds, as indicated on the invoice, within forty-five days after the vessel enters the Seaway, and any adjustment of the amount payable shall be provided for in a subsequent invoice.

19. Section 401.84 would be amended by revising paragraph (c) to read as follows:

§ 401.84 Reporting of impairment or other hazard by vessels transiting within the Seaway.

* * * * *

(c) Any malfunction on the vessel of equipment required by § 401.5 to 401.21 and subsections (e) through (j) of Schedule I of subpart A of this part;

* * * * *

20. Section 401.89 would be amended by revising paragraph (a)(1) to read as follows:

§ 401.89 Transit refused.

(a) * * *

(1) The vessel is not equipped in accordance with §§ 401.6 to 401.21 and subsections (e) to (j) of Schedule I of subpart A of this part when transiting the Canadian waters of the Saint Lawrence Seaway;

* * * * *

21. Section 401.91 would be revised to read as follows:

§ 401.91 Removal of obstructions.

The Corporation or the Authority may, at the owner's expense, move any vessel, cargo, or thing that obstructs or hinders transit on any part of the Seaway.

22. Section 401.94 would be revised to read as follows:

§ 401.94 Keeping copy of regulations.

A copy of these regulations (subpart A of Part 401), a copy of the vessel's latest Ship Inspection Report, and Seaway Notices for the current navigation year shall be kept on board every vessel in transit.

Subpart A to Part 401 [Amended]

23. Schedule I to subpart A, part 401 would be amended by revising paragraph (d)(3) to read as follows:

Schedule I—Vessels Transiting U.S. Waters

* * * * *

(d) * * *

(3) For each vessel with a fixed propeller, a table of shaft revolutions per minute, for a representative range of speeds, and a notice showing any critical range of revolutions at which the engine designers recommend that the engine not be operated on a continuous basis.

* * * * *

24. Schedule II to subpart A, part 401 would be amended by removing items 7 through 10 and redesignating items 11 through 15 as new items 7 through 11 respectively, and by revising item 4 and item 6 to read as follows:

SCHEDULE II.—TABLE OF SPEEDS [1]

From—	To—	Maximum speed over the bottom, knots	
		Col. III	Col. IV
* * *	* * *		*
4. Lake St. Francis Buoy D3	Lake St. Francis Buoy D49	12	12
* * *	* * *		*
6. Eisenhower Lock	Deer Island Lt. 186	11.5	10.5
* * *	* * *		*

[1] Maximum speeds at which a vessel may travel in identified areas in both normal and high water conditions are set forth in this schedule. The Corporation and the Authority will, from time to time, designate the set of speed limits which is in effect.

25. Appendix I to subpart A, part 401 would be amended by revising the first sentence of the second undesignated paragraph after paragraph (b) to read as follows:

Appendix I—Vessel Dimensions

* * * * *

The limits in the block diagram are based on vessels with a maximum allowable beam of 23.2 m. * * *

* * * * *

Issued at Washington, D.C. on June 6, 1995.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 95–14366 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ50–1–6966b; FRL–5187–9]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Arizona State Implementation Plan (SIP) which concern the Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM).

The implementation plan was submitted by the State to satisfy the Federal mandate of the Clean Air Act (CAA) to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. In the final rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without additional proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 17, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105

U.S. Environmental Protection Agency, Air Docket 6102, 401 ''M'' Street, S.W. Washington, D.C. 20460

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: R. Michael Stenburg, A–1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1102.

SUPPLEMENTARY INFORMATION: This document concerns the Arizona Small Business Stationary Source Technical and Environmental Compliance Assistance Program, submitted to EPA on November 13, 1992 and February 1, 1995 by the Arizona Department of Environmental Quality. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 27, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–14626 Filed 6–14–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH79–1–6970; FRL–5221–8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The Ohio Environmental Protection Agency has requested the redesignation of the Cleveland/Akron/Lorain metropolitan area (consisting of the Ohio counties of Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage) from moderate nonattainment to attainment for ozone. Before the request can be approved through final rulemaking, several State Implementation Plan (SIP) revisions must be approved. The USEPA is rulemaking, or has rulemade, separately on Ohio SIP revisions involving volatile organic compounds (VOC) Reasonable Available Control Technology (RACT) rules, the 1990 Base-year Inventory, the section 182(f) nitrogen oxides (NO_X) RACT waiver request, the 182(b)(1) reasonable further progress plan, the 182(b)(4) inspection and maintenance plan, and the attainment demonstration. Upon final approval of the required plan elements, the CAL nonattainment area will have met all of the requirements for redesignation specified under section 107(d)(3)(E). Therefore, the USEPA is proposing approval of the redesignation request and maintenance plan for the CAL area of Ohio.

DATES: Comments on this redesignation and on the proposed USEPA action must be received by July 17, 1995.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following location. Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

The Ohio Environmental Protection Agency (OEPA) has requested the redesignation of the Cleveland/Akron/Lorain (CAL) area of Ohio (consisting of the counties of Lorain, Ashtabula, Cuyahoga, Geauga, Lake, Medina, Portage, and Summit) from nonattainment to attainment for ozone. The USEPA received the request for redesignation to attainment on November 15, 1994.

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Pursuant to Section 107(d)(4)(A), the CAL was designated as a moderate ozone nonattainment area. As explained below, the CAL area had been designated nonattainment prior to the enactment of the 1990 CAAA. A review of the CAL area redesignation request is presented below.

II. Redesignation Review Criteria

The Clean Air Act provides the requirements for redesignating a nonattainment area to attainment. Specifically, Section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the National Ambient Air Quality Standard (NAAQS); (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175(A); and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The USEPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992). Three key memoranda provide further guidance with respect to section 107(d)(3)(E) of the amended Act. The first, dated September 4, 1992, was issued by John Calcagni, Director, Air Quality Management Division, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment (Calcagni Memorandum). The second, dated September 17, 1993, was issued by Michael Shapiro, Acting Assistant Administrator for Air and Radiation, Subject: State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) NAAQS on or after November 15, 1992 (Shapiro Memorandum). The third, dated October 14, 1994, was issued by Mary Nichols, Assistant Administrator for Air and Radiation, Subject: Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment (Nichols Memorandum).

Analysis of CAL Area Redesignation Request

A. The Area Must Have Attained the Ozone National Ambient Air Quality Standard (NAAQS)

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9, based on three complete, consecutive calendar years of quality assured monitoring data. The data that are used should be the product of ambient monitoring that is representative of the area believed to have the highest concentration. A violation of the NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 at any site under consideration. A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR § 58, and recorded in the Aerometric Information Retrieval System (AIRS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The OEPA submitted ozone monitoring data from the CAL area for the April through October ozone season from 1976 to 1994. The majority of recent exceedances occurred during 1988. To demonstrate monitored attainment with the standard, the OEPA submitted ozone air quality data for the three most recent years, 1992 through 1994. This data has been quality assured and is recorded in AIRS. No violations were recorded during this three-year time period.

The CAL moderate nonattainment area contains ten monitors measuring ambient concentrations of ozone. The monitors and the number of exceedances for 1992 through 1994 are detailed in the technical support document. The site with the greatest number of expected exceedances for the three year period is in Cuyahoga County and has an annual average exceedance value of 1.00. The only other exceedance recorded during the three year period was in 1994 at a monitor in Medina County. This was a monitor that was relocated in 1993 due to operational problems. The CAL moderate nonattainment area is currently attaining the standard.

B. The Area Must Have a Fully Approved State Implementation Plan (SIP) Under Section 110(k)

The counties of the CAL moderate nonattainment area were designated nonattainment for ozone in March 1978, based on monitored violations. Additional monitored violations in 1983 caused USEPA to propose to disapprove the nonattainment SIP submitted in 1982 by OEPA and to require a revised SIP and attainment demonstration by 1987. Monitored violations occurred again in the CAL area during the summer of 1988.

The CAAA provided that any area designated nonattainment as of November 15, 1990, would remain nonattainment and would be classified in one of five categories, based on the severity of the monitored design concentration value. The CAL area was classified as a moderate nonattainment area and as a result was required to submit a revised SIP which meets the requirements of the Clean Air Act Amendments and demonstrates attainment with the ozone standards.

The Shapiro memorandum, cited above, provides guidance on programs that must be in the SIP before the redesignation request can be approved. The memorandum states that for redesignation, the States must adopt and provide for implementation of all the programs that were due by the date of the redesignation request. Exceptions to this policy apply to only four program areas: Basic inspection and maintenance; annual updates of vehicle miles traveled forecasts and annual estimates of actual vehicle miles traveled for Carbon Monoxide (CO) nonattainment areas; nitrogen oxide reasonably available control technology (RACT), and small business assistance programs.

Section E of this notice discusses the requirements under section 110 and Part D of Title 1 of the CAAA. As discussed in that section, USEPA is rulemaking, or has rulemade, separately on the Volatile Organic Compounds (VOC) RACT rules, the emissions inventory, NO_X RACT waiver, and I/M plan. Final approval of the required submittals will provide the area with a fully approved SIP at the time of final rulemaking on the redesignation request. The CAL area was also required to submit a 15 percent Rate of Progress Plan and an attainment demonstration. However, a May 10, 1995, memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard'', states that upon a determination made by USEPA that an area has attained the NAAQS for ozone, that area need not submit SIP revisions concerning

reasonable further progress (15% plan) and attainment demonstrations for as long as the area continues to meet the standard. It is expected that such a determination will soon be made, in separate rulemaking, for the CAL area. If such a determination is made, the final approval of the CAL redesignation request will no longer be contingent upon USEPA approval of the 15% plan or the attainment demonstration.

C. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions Resulting From the SIP, Federal Measures, and Other Permanent and Enforceable Reductions

The State must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. To satisfy this requirement, the State should estimate the percent reduction from the year that was used to determine the design value for designation and classification achieved from Federal measures and control measures that have been adopted and implemented by the State. Emission rates, production capacities and other information should be used in the estimation. Sources should be assumed to operate at permitted or historic peak levels unless evidence is presented that such an assumption is unrealistic.

The OEPA submittal documents reductions in emission from 1990 to 1993. The year 1988 was the year which determined the design value and should have been the year from which reductions were calculated. This comment was made to OEPA in a January 6, 1995, letter from William L. MacDowell, Section Chief, Regulation Development Section, Region 5, to Mary Cavin, Hearing Clerk, OEPA. The OEPA responded that the result of using 1988 instead of 1990 as the base year would be that a greater reduction of emissions would have been calculated. The USEPA agrees that the use of 1988 data would not have affected the conclusion that the reductions in emissions from permanent and enforceable programs have resulted in improved air quality in the area and therefore accepts the reductions as calculated.

The OEPA submittal states that the 1993 emissions inventory is reflective of attainment conditions. The OEPA states that the reductions in emissions from the base year are achieved from the implementation of two federal programs; lower fuel volatility and the Federal Motor Vehicle Control Program (FMVCP). These programs are permanent and federally enforceable. The motor fuel volatility Phase I standards became effective nationwide in the summer of 1989, and established a volatility limit in the CAL area of 10.5 pounds per square inch Reid Vapor Pressure (RVP). The RVP was further lowered in 1992 to 9.0 pounds per square inch. The total reduction in mobile source VOC emissions from 1990 to 1993 was 66 tons per day. These reductions were quantified using the MOBILE5A model.

From the years 1990 to 1993, point source VOC emissions increased by 2.7 tpd, while area source emissions decreased by 1.8 tpd. Area sources were assumed to change, based on historical population information as interpolated by Bureau of Economic Analysis (BEA) data for the years 1988 to 1995, on industrial employment data, and on gasoline sale trends. Point source emissions for 1990 were developed from reports submitted to the local air agencies by facilities with actual combined VOC emissions of 10 tons per year or more. The following table shows VOC emissions for area, point, and mobile sources from 1990 to 1993.

	1990	1993
Area (TPD)	147.7	145.9
Point	74.7	77.4
Mobile	248.4	182.3
Total	470.8	405.6

The State has shown that actual total VOC emissions were reduced by 14 percent or about 65 tons per day from 1990 to 1993; due primarily to mobile source reductions. Although the State did not calculate reductions based on a design year (i.e., 1988) emissions inventory, the demonstration that was submitted is adequate to show that actual reductions of VOC emissions have occurred in the area. The reduction in emissions shown in the submittal has been reasonably attributed to two programs: lower fuel volatility and the Federal Motor Vehicle Control Program. Both of the programs result in permanent and enforceable reductions in VOC emissions, and, therefore, the requirement of section 107(d)(3)(E)(iii) is satisfied.

D. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA defines requirements for maintenance plans. The maintenance plan is a SIP element which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. There are five core provisions which the maintenance plan should address: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The attainment inventory should identify the level of emissions in the area which is sufficient to attain the ozone NAAQS and should include the emissions during the time period associated with the monitoring data showing attainment. Maintenance is demonstrated by showing that future emissions will not exceed the level of the attainment inventory. Modeling may also be used to show that the future combination of sources and emission rates will not cause a violation of the NAAQS. The maintenance plan must also provide for continued operation of an appropriate air quality monitoring network to verify the attainment status of the area. The plan must indicate how the State will track the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures to promptly correct any violation of the ozone NAAQS that occurs after redesignation of the area to attainment.

Attainment Inventory

The CAL area submittal contained inventories of 1990 actual VOC emissions from stationary, area, and mobile sources. The year 1990 was selected as the base year and used to project emissions to future years. The 1993 emissions inventory is considered as the attainment year inventory because no ozone violations have occurred since 1991, and the 1993 projections were performed per USEPA guidance. The approvability of the emission inventories will be addressed in a separate rulemaking. Final approval of the CAL nonattainment region emission inventories is needed before the redesignation request can be approved.

Maintenance Demonstration

The CAL area submittal shows projected VOC, NO_X, and CO emissions from the 1990 base year for the years 1993, 1996, 2000, and 2006. The projections show that the level of emissions established for the attainment year inventory will not be exceeded. The following tables list the VOC and NO_X emissions for the base year, final year and interim years.

SUMMARY OF VOC EMISSIONS (TONS/DAY)

	1990 Base	1993 Attain	1996 Proj.	2000 Proj.	2006 Proj.
Point	74.7	77.4	80.2	84.1	90.5
Area	147.7	145.9	144.6	143.0	140.6
Mobile	248.4	181.4	131.2	78.4	48.8
Totals	470.8	404.7	356.0	305.5	279.9

SUMMARY OF NO_X EMISSIONS (TONS/DAY)

	1990 Base	1993 Attain	1996 Proj.	2000 Proj.	2006 Proj.
Point	244.7	242.6	240.0	236.0	232.3
Area	55.1	54.7	54.4	54.1	53.2
Mobile	176.6	159.9	142.2	95.57	75.4
Totals	476.4	457.2	436.6	385.7	360.9

The OEPA is revising the base year emission and projected year inventory numbers in response to comments made by USEPA. Although the revisions will change the emission totals, the changes are not expected to affect the results of the maintenance demonstration. The revised base year, attainment year, and projected emissions will be presented in the final rule.

Emission Projections

Projections of stationary source emissions through the year 2006 were developed based on data provided by the Bureau of Economic Analysis (BEA), United States Department of Commerce, showing manufacturing earnings by industry. An annual growth factor was derived from this data and that growth factor was used to determine future year inventories. The base year inventory was developed through reports submitted by facilities with actual combined VOC emissions of 10 tons per year or more. The 1990 base year inventory reflects tons per typical summer day emissions as well as an 80 percent rule effectiveness assumption.

The area source emissions inventory includes sources too small to be handled individually in the point source inventory. The emissions in the area source inventory were reported in tons per typical summer day. Projections of area source emissions for most source categories were based on population data supplied by the Ohio Data Users Center: Ohio Department of Development. Some source categories (such as degreasing operations, construction and industrial equipment, and auto painting/traffic lines) used industrial employment, from BEA data, as the growth indicator. State gasoline consumption was used as a growth indicator to project emissions from gasoline distribution.

Mobile source emissions inventories were generated by applying the emission factors from USEPA's Mobile5A emissions model to the projected Vehicle Miles Travelled (VMT) in the CAL area counties. The VMTs for the 1990 base year were based on the TRANPLAN model, which utilizes actual traffic counting. Forecasts of VMTs to the year 2006 relied on the development of future highway networks, future forecasts of socio-economic data, and travel patterns in the CAL area. VMTs are projected to increase 9.6 percent by the year 2006 from the 1990 base year. The mobile source emissions budget for the year 2006 for VOC and NO_X for purposes of transportation conformity is 48.8 tons/day and 75.4 tons/day, respectively.

Several programs account for the significant reductions in mobile emissions predicted through the year 2006. These programs, which are Federally approved or in the process of being approved, include the enhanced inspection and maintenance, State II vapor recovery, on-board vapor recovery, FMVCP, and lower fuel volatility. Incorporation of enhanced inspection and maintenance into the Mobile5A modeling is initiated in 1996. The Stage II vapor recovery system (VRS) is fully implemented and Federally enforceable in 1995, while the on-board vapor recovery system begins in 1998. The on-board vapor recovery system applies to the four possible vehicle types; light duty gasoline, light duty truck 1 and 2, and heavy duty gasoline.

Monitoring Network

There are currently ten monitors measuring ozone in the CAL area. The monitors are operated by the local air agencies and the data is recorded in AIRS. The CAL local air agencies commit to continue operating and maintaining the ozone monitor network consistent with the requirements of Federal and State monitoring guidelines in order to continue to verify the attainment status of the area.

Contingency Plan

The contingency plan for the CAL area contains three major components: attainment tracking, contingency measures to be implemented in the event that a violation of the ozone NAAQS occurs in the CAL area, and a mechanism with which to trigger the implementation of the contingency measures.

Two methods of attainment tracking will be utilized: (1) air quality monitoring using the existing ozone monitoring network, and (2) inventory updates on a regular schedule. Stationary, mobile, and area source inventories will be updated at a minimum of once every three years beginning with 1996. Annual progress reports will summarize available VOC emissions data during years when area and mobile source inventories are not developed.

The contingency measures to be considered for implementation are listed below.

1. Lower Reid Vapor Pressure for gasoline
2. Reformulated gasoline program
3. Broader geographic coverage of existing regulations
4. Application of RACT on sources covered by new control technology guidelines issued in response to the 1990 Act Amendments
5. Application of RACT to smaller existing sources
6. Implementation of one or more transportation control measures sufficient to achieve at least a 0.5 percent reduction in actual areawide

VOC emissions. The transportation control measures to be considered would include: (1) Trip reductions programs, including but not limited to employer-based transportation management programs, areawide rideshare programs, work schedule change, and telecommuting; (2) transit improvements; (3) traffic flow improvements; and (4) other measures
7. Alternative fuel programs for fleet vehicle operations
8. Controls on consumer products consistent with those adopted elsewhere in the United States
9. VOC offsets for new or modified major sources
10. VOC offsets for new or modified minor sources
11. Increased ratio of VOC offsets required for new sources
12. Requirement of VOC controls on new minor sources.

Selection of one or more of the contingency measures will be based on various considerations including cost-effectiveness, VOC reduction potential, economic and social consideration, and other factors the State determines to be appropriate.

Consideration and selection of one or more of the contingency measures will take place in the event the ozone NAAQS is violated in the CAL area. Initially, the State, in cooperation with NOACA, AMATS, and the local air agencies, will conduct an analysis to determine the level of control measures needed to assure expedient future attainment. If a subsequent violation of the ozone NAAQS occurs after implementation of the VOC control measures, NO_X RACT will be implemented. Contingency measures will be implemented according to the following schedule:

Activity	Completion time after triggering event (monitored violation)
Verify a violation has occurred.	1 month.
Identify VOC plan and submit schedule for implementation.	3 months.
Implement VOC control program.	12 months.
	Completion time after second triggering event/post VOC control plan
Verify a violation has occurred.	1 month.
Submit schedule for implementation of NO_X RACT.	3 months.
Implement NO_X RACT.	18 months.

Reformulated gasoline and low RVP gasoline would not be able to be implemented as contingency measures by the State of Ohio unless the State first requested and received from EPA a waiver of Federal preemption under section 211(c)(4) of the CAA. However, in light of the State's listing of other potential contingency measures and the State's commitment to implement contingency measures within 12 months of a violation, the identification of reformulated gasoline and low RVP gasoline does not detract from the approvability of the contingency plan.

The Ohio submittal adequately addresses the five basic components which comprise a maintenance plan (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan) and therefore, satisfies the maintenance plan requirement in section 107(d)(3)(E)(iv).

E. The Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Section 107(d)(3)(E) requires that, for an area to be redesignated, an area must have met all applicable requirements under section 110 and Part D. The USEPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the Act that come due subsequently continue to be applicable to the area at those later dates (see section 175A(c)) and, if the redesignation of the area is disapproved, the State remains obligated to fulfill those requirements.

Section 110: General Requirements for Implementation Plans

Section 110(a)(2) of Title I of the CAAA lists the elements to be included in each SIP after adoption by the State and reasonable notice and public hearing. The elements include, but are not limited to, provisions for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; implementation of a permit program, provisions for Part C (PSD) and D (NSR) permit programs, criteria for stationary source emission control measures, monitoring, and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the CAL area SIP was reviewed to ensure that all requirements under the amended Act were satisfied. USEPA has determined that the CAL area SIP is consistent with the requirements of section 110 of the amended Act.

Part D: General Provisions for Nonattainment Areas

Before the CAL area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the general requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). The CAL area was classified as moderate. Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically section 172(c), as well as the applicable requirements of subpart 2 of part D.

Section 172(c) Requirements

The State redesignation request for the CAL area has satisfied all of the relevant submittal requirements under section 172(c) necessary for the area to be redesignated to attainment. Some components have not yet completed regulatory review. Approval of all required SIP revisions is necessary before the redesignation request can be approved. The reasonable further progress (RFP) requirement under section 172(c)(2) is defined as progress that must be made toward attainment. In accordance with the General Preamble (57 FR 13564), this requirement is not relevant because the CAL area has already demonstrated monitored attainment of the ozone NAAQS. Likewise, because the area has already attained the NAAQS, the contingency measures required under section 172(c)(9) are not applicable.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The State has submitted such an inventory under section 182(a)(1). It is currently being reviewed for approvability.

Section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The USEPA has determined that areas being redesignated need not comply with the requirement that a New Source Review (NSR) program be approved prior to redesignation provided that the

area demonstrates maintenance of the standard without part D NSR in effect. The rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment''. The State of Ohio has demonstrated that the CAL area will be able to maintain the standard without part D NSR in effect, and, therefore, the State need not have a fully approved part D NSR program prior to approval of the redesignation request for the area. The State's Prevention of Significant Deterioration (PSD) program will become effective in the CAL area upon redesignation to attainment.

Section 176 Conformity Plan Provisions

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that, before they are taken, Federal actions conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federal actions (''general conformity'').

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994, and November 30, 1994, respectively. Because the redesignation request was submitted before these SIP revisions came due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

Subpart 2 Section 182 Requirements

The CAL area is classified moderate nonattainment; therefore, part D, subpart 2, section 182(b) requirements apply. In accordance with guidance presented in the Shapiro memorandum, the requirements which came due prior to the submission of the request to redesignate the CAL area must be fully approved into the SIP before the request to redesignate the area to attainment can be approved. Those requirements are discussed below:

(a) 1990 Base Year Inventory

The 1990 base year emission inventory was due on November 15, 1992. It was submitted to USEPA on March 14, 1994. USEPA is currently reviewing the base year inventory. Approval of the redesignation request is contingent upon approval of the 1990 base year inventory.

(b) Emission Statements

The emission statements SIP was due on November 15, 1992. It was submitted to the USEPA on March 18, 1994. The USEPA approved this SIP revision through a direct final rulemaking action published on October 13, 1994 (59 FR 51863). This approval became effective on December 12, 1994.

(c) 15% Plan

The 15% Rate of Progress plan for VOC reductions was required to be submitted by November 15, 1993, and, therefore, is applicable to the CAL Moderate Nonattainment area. The 15% plan was submitted to USEPA on March 14, 1994, and is currently under review. Additionally, an attainment demonstration was required for the CAL area which must show that the reductions are adequate to show attainment with the NAAQS by 1996. The OEPA submitted an attainment demonstration on March 14, 1994. It is currently under review. However, as mentioned previously, the May 10, 1995, memorandum from John S. Seitz states that upon a determination made by USEPA that an area has attained the NAAQS for ozone, that area need not submit SIP revisions concerning reasonable further progress (15% plan) and attainment demonstrations for as long as the area continues to meet the standard. It is expected that such a determination will soon be made, in separate rulemaking, for the CAL area. If such a determination is made, the final approval of the CAL redesignation request will no longer be contingent upon USEPA approval of the 15% plan or the attainment demonstration.

(d) RACT Requirements

SIP revisions requiring RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

(i) All sources covered by a CTG document issued between November 15, 1990 and the date of attainment. The USEPA has issued a CTG document in which it lists 11 CTG's that are planned to be issued in accordance with section 183. The USEPA has also promulgated a CTG document entitled ''Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry'', August 1993. However, the CAL redesignation request was submitted before the November 15, 1994 (57 FR 18070), due date for RACT rule submission for the 11 CTG's and the March 23, 1995 (59 FR 13717), due date for the more recent CTG. Therefore, this requirement is not applicable.

(ii) All sources covered by a Control Technology Guideline (CTG) issues prior to November 15, 1990. The State has stated that it has adopted rules requiring RACT for sources for which a CTG has been issued. A direct final rule approving the revision was published on March 23, 1995.

(iii) All other major non-CTG stationary sources. The non-CTG rules were due by November 15, 1992, and apply to the Ohio submittal. The USEPA is currently reviewing non-CTG rules submitted by Ohio. Approval of the redesignation request is contingent upon approval of the non-CTG rules.

(e) Stage II Vapor Recovery

Section 182(b)(3) requires States to submit Stage II rules. The Ohio Stage II rules were submitted as a SIP revision on June 7, 1993. On October 20, 1994, the USEPA partially approved and partially disapproved Ohio's SIP revision for implementation of Stage II (58 FR 52911). As stated in that rulemaking action, with the exception of paragraph 3745–21–09 (DDD)(5), USEPA considers Ohio's Stage II program to fully satisfy the criteria set forth in the USEPA guidance document for such programs entitled ''Enforcement Guidance for Stage II Vehicle Refueling Control Programs.'' Only those Stage II provisions previously approved by USEPA are part of the CAL area maintenance plan.

The Shapiro Memorandum states that once onboard regulations (FMVCP) are promulgated, the Stage II regulations are no longer applicable for moderate ozone nonattainment areas. The USEPA promulgated onboard rules on April 6, 1994 (59 FR 16262), therefore, pursuant to section 202(a)(6) of the CAAA, Stage II is no longer required. However, the State has opted to include reductions in VOCs from the Stage II program as part of the maintenance plan and the 15% Rate of Progress plan.

(f) Vehicle Inspection and Maintenance (I/M)

The OEPA submitted the I/M rules on May 26, 1994. The USEPA published a

direct final rule approving the rules on April 4, 1995. The direct final rule becomes effective on June 3, 1995.

The legislation authorizing the State to establish an I/M program also allows the State to implement an enhanced I/M program into an area's maintenance plan. The State is including enhanced I/M as a part of the maintenance plan and 15% plan for all of the counties in the CAL area except Ashtabula. Ashtabula was excluded because it was not required to have a vehicle I/M program under the pre-1990 CAA.

(g) 1.15 to 1.0 Offset

Section 182(b)(5) requires all major new sources or modifications in a moderate nonattainment area to achieve offsetting reductions of VOCs at a ratio of at least 1.15 to 1.0. The Mary Nichols memorandum states that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation so as they have an approved Prevention of Significant Deterioration (PSD) SIP or delegated PSD authority. The State has demonstrated that maintenance can be achieved without NSR offsets in effect, therefore, this requirement is not applicable. Upon redesignation to attainment, the sources will become subject to PSD requirements and offsets will no longer apply. Emissions will continue to be tracked on an annual basis.

(h) NO_X Requirement

Section 182(f) establishes NO_X requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_X reductions would not contribute to attainment. The Administrator has proposed such a determination for the CAL nonattainment area as requested by the State of Ohio (60 FR 3361). If the NO_X waiver is approved as a final rule, the State of Ohio need not impose the NO_X control measures in section 182(f) for the CAL area to be redesignated. However, if the NO_X waiver is not approved, the NO_X requirements must be met for the area to be redesignated from nonattainment to attainment. If a violation is monitored in the CAL area, the State has committed (as required) to adopt and implement NO_X RACT rules as a contingency measure to be implemented upon any violation of the ozone NAAQS which occurs after initial contingency measures are in place.

Transport of Ozone Precursors to Downwind Areas

Preliminary modeling results utilizing USEPA's regional oxidant model (ROM) indicate that ozone precursor emissions from various States west of the ozone transport region (OTR) in the northeastern United States contribute to increases in ozone concentrations in the OTR. The State of Ohio has provided documentation that VOC and NO_X emissions in the CAL nonattainment area are predicted to remain below attainment levels for the next ten years. Should emissions exceed attainment levels, the contingency plan will be triggered. In addition, eight years after redesignation to attainment, Ohio is required to submit a revision to the maintenance plan which demonstrates that the NAAQS will be maintained until the year 2015. The USEPA is currently developing policy which will address long range impacts of ozone transport. The USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. The USEPA intends to address the transport issue through Section 110 based on a domain-wide modeling analysis.

III. Proposed Rulemaking Action and Solicitation of Public Comment

The State of Ohio has met the submission requirements of the CAAA for revising the Ohio ozone SIP. The USEPA is proposing approval of the redesignation of the CAL moderate nonattainment area, consisting of the counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit, to attainment for ozone. The USEPA is also proposing approval of the maintenance plan into the ozone SIP. As noted earlier, final approval of the CAL area request is contingent upon final approval of the required VOC RACT rules, Ohio's I/M SIP revision, the 15 percent Rate of Progress Plan, the attainment demonstration, the CAL base-year emissions inventory, and the NO_X waiver for the CAL area. However, as mentioned above, publication of a final rule determining that the CAL area has attained the NAAQS for ozone will remove the 15% plan and the attainment demonstration as requirements for final approval of the request for redesignation to attainment for ozone for the CAL area.

Public comments are solicited on USEPA's proposed rulemaking action. Public comments received by July 17, 1995 will be considered in the development of USEPA's final rulemaking action.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of the state implementation plan or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The rules and commitments being proposed for approval in this action may bind State,

local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the rules and commitments being proposed for approval by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, the USEPA has determined that this action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects

40 CFR Part 52

Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control.

Authority: 42 U.S.C. 7401–7671(q).

Dated: June 7, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–14685 Filed 6–14–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5220–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete flowood site from the National Priorities List (NPL): Request for comments.

SUMMARY: EPA, Region IV (EPA) announces its intent to delete the Flowood Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). EPA and the State of Mississippi (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the state have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this Site will be accepted until July 17, 1995.

ADDRESSES: Comments may be mailed to: Lt. Mark A. Marshall, USPHS, Remedial Project Manager, South Superfund Remedial Branch, Waste Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region IV Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone No.: (404) 347–2930.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Pearl Public Library, 3470 Highway 80 East, Pearl, Mississippi 39208, telephone No.: (601) 932–2562.

FOR FURTHER INFORMATION CONTACT: Lt. Mark A. Marshall, USPHS, Remedial Project Manager, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347–2643 ext. 6271.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletions

I. Introduction

EPA announces its intent to delete the Flowood Site in Rankin County, Mississippi from the National Priorities List (NPL) which constitutes Appendix B on the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this proposed deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action. EPA will accept comments concerning this Site for thirty (30) calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for the deletion of sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), releases may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, taking or remedial measures is not appropriate.

Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action.

III. Deletion Procedures

EPA will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this Site:

(1) EPA has recommended deletion and has prepared the relevant documents.

(2) The State has concurred with the deletion decision.

(3) A local notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties.

(4) EPA has made all relevant documents available in the Regional Office and local site information repository.

Deletion of a site from the NPL does not itself, create, alter, or revoke any individual rights or obligations. The NPL is designated primarily for information purposes and to assist EPA management. As mentioned in Section II of this Notice, 40 C.F.R. 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

Any comments received during the notice and comment period will be evaluated before the final decision to delete. EPA will prepare a Responsiveness Summary, if necessary, which will address any comments received during the public comment period.

A deletion occurs after the EPA Region IV Regional Administrator places a notice in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region IV.

IV. Basis for Intended Site Deletion

The Flowood Superfund Site (''Site'') is located in the town of Flowood, Rankin County, Mississippi along Highway 468 on the east side of the Pearl River, east of Jackson, Mississippi. The site encompasses approximately 225 acres and consists mostly of wetlands and lowlands in the alluvial plain of the Pearl River. The Site is separated from the river by two levees. Two manufacturing facilities have operated at the Flowood site since the 1940's or longer. The Continental Forest Company owned the northern part of the property from 1956 to 1983 when the facility was purchased by the present owner, the Stone Container Corporation. The facility to the south, currently the Rival Manufacturing Company, has been used to manufacture stoneware cooking pots since the 1970's. The past owner, The Marmon Group, used the facility from the 1950's through the early 1970's to manufacture ceramic tiles. The United Gas Pipe Line Company also owns a portion of the Site. The Site consisted of wastewater discharge areas and downstream areas adjacent to the two manufacturing facilities. The immediate area of the site included a borrow pit (Lake Marie), a canal used as a discharge area, and other undeveloped land areas adjacent to the plant sites.

State environmental officials became aware of the presence of hazardous substances in an on-site canal during a routine industrial waste water inspection in the fall of 1982. In January 1983, the state reported the Site to EPA. EPA's investigation indicated that soils and sediments in five areas around the Site contained lead: the slough/canal area, the small drainage ditch, the wash area, the drainage ditch/Lake Marie area, and the cow pasture pond area. At the request of the Mississippi Department of Environmental Quality (MDEQ), the Site was placed on the NPL in September 1983. The Marmon Group entered into a consent Agreement with EPA in 1986 to conduct the Remedial Investigation (RI) and Feasibility Study (FS) for the site to determine the nature and extent of lead contamination and evaluated various remedial alternatives to reduce any risks posed by the contamination.

After reviewing the results of the RI/FS, EPA selected a remedy to address lead contamination at the Site and issued a Record of Decision (ROD) for the Site on September 30, 1988. The selected remedy included the following components: excavating and solidifying/stabilizing 6,000 cubic yards of lead-contaminated soils sediments; no remedial action for groundwater; backfilling treated materials into the slough/canal area; covering, regrading, and reseeding the area; and, groundwater monitoring. EPA and the Potentially Responsible Parties (PRP), The Marmon Corporation, Rival Manufacturing Company, United Gas Pipe Line Company and Kiewit Continental Inc. entered into a Consent Decree in February 1990 for the PRP to design and implement the cleanup remedy. The PRP began remedial design in February 1990 and EPA approved the final design of the remedy on August 9, 1991.

Based on design data developed by the PRP prior to the final design, EPA found that changes to the selected remedy were necessary. EPA implemented an Explanation of Significant Differences (ESD) in September 1990 which included two modifications to EPA's selected remedy based on treatability studies and confirmatory sampling conducted during the Remedial Design. The first modification required a change in the location of the on-site disposal area (the Material Placement Area) due to the discovery of additional volumes of contaminated material in the Rival Plant backyard and other areas. The additional volumes required location of a new on-site disposal area to accommodate the volume. The second modification required the use of an interim measures waiver of Applicable or Relevant and Appropriate Requirements (ARARs) which temporarily waives the RCRA requirement that hazardous waste must be contained in a Subtitle C facility. This waiver was necessary because treatability testing during the design revealed that the treatment process might not render the final product non-RCRA characteristic until after a period of time.

A community relations program was implemented during the course of the RI/FS. In June 1985, the community relations plan was finalized. An information repository was established in June at the Pearl Public Library. A press release providing an opportunity for a public meeting and information on the opening of the public comment period was issued in May 1988. The public comment for the proposed plan was held from May 18, 1988 through June 22, 1988. There was no public meeting because the public did not show an interest in having a public meeting.

The Remedial Action objective for the site was to eliminate potential health hazards due to the presence of lead at the Site. Current and potential routes of exposure at the Site include ingestion of contaminated soil, fish and groundwater by humans and ingestion of contaminated surface waters by cattle. Based on the risks associated with exposure to soil in the pathways identified, a protective level of 500 mg/kg of lead was established. Groundwater sampling did not show impact to groundwater for the waste material; therefore, cleanup goals for the groundwater were not established. EPA determined that groundwater monitoring in the stabilized material placement area would measure the effectiveness of the stabilization. The remediation of the contaminated soil and contaminated sediments to 500 mg/kg would alleviate future impacts to surface water.

The Remedial Design was approved on August 9, 1991. As part of the design, a treatability study was conducted. The results of the treatability study are contained in the Remedial Design report.

Additional work was required for the excavation of lake sediments in Lake Marie; therefore, the completion of the remedial construction activities were implemented in two phases. On April 2, 1993, EPA, MDEQ, and the PRP conducted a Prefinal Construction Inspection for Phase I of the Remedial Action. A Prefinal Inspection for the Phase II Remedial Action was conducted on July 20, 1993. Neither the Phase I nor Phase II Prefinal Inspections revealed any significant items remaining to be completed or corrected.

To prevent a future use of the property which could disturb the integrity of the containment of contamination provided by the building slabs, institutional controls have been imposed on those areas of concern. These institutional controls take the form of deed restrictions which are in addition to those imposed on the Material Placement Area (MPA). These deed restrictions will insure that the remedy remains protective of human health and the environment. Remedial activities were conducted as planned. No additional areas of contamination were identified beyond the discovery of contained contaminated soils beneath structures in the Rival Back Yard (RBY) and the expansion of other areas containing lead contaminated soils and sediments, and the sediments in Lake Marie. The remedial action which was finalized in accordance with the ROD and the Consent Decree put into place deed restrictions in the areas of concern in the RBY and the Material Placement Area.

The Remedial Design and the Remedial Action were carefully reviewed by EPA and MDEQ for compliance with all requirements of the ROD and with all applicable Quality Assurance/Quality Control (QA/QC) procedures and protocol.

All procedures and protocols followed for soil and sediment sampling analysis during the Post-remediation verification sampling are documented in the Post Remediation Verification Sampling Plan. This sampling plan is contained in the Construction Management Plan dated May 8, 1992, as was modified in the field. A Quality Assurance Project Plan (QAPP) was prepared, consistent with the requirements of EPA's Interim Guidelines and Specifications for preparing Quality Assurance Project Plans (QAM–005/80), and in conjunction with the design documents. This QAPP was later modified and used to implement the Remedial Action.

The QA/QC program utilized throughout the Remedial Action was acceptable and enabled EPA and MDEQ to determine that the testing results reported were accurate to the degree needed to assure satisfactory execution of the Remedial Action and consistent with the ROD.

The verification sampling performed across the site have indicated that all cleanup levels have been achieved and the construction was completed consistent with the ROD and design plans and specifications. Throughout the construction, the U.S. Army Corps of Engineers (COE) provided oversight of the Remedial Action on behalf of EPA. The COE conducted frequent inspections of all site construction activities and submitted written monthly reports that described the results of its inspections.

Laboratory results have indicated that the remedy has achieved performance standards and met the cleanup levels established in the ROD. Interpretation of this analytical data indicate that the remedy has been constructed in accordance with the Remedial Design plans and specifications and is achieving the primary purpose of preventing human health risks from contamination of on-site soils and sediments.

As required by the Consent Decree (CD), the Settling Parties submitted the final Operation and Maintenance (O&M) Plan to EPA on November 12, 1993. The ROD requires that groundwater monitoring be performed quarterly for the first year. EPA will review the data and a decision will be made on the frequency of monitoring for the subsequent years.

Four groundwater monitoring wells were installed in and around the MPA. These wells will be used to monitor the long-term performance of the Material Placement Area on the quality of the groundwater. Samples from each monitoring well will be collected and analyzed for the lead (total lead). Statistical analysis will be employed to determine if the MPA is having an adverse affect on the area groundwater.

In accordance with EPA guidance, a five year review of this project is necessary to ensure continued protection of human health and the environment. The statutory five-year review will be conducted pursuant to guidance contained in OSWER Directive 9355.7–02, Structure and Components of the Five-Year Review. The five year time frame began on June 22, 1992, the Remedial Action contract award date. Therefore, the five year review should be completed on or before June 22, 1997.

EPA, with concurrence of the State, has determined that all appropriate Fund-financed responses under CERCLA at the Site have been completed, and that no further cleanup by responsible parties is appropriate. Therefore, it proposes to delete the Site from the NPL and requests public comments on the proposed deletion.

Dated: June 1, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–14546 Filed 6–14–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067–AC38

Review of Determinations for Required Purchase of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: FEMA proposes to establish the procedures and process for its review of determinations of whether a building or mobile home is located in an identified Special Flood Hazard Area. The review process will provide an opportunity for borrowers and lenders of loans secured by improved real estate to resolve disputes regarding contested determinations.

DATES: We invite your comments on this proposed rule, which should be submitted on or before August 14, 1995.

ADDRESSES: Please send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (facsimile) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756, (facsimile) (202) 646–4596 (not toll-free calls).

SUPPLEMENTARY INFORMATION: Section 102(e) of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA) (42 U.S.C. 4012a(e)(3), states that the borrower and lender for a loan secured by improved real estate or a mobile home may jointly request FEMA to review a determination of whether the building or mobile home is located in an identified Special Flood Hazard Area (SFHA). Within 45 days after receiving the request, if all required supporting technical information is provided, FEMA would review the determination and provide to the borrower and the lender a letter stating, based on the information supplied, whether the building or mobile home is in an identified Special Flood Hazard Area. These procedures would be available to the borrower and the lender during the 45-day period after the borrower is notified that flood insurance is required. Only joint requests by both the lender and the borrower (requests accompanied by a letter signed by both parties) would be accepted under these procedures. Requests submitted more

than 45 days after borrower notification be not be reviewed and would be returned.

Background

Section 102(b) of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), 42 U.S.C. 4012a(b), requires that federally regulated lending institutions and federal agency lenders review the National Flood Insurance Program (NFIP) map for the community in which they are contemplating making, increasing, extending, or renewing any loan secured by improved real estate to determine whether the building or mobile home is located in an identified Special Flood Hazard Area, and if so, require the purchase of flood insurance for the building or mobile home. Section 524(e)(3)(A) of the NFIRA provides for the borrower and lender jointly to request that FEMA review the determination. There may be cases in which there is a disagreement regarding the accuracy of a determination, and this procedure will confirm or disprove the accuracy of the original determination. In many cases, a third party performs these determinations for lenders. The NFIRA states that a lender may provide for the acquisition or determination of information regarding special flood hazards to be made by a person other than the lender only to the extent such person guarantees the accuracy of the information. Because lenders rely on information provided by these third parties to ensure compliance with mandatory flood insurance purchase requirements, lenders have ample incentives to ensure the quality of this information. Therefore, FEMA expects that these determinations would be done correctly and FEMA's review of these determinations will be necessary only in unusual cases. If additional information (such as a property survey) becomes available after the initial determination was performed, FEMA would expect that this additional information would be presented to the party making the determination for consideration before asking FEMA to review the determination.

Standard Hazard Determination Form

As mandated by Section 528 of the NFIRA (42 U.S.C. 4104b), FEMA is developing a Standard Hazard Determination Form to be used by all regulated lenders and federal agency lenders making flood hazard determinations for improved property used to secure loans. The Standard Hazard Determination Form was published as a proposed rule in the **Federal Register** on April 7, 1995, 60 FR 17758. We propose that when the borrower and lender ask FEMA to make a flood hazard determination review, they would provide to FEMA the completed Standard Hazard Determination Form together with all other technical information used in making the flood hazard determination. After reviewing that technical information, FEMA would issue a written determination concurring with or disagreeing with the original determination, and stating whether the National Flood Insurance Program map indicates the subject building or mobile home is in the SFHA.

Fee for Review by FEMA

FEMA would initiate cost recovery procedures for its review of determinations. This action would reduce expenses to the flood insurance policyholders and would contribute to maintaining the NFIP as self-supporting. We anticipate that a flat fee of $60 would cover a majority of the costs associated with reviewing, recording, processing, and dispatching FEMA determinations. This fee would also apply to a finding of insufficient information. This fee would be reviewed on an annual basis and would be changed, if necessary, by publishing a notice in the **Federal Register**.

Effect on Existing Letter of Map Amendment (LOMA)/Letter of Map Revision (LOMR) Procedures

The procedures proposed under this part would not result in a revision to an NFIP map and are not intended to replace those procedures already provided in 44 CFR Parts 65 and 70. If additional technical data, such as elevation information about the building or mobile home, are provided with the request for review of a determination, FEMA would not automatically initiate the LOMA or LOMR process for the property. A request for a LOMA or LOMR may be submitted at any time and must be presented following the procedures established under 44 CFR parts 70 and 65 for those requests.

National Environmental Policy Act

This proposed rule would be categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Deputy Director certifies that this rule would not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it would not be expected (1) to have significant secondary or incidental effects on a substantial number of small entities, nor (2) to create any additional burden on small entities. Moreover, establishing a procedure for FEMA's review of determinations is required by the National Flood Insurance Reform Act of 1994, 42 U.S.C. 4012a. A regulatory flexibility analysis has not been prepared.

Regulatory Planning and Review

This proposed rule would not be a significant regulatory action under Executive Order 12866 of September 30, 1994, Regulatory Planning and Review, 58 FR 51735. To the extent possible this proposed rule adheres to the principles of regulation as set forth in Executive Order 12866. This proposed rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Paperwork Reduction Act

This proposed rule would not involve any collection of information for the purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This proposed rule would involve no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule would meet the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is proposed to be amended to read as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for part 65 is proposed to be revised to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 65.17 is proposed to be added to read as follows:

§ 65.17 Review of determinations.

This section describes the procedures that shall be followed and the types of information required by FEMA to review a determination of whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA).

(a) *General Conditions.* The borrower and lender of a loan secured by improved real estate or a mobile home may jointly request that FEMA review a determination that the building or mobile home is located in an identified SFHA. Such a request must be submitted within 45 days of the lender's notification to the borrower that the building or mobile home is in the SFHA and that flood insurance is required. Such a request must be submitted jointly by the lender and the borrower and shall include the required fee and technical information related to the building or mobile home.

(b) *Data and Other Requirements.* Items required for FEMA's review of a determination shall include the following:

(1) Payment of the required fee by credit card, check, or money order, payable in U.S. funds, to the National Flood Insurance Fund;

(2) A request for FEMA's review of the determination, signed by both the borrower and the lender;

(3) A copy of the lender's notification to the borrower that the building or mobile home is in an SFHA and that flood insurance is required (the request for review of the determination must be postmarked within 45 days of borrower notification);

(4) A completed Standard Hazard Determination Form for the building or mobile home, together with a legible copy of all technical data used in making the determination; and

(5) A copy of the effective Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) panel for the community in which the building or mobile home is located, with the building or mobile home location indicated. Portions of the map panel may be submitted but shall include the area of the building or mobile home in question together with the map panel title block, including effective date, bar scale, and north arrow.

(c) *Review and Response by FEMA.* Within 45 days after receipt of a request to review a determination, FEMA will notify the applicants in writing of one of the following:

(1) Request submitted more than 45 days after borrower notification; no review will be performed and all materials are being returned;

(2) Insufficient information was received to review the determination; therefore, the determination is upheld until a complete submittal is received; or

(3) The results of FEMA's review of the determination, which shall include the following:

(i) The name of the NFIP community in which the building or mobile home is located;

(ii) The property address or other identification of the property and building or mobile home to which the determination applies;

(iii) The NFIP map panel number and effective date upon which the determination is based;

(iv) A statement indicating whether the building or mobile home is within the Special Flood Hazard Area;

(v) The time frame during which the determination is effective (generally until the next map revision occurs for the map panel involved).

Dated: June 9, 1995.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 95–14690 Filed 6–14–95; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD 22

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period on Proposed Critical Habitat Determination for Woundfin, Virgin River Chub, and Virgin Spinedace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of the comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period is reopened on the proposal to designate critical habitat for woundfin (*Plagopterus argentissimus*) and Virgin River chub (*Gila seminuda* = *G. robusta seminuda*), two species of fish federally listed as endangered pursuant to the Endangered Species Act (Act), and for Virgin spinedace (*Lepidomeda mollispinis mollispinis*), a species proposed for listing as threatened under the Act. All three species of fish are endemic to the Virgin River Basin of southwestern Utah, northwestern Arizona, and southeastern Nevada. Comments received during the entire comment period, April 5 to June 20, 1995, will be considered before finalizing the designation of critical habitat.

DATES: The comment period, which originally closed on June 5, 1995, will now close on June 20, 1995. The comment period has been extended due to several requests from the public.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Salt Lake City Field Office, 145 East 1300 South, Suite 404, Lincoln Plaza, Salt Lake City, Utah 84115. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. Copies of comments and materials received also will be available for public inspection at the Washington County Public Library in St. George, Utah.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Williams, Assistant Field Supervisor, at the above address, telephone (801) 524–5001.

SUPPLEMENTARY INFORMATION:

Background

The woundfin, Virgin River chub and Virgin spinedace are endemic to the Virgin River Basin. The Virgin River originates in south-central Utah, running in a southwest direction from Utah, to northwestern Arizona, and southeastern Nevada for approximately 320 kilometers (km) (200 miles (mi)) before emptying into Lake Mead. The Virgin River populations of these fishes have declined due to the cumulative effects of environmental impacts that resulted in habitat loss including: Dewatering from numerous diversions, proliferation of nonactive fishes, alterations to natural flow, temperature, and sediment regimes.

There is considerable overlap in critical habitat proposed for the three species, and the proposed designation includes 330.8 km (206.8 mi) of the Virgin River in portions of Utah, Arizona, and Nevada. The Service proposes 151.7 km (94.8 mi) of critical habitat for the woundfin (approximately 13.5 percent of its historical range); 151.7 km (94.8 mi) for the Virgin River chub (70.8 percent of its historical range, excluding the range historically occupied by the Muddy River form); and 201.9 km (126.2 mi) for the Virgin spinedace (87.3 percent of its historical range).

The proposed rule to designate critical habitat for the three fishes was published on April 5, 1995 (60 FR 17296). A public hearing was held on

May 8, 1995, in St. George, Utah. No further public hearings will be held.

Author

The primary authors of this notice are Susan C. Linner and Robert D. Williams of the Service's Salt Lake City Field Office (see **ADDRESSES**).

Authority

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

Dated: June 8, 1995.

Terry T. Terrell,

Deputy Regional Director, Region 6, Denver, Colorado, Fish and Wildlife Service.

[FR Doc. 95–14634 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 60, No. 115

Thursday, June 15, 1995

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.

ARCTIC RESEARCH COMMISSION

Meeting

June 5, 1995.

Notice is hereby given that the Arctic Research Commission will hold its 39th Meeting in Cambridge, U.K. at the Scott Polar Research Institute, Cambridge University. On Monday, July 3, a Business Session open to the public will convene at 9:00 a.m. Agenda items include (1) Opening remarks by the Director, SPRI, and the Chairman, ARC; (2) Scott Polar Research Activities briefing; and (3) British Antarctic Survey briefing. On Tuesday, July 4, an Executive Session will be held at 9:00 a.m. after which the Commission will depart for Bremerhaven. On Wednesday, July 5 the Commission will visit the Alfred Wegener Institute for Polar Research for briefings and a tour of the WRI facilities followed by a tour of the research icebreaker *Polarstar.*

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: Dr. Garrett W. Brass, Executive Director, Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

Garrett W. Brass,

Executive Director.

[FR Doc. 95–14676 Filed 6–14–95; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 Continuous Measurement Survey.

Form Number(s): CMS–1, CMS–10, CMS–12, CMS–13, CMS–14, CMS–15, CMS–16, CMS–20, CMS–30.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 108,500 hours.

Number of Respondents: 217,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau is developing and evaluating a design to continuously measure the long–form data that has traditionally been collected once a decade as part of the decennial census. Continuously collecting the long–form data will provide more timely data. Under Continuous Measurement (CM) a long–form questionnaire is mailed to a national sample of different housing units each month. Follow–up for nonresponse is conducted on a sample basis using a combination of telephone and personal visit. A small test of CM procedures was conducted in 1995 in approximately 2,000 households. The 1996 CM Survey will be a full–scale implementation in 6 sites throughout the country selected to represent typical urban and rural cities and counties. Data will be collected over a 14–month period in approximately 10,500 housing units each month. A separate national sample of 5,000 housing units will be selected each month to participate in a mail response rate test. The objectives of the 1996 CM Survey are to test all phases of the proposed CM process, obtain real–time cost and productivity data, and evaluate the CM data quality and coverage.

Affected Public: Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 9, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–14628 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: June 15, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates.

Initiation of Reviews:

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.22)). We intend to

issue the final results of these reviews not later than May 31, 1996.

Antidumping duty proceedings	Period to be reviewed
Brazil:	
Frozen Concentrated Orange Juice	
A–351–605	
Branco Peres Citrus, S.A.	05/01/94–04/30/95
CTM Citrus, S.A.	
Korea:	
Dynamic Random Access Memory Semiconductors (DRAMS) of One Megabit	
A–580–812	
Goldstar Electron Co., Ltd., Hyundai Electronics Co., Ltd., Samsung Electronics Co., Ltd., LG Semicon Co., Ltd	05/01/94–04/30/95
Certain Small Business Telephone Systems and Subassemblies Thereof*	
A–580–803	
Ssangbangwool International Inc .	02/01/94–2/31/95

*Inadvertenly omitted from a previous initiation notice.

Turkey:	
Circular Welded Carbon Steel Pipe and Tube Products	
A–489–501	
Borusan Group, Mannesmann-Sumerbank Boru Industrisi T.A.S. Yucelboru Ihracat, Ithalat ve Pazarlama A.S./ Cayirova Boru Sanayi ve Ticaret A.S., Erbosan Erviyas Boru Sanayii ve Ticaret A.S	05/01/94–04/30/95
Countervailing Duty Proceedings	
Singapore:	
Ball Bearings*	
C–559–802	01/01/94–12/31/94
Cylindrical Roller Bearings*	
C–559–802	01/01/94–12/31/94
Needle Roller Bearings*	
C–559–802	01/01/94–12/31/94
Spherical Roller Bearings*	
C–559–802	01/01/94–12/31/94
Spherical Plane Bearings*	
C–559–802	01/01/94–12/31/94
Thailand:	
Ball Bearings and Parts Thereof	
C–549–802	01/01/94–12/31/94

*Four related companies, NMB Sinagapore, Ltd., Pelmec Industries (Pte.) Ltd., Minebea Trading (Pte.) Ltd., and Minebea Company Ltd., Singapore (collectively the ''Minebea Group'') have submitted a request for partial revocation of the order under 19 CFR 355.25(a)(3). The Department will examine the request for revocation to determine whether the Minebea Group meets the threshold requirements for revocation under 19 CFR 355.25(a)(3).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (18 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: June 13, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–14816 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–DS–M

North American Free-Trade Agreement (NAFTA) Article 1904 Binational Panel Reviews; Notice of Decision of Panel

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel on May 30, 1995.

SUMMARY: On May 30, 1995, a Binational Panel issued its decision in the review of the final countervailing duty determination made by the International Trade Administration (ITA) in the administrative review respecting Live Swine from Canada, Secretariat File No. USA–94–1904–01. The Binational Panel remanded the final determinations to the International Trade Administration for further action on two issues and affirmed the determination in all other respects. A copy of the complete panel decision is available from the Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a binational panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The Panel review in this matter has been conducted in accordance with these Rules.

BACKGROUND: A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on March 30, 1994. P. Quintaine & Son Ltd, of Brandon, Manitoba, Pryme Pork Ltd., of St. Malo, Manitoba and Earle Baxter Trucking LQ., of Millbank, Ontario requested panel review of the final countervailing duty administrative review described above.

PANEL DECISION: In its May 30, 1995 decision, the panel remanded the determination and instructed the ITA to:

(1) Reinstate the Sows and Boars subclass and determine a separate CVD rate for it; and

(2) Consider Pryme Pork's application for a subclass for Weanlings, employing the same criteria used in creating the Sows and Boars subclass, explaining in detail any reasons that may be found to preclude the establishment of a Weanling subclass or the calculation of a separate CVD rate for such subclass.

The panel also affirmed the final determination findings that Sows and Boars and also Weanlings are within the scope of the CVD order.

In a separate Order, the panel instructed the ITA to file its determination on remand by July 31, 1995.

Dated: June 9, 1995.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 95–14712 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

[I.D. 060595C]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council and its Habitat Committee, Large Pelagics/Sharks Committee, and Demersal Species Committee will hold public meetings.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone 302–674–2331.

DATES: The meetings will be held on June 27–29, 1995.

ADDRESSES: The meetings will be held at the Radisson Hotel Islandia, 3635 Express Drive North, Hauppauge, Long Island, NY 11788; telephone: 516–232–3000.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901.

SUPPLEMENTARY INFORMATION: On June 27, the Habitat Committee will meet from 1:00 p.m. until 3:00 p.m. and the Large Pelagics/Sharks Committee will meet from 3:00 p.m. until 5:00 p.m. On June 28, the Council will meet from 8:00 a.m. until 12:00 p.m., followed by the Demersal Species Committee meeting from 1:30 p.m. until 4:30 p.m. On June 29, the Council will meet from 8:00 a.m. until approximately noon.

The following topics may be discussed:

(1) Artificial Reef Policy.

(2) Bluefin tuna management.

(3) Review of public comments on Amendment 7 to the Summer Flounder Fishery Management Plan (FMP).

(4) Review hearing material for Amendment 7 to the Summer Flounder FMP.

(5) Possible adoption of Amendment 7 to the Summer Flounder FMP for Secretarial approval.

(6) Other fishery management matters.

The Council meeting may be revised, lengthened or shortened based on the progress of the meeting. The Council may go into closed session to discuss personnel or national security matters.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331, at least 5 days prior to the meeting date.

Dated: June 7, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–14715 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 060695B]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) and its Committees will hold public meetings.

DATES: The meetings will be held on June 19–23, 1995.

ADDRESSES: The meetings will be held at the Palm Beach Gardens Marriott, 4000 RCA Boulevard, Palm Beach Gardens, FL 33410; telephone: (407) 622–8888.

Council address: South Atlantic Fishery Management Council; One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Sharon Coste, telephone: (803) 571–4366; fax: (803) 769–4520.

SUPPLEMENTARY INFORMATION:

June 19

1:00 p.m. - 2:00 p.m.; The Advisory Panel (AP) Selection Committee will hold a closed meeting to consider new appointments to the Golden Crab, Mackerel, Shark, Spiny Lobster, and Sea Scallop APs.

2:00 p.m. - 3:00 p.m.; The Finance Committee will meet to discuss the budget for FY 1996 (part of meeting closed).

3:00 p.m. - 5:30 p.m.; Joint meeting of the Highly Migratory Species Committee and the Billfish AP to discuss International Commission for the Conservation of Atlantic Tunas research and management objectives and review the results of the public scoping meetings on options to amend the Fishery Management Plan (FMP) for Atlantic Billfish. The AP will be developing recommendations for the Billfish Plan. Both groups will hear a report on how reauthorization of the Magnuson Fishery Conservation and Management Act will affect highly migratory species.

7:00 p.m.; The Council will hold public scoping meetings to receive comments on the sale of bag limit (recreational) caught fish, bycatch in the shrimp fishery, developing an FMP for the calico scallop fishery, and wreckfish recreational catch and commercial bycatch. These scoping meetings will be announced separately in the **Federal Register**.

June 20

8:30 a.m. - 12:00 p.m.; The Shrimp Committee will meet to finalize recommendations for Amendment 1 (Rock Shrimp) to the Shrimp FMP. It will also be choosing options for Amendment 2 (Bycatch) to the Shrimp FMP to be taken to public hearings.

1:30 p.m. - 5:00 p.m.; The Council will be participating in a U.S. Coast Guard law enforcement flight over southeastern Florida to learn how the Coast Guard patrols offshore waters.

June 21

8:30 a.m. - 12:00 p.m.; The Mackerel Committee will meet to discuss recommendations on options for Amendment 8 to the Mackerel FMP and approve the options for public hearings. It will also discuss the legality of net gear being used to harvest king mackerel in the exclusive economic zone off Florida and the mackerel quota adjustment proposed by NMFS.

1:30 p.m. - 5:30 p.m.; The Snapper Grouper Committee will meet to discuss recommendations on options for Amendment 8 to the Snapper Grouper FMP and approve the options for public hearings. It will also review snapper grouper assessment related reports.

June 22

8:30 a.m. - 12:00 p.m.; The Snapper Grouper Committee meeting will continue.

1:30 p.m. - 6:00 p.m.; The full Council will convene to hear Committee reports and recommendations. It will make appointments to the APs and finalize the budget for FY 96. It will finalize recommendations to NMFS on the Billfish FMP, take final action on Amendment 1 (Rock Shrimp) to the Shrimp FMP, and approve options for Amendment 2 (Bycatch) to the Shrimp FMP to be taken to public hearings. It will also approve options for Mackerel Amendment 8 and Snapper Grouper Amendment 8 for public hearings.

Beginning at 1:45 p.m., the full Council will be present for a final public hearing on Amendment 1 (Rock Shrimp). Public hearings will be announced separately in the **Federal Register**.

June 23

8:30 a.m. - 12:00 p.m.; The full Council meeting will continue.

Except for scheduled public hearings and scoping meetings this agenda is subject to change.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sharon Coste at the Council (see **ADDRESSES**) by June 5, 1995.

Dated: June 9, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–14716 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 052395A]

North Pacific Fishery Management Council; Statement of Organization, Practices and Procedures

Pursuant to section 302(f)(6) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*, each Regional Fishery Management Council (Council) is responsible for carrying out its functions under the Magnuson Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce (Secretary). Further, each Council must make available to the public a statement of its organization, practices and procedures (SOPP).

Secretarial guidelines for the organization, practices, procedures, and operations of the Councils established by the Magnuson Act are set forth in 50 CFR part 601 and 605. Section 605(g)(2)(i) allows Councils to establish in their SOPPs the maximum number of days and contribution per day of unused sick leave a Council will pay to an employee's retirement fund upon their retirement or death.

The North Pacific Fishery Management Council (NPFMC) approved a revision to the NPFMC's SOPP, which was originally published on March 1, 1977 (42 FR 11858). The revision specifies that a maximum of 100 days of unused sick leave may be converted into retirement benefits upon an employee's retirement or death. Interested parties may obtain a copy of the NPFMC's revised SOPP by contacting Clarence G. Pautzke, Executive Director, North Pacific Fishery Management Council, P.O. Box 102136, Anchorage, AK 99501; telephone (907) 271–2809.

Dated: May 24, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–14714 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 060795C]

Marine Mammals

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

ACTION: Issuance of scientific research permit (P532B).

SUMMARY: Notice is hereby given that Dr. Randall W. Davis, Department of Marine Biology, Texas A&M University, Galveston, TX 77553–1675, (Co-Investigators: Drs. Michael A. Castellini, Institute of Marine Science, University of Alaska, and Terrie M. Williams, Naval Ocean Systems Center) has been issued a permit to take Steller sea lions (*Eumetopias jubatus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following office(s):

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, Federal Annex, P.O. Box 21668, Juneau, AK 99802 (907/586–7221); and

Director, Alaska Fisheries Science Center, NMML, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (206/526–4047).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On March 16, 1995, notice was published in the **Federal Register** (60 FR 14271) that a request for a scientific research permit to take Steller sea lions had been submitted by the above-named individuals. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Issuance of this permit as required by the Endangered Species Act of 1973 was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act.

Dated: June 8, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–14717 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 060795A]

Marine Mammals and Endangered Species; Permits

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

ACTION: Receipt of modification request for a scientific research permit (P537).

SUMMARY: Notice is hereby given that Mr. Fred Sharpe, Behavioral Ecology Research Group, Simon Fraser University, Burnaby, British Columbia V5A 1S6 has requested a modification to permit 866 to take the marine mammals listed below for the purpose of scientific research.

DATES: Written comments must be received on or before July 17, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, Silver Spring, MD 20910 within 30 days of the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Gary Barone (301–713–2289).

SUPPLEMENTARY INFORMATION: Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

The subject modification is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq*) and the Regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The applicant seeks to attach time depth recorders (TDR) to 18 humpback whales (*Megaptera novaeangliae*) per year over a 3-year period. The TDRs will be attached using suction cups designed to release before 10 hours elapse.

Dated: June 8, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–14718 Filed 6–14–95; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review.

ACTION: Notice

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protégé Program; OMB Control Number 0704–0332

Type of Request: Reinstatement

Number of Respondents: 110

Responses Per Respondent: 2

Annual Responses: 220

Average Burden Per Response: 1 hour

Annual Burden Hours(Including Recordkeeping): 440

Needs and Uses: DoD FAR Supplement, Appendix I, requires contractors, who voluntarily participate in the Pilot Mentor-Protégé Program to report semiannually on the progress made under active mentor-protégé agreements. This is accomplished by including additional data with the submission of their SF 295, —Summary Contract Report.— The information collected hereby, will be utilized in evaluating the Pilot Mentor-Protégé Program, and is included in the semiannual report to Congress

Affected Public: Businesses or other for-profit

Frequency: Semiannually

Respondent's Obligation: Required to obtain or retain benefits

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 9, 1995.

Patricia L. Toppings

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14584 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and OMB Control Number: Report of Medical History; Standard Form 93 (with overprint); OMB Control Number 0704–0337

Type of Request: Revision

Number of Respondents: 400,000

Responses per Respondent: 1

Annual Responses: 400,000

Average Burden per Response: 40 minutes

Annual Burden Hours: 266,667

Needs and Uses: 10 USC 505 and 12102 establish minimum standards for enlistment, appointment, and induction into the Armed Forces. Medical standards were developed which address the acceptability of persons and define deviations from those standards. All applicants complete a SF 93, ''Report of Medical History,'' during a medical history orientation briefing at the appropriate Military Entrance Processing Station. The information collected hereby, details the medical history of applicants and provides appropriate authorities with data to determine if further medical treatment or additional evaluation is required. It additionally enables them to make an expeditious determination whether the applicant is medically qualified or disqualified for entrance into the Armed Forces

Affected Public: Individuals or households

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503

DoD Clearance Officer: Mr. William Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 9, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14585 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–P

Office of the Secretary

Ballistic Missile Defense Advisory Committee

ACTION: Notice of advisory committee meeting.

SUMMARY: The Ballistic Missile Defense (BMD) Advisory Committee will meet in closed session in Moorestown, NJ, on June 28–29, 1995.

The mission of the BMD Advisory Committee is to advise the Secretary of Defense and Deputy Secretary of Defense, through the Under Secretary of Defense (Acquisition and Technology), on all matters relating to BMD acquisition, system development, and technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended by 5 U.S.C., Appendix II, it is hereby determined that this BMD Advisory. Committee meeting concerns matters listed in 5 U.S.C., 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: June 9, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14577 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Government-Industry Advisory Committee on the Operation and Modernization of the National Defense Stockpile

ACTION: Notice of meeting.

SUMMARY: The third meeting of this committee will be held on June 28–29, 1995, at the Omni Inner Harbor Hotel, 101 West Feyette Street, Baltimore, MD. The meeting is open to the public. This committee was established under Pub. L. 102–484. The meeting times and agenda are as follows:

Time: June 28, 1 pm to 4 pm.

Agenda: The Committee will tour the National Defense Stockpile storage facility at Curtis Bay, Maryland.

Time: June 29, 9 am to 3:30 pm.

Agenda: The Committee will meet as two working groups. one group will discuss possible changes in the sales practices of the Stockpile, and the second group will discuss the options and alternatives for the modernization of the Stockpile.

For additional information contact Mr. Tom Meeker at 703–607–3203.

Dated: June 9, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14581 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Retirement Board of Actuaries; Meeting

AGENCY: Department of Defense Retirement Board of Actuaries.

ACTION: Notice of meeting.

SUMMARY: A meeting of the board has been scheduled to execute the provisions of Chapter 74, Title 10, United States Code (10 U.S.C. 1464 et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the Military Retirement System. Persons desiring to (1) attend the DoD Retirement Board of Actuaries meeting of (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Patricia Robertson at (703) 696–6336 by July 28, 1995.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 3, 1995, 1:00 pm to 5:00 pm.

ADDRESSES: Room 1E801 #4.

FOR FURTHER INFORMATION CONTACT: Benjamin I. Gottlieb, Executive Secretary, DoD Office of the Actuary, 4th floor, 1600 Wilson Boulevard, Arlington, VA 22209–2593, (703) 696–5869.

Board of Advisors

Retirement Board

Don Musselman (Pentagon, Rm 3D961)
Bob Dorosz (Pentagon, Rm 3D868)
Thomas Tower (Pentagon, Rm 2B279)
Wayne Spruell (Pentagon, Rm 2D517)

Education Benefits Board

Faye Tavernier (Pentagon, Rm 3D883)
Don Musselman (Pentagon, Rm 3D961)
LTC Pat Forest, USAR (Pentagon, Rm 2D517)
Lt Col Bob Clark (Pentagon, Rm 2B271)

Dated: June 12, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14671 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Breakthrough Technologies

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Breakthrough Technologies will meet in closed session on June 29–30 and July 11–12, 1995 at the New York Academy of Sciences, New York, New York. In order for the Task Force to obtain time sensitive proprietary briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition & Technology) on research, scientific, technical, and manufacturing matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine a cross section of scientific areas with an eye to identifying potentially high payoff research that should be pursued by the Advanced Research Projects Agency (ARPA) directly, or in collaboration with other elements of the Department of Defense.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. § 552b(c)(4)(1988), and that accordingly these meetings will be closed to the public.

Dated: June 12, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14670 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Industrial Base Team

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Industrial Base Team will meet in closed session on June 27–28, 1995 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on research, scientific, technical, and manufacturing matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on those R&D investments that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(4) (1988), and that accordingly this meeting will be closed to the public.

Dated: June 9, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14580 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Joint Technology Issues

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Joint Technology Issues scheduled for June 14, 1995 as published in the **Federal Register** (Vol. 60, No. 91, Page 25204, Thursday, May 11, 1995, FR Doc 95–11569) has been cancelled.

Dated: June 9, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14578 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Quality of Life

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Quality of Life will meet in open session on June 27, 1995 at the Sheraton Crystal City Hotel, 1800 Jefferson David Highway, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Lt. Col. Dave Witkowski at (703) 697–7191.

Dated: June 9, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–14579 Filed 6–14–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 6 July 1995.

Time of Meeting: 0800–1630.

Place: USASSDC–Huntsville, AL.

Agenda: The Army Science Board's Missile Defense Subgroup will meet for discussions focused on Kinetic Energy Hit-To-Kill (HTK) interceptor technology and performance against weapons of mass destruction. The meeting will consist a review of the 1993 Missile Defense Study HTK recommendations and the implications to National Missile Defense. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–14673 Filed 6–14–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

[Docket No. EA–105]

Application to Export Electricity; NorAm Energy Services, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: NorAm Energy Services, Inc. (NorAm) has submitted an application to export electric energy to Canada and Mexico pursuant to section 202(e) of the Federal Power Act. NorAm is both a broker and a marketer of electric power. It does not own or control any electric generation or transmission facilities.

DATES: Comments, protests or requests to intervene must be submitted on or before July 17, 1995.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 (FAX 202–586–0678).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA).

On June 2, 1995, NorAm filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Canada and Mexico pursuant to section 202(e) of the Federal Power Act. NorAm owns no generation or transmission facilities but has been certified by the Federal Energy Regulatory Commission (FERC) as a power marketer. NorAm proposes to export, on either a firm or interruptible basis, electric power that will be surplus to the system of the generator thereof. NorAm further proposes to export the electric energy through the following transmission facilities for which Presidential permits have been issued:

Presidential permit holder	Permit Number	Voltage	Location
Basin Electric Coop	PP–64	230 kV	Tioga, ND.
Bonneville Power Admin	PP–10	2–500 kV	Blaine, WA.
	PP–36	230 kV	Nelway, BC.
	PP–46	230 kV	Nelway, BC.
Bradfield Electric	PP–87	69 kV	Tyee Lake.
Citizens Utilities	PP–66	120 kV	Derby Line, VT.
Detroit Edison	PP–38	345 kV	St Clair, MI.
	PP–21	230 kV	Marysville, MI.
		230 kV	Detroit, MI.
	PP–58	345 kV	St Clair, MI.
Eastern Maine Electric Coop	PP–32	69 kV	Calais, ME.
Fraser Paper Ltd	PP–11	69 kV	Madawaska, ME.
Joint Owners of Highgate	PP–82	345 kV	Franklin, VT.
Long Sault	PP–24	2–115 kV	Massena, NY.
Maine Electric Power Company	PP–43	345 kV	Houlton, ME.
Maine Public Service	PP–12	69 kV	Limestone, ME.
		69 kV	Ft Fairfield, ME.
	PP–29	138 kV	Aroostock, ME.
		2–69 kV	Madawaska, ME.
Minnesota Power & Light	PP–78	115 kV	Intnl Falls, MN.
Minnkota Power	PP–61	230 kV	Roseau County, MN.
New York Power Authority	PP–30	230 kV	Devil's Hole, NY.
	PP–74	2–345 kV	Niagara Falls, NY.

Presidential permit holder	Permit Number	Voltage	Location
	PP–56	765 kV	Fort Covington, NY.
	PP–25	2–230 kV	Massena, NY.
Niagara Mohawk Power Corp	PP–31	230 kV	Devil's Hole, NY.
		2–69 kV	
		2–69 kV	Queenstown, NY.
Northern States Power	PP–45	230 kV	Red River, ND.
	PP–63	500 kV	Roseau County, MN.
Vermont Electric Trans. Co	PP–76	450 kV DC	Norton, VT.
		345 kV	Sandy Pond to Millbury #3.
		345 kV	Millbury #3 to West Medway.
Washington Water Power	PP–86	230 kV	Northport, WA.
Comision Federal de Electricidad	PP–50	138 kV	Eagle Pass, TX.
	PP–57	138 kV	Loredo, TX.
		138 kV	Falcon Dam, TX.
Central Power & Light	PP–94	138 kV	Brownsville, TX.
		69 kV	
El Paso Electric	PP–48	115 kV	Ascarate, TX.
	PP–92	115 kV	Diablo, NM.
San Diego Gas & Electric	PP–49	69 kV	San Ysidro, CA.
	PP–68	230 kV	Miguel, CA.
	PP–79	2–230 kV	Imperial Valley, CA.
So. California Edison	PP–27	161 kV	Andrade, CA.

This is the third application for export that FE has accepted from an individual entity that does not own or operate physical facilities. The FE decision to accept applications from power marketers, as opposed to the ''traditional'' electric power entities which own and/or operate physical facilities, is based on the marketer taking possession of the electric energy inside the United States. This situation is distinguished from the power broker which simply facilitates a sale of electric energy without ever taking ownership of the commodity.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedures (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with DOE on or before the date listed above. Additional copies of such petitions to intervene or protest also should be filed directly with: Michael L. Wallace, General Counsel, NorAm Energy Services, Inc., PO Box 4455, Houston, TX 77210 (FAX 713–654–5513) *AND* MaryJane Reynolds, Morrison & Reynolds, Suite 405, 1110 Vermont Avenue, NW, Washington, DC 20005 (FAX 202–466–3502).

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE 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 petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioners interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or a security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after the DOE determines whether the proposed action would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities as required by Section 202(e) of FPA.

Before an export authorization may be issued, the environmental impacts of the proposed DOE action (i.e., granting the export authorization, with any conditions and limitations, or denying it) must be evaluated pursuant to the National Environment Policy Act of 1969 (NEPA).

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, D.C., June 8, 1995.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy

[FR Doc. 95–14700 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

Advisory Committee on Human Radiation Experiments

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463,86 Stat. 770), notice is hereby given of the following meeting of the Advisory Committee on Human Radiation Experiments.

DATES AND TIMES:

June 21, 1995, 9:00 a.m.–5:00 p.m.
June 22, 1995, 9:00 a.m.–5:00 p.m.
June 23, 1995, 8:30 a.m.–3:30 p.m.

PLACE: The Madison, 15th and M Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steve Klaidman, Advisory Committee on Human Radiation Experiments, 1726 M Street, NW., Suite 600, Washington, DC 20036, Telephone: (202) 254–9795, Fax: (202) 254–9828.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The Advisory Committee on Human Radiation Experiments was established by the President, Executive Order No. 12891, January 15, 1994, to provide advice and recommendations on the ethical and scientific standards applicable to human radiation experiments carried out or sponsored by the United States

Government. The Advisory Committee on Human Radiation Experiments reports to the Human Radiation Interagency Working Group, the members of which include the Secretary of Energy, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Attorney General, the Administrator of the National Aeronautics and Space Administration, the Director of Central Intelligence, and the Director of the Office of Management and Budget.

Tentative Agenda

Wednesday, June 21, 1995

9:00 a.m. Call to Order and Opening Remarks
9:05 a.m. Approval of Minutes
9:10 a.m. Public Comment
10:30 a.m. Discussion of Report Draft and Recommendations
12:00 p.m. Lunch
1:15 p.m. Discussion, Committee Strategy and Direction (continued)
5:00 p.m. Meeting Adjourned

Thursday, June 22, 1995

9:00 a.m. Opening Remarks
9:10 a.m. Discussion of Report Draft and Recommendations
12:00 a.m. Lunch
1:15 p.m. Discussion of Report Draft and Recommendations (continued)
5:00 p.m. Meeting Adjourned

Friday, June 23, 1995

8:30 a.m. Opening Remarks
8:35 a.m. Discussion of Report Draft and Recommendations
12:00 p.m. Lunch
1:15 p.m. Discussion of Report Draft and Recommendations (continued)
3:30 p.m. Meeting Adjourned

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. The chairperson is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make a five-minute oral statement should contact Steve Klaidman of the Advisory Committee at the address or telephone number listed above. Requests must be received at least five business days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. This notice is being published less than 15 days before the date due to programmatic issues that had to be resolved prior to publication.

Transcript: Available for public review and copying at the office of the Advisory Committee at the address listed above between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 12, 1995

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–14704 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–40–NG]

Centra Manitoba Gas, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Centra Manitoba Gas, Inc. authorization to import up to 54 Bcf of natural gas from Canada and to export up to 54 Bcf of natural gas to Canada over a two-year term beginning on the date of the first import or export after May 31, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 25, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–14707 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–29–NG]

Dartmouth Power Associates Limited Partnership; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Dartmouth Power Associates Limited Partnership blanket authorization to import up to 11.68 Bcf of natural gas from Canada over a period of two years beginning on the date of first delivery. This order is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 25, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–14706 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–39–NG]

Howard Energy Co., Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Howard Energy Co., Inc. authorization to import up to 18 Bcf of natural gas from Canada and to export up to 18 Bcf of natural gas to Canada over a two-year term beginning on the date of the first import or export delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 30, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–14701 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–42–NG]

Mock Resources, Inc.; Order Granting Blanket Authorization To Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Mock Resources, Inc. blanket authorization to import up to 100 Bcf of natural gas from Canada and to export up to 100 Bcf of natural gas to Canada over a two-year term beginning on the date of first import or export delivery.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056,

Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 1, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–14702 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No 95–31–NG]

Northwest Natural Gas Company; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northwest Natural Gas Company (NNG) authorization to import up to 100 Bcf and to export up to 100 Bcf of natural gas from and to Canada. The term of the authorization is for a period of two years, beginning on the date of first import or export delivery.

NNG's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 23, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–14708 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

DOE Response to Recommendation 94–5 of the Defense Nuclear Facilities Safety Board, Integration of DOE Safety Rules, Orders, and Other Requirements

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board published Recommendation 94–5, concerning the Integration of DOE Safety Rules, Orders, and Other Requirements, in the **Federal Register** on January 6, 1995 (60 FR 2089). Section 315(e) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(e) requires the Department of Energy to transmit an implementation plan to the Defense Nuclear Facilities Safety Board by June 5, 1995, or submit a notification of extension for an additional 45 days. The Secretary's notification of extension for an additional 45 days follows.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's notification to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Dr. Tara O'Toole, M.D., M.P.H., Assistant Secretary for Environment, Safety, and Health, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, D.C., on June 5, 1995.

Mark B. Whitaker,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

June 5, 1995.

The Honorable John T. Conway,

Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, N.W., Suite 700, Washington, D.C. 20004

Dear Mr. Chairman: Please be advised that, pursuant to 42 U.S.C. 2286d(e), the Department of Energy requires an additional 45 days to respond to the Defense Nuclear Facilities Safety Board Recommendation 94–5, Integration of DOE Safety Rules, Orders, and Other Requirements.

The Department Standards Committee has assigned a focus group of Department senior management to develop an Integrated Standards Management Plan. The Management Plan will be approved by the Department Standards Committee and will provide an integrated and coordinated approach for all standards activities in the transition from the old orders system to the new, revised orders or rules. A 45-day extension is required to define more clearly the order-to-rule transition process and to develop the Standards Management Plan that will provide input for the Implementation Plan. The Implementation Plan for Recommendation 94–5 will be provided by July 20, 1995.

Sincerely,

Hazel R. O'Leary.

[FR Doc. 95–14705 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

Appliance and Equipment Energy Efficiency Standards: Evaluation Criteria for the Voluntary Program To Provide Energy Efficiency Information for Luminaires

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of evaluation criteria and call for program description.

SUMMARY: The Energy Policy Act of 1992 requires the Department of Energy (DOE or Department) to support the development of a voluntary national testing and information program by an appropriate organization of interested parties for those types of luminaires that are widely used, and show potential for significant energy savings. Not later than October 24, 1995, DOE must determine whether the voluntary program, thus created, is consistent with the objectives set forth in the legislation. After consulting with stakeholders in two public meetings to discuss the progress and evaluation of the program, the Department has developed a set of criteria that will be used as the basis for making the determination on the effectiveness of the luminaire testing and information program. With the support of the Department, the National Lighting Collaborative has developed such a program, and the Department requests that it, or any other appropriate organization that has participated in developing the program, submit a program description before July 14, 1995, for evaluation by DOE, by means of the criteria published in this notice. The submitted report should describe the voluntary national testing and information program for luminaires in detail, specifying how the program meets each of the evaluation criteria listed in this notice. The report should also provide a comprehensive status update on the different components of the program.

DATES: Description and status report of the voluntary national testing and information program for luminaires must be received by the Department of Energy by July 14, 1995.

ADDRESSES: Five copies of the reports on the status of the voluntary national testing and information program for luminaires should be submitted to: Ms. Sandy Cooper, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–7574.

Copies of reports submitted will be available in the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room E–190, 1000 Independence Avenue, SW, Washington, DC, (202) 586–6020, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Barbara Twigg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–431, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8714

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

1. Authority

Part B of Title III of the Energy Policy and Conservation Act, Public Law 94–163, created the Energy Conservation Program for Consumer Products other than Automobiles. The most recent amendment, the Energy Policy Act of 1992 (EPACT), Public Law 102–486, identified several new categories of products and equipment for inclusion in various required and voluntary testing and information programs to promote energy efficiency. Voluntary programs were specified for commercial office equipment, windows, and luminaires. A luminaire is a complete lighting unit consisting of a fluorescent lamp(s), together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

Section 126 of EPACT directed the Secretary of Energy, after consulting with industry associations and other interested organizations, to provide technical and financial assistance to support a voluntary national testing and information program for those types of luminaires that are widely used, and for which there is a potential for significant energy savings as a result of such programs. Under section 126, such program would provide information that, when conveyed to consumers, will enable purchasers of the equipment to make more informed decisions about the energy efficiency and costs of competing products.

The voluntary program would determine the luminaires to be covered; include specifications for testing procedures; and include information which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of competing products. Such program would be developed by an appropriate organization (composed of interested persons), according to commonly accepted procedures for the development of national testing procedures and labeling programs.

Not later than three years after the date of enactment of EPACT (October 24, 1995), the Secretary shall make a determination as to whether the voluntary program is positioned to achieve the objectives established for the testing and rating of luminaires. If the Secretary determines that the voluntary program is not consistent with the objectives of the legislation, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop test procedures for luminaires. One year later, the Federal Trade Commission would prescribe labeling rules.

2. Background

Since the passage of EPACT, the Department of Energy has monitored the efforts of the luminaire industry to develop a testing and information program through the National Lighting Collaborative (NLC or Collaborative), a working group composed of the National Electrical Manufacturers Association (NEMA), the American Lighting Association, lighting manufacturers, environmental organizations, designers, national laboratories, and other lighting professionals. The Department has provided technical and financial assistance to the Collaborative to help launch and publicize the program. On May 24, 1994, DOE held a public meeting, at which interested persons were invited to offer suggestions concerning methods of evaluation, and to obtain updates on the progress of the Collaborative's voluntary program. A transcript of the meeting was made available to the public, and comments were invited.

Comments submitted at the meeting focused on several areas. Regarding the specifications for testing procedures, it was proposed by the National Lighting Collaborative that NEMA Standard LE5, the ''Procedure for Determining Luminaire Efficacy Ratings for Fluorescent Luminaires,'' be accepted as the standard testing and rating method for the program. This Luminaire Efficacy Rating known as ''LER'' is expressed in lumens per watt (the ratio of light output from the luminaire in lumens, to the energy input to the luminaire in watts), and is proposed to be reported in the voluntary consumer information program. The Collaborative reported that the selection of the Luminaire Efficacy Rating test procedure has received consensus support within the luminaire industry, having been balloted according to the formal standards-making balloting procedures per the by-laws of NEMA, as accredited by the American National Standards Institute (ANSI). Based on that consensus, the Department of Energy will accept the efficacy rating known as the ''LER'' as the fundamental comparative measure of the voluntary luminaire program.

NEMA Standard LE5 also contains a suggested format for other information related to the luminaire and its photometric data, including luminaire efficiency (the percentage of light output from the luminaire compared with the light output from the lamp(s) without the luminaire). As noted by the New York State Energy Office, NEMA Standard LE5 will also permit the alternative of separate reporting of the luminaire lumen output by its components (luminaire efficiency, total lamp lumens, and ballast factor). Manufacturers will continue to report luminaire efficiency as part of their photometric reports.

In addition to including an indicator for the luminaire category and the LER in lumens per watt, the International Association of Lighting Designers proposed that the LE5 reporting format be modified to include a measure for the quality of light. The Collaborative agreed, but since the quality of light metric needs to be developed, the LE5 will at first include an acknowledgement in the foreword that a numerical value for lighting quality will accompany the LER after the development of the measure is completed and balloted. The reporting format also provides information on the estimated annual lighting energy cost per 1,000 lumens of light output, assuming 3,000 luminaire operating hours per year, and 8 cents per kilowatt-hour electricity cost (the 1993 average commercial sector electricity rate).

It was recommended by the Collaborative that luminaires be tested according to prescribed test procedures in laboratories that are accredited through the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology.

The Collaborative identified the following luminaires as widely used, with a potential for significant energy

savings for inclusion in the program: (1) Recessed Lensed 2′x4′ (4 lamps); (2) Recessed Lensed 2′x4′ (3 lamps); (3) Recessed 2′x4′ (2 lamps); (4) Recessed Parabolic Louvered 2′x4′ (4 lamps); (5) Recessed Parabolic Louvered 2′x4′ (3 lamps); (6) Recessed Parabolic Louvered 2′x4′ (2 lamps); (7) Wraparound (2 and 4 lamps); (8) Strip (1 lamp); (9) Strip (2 lamps); and (10) Industrial (2 lamps). The Department supports the Collaborative's suggestion that the covered luminaires should collectively represent approximately 80 percent of the fluorescent luminaire market to satisfy EPACT's requirement to cover luminaires that are ''widely used.'' If the data submitted to the Department in the program description support previous claims that these categories represent 80 percent of the fluorescent luminaire market, and show potential for significant energy savings, their selection appears to provide a reasonable base for the initial phase of the program.

The American Council for an Energy-Efficient Economy (Council) addressed issues concerning the long-term operation of the voluntary program, and the ability to confirm market targets and percentages. With respect to the information to be provided to consumers, it said that information in catalogs and other marketing materials should explain that the use of lower-efficacy lamps as replacements in luminaires would lower the energy efficiency. Regarding the selection of luminaires to be included in the program, the Council urged that a mechanism be established to add new luminaire types that gain market share in the future. The Council also brought up data collection and tracking energy efficiency trends as possible areas of information needed. Finally, it urged that the voluntary program meet specified percentage targets of manufacturer participation over time: 25 percent of luminaires covered by the program after the first year, 50 percent the second year, and 75 percent the third year. The Department agrees that participation levels should be included in the report on the voluntary luminaire program. These issues are addressed in the evaluation criteria, *infra*.

Other public meeting comments centered on how to verify that 80 percent of the fluorescent luminaire market is covered by the 10 categories selected for the program, and how to evaluate whether the new energy efficiency information is reaching its target audiences. To address these issues, the Collaborative submitted a revised program description on July 28, 1994. It proposed that NEMA would collect data on luminaire market shares from manufacturers to verify that the categories selected for the program represent 80 percent of the market. Regarding future data collection on sales of LER-rated luminaires, it was suggested that manufacturers provide sales data to the Bureau of Census. NEMA would also inform DOE of the number of companies whose catalogs show the new energy information. The International Association of Lighting Designers, a member of the Collaborative, would be responsible for tracking press coverage, and would develop a survey on awareness of the program to be used by manufacturers' representatives, distributors, and specifiers. The Department views these data collection methods as appropriate for tracking the development of the program.

On January 5, 1995, DOE held another public meeting to discuss the Department's proposed evaluation criteria with persons interested in the development of the voluntary program. Members of the National Lighting Collaborative asked that the means by which manufacturer participation would be measured be clarified in the evaluation criteria. That section has been changed to reflect the suggestions of the Collaborative that manufacturer participation be measured as a percentage of the sales of LE5-tested fixtures (measured in dollars) to the total sales of listed products covered by the program.

3. Evaluation Criteria and Procedures

The Department of Energy will evaluate voluntary consumer information programs for luminaires against the following criteria. In order to make its determination, the Department is requesting that any program description be submitted to the Department no later than July 14, 1995. The submitted description should include information explaining how the voluntary national testing and information program for luminaires addresses each of the elements described below.

a. Program Organization: Since the Energy Policy Act specifies that the voluntary program should be developed by an ''appropriate organization (composed of interested parties),'' the Department will assess the composition and procedures of the group developing the program to determine if it reflects a consensus position within a broad spectrum of the lighting community.

b. Coverage: In order to determine which luminaires are widely used and show a potential for significant energy savings, the Department will require data supporting the selection of the specific luminaire categories to be included in the initial phase of the voluntary program, and for verifying the stated market coverage with documented data sources. Those luminaires selected shall comprise approximately 80 percent of the fluorescent luminaire market. In anticipation of new products gaining market share and replacing some of those included in the initial phase of the program, a plan should be shown for including new products in the future.

c. Testing and Rating: In order to evaluate the program's testing procedures, the Department will compare the proposed test procedures to existing test procedures, such as those published by the Illuminating Engineering Society (IES), and the American National Standards Institute (ANSI), to verify the accuracy and validity of the procedures. The proposed testing and rating program should provide consumers with a consistent standard of measurement for comparing the energy efficiency of the luminaires covered by the program.

d. Information Program: In order to assess the effectiveness of the energy efficiency information provided to consumers, the Department will evaluate the implementation plan to determine how different audiences, such as managerial, technical, and procurement, have been targeted. Provisions in the program for the use of catalogs, labels, or other materials shall be explained. Concerns over the possible substitution of lower-efficacy replacement lamps and other components shall be addressed. Examples of new energy efficiency information materials shall be submitted.

e. Manufacturer Participation: In order to assess whether the voluntary program proposed is a broad-based, national program, the Department will require some indication of manufacturer participation. Recognizing that a national program takes both time and resources to achieve its objective, it is reasonable to establish targets of manufacturer participation, which would gradually increase as the program expands over time. Expectations are that approximately 25 percent of the industry wide shipments (measured in dollars) of the listed products (total) will have energy efficiency information published in the supporting sales literature by one year from the date of publication of this notice. The percentage would become approximately 50 percent in 2 years, and approximately 75 percent in 3 years. A plan for documenting the

participation levels shall be submitted by July 14, 1995.

f. Publicity: If the voluntary program is to be effective, a companion effort must be made to inform a wide range of lighting decision-makers of the new energy efficiency rating for luminaires. The Department will assess what strategies have been developed and launched to promote the program. A plan for evaluating professional awareness of the program shall be submitted.

g. Market Data: To establish a baseline and provide a means to track luminaire efficacy over time, a system for data collection and reporting, such as reporting to the Bureau of Census, should be established. A plan for this data collection and reporting shall be submitted, along with recommendations for ways DOE might evaluate energy savings and energy efficiency trends in the industry.

h. Continuation of the Program: A plan should be established that will enable the luminaire testing and information program to be self-perpetuating, and to include new products as they become significant in the marketplace. A second evaluation by DOE in 1 to 2 years may be necessary to monitor the progress of the program.

Issued in Washington, DC, on June 12, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 95–14703 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EL95–50–000, et al.]

Carolina Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

June 8, 1995.

Take notice that the following filings have been made with the Commission:

1. Carolina Power & Light Company

[Docket No. EL95–50–000]

Take notice that on May 31, 1995, Carolina Power & Light Company (CP&L) filed a request under 18 CFR 35.14(a)(10) and Rule 207 for a waiver of the Commission's fuel adjustment clause regulations to permit the recovery of the costs of buying out a coal contract. CP&L requests that the revised fuel clause, which provides for the buyout, be made effective on June 1, 1995.

Comment date: June 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. PSI Energy, Inc.

[Docket No. ER95–626–001]

Take notice that on May 26, 1995, PSI Energy, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER95–1117–000]

Take notice that on May 30, 1995, Northern States Power Company—Minnesota (NSP–M) and Northern States Power Company—Wisconsin (NSP–W) jointly tender and request the Commission to accept a Transmission Service Agreement which provides for Reserved Transmission Service to Heartland Energy Services, Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreement effective on June 1, 1995. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreement may be accepted for filing effective on the date requested.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER95–1118–000]

Take notice that on May 30, 1995, Arizona Public Service Company (APS) tendered for filing a Service Agreement under APS–FERC Electric Tariff Original Volume No. 1 (APS Tariff) with the Town of Wickenburg.

A copy of this filing has been served on the above-listed entity and the Arizona Corporation Commission.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER95–1119–000]

Take notice that on May 30, 1995, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Kimball Power Company (Kimball). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows Kimball to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume 1, Rate Schedule T–1.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Kimball, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER95–1121–000]

Take notice that on May 30, 1995, the American Electric Power Service Corporation (AEPSC) tendered for filing, as an Initial Rate Schedule, an Agreement dated April 1, 1995, between AEPSC, an agent for the AEP System Operating Companies and Stand Energy Corporation (Stand).

The Agreement provides Stand access to the AEP System for short-term transmission service. The parties request an effective date of June 1, 1995.

A copy of the filing was served upon Stand and the state regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. The Dayton Power and Light Company

[Docket No. ER95–1122–000]

Take notice that on May 26, 1995, The Dayton Power and Light Company (Dayton) tendered, in compliance with the order issued May 12, 1995 in the above-referenced docket, for filing an amendment to the Power Service Agreements (PSAs) made effective in such dockets.

Dayton requests the Commission accept the amendment as a supplement to the PSAs to become effective on the same date as the PSAs in accordance with the May 12th order.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Premier Enterprises, Inc.

[Docket No. ER95–1123–000]

Take notice that on May 31, 1995, Premier Enterprises, Inc. (Premier) tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective July 30, 1995.

Premier intends to engage in electric power and energy transactions as a

marketer and a broker. In transactions where Premier sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Neither Premier nor any of its affiliates are in the business of generating, transmitting, or distributing electric power.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that no sales may be made to affiliates.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Indiana Gas and Electric Company

[Docket No. ER95–1125–000]

Take notice that on May 31, 1995, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing to a proposed Interchange Agreement with Enron Power Marketing, Inc. (Enron).

The proposed revised Interchange Agreement will provide for the purchase, sale, and transmission of capacity and energy by either party under the following Service Schedules: (a) SIGECO Power Sales, (b) Enron Power Sales, and (c) Transmission Service.

Waiver of the Commission's Notice Requirements is requested to allow for an effective date of May 26, 1995.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER95–1126–000]

Take notice that on May 31, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing, as an initial rate schedule, an agreement with Rainbow Energy Marketing Corporation (Rainbow). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Rainbow and Rainbow will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 1, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Rainbow.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. New York State Electric & Gas Corporation

[Docket No. ER95–1127–000]

Take notice that on May 31, 1995, New York State Electric & Gas Corporation (NYSEG) tendered for filing, as an initial rate schedule, an agreement with CNG Power Services Corporation (CNG). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to CNG and CNG will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 1, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and CNG.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Portland General Electric Company

[Docket No. ER95–1128–000]

Take notice that on May 31, 1995, Portland General Electric Company (PGE), tendered for filing a Power Sale Agreement with Canby Utility Board.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Public Service Company

[Docket No. ER95–1129–000]

Take notice that on May 31, 1995, Southwestern Public Service Company (SPS) tendered for filing pursuant to Section 205 of the Federal Power act and Part 35 of the Commission's Regulations, an application to implement market based sales rates. SPS makes this application in conjunction with its filing of comparable ''Transmission Tariffs,'' pursuant to which SPS will offer Network Integration Service, Firm and Non-Firm Point-to-Point Transmission Service, as well as a variety of Ancillary Services. SPS states that the proposed market based rates are justified under its circumstances where it does not hold market power in relevant markets and has agreed to provide comparable transmission service.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of Colorado

[Docket No. ER95–1130–000]

Take notice that on May 31, 1995, Public Service Company of Colorado (Public Service), tendered for filing a letter agreement with Tri-State Generation and Transmission Association, Inc. and Poudre Valley Rural Electric Association, Inc. (PVREA) pursuant to which Public Service and PVREA will each provide emergency back-up service to the other at specified delivery points. Public Service has requested waiver of the Commission's Regulations to the extent necessary for the letter agreement to be made effective on June 1, 1995.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Maine Public Service Company

[Docket No. ER95–1131–000]

Take notice that on May 31, 1995, Maine Public Service Company (Maine Public), tendered for filing a service agreement providing for transmission for Central Maine Power Company.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Commonwealth Edison Company

[Docket No. ER95–1133–000]

Take notice that on May 31, 1995, Commonwealth Edison Company (ComEd) submitted for filing a revision to its Negotiated Capacity service schedule under ComEd's umbrella Power Sales Tariff (''PS–1 Tariff''). ComEd proposes to offer additional types of coordination sales transactions under the revised service schedule, including options, diversity exchanges, fixed rate per megawatt hour sales and fuel for electricity exchanges.

ComEd requests an effective date of June 1, 1995 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served upon current customers under the PS–1 Tariff and the Illinois Commerce Commission.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Northeast Utilities Service Company

[Docket No. ER95–1137–000]

Take notice that on May 31, 1995, Northeast Utilities Service Company (NUSCO) tendered for filing, on behalf of the Northeast Utilities System Companies, a change in rate schedule for sales of system power to Princeton Municipal Light Department (Princeton). NUSCO requests that the changes in rate schedules become effective on June 1, 1995 and that such rate schedule changes (i) provide for system power sales, (ii) replace the Unit Power Sales Agreement between The Connecticut Light and Power Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Princeton (FERC Rate Schedule Nos. CL&P 356 and HP&E 29) with an amended unit agreement, (iii) replace and terminate the Unit Power Sales Agreement between Public Service Company of New Hampshire and Princeton (FERC Rate Schedule No. 163) and (iv) makes the appropriate NU Transmission Tariff No. 1 service agreement additions and changes all on June 1, 1995.

NUSCO states that copies of its submission have been mailed or delivered to the Princeton Municipal Light Department and the Massachusetts Department of Public Utilities.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Arizona Public Service Company

[Docket No. ER95–1143–000]

Take notice that on June 1, 1995, Arizona Public Service Company (APS) tendered for filing a revised Exhibit A applicable under the Citizens Power Sale Agreement, FERC Rate Schedule No. 225.

Current rate and revenue levels are unaffected, and no other changes in service to this or any other customer results from the revision proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

A copy of this filing has been served on the Citizens Utilities Company and the Arizona Corporation Commission.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER95–1144–000 Company]

Take notice that on June 1, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the ''GPU Operating Companies''), filed an executed Service Agreement between GPU and Citizens Lehman Power Sales, dated May 25, 1995. This Service Agreement specifies that Citizens Lehman Power Sales has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (''Sales Tariff'') designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and Citizens Lehman Power Sales to enter into separately Scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of May 25, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: June 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14663 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–52–000]

Granite State Gas Transmission, Inc.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Granite State LNG Project and Request for Additional Comments on Environmental Issues

June 9, 1995.

On March 16, 1995, the Federal Energy Regulatory Commission (FERC) issued a Notice of Intent to Prepare an Environmental Assessment for the proposed Granite State LNG Project and Request for Comments on Environmental Issues. One of the specific comments sought was whether an environmental assessment (EA) was the proper environmental document or whether an environmental impact statement (EIS) was necessary. On May 15, 1995, the Commission staff conducted a site visit and a public scoping meeting in Wells, Maine. Given the number of written requests and oral requests at the public scoping meeting for an EIS versus an EA, the Commission herein gives notice that an EIS will be prepared for the Granite State LNG Project. If anyone wishes to file additional comments, please follow the instructions below. If you have already submitted comments on the March 16, 1995, notice or at the May 15, 1995, public scoping meeting, you do not have to resubmit them; they will be considered as comments to this notice.

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.
- Reference Docket No. CP95–52–000
- Send a *copy* of your letter to: Mr. Chris Zerby, EIS Project Manager, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 7312, Washington, DC 20426; and
- Mail your comments so that they are received in Washington, D.C. on or before July 7, 1995.

The staff intends to conduct additional site visits and meetings with the public during various phases of the environmental process, e.g., public meetings to receive comments on the future Draft Environmental Impact Statement once it is prepared and circulated for public comment. Such site visits and public meetings will be noticed prior to their occurrence.

For further information on the EIS process, call Chris Zerby, EIS Project Manager, at (202) 208–0111.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14664 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. ER95–940–000]

Delhi Energy Services, Inc.; Notice of Issuance of Order

June 9, 1995.

On April 19, 1995, Delhi Energy Services, Inc. (Delhi) submitted for filing a rate schedule under which Delhi will engage in wholesale electric power and energy transactions as a marketer. Delhi also requested waiver of various Commission regulations. In particular, Delhi requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Delhi.

On June 1, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Delhi should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Delhi is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Delhi's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 3, 1995.

Copies of the full text of the order are available form the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14596 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG95–6–000]

Young Gas Storage Co., Ltd.; Notice of Filing

June 9, 1995.

Take notice that on June 1, 1995, Young Gas Storage Co., Ltd. (Young) filed standards of conduct under Order Nos. 497 *et seq.*[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before June 26, 1995. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14606 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,996 (June 17, 1994).

[Docket No. RP94–229–004]

Granite State Gas Transmission, Inc.; Notice of Filing of Refund Report

June 9, 1995.

Take notice that on June 7, 1995, Granite State Gas Transmission, Inc. (Granite State) filed a report of refunds made to its firm and interruptible transportation customers in compliance with Article III of the Stipulation and Agreement settling the rate proceeding in Docket No. RP94–229–000 which was approved by the Commission on April 13, 1995.

Granite State further states that it filed revised rates on April 25, 1995, reflecting the terms of the rate settlement for effectiveness on May 1, 1995. According to Granite State, the motion rates in the proceeding were made effective on November 1, 1994 and accordingly, the refund report covers the period that the motion rates were effective from November 1, 1994 through April 30, 1995.

Granite State also states that copies of the refund report were served on its transportation customers and the regulatory commissions of the State of Maine, New Hampshire and Massachusetts.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protest should be filed on or before June 16, 1995. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14597 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–869–000]

K N Marketing, Inc.; Notice of Issuance of Order

June 9, 1995.

On April 4, 1995, K N Marketing, Inc. (KNM) submitted for filing a rate schedule under which KNM will engage in wholesale electric power and energy transactions as a marketer. KNM also requested waiver of various Commission regulations. In particular, KNM requested that the Commission grant blanket approval under 18 CFR Part 34

of all future issuances of securities and assumptions of liability by KNM.

On May 26, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by KNM should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, KNM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of KNM's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 26, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street NE., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14599 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–288–001]

Pacific Gas Transmission Company; Notice of Withdrawal of Proposed Tariff Sheets

June 9, 1995.

Take notice that on June 7, 1995, Pacific Gas Transmission Company (PGT) tendered for filing a Notice of Withdrawal of certain revised tariff sheets to be a part of its Ferc Gas Tariff, First Revised Volume No. 1–A.

PGT states that the tariff sheets which it is withdrawing were submitted to conform the Capacity Release provisions of its Transportation General Terms and Conditions to the capacity release provisions in Order No. 577. PGT further states that further changes in these sheets to conform with Order No. 577–A will be proposed under separate cover.

PGT further states it has served a copy of this filing upon all interested state regulatory agencies and PGT's jurisdictional customers as well as the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules of Practice and Procedure. All such protests should be filed on or before June 16, 1995. 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14600 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–319–002]

TCP Gathering Company; Notice of Proposed Changes in FERC Gas Tariff

June 9, 1995.

Take notice that on June 5, 1995, TCP Gathering Company (TCP) tendered for filing Original Volume No. 1 to its FERC Gas Tariff in compliance with the Commission's May 3, 1995 Letter Order in Docket No. CP94–319–000. TCP requests that the tendered sheets be accepted for filing and permitting to become effective on June 2, 1995.

TCP states that a copy of its filing was served on all parties to Docket No. CP94–319–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 19 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 19, 1995. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14601 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–336–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 9, 1995.

Take notice that on June 5, 1995, pursuant to and in compliance with the Commission's Final Rule (Order No. 577–A) issued May 31, 1995 in Docket No. RM95–5 001, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 464
Second Revised Sheet No. 465
Second Revised Sheet No. 467

Texas Eastern states that the tariff sheets submitted herewith reflect the revisions in the term and character of capacity releases that are exempt from advance posting and bidding requirements.

Texas Eastern requests waiver of the notice requirement of Section 154.22 of the Regulations to permit the tendered tariff sheets to become effective on July 1, 1995, which is the date Order No. 577–A will become effective.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 16, 1995. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14602 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11213–000]

Thomas Hohman; Notice of Filing

June 9, 1995.

Please take notice that on August 3, 1992, Mr. Thomas Hohman, applicant, filed with the Commission a videotape of the project site for the proposed Barberville Hydroelectric Project, to be located on Poestenkill Creek in Rennselaer County New York.[1] The tape depicts the reaches of Poestenkill Creek along which project facilities would be located, a range of flows over the waterfall and the surrounding landscape.

The videotape is available for viewing upon request by contacting the Commission's Public Reference Room in 941 North Capitol Street, NE., Washington, DC 20426, telephone (202) 208–1371.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14598 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG88–51–009]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

June 9, 1995.

Take notice that on June 5, 1995, Transcontinental Gas Pipe Line Company (Transco) filed a revised Code of Conduct pursuant to Order Nos. 566 *et seq.*[1] Transco states that the purpose of the filing is to reflect certain changes in accordance with the Order No. 566–A and the Commission's May 4, 1995, order directing Transco to revise its standards of conduct with respect to Standard K, to be codified at 18 CFR 161.3(k). 71 FERC ¶ 61,140 (1995).

Transco states that copies of this filing have been mailed to all parties to Docket No. MG88–51.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before June 26, 1995. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14603 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[1] The videotape was submitted as part of the applicant's response to staff's March 6, 1992 request for additional information.

[1] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994); Order No 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994); *appeal docketed sub nom. Conoco, Inc.* v. *FERC,* D.C. Cir. No. 94–1745 (December 13, 1994).

[Docket No. GT95–11–000]

Williams Natural Gas Company; Notice of Distribution of Refunds

June 9, 1995.

Take notice that on December 14, 1995, Williams Natural Gas Company (Williams) submitted worksheets reflecting the distribution of refunds paid to jurisdictional sales customers on December 14, 1994. Williams states that these refunds are being made pursuant to Commission's order in Colorado Interstate Gas Company, Docket Nos. GP83–11–002 and RI83–9–003 issued December 1, 1993.

The Commission ordered that ''any first seller that collected revenues in excess of the applicable maximum lawful price established by the NGPA as a result of the reimbursement of the Kansas ad valorem taxes for sales on or after June 28, 1988, shall refund any such excess revenues to the purchaser. * * *'' The Interstate pipelines were then required to make lump-sum cash payments of the Kansas ad valorem tax refunds to the customers who were actually overcharged. Included with Williams' payments is interest covering the period from the date Williams received the refund from the producer until December 14, 1994.

Williams states that a copy of this report is being mailed to each of Williams' affected jurisdictional sales customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 16, 1995. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14604 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–42–000]

Williston Basin Interstate Company; Notice of Filing

June 9, 1995.

Take notice that on June 7, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, revised tariff sheets.

Williston Basin states that the revised tariff sheets are being filed to update its Master Delivery Point List.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 16, 1995. 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14605 Filed 6–14–95; 8:45 am]

BILLING CODE 6717–01–M

Southwestern Power Administration

Integrated System

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of proposed extension of integrated system power rates and opportunities for public review and comment.

SUMMARY: The Current Integrated System Rates were approved by the Federal Energy Regulatory Commission (FERC) on September 18, 1991, Docket

No. EF91–4011–000 (56 FERC ¶61,398). These rates were effective October 1, 1990, through September 30, 1994. Effective October 1, 1994, these rates were extended on an interim basis by the Deputy Secretary of Energy, for one year ending September 30, 1995 (59 FR 47860, Sept. 19, 1994). The Administrator, Southwestern, has prepared Current and Revised 1995 Power Repayment Studies for the Integrated System which show the need for a minor rate adjustment of $1,008,285 (1.07 percent increase) in annual revenues. In accordance with Southwestern's rate adjustment threshold, dated June 23, 1987, the Administrator, Southwestern, may determine, on a case by case basis, that for a revenue decrease or increase in the magnitude of plus-or-minus two percent, deferral of a formal rate filing is in the best interest of the Government. Also, the Deputy Secretary of Energy has the authority to extend rates, previously confirmed and approved by FERC, on an interim basis, pursuant to 10 CFR 903.22(h) and 903.23(a)(3). In accordance with DOE rate extension authority and Southwestern's rate adjustment threshold, the Administrator is proposing that the rate adjustment be deferred and that the current rates be extended for a one-year period effective through September 30, 1996.

DATES: Written comments are due on or before June 30, 1995.

ADDRESSES: Written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: George C. Grisaffe, Assistant Administrator, Office of Administration and Rates, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581–7419.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, P.L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977.

Southwestern markets power from 24 multiple-purpose reservoir projects with power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the States of Arkansas, Missouri, Oklahoma and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana. Of the total, 22 projects comprise an Integrated System and are interconnected through Southwestern's transmission system and exchange agreements with other utilities. The other two projects (Sam Rayburn and Robert Douglas Willis) are not interconnected with Southwestern's Integrated System. Instead, their power is marketed under separate contracts through which two customers purchase the entire power output of each of the projects at the dams.

Following Department of Energy Order Number RA 6120.2, the Administrator, Southwestern, prepared a 1995 Current Power Repayment Study (PRS) using existing Integrated System rate schedules. The PRS shows the actual status of repayment through FY 1994 at $319,846,125 on a total investment of $982,356,193. The FY 1995 Revised PRS indicates the need for an increase in annual revenues of $1,008,285, or 1.07 percent, over and above the present annual revenues.

As a matter of practice, Southwestern would defer an indicated rate adjustment that falls within Southwestern's plus-or-minus two percent rate adjustment threshold. The threshold, which was established in 1987, was developed to add efficiency to the process of maintaining adequate rates and is consistent with cost recovery criteria within DOE Order Number RA 6120.2 regarding rate adjustment plans. The Integrated System's FY 1994 (last year's) PRS concluded that the annual revenues needed to be increased by 0.8 percent. At that time, it was determined prudent to defer the increase in accordance with the established threshold and extend the rates on an interim basis for one year. As previously cited, the FY 1995 (this year's) PRS indicates that revenues would need to be increased by 1.07 percent, or $1,008,285 per year. It once again seems prudent to defer a rate adjustment in accordance with Southwestern's rate adjustment threshold and reevaluate the ability of the existing rate to provide sufficient revenues to satisfy costs projected in the FY 1996 (next year's) PRS.

On September 18, 1991, the current rate schedules for the Integrated System were confirmed and approved by the FERC on a final basis for a period that ended on September 30, 1994. In accordance with 10 CFR 903.22(h) and 903.23(a)(3), the Deputy Secretary may extend existing rates on an interim basis beyond the period specified by the FERC. On September 19, 1994, the Deputy Secretary approved an extension of the Integrated System power rates on an interim basis for the period October 1, 1994, through September 30, 1995. As a result of the benefits obtained by a rate adjustment deferral (reduced Federal expense and rate stability) and the Deputy Secretary's authority to extend a previously approved rate, Southwestern's Administrator is proposing to again extend the current Integrated System rate schedules for the one-year period beginning October 1, 1995, and extending through September 30, 1996.

Opportunity is presented for customers and interested parties to receive copies of the study data for the Integrated System. If you desire a copy of the Repayment Study Data Package for the Integrated System, please submit your request to: Mr. George Grisaffe, Assistant Administrator, Office of Administration and Rates, P.O. Box 1619, Tulsa, OK 74101, (918) 581–7419.

Following review of the written comments, the Administrator will submit the rate extension proposal for the Integrated System to the Deputy Secretary of Energy for confirmation and approval.

Issued in Tulsa, Oklahoma, this 5th day of June 1995.

Forrest E. Reeves,

Acting Administrator.

[FR Doc. 95–14709 Filed 6–14–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–626; FRL–4955–4]

Pesticide Tolerance Petitions; Filings, Amendments, and a Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces initial filings, amendments, and a withdrawal of pesticide petitions (PP) and food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential

Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-626; FRL 4955-4]. No CBI should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

Product Manager	Office location/telephone number/e-mail	Address
Richard Keigwin (PM-10)	Rm. 210, CM #2, 703-305-6596, e-mail: keigwin.richard@epamail.epa.gov.	1921 Jefferson Davis Hwy., Arlington, VA.
George LaRocca (PM-13)	Rm. 204, CM #2, 703-305-6100, e-mail: larocca.george@epamail.epa.gov.	Do.
Dennis Edwards, Jr. (PM-19)	Rm. 207, CM #2, 703-305-6386, e-mail: edwards.dennis@epamail.epa.gov..	Do.
Connie Welch (PM-21)	Rm. 227, CM #2, 703-305-6226, e-mail: welch.connie@epamail.epa.gov..	Do.
James Stone (Acting PM-22)	Rm. 247, CM #2, 703-305-7391, e-mail: stone.james@epamail.epa.gov..	Do
Joanne Miller (PM-23)	Rm. 237, CM #2, 703-305-6224, e-mail: miller.joanne@epamail.epa.gov..	Do.
Robert Taylor (PM-25)	Rm. 241, CM #2, 703-305-6027, e-mail: taylor.robert@epamail.epa.gov..	Do.
Phil Hutton (PM-90)	5th Floor, CS #1, 703-308-8260, e-mail: hutton.phillip@epamail.epa.gov..	2805 Jefferson Davis Hwy., Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions and food/ feed additive petitions as follows proposing the amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filings

1. *PP 4F4391.* E.I. DuPont de Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, P.O. Box 80083, Wilmington, DE 19880-0038, proposes amending 40 CFR part 180 to establish tolerances for the herbicide sodium 2-chloro-6-(4,6-dimethoxypyrimidin-2-ylthio)benzoate in or on cotton, undelinted seed at 0.02 ppm. The proposed method for determining residues is high-pressure liquid chromatography. (PM–22).

2. *PP 5F4426.* Rhone-Poulenc AG Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes amending 40 CFR part 180 by establishing tolerances for fipronil (5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)sulfinyl]-1H-pyrazole-3-carbonitrile) or its metabolites MB46136 (5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl)sulfonyl]-1H-pyrazole-3-carbonitrile) or MB45950 (5-amino-1-[2,6-dichloro-4-(trilfuoromethyl)phenyl)-4-[(trifluoromethyl)thio]-1H-pyrazole-3-carbonitrile) in or on corn, grain at 0.02 part per million (ppm), corn, fodder at 0.15 ppm, and corn, forage at 0.15 ppm; poultry eggs, liver, and muscle at 0.02 ppm and skin/fat at 0.03 ppm; dairy cow milk, liver, kidney, and muscle at 0.02 ppm, and fat at 0.08 ppm. (PM–10)

3. *PP 5F4480.* Miles, Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120-0013, proposes amending 40 CFR 180.472 by establishing a regulation permitting residues of imidacloprid (1-[(chloro-3-pyridinyl)methyl-N-nitro-2-imidazolidinimine, in or on pecan, nut at 0.05 ppm and citrus, fruit at 0.7 ppm. (PM–19)

4. *PP 5F4483.* Troy Biosciences, Inc., 2620 North 37th Drive, Phoenix, AZ 85009, proposes amending 40 CFR part 180 by establishing a regulation to exempt from the requirement of a tolerance residues of the insecticide *Beauvaria bassiana* ATCC 74040 in or on all raw agricultural commodities. (PM–90)

5. *PP 5F4485* FMC Corp., 1735 Market St., Philadelphia, PA 19103, proposes amending 40 CFR 180.442 by establishing a regulation permitting residues of bifenthrin (2-methyl[1,1'-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl-2,2-dimethylcyclopropanecarboxylate) in or on strawberries at 3.0 ppm. A tolerance for bifenthrin on strawberries and other agricultural commodities was proposed in a previous notice that appeared in the **Federal Register** of November 19, 1986 (51 FR 41828), but the commodity strawberries is hereby separated from that notice and placed in this filing. (PM–13)

6. *FAP 5H5714.* E.I. du Pont de Nemours & Co., Inc., Agricultural Products, Wilmington, DE 29880-0038, proposes amending 40 CFR 180.3575 by establishing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1H,3H)-dione) and its metabolites calculated as hexazinone in or on alfalfa seed at 2.0 ppm. The proposed analytical method for determining residues is gas chromatography with nitrogen phosphorous detection (GC/NPD). (PM–23)

7. *FAP 5H5718.* Miles, Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120-0013, proposes amending 40 CFR part 186 by establishing a regulation permitting residues of imidacloprid (1-[(chloro-3-pyridinyl)methyl-N-nitro-2-imidazolidinimine]) in or on citrus,

pulp, dried at 5.5 ppm; and citrus, molasses at 4.8 ppm. (PM–19)

Amended Filings

8. *PP 2F4063.* EPA gave notice in the **Federal Register** of March 11, 1992 (57 FR 8659), that Ciba Corp. Protection, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, had submitted the petition to amend 40 CFR 180.408 by establishing tolerances for combined residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moliety, and N-(2-hydroxymethyl-6-methyl)-N-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl equivalents, in or on grass forage at 10.0 ppm and grass hay at 20.0 ppm. Ciba-Geigy has amended the petiton to propose tolerances for grass, forage at 10.0 ppm and grass, hay at 25.0 ppm. (PM–21)

9. *PP 2F4072.* EPA gave notice in the **Federal Register** of June 10, 1992 (57 FR 24645), that Ciba Corp. Protection, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, had submitted the petition to amend 40 CFR 180.408 by establishing tolerances for combined residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moliety, and N-(2-hydroxymethyl-6-methyl)-N-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl equivalents, in or on Brassica (cole) leafy vegetables crop grouping at 5.0 ppm. Ciba-Geigy has amended the petition to propose tolerances for Brassica (cole) leafy vegetables group (except broccoli, cabbage, cauliflower, Brussels sprouts, and mustard greens) at 0.1 ppm, Brussels sprouts at 2.0 ppm, cabbage at 1.0 ppm, cauliflower at 1.0 ppm, and mustard greens at 5.0 ppm. (PM–21)

10. *PP 2F4086.* EPA gave notice in the **Federal Register** of June 10, 1992 (57 FR 24645), that Ciba Corp. Protection, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, had submitted the petition to amend 40 CFR 180.434 by establishing tolerances for combined residues of the fungicide propiconazole (1-((2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl)methyl)-1H-1,2,4-triazole) and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on oat grain at 0.1 ppm and oat straw at 1.0 ppm. Ciba-Geigy has amended the petition to propose tolerances for oat grain at 0.1 ppm, oat straw at 1.0 ppm, and oat forage at 10.0 ppm. (PM–21)

11. *PP 2F4105.* EPA gave notice in the **Federal Register** of June 10, 1992 (57 FR 24646), that Ciba Corp. Protection, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, had submitted the petition to amend 40 CFR 180.408 by establishing tolerances for combined residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moliety, and N-(2-hydroxymethyl-6-methyl)-N-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl equivalents, in or on nongrass animal feed forage at 6.0 ppm and nongrass animal feed hay at 20.0 ppm. Ciba-Geigy has amended the petition to propose tolerances for clover, forage at 1.0 ppm and clover, hay at 2.5 ppm. (PM–21)

12. *PP 4F4337.* EPA gave notice in the **Federal Register** of November 2, 1994 (59 FR 54907), that Gustafson, Inc., P.O. Box 660065, Dallas, TX 75266-0065, had submitted the peititon to amend 40 CFR part 180 by establishing a regulation to permit residues of imidacloprid, 1-[(chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine, and its metabolites (calculated as imidacloprid), in or on wheat, forage at 7.0 ppm, wheat, straw at 0.3 ppm, wheat, grain at 0.1 ppm, barley, forage at 1.2 ppm, barley, straw at 0.2 ppm, barley, grain at 0.1 ppm, sorghum, forage at 0.2 ppm, sorghum, straw at 0.1 ppm, sorghum, grain at 0.1 ppm, beets, sugar (roots) at 0.1 ppm, and beets, sugar (tops) at 0.1 ppm. Gustafson has amended the petition to request a feed additive tolerance of 0.5 ppm for beets, sugar, molasses. (PM–19)

13. *PP 6F3454.* FMC Corp., 1735 Market St., Philadelphia, PA 19103, proposes amending 40 CFR part 180 by establishing a regulation permitting residues of bifenthrin (2-methyl[1,1'-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl-2,2-dimethylcyclopropanecarboxylate) in or on various agricultural commodities; among those was strawberries with a proposed tolerance of 3.0 ppm. PP 5F4485 appearing elsewhere in this document under ''initial filings'' separates strawberries from PP 6F3454. (PM–13)

14. *PP 9F3818.* EPA gave notice in the **Federal Register** of January 9, 1990 (55 FR 779), that Mobay Corp., P.O. Box 4913, Hawthorn Rd., Kansas City, MO 64120-0013, had submitted the petition to amend 40 CFR part 180 by estabishing a regulation to permit residues of the fungicide tebuconazole, alpha-(2-(4-(chlorophenyl)ethyl)-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, in or on various agricultural commodities. The company has changed names, now Bayer Corp. (with the same address), and the petition has been amended to propose amending 40 CFR part 180 by establishing tolerances for the fungicide tebuconazole in or on the following raw agricultural commodities: Barley, grain at 0.05 ppm, barley, forage at 0.10 ppm, barely, hay at 0.10 ppm, barley, straw at 0.10 ppm; oat, grain at 0.05 ppm, oat, forage at 0.10 ppm, oat, hay at 0.10 ppm, oat, straw at 0.10 ppm; wheat, grain at 0.05 ppm, wheat, forage at 0.10 ppm, wheat, hay at 0.10 ppm, and wheat straw at 0.10 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM–21)

Withrawn Petition

15. *PP 2F2746.* DuPont Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, has requested that the petition be withdrawn without prejudice to future filing since DuPont plans to generate data on both soybean and peanut forages for tolerances proposed for esfenvalerate under PP 4F4329 (59 FR 35719, July 13, 1994). (PM–13)

A record has been established for this notice document under docket number [PF-626; FRL 4955-4] (including any comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all

comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping

Authority: 7 U.S.C. 136a.

Dated: June 8, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–14798 Filed 6–13–95; 12:27 pm]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Cunard Line Limited and Partredereit Norske Cruise, 555 Fifth Avenue, New York, NY 10017–2453

Vessels: SEA GODDESS I and SEA GODDESS II

Dated: June 12, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–14679 Filed 6–14–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Megatrans International, Inc., 5115 Rio Vista Avenue, Tampa, FL 33634, Officers: William J. Donovan, President, Julie Donovan, Vice President

Earth Customs, Inc. d/b/a Earth Cargo, 9920 La Cienega Blvd., Suite 816, Inglewood, CA 90301, Officers: Karen L. West, President, Vice President, Louise Marie West, Director

Cargo Forwarders International Corp., 101–111 NE. 23rd Street, Miami, FL 33137, Officers: Wilfred Agusti, President, Rosa Benitez, Secretary

Air Cargo Centralam, Inc., 8001 SW. 157th Court, Miami, FL 33193, Officer: Arelys E. Crespo, President

Ideal Consolidators, Ltd., 5230 Pacific Concourse, Suite 105, Los Angeles, CA 90045, Officer: Alfred Yau, President

Coldwell Banker Moving Services, Inc., 27271 Las Ramblas, Mission Viego, CA 92691, Officers: Stephen C. Roney, President, Leonard P. Troutner, Exec. Vice President

Dated: June 12, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–14680 Filed 6–14–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Deposit Guaranty Arkansas Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 10, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Deposit Guaranty Arkansas Corp., Fort Smith, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants National Bank, Fort Smith, Arkansas.

Board of Governors of the Federal Reserve System, June 9, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14646 Filed 6–14–95; 8:45 am]

BILLING CODE 6210–01–F

Lincoln Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing,

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 10, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Lincoln Bancorp, Reinbeck, Iowa; to acquire 100 percent of the voting shares Garwin Bancorporation, Garwin, Iowa, and thereby indirectly acquire Farmers Saving Bank, Garwin, Iowa.

In connection with this application, Lincoln Bancorp has also applied to acquire the insurance business that is conducted directly at Garwin Bancorporation and engage in the sale of insurance in a town of less than 5,000 in population pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 9, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14648 Filed 6–14–95; 8:45 am]

BILLING CODE 6210–01–F

Clinton J. Theriot; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than June 29, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Clinton J. Theriot, Chauvin, Louisiana; to acquire an additional 19.6 percent, for a total of 34.8 percent, of the voting shares of Lafourche Bancshares, Inc., Larose, Louisiana, and thereby indirectly acquire South Lafourche Bank & Trust Company, Larose, Louisiana.

Board of Governors of the Federal Reserve System, June 9, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14647 Filed 6–14–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Docket No. C–3581]

Gateway Educational Products, Ltd., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based corporation and two officers from making reading and comprehension claims for their ''Hooked on Phonics'' reading program or any other educational program or product without possessing and relying upon competent and reliable substantiating evidence. In addition, it prohibits them from representing that any endorsement represents the typical or ordinary experience of consumers with any educational program or product without possessing and relying upon competent and reliable substantiating evidence.

DATES: Complaint and Order issued June 1, 1995.[1].

FOR FURTHER INFORMATION CONTACT: FTC/S–4002, Division of Advertising Practices, Washington, DC 20580. (202) 326–3131.

SUPPLEMENTARY INFORMATION: On Monday, December 19, 1994, there was published in the **Federal Register**, 59 FR 65361, a proposed consent agreement with analysis In the Matter of Gateway Educational Products, Ltd., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–14691 Filed 6–14–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Docket No. C–3580]

Montedison S.p.A., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the Royal Dutch Petroleum Company and the Shell Group of Companies to divest all of Shell Oil's polypropylene assets to Union Carbide Corporation, or to another Commission approved acquirer, within six months, requires Montedision to relinquish revenues under the profit sharing agreement from future U.S. licenses by Mitsui Petrochemical Industries Ltd., and requires the respondents, for ten years, to obtain Commission approval before acquiring any interest in such a company or before entering into similar agreements.

DATES: Complaint and Order issued May 25, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Howard Morse or Rhett Krulla, FTC/S–3627, Washington, DC 20580. (202) 326–2949 or 326–2608.

SUPPLEMENTARY INFORMATION: On Friday, January 27, 1995, there was published in the **Federal Register**, 60 FR 5414, a proposed consent agreement with analysis In the matter of Montedison S.p.A., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–14692 Filed 6–14–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 951 0056]

The Scotts Co.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, Scotts, an Ohio-based corporation, to divest its Peters Consumer Water Soluble Fertilizer Business and related assets to Alljack & Company or another Commission-approved buyer by no later than December 31, 1995. If the divestiture is not completed on time, the consent agreement would permit the Commission to appoint a trustee to complete the transaction. In addition, the consent agreement would require the respondent to obtain Commission approval, for a period of ten years, before acquiring any consumer water soluble fertilizer business in the United States.

DATES: Comments must be received on or before [Insert date 60 days after **Federal Register** publication date].

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Howard Morse or Robert Cook, FTC/S–3627, Washington, DC 20580, (202) 326–2949 or 326–2771.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

In the matter of The Scotts Company, a corporation.

The Federal Trade Commission (''Commission'') having initiated an investigation of the proposed acquisition by the Scotts Company (''Scotts'') of Stern's Miracle-Gro Products, Inc. (''Miracle-Gro''), and it now appearing that Scotts, hereinafter sometimes referred to as ''proposed respondent,'' is willing to enter into an agreement containing an order to divest certain assets and to cease and desist from making certain acquisitions, and providing for other relief:

It is hereby agreed by and between proposed respondent, by its duly authorized officers and attorney, and counsel for the Commission that:

1. Proposed respondent Scotts is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principle place of business located at 14111 Scottslawn Road, Marysville, Ohio 43041.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Respondent'' or ''Scotts'' means the Scotts Company, its directors, officers, employees, agents and representatives, predecessors, successors and assigns, its subsidiaries, divisions, groups and affiliates controlled by the Scotts Company, and

the respective directors, officers, employees, agents, representatives, successors and assigns of each.

B. ''Miracle-Gro'' means Stern's Miracle-Gro Products, Inc., its predecessors, successors and assigns, its subsidiaries, divisions, groups and affiliates controlled by Stern's Miracle-Gro Products, Inc.

C. ''Alljack'' means Alljack & Company and Celex Corporation, their predecessors, successors and assigns, subsidiaries, divisions, groups, and affiliates.

D. ''Commission'' means the Federal Trade Commission.

E. The term ''Water Soluble Fertilizer'' means fertilizer that is sold as a powder, composed principally of nitrogen, phosphorous and potash, to be dissolved in water prior to application for use principally on houseplants, gardens, shrubs and flowers.

F. The term ''Consumer Water Soluble Fertilizer'' means Water Soluble Fertilizer packaged for sale in containers of less than 20 pounds.

G. The term ''Peters Consumer Water Soluble Fertilizer'' means Consumer Water Soluble Fertilizer sold under the Peters brand name.

H. The term ''Peters Consumer Water Soluble Fertilizer Business'' means all assets, properties, business and goodwill, tangible and intangible, relating to the manufacture or sale of Peters Consumer Water Soluble Fertilizer in the United States, including, without limitation, the following:

1. All Peters trademarks;

2. Inventory;

3. The right to use the same packaging and trade dress that Peters has used for Consumer Water Soluble Fertilizer, provided that the right to use the Scotts trademark is limited to the right to sell existing inventory;

4. All customer lists, distribution agreements, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, inventions, trade secrets, intellectual property, patents, technology, know-how (including, but not limited to manufacturing know-how), specifications, designs, drawings, processes, quality control data, and formulas;

5. All rights, titles and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

6. All rights under warranties and guarantees, express or implied;

7. All books, records, and files; and

8. All items of prepaid expense.

The term ''Peters Consumer Water Soluble Fertilizer Business'' does not include accounts receivable, the Peters production facilities located at Allentown, Pennsylvania, the use of intangible assets (including the use of the Peters trademarks on Water Soluble Fertilizer in containers of 20 pounds or more) for the production or sale of agricultural or commercial products, or the use of the Peters trademarks on potting soil, perlite, or vermiculite.

I. The term ''Peters Business'' means all assets, properties, business and goodwill, tangible and intangible, relating to the manufacture or sale of all products that Scotts has sold under the Peters trademarks during the five (5) years preceding the date on which this agreement is accepted by the Commission, including, without limitation, the Allentown, Pennsylvania plant where Peters products are manufactured and including, without limitation, the following:

1. The Peters Consumer Water Soluble Fertilizer Business;

2. All machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

3. All customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, management information systems, software, inventions, trade secrets, intellectual property, patents, technology, know-how, specifications, designs, drawings, processes, quality control data, and assets relating to research and development;

4. Inventory and storage capacity;

5. All rights, titles and interests in and to owned or leased real property, together with appurtenances, licenses and permits;

6. All rights, titles and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

7. All rights under warranties and guarantees, express or implied;

8. All books, records, and files; and

9. All items of prepaid expense.

II

It is further ordered that:

A. Scotts shall divest, through sale or exclusive perpetual license, absolutely and in good faith, no later than December 31, 1995, the Peters Consumer Water Soluble Fertilizer Business as an ongoing business and shall also, at the time of such divestiture, divest such additional ancillary assets and ancillary businesses and effect such arrangements as are necessary to assure the marketability and the viability and competitiveness of the Peters Consumer Water Soluble Fertilizer Business.

B. The divestiture shall be made either—

1. No later than ten (10) days from the date this order becomes final, to Alljack, pursuant to the agreements between Scotts and Alljack, which are Confidential Appendices II and III, or

2. To an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

The purpose of the divestiture of the Peters Consumer Water Soluble Fertilizer Business is to ensure that the Peters Consumer Water Soluble Fertilizer Business continues to operate as an ongoing business in the same business in which it is engaged at the time this Agreement is accepted by the Commission and to remedy the lessening of competition resulting from the acquisition, as alleged in the Commission's complaint.

C. Pending divestiture of the Peters Consumer Water Soluble Fertilizer Business, respondent shall take such actions as are necessary to maintain the viability and marketability of the Peters Consumer Water Soluble Fertilizer Business, and to prevent the destruction, removal, wasting, deterioration, or impairment of any part of the Peters Consumer Water Soluble Fertilizer Business.

D. Unless the acquirer has its own source of supply, the devestiture shall include an agreement by Scotts (the ''Supply Agreement'') to supply Water Soluble Fertilizer for a period of two (2) years from the date of the divestiture required by this Paragraph II. The Water Soluble Fertilizer supplied pursuant to the Supply Agreement shall, at the option of the acquirer, be of the same chemical composition as, and of a quality equal to or greater than, the Water Soluble Fertilizer marketed by the Peters Consumer Water Soluble Fertilizer Business at the time this agreement is accepted by the Commission for comment. The Supply Agreement shall obligate Scotts to supply such Water Soluble Fertilizer at a price equal to direct cash cost of raw materials, packaging, and labor (based on expenses during the previous fiscal year), plus ten (10) percent. The Supply

Agreement shall obligate Scotts to supply annually, at a minimum, at the option of the acquirer, an amount of Water Soluble Fertilizer, in containers ready for sale or in bulk, equal to the greatest unit amount of Peters Consumer Water Soluble Fertilizer produced by or on behalf of the Peters Consumer Water Soluble Fertilizer Business during:

1. The twelve (12) months prior to the divestiture required by this Paragraph II, and

2. Each of the five (5) calendar years preceding the divestiture required by this Paragraph II.

E. The divestiture shall include a non-exclusive perpetual license, with no continuing royalty, to manufacture Peters Consumer Water Soluble Fertilizer for sale in the United States as it has been manufactured at any time during the twelve (12) months preceding the date on which this Agreement Containing Consent Order is accepted by the Commission for public comment, as well as a royalty-free license for all improvements to Peters' Water Soluble Fertilizer technology that have been made up to the time of the divestiture required by this Paragraph II. Such license shall give the acquirer the right to make any improvements to the licensed technology; provided, however, that such license need not give the acquirer rights in Scotts intellectual property that Scotts has not used in connection with Peters Consumer Water Soluble Fertilizer.

F. Respondent shall not offer Consumer Water Soluble Fertilizer (including, but not limited to, Consumer Water Soluble Fertilizer bearing the Miracle-Gro trademark) for sale using the Scotts trademark for a period of two (2) years following the divestiture required by this Paragraph II; provided, however, during that two (2) year period, Scott may continue to sell the following products using the Scotts trademark:

1. Scotts Water-Soluble Plant Food Powder, All Purpose Formula (8 ounce and 16 ounce sizes);

2. Scotts Water-Soluble Plant Food Powder, Houseplant/Foliage Formula (8 ounce and 16 ounce sizes); and

3. Scotts Water-Soluble Plant Food Powder, African Violet/Flowering Formula (8 ounce size).

G. At the time of the execution of a divestiture agreement between Scotts and a proposed acquirer of the Peters Consumer Water Soluble Fertilizer Business, Scotts shall provide the acquirer with a complete list of all Scotts employees who have spent the majority of their time on the development, distribution, marketing, or sale of Peters Consumer Water Soluble Fertilizer during the twelve (12) months prior to the date on which this agreement is accepted by the Commission. Such list shall state each such individual's name, position, address, telephone number, and a description of the duties of and work performed by the individual in connection with the Peters Consumer Water Soluble Fertilizer Business.

H. Scotts shall provide the individuals identified pursuant to Paragraph II.G. of this order with financial incentives to continue in their employment positions during the period covered by the Hold Separate Agreement, hereto attached, and to accept employment with the Commission-approved acquirer, if such employment is offered, at the time of the divestiture. Such incentives shall include:

1. Continuation of all employee benefits offered by Scotts until the date of the divestiture; and

2. A bonus equal to 25 percent of the total annual compensation of any employee who agrees to employment with the Commission-approved acquirer, payable upon the beginning of such employee's employment by the Commission-approved acquirer.

I. The divestiture agreement may protect Scott's interest in the Scotts trademark on inventory acquired by the acquirer of the Peters Consumer Water Soluble Fertilizer Business and may provide for the continued use by Scotts of the Peters trademarks for agricultural and commercial products an consumer soil products.

J. Respondent shall comply with all terms of the Agreement to Hold Separate, attached to this order and made a part hereof as Appendix I. The Agreement to Hold Separate shall continue in effect until such time as respondent has made the divestiture required by this order.

III

It is further ordered that:

A. If Scotts has not divested, absolutely and in good faith and with the Commission's prior approval, the Peters Consumer Water Soluble Fertilizer Business by December 31, 1995, the Commission may appoint a trustee to divest the Peters Consumer Water Soluble Fertilizer Business. If the trustee has not divested the Peters Consumer Water Soluble Fertilizer Business within six (6) months after the trustee's appointment, then the trustee may divest either the Peters Consumer Water Soluble Fertilizer Business or the Peters Business. In the event the Commission or the Attorney General brings an action pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, Scotts shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to section 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the respondent to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this order, respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Peters Consumer Water Soluble Fertilizer Business or the Peters Business.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture of the Peters Consumer Water Soluble Fertilizer Business or the Peters Business required by this order.

4. The trustee shall have six (6) months from the date the Commission approves the trust agreement described in Paragraph III.B.3. to accomplish the divestiture of the Peters Consumer Water Soluble Fertilizer Business, which shall be subject to the prior approval of the Commission. If no acquirer of the Peters Consumer Water Soluble Fertilizer Business is approved by the Commission by the end of the six (6) month period (or at the end of any extensions to that period pursuant to

this Paragraph III.B4.), then the trustee shall have twelve (12) additional months to accomplish the divestiture of the Peters Consumer Water Soluble Fertilizer Business or the Peters Business, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve (12) month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Peters Consumer Water Soluble Fertilizer Business or the Peters Business, or to any other relevant information, as the trustee may request. Respondent shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by the respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission, or, in the case of a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to the respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of respondent and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement (based on sales price) contingent on the trustee's divesting the Peters Consumer Water Soluble Fertilizer Business or the Peters Business.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture of the Peters Consumer Water Soluble Fertilizer Business or the Peters Business required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Peters Consumer Water Soluble Fertilizer Business or the Peters Business.

12. The trustee shall report in writing to respondent and the Commission every sixty (60) days concerning the trustee's efforts to accomplish the divestiture.

IV

It is further ordered that, for a period of ten (10) years from the date this order becomes final, respondent shall not without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged in at the time of such acquisition, or within the two years preceding such acquisition engaged in the sale of Consumer Water Soluble Fertilizer in the United States; or

B. Acquire any assets used for or previously used for (and still suitable for) the sale of Consumer Water Soluble Fertilizer in the United States; provided, however, that prior approval shall not be necessary for the acquisition of assets used to manufacture Consumer Water Soluble Fertilizer, the acquisition of assets in the ordinary course of business, or the acquisition of assets valued at less than $100,000 from the same person within any twelve (12) month period.

V

It is further ordered that within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until respondent has fully complied with the divestiture provisions of Paragraphs II and III of this order, respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II and III of this order. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture; provided, however, that respondent is not obligated to produce copies of documents subject to any legally recognized privilege.

VI

It is further ordered that one (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at such other times as the Commission may require, respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraphs II and IV of this order.

VII

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed

change in the corporate respondent such as dissolution, assignment sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

VIII

It is further ordered that, for the purpose of determining or securing compliance with this order, and subject to any legally recognized privilege, upon request, respondent shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

B. Upon five (5) days notice to respondent, with respondent's counsel present, and without restraint or interference, to interview officers, employees, or agents of respondent.

AGREEMENT TO HOLD SEPARATE

In the matter of The Scotts Company, a corporation.

[File No. 951–0056]

This Agreement to Hold Separate (''Hold Separate'') is by and between the Scotts Company (''Scotts''), a corporation organized, existing, and doing business under and by virtue of the laws of Ohio, with its office and principal place of business at 14111 Scottslawn Road, Marysville, Ohio 43041 and the Federal Trade Commission (''the Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (collectively the ''Parties'').

Premises

Whereas, on January 26, 1995, Scotts entered into an Agreement and Plan of Merger with Stern's Miracle-Gro Products, Inc. (''Miracle-Gro'') to acquire all of the voting securities of Miracle-Gro in exchange for voting securities of Scotts (hereinafter the ''Acquisition'');I21*Whereas,* Scotts is a leading producer and marketer of consumer lawn care products, including consumer water soluble fertilizer under the Peters brand name;

Whereas, Miracle-Gro, with its principal office and place of business located at 800 Port Washington Blvd., Port Washington, New York 11050 is the leading marketer of water soluble fertilizer in the United States;

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission;

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), the Commission must place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules;

Whereas, the Commission is concerned that if an understanding is not reached, preserving the status quo ante of the Peters Consumer Water Soluble Fertilizer Business (as defined in Paragraph I of the Consent Order) and Miracle-Gro during the period prior to the final acceptance of the Consent Order by the Commission (after the 60-day public comment period), divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy;

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, or Miracle-Gro and the Commission's right to have the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, and Miracle-Gro continue as viable competitors;

Whereas, the Commission is concerned that the exchange of competitively sensitive information between persons operating and managing Miracle-Gro, the Peters Business, and the Peters Consumer Water Soluble Fertilizer Business may lessen the competitive viability of any divestiture if the Commission accepts the proposed Consent Order and makes it final;

Whereas, the purposes of the Hold Separate and the Consent Order are:

1. To preserve the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, and Miracle-Gro as viable, independent businesses pending the Commission's final approval of the Consent Order and the divestiture of a viable and ongoing enterprise,

2. To remedy any anticompetitive effects of the Acquisition,

3. To preserve the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, and Miracle-Gro as ongoing and competitive entities engaged in the same business in which they are presently employed until the Commission gives final approval to the Consent Order and the divestiture is achieved, and

4. To protect the competitive viability of Miracle-Gro, the Peters Business, and the Peters Consumer Water Soluble Fertilizer Business by preventing the exchange of competitively sensitive information among persons managing or operating those businesses;

Whereas, Scotts' entering into this Hold Separate shall in no way be construed as an admission by Scotts that the Acquisition is illegal;

Whereas, Scotts understands that no act or transaction contemplated by this Hold Separate shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Hold Separate:

Now, Therefore, the parties agree, upon the understanding that the Commission has not yet determined whether the acquisition will be challenged, and in consideration of the Commission's agreement that it will not seek further relief from Scotts with respect to the Acquisition if the Consent Order is made final, except that the Commission may exercise any and all rights to enforce this Hold Separate, the Consent Order to which it is annexed and made a part thereof and the Order, once it becomes final, and in the event that the required divestiture is not accomplished, to appoint a trustee to seek divestiture of the Peters Consumer Water Soluble Fertilizer Business or the Peters Business pursuant to the Consent Order, as follows:

1. Scotts agrees to execute and be bound by the Consent Order.

2. To ensure the complete independence and viability of the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, and Miracle-Gro and to assure that no competitive information is exchanged between Miracle-Gro and either the Peters Consumer Water Soluble Fertilizer Business or the Peters Business, Scotts shall hold Miracle-Gro separate and apart as it is presently constituted, from the date this Hold Separate is accepted until the earlier of the completion of the divestiture obligations required by the Consent Order or three (3) days after the Commission withdraws its acceptance of the Consent Order pursuant to § 2.34 of the Commission's rules, on the following terms and conditions:

a. Except as required by law, and except to the extent that necessary information is exchanged in defending investigations or litigation, obtaining legal advice, or complying with this Hold Separate or the Consent Order, Scotts (including, but not limited to, any officer, director, employee, or agent of Scotts) shall not receive or have access to, or the use of, any material confidential information of Miracle-Gro or the activities of the board of directors of Miracle-Gro (the ''Miracle-Gro Board'') not in the public domain that relates to Water Soluble Fertilizer, nor shall Miracle-Gro (including, but not limited to, any officer, director, employee or agent of Miracle-Gro) receive or have access to, or the use of, any material confidential information of Scotts or the activities of the board of directors of Scotts (the ''Scotts Board'') not in the public domain that relates to Water Soluble Fertilizer; provided, however, after the Consent Order is made final, Scotts and Miracle-Gro may exchange information concerning Water Soluble Fertilizer sold outside the United States. Scotts may receive on a regular basis from Miracle-Gro aggregate financial and other information necessary to allow Scotts to file financial reports, tax returns, personnel reports, and reports with the Securities and Exchange Commission. Any such information that is obtained pursuant to this subparagraph shall be used only for the purpose set forth in this subparagraph. (''Material confidential information,'' as used herein, means competitively sensitive or proprietary information not independently known to Scotts from sources other than Miracle-Gro or the Miracle-Gro Board and includes but is not limited to customer lists, price lists, prices, marketing methods, advertising plans,

patents, technologies, processes, or other trade secrets.)

b. Except as expressly provided in this Hold Separate, all manufacturing, sales, licensing, and other business relationships relating to Water Soluble Fertilizer between Scotts and Miracle-Gro shall be conducted at arm's length and on commercial terms available to other persons. Furthermore, Scotts and Miracle-Gro may not integrate or coordinate the marketing of the products of Scotts and Miracle-Gro.

c. Scotts shall circulate a notice of this Hold Separate and Consent Order, in the form attached hereto as Attachment A, to the management employees (including, but not limited to, officers) of Scotts and Miracle-Gro (including, but not limited to, members of the board of directors of Scotts (the ''Scotts Board'') and members of board of directors of Miracle-Gro (the ''Miracle-Gro Board''), as well as to any employees or agents of Scotts or Miracle-Gro who participate directly or indirectly in managing or operating any business affected by this Hold Separate or the Consent Order. Scotts shall also appropriately display a notice of this Hold Separate and Consent Order in the form attached hereto as Attachment A.

d. Scotts shall report in writing to the Commission every sixty (60) days concerning Scott's efforts to accomplish the purposes of this Hold Separate.

e. Scotts shall maintain the marketability, viability, and competitiveness of the Peters Consumer Water Soluble Fertilizer Business and the Peters Business, and shall not cause or permit the destruction, removal, wasting, deterioration, or impairment of any assets or business it may have to divest except in the ordinary course of business and except for ordinary wear and tear, and Scotts shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the marketability, viability or competitiveness of the Peters Consumer Water Soluble Fertilizer Business or the Peters Business.

f. Scotts shall continue to provide to the Peters Business and the Peters Consumer Water Soluble Fertilizer Business such support services as it provided during the twelve (12) months and the calendar year prior to the acceptance of the Consent Order by the Commission. The Peters Business and the Peters Consumer Water Soluble Fertilizer Business shall be staffed with sufficient employees to maintain the viability and competitiveness of the Peters Business and the Peters Consumer Water Soluble Fertilizer Business, which employees shall be the employees of the Peters Business or Peters Consumer Water Soluble Fertilizer Business that have managed and operated the Peters Business and the Peters Consumer Water Soluble Fertilizer Business during the twelve (12) months prior to the Commission's acceptance of Consent Order by the Commission and may also be hired from sources other than the Peters Business or the Peters Consumer Water Soluble Fertilizer Business. The compensation of the management employees of the Peters Business and the Peters Consumer Water Soluble Fertilizer Business shall be based in significant part on the sales of the Peters Business or the Peters Consumer Water Soluble Fertilizer Business, as applicable. Scotts shall facilitate the efforts of the Peters Business and the Peters Consumer Water Soluble Fertilizer Business to promote Peters products (including, but not limited to Peters Consumer Water Soluble Fertilizer products) to retailers, both at trade shows and otherwise, pending the divestiture required by the Consent Order. Scotts' obligation to facilitate those efforts shall include, without limitation, permitting the Peters Business and the Peters Consumer Water Soluble Fertilizer Business to participate either with Scotts or independently in all industry trade shows. Scotts shall provide the Peters Business and the Peters Consumer Water Soluble Fertilizer Business with any funds to accomplish the foregoing.

g. Scotts shall cause the Peters Consumer Water Soluble Fertilizer Business to expend in 1995 at an annual rate at least equal to the funds expended for 1993 or 1994 (whichever is greater) for advertising and promotion of Peters Consumer Water Soluble Fertilizer during 1995 and shall cause the Peters Consumer Water Soluble Fertilizer Business to increase such spending as reasonably necessary in light of competitive conditions. If the Peters Consumer Water Soluble Fertilizer Business is not divested by December 31, 1995, then Scotts shall thereafter cause the Peters Consumer Water Soluble Fertilizer Business to expend for advertising and promotion of Peters Consumer Water Soluble Fertilizer at an annual rate of no less than 200 percent of the amount expended for 1995 for that purpose until such time as divestiture has been accomplished.

h. The Peters Business shall be staffed with sufficient employees to maintain the viability and competitiveness of the Peters Business, which employees shall be the employees of the Peters Business that have managed and operated the Peters Business during the twelve (12) months prior to the Commission's acceptance of Agreement by the Commission and may also be hired from sources other than the Peters Business. Each Peters Business management employee shall execute a confidentiality agreement prohibiting the disclosure of any confidential information of the Peters Business.

3. Scotts agrees that it will comply with the provisions of this Paragraph 3 of this Hold Separate, in addition to the terms and conditions in Paragraph 2, from the date this Hold Separate is accepted until the earlier of the Commission's final approval of the Consent Order or three (3) days after the Commission withdraws its acceptance of the Consent Order pursuant to Section 2.34 of the Commission's Rules:

a. All earnings and profits of Miracle-Gro shall be retained separately by Miracle-Gro. Miracle-Gro shall be held separate and apart and shall be operated independently of Scotts except to the extent that Scotts must exercise direction and control over Miracle-Gro to assure compliance with this Agreement or the Consent Order. Except as expressly provided in this Hold Separate, all manufacturing, sales, licensing, and other business relationships between Scotts and Miracle-Gro shall be conducted at arm's length and on commercial terms available to other persons.

b. Except as required by law, and except to the extent that necessary information is exchanged in defending investigations or litigation, obtaining legal advice, or complying with this Hold Separate or the Consent Order, Scotts (including, but not limited to, any officer, director, employee, or agent of Scotts) shall not receive or have access to, or the use of, any material confidential information of Miracle-Gro or the activities of the Miracle-Gro Board not in the public domain, nor shall Miracle-Gro (including, but not limited to, any officer, director, employee or agent of Miracle-Gro) receive or have access to, or the use of, any material confidential information about the Peters Consumer Water Soluble Fertilizer Business or the Peters Business not in the public domain. Scotts may receive on a regular basis from Miracle-Gro aggregate financial and other information necessary to allow Scotts to file financial reports, tax returns, personnel reports, and reports with the Securities and Exchange Commission. Any such information that is obtained pursuant to this subparagraph shall be used only for the purpose set forth in this subparagraph.

c. Scotts shall not change the composition of the Miracle-Gro Board and, except as expressly provided in this Hold Separate, Scotts shall not change the composition of the management of Miracle-Gro (except that the Miracle-Gro Board shall have the power to remove management employees for cause) and members of the Miracle-Gro Board shall not serve as officers, directors, employees, or agents of Scotts. Scotts shall not exercise direction or control over, or influence directly or indirectly, Miracle-Gro or the Miracle-Gro Board; provided, however, Scotts may exercise only such direction and control as is necessary to assure compliance with this Hold Separate, the order and with all applicable laws. Meetings of the Scotts Board and meetings of the Miracle-Gro Board shall be audio recorded and the recording retained for two (2) years after the termination of the Hold Separate. Notwithstanding, in order to maintain Miracle-Gro's value, Scotts may direct the management of Miracle-Gro with regard to the following matters: investment decisions relating to Miracle-Gro's cash, decisions relating to the handling of claims and litigation, proposed acquisitions and divestitures outside of the ordinary course of business, and changes in Miracle-Gro's corporate structure.

d. The Chairman of the Miracle-Gro Board shall have the power to remove members of the Miracle-Gro Board for cause and to require Scotts to appoint replacement members to the Miracle-Gro Board who are not officers, directors, employees, or agents of Scotts. If the Chairman of the Miracle-Gro Board ceases to act or fails to act diligently, a substitute chairman shall be appointed from among the members of the Miracle-Gro Board.

e. If necessary, Scotts shall provide Miracle-Gro with sufficient working capital to maintain the same level of sales as during the twelve (12) months preceding the date of the Hold Separate.

f. All material transactions of Miracle-Gro, out of the ordinary course of business and not precluded by this Hold Separate, shall be subject to a majority vote of the Miracle-Gro Board. The Miracle-Gro Board shall serve at the cost and expense of Scotts. Scotts shall indemnify the Miracle-Gro Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Miracle-Gro Board directors.

g. Scotts shall take all reasonable steps, consistent with the other provisions of this Hold Separate, to maintain the marketability, viability, and competitiveness of Miracle-Gro, and not to cause or permit the destruction, removal, wasting, deterioration, or impairment of any assets or business it may have to divest except in the ordinary course of business and except for ordinary wear and tear, and Scotts shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the marketability, viability or competitiveness of Miracle-Gro.

4. Should the Federal Trade Commission seek in any proceeding to compel Scotts to divest itself of the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, Miracle-Gro, or any additional assets, or to seek any other equitable relief, Scotts shall not raise any objection based on the expiration of the applicable Hart-Scott-Rodino Antitrust Improvement Act waiting period or the fact that the Commission has permitted the Acquisition. Scotts also shall waive all rights to contest the validity of this Hold Separate.

5. For the purpose of determining or securing compliance with this Hold Separate, subject to any legally recognized privilege, and upon written request with reasonable notice to Scotts made to its General Counsel, Scotts, the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, and Miracle-Gro shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Scotts, the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, or Miracle-Gro and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Scotts, the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, or Miracle-Gro relating to compliance with this Hold Separate;

b. Upon five (5) days notice to Scotts, the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, or Miracle-Gro and without restraint or interference from it, to interview officers or employees of Scotts, the Peters Consumer Water Soluble Fertilizer Business, the Peters Business, or Miracle-Gro, which officers or employees may have counsel present, regarding any such matters.

6. This Hold Separate shall not be binding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

The Scotts Company (''Scotts'') has entered into an Agreement Containing Consent Order (''Consent Order'') and an Agreement to Hold Separate with the Federal Trade Commission (''Commission'') relating to the divestiture of the Peters Consumer Water Soluble Fertilizer Business or the Peters Business. Until after the Commission's order becomes final and the Peters Consumer Water Soluble Fertilizer Business or the Peters Business is divested, Stern's Miracle-Gro Products, Inc. (''Miracle-Gro'') must be managed and maintained as a separate, ongoing business, independent of all other Scotts businesses. All competitive information relating to Miracle-Gro must be retained and maintained on a confidential basis by the persons involved in Miracle-Gro, and such persons are prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Scotts business, including the Peters Consumer Water Soluble Fertilizer Business or the Peters Business.

Any violation of the Agreement Containing Consent Order or the Agreement to Hold Separate, incorporated by reference as part of the Agreement to Hold Separate, incorporated by reference as part of the Agreement Containing Consent Order, may subject Scotts to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Agreement'') from the Scotts Company (''Scotts'').

The proposed Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

Scotts has proposed to acquire the outstanding voting securities of Stern's Miracle-Gro Products, Inc. (''Miracle-Gro'') in exchange for voting securities of Scotts. Scotts and Miracle-Gro value the transaction at approximately $200 million. The proposed complaint alleges that the merger, if consummated, would violate section 7 of Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

The complaint alleges that Scotts and Miracle-Gro compete in the market for water soluble fertilizer for United States consumer use. Scotts sells consumer water soluble fertilizer under the Peters brand name, while Miracle-Gro sells consumer water soluble fertilizer under the Miracle-Gro brand name. The proposed complaint alleges that the merger would significantly increase concentration in an already highly concentrated market, combining a firm with a 70 percent market share and a firm with a six to seven percent market share. The proposed complaint also alleges that timely entry on a competitively meaningful scale would require a significant sunk investment in advertising. Entry is likely to require a significant amount of time because of the seasonal nature of the consumer lawn and garden industry and consumer reluctance to try new fertilizer brands. The proposed complaint concludes that the merger would increase the likelihood of unilateral anticompetitive behavior by the merged firm, because Miracle-Gro consumer water soluble fertilizer is the closest substitute for Peters consumer water soluble fertilizer. In addition, the complaint alleges that the merger would increase the likelihood of coordinated interaction among marketers of consumer water soluble fertilizer.

The proposed Order would remedy the alleged violation by replacing the lost competition that would result from the merger of Scotts and Miracle-Gro. The proposed Order would require Scotts to divest the Peters consumer water soluble fertilizer business, including the exclusive right to sell products to consumers under the Peters brand name. The divestiture is to be made either (1) to Alljack & Co. or (2) to an acquirer approved by the Commission. In order to ensure that the acquirer would be able to step quickly into Scotts' shoes in marketing Peters water soluble fertilizer, the proposed Order requires Scotts to divest its inventory and to enter into an interim year supply agreement with the acquirer. After the expiration of the supply agreement, the acquirer will be able to either manufacture or to have a supplier manufacture water soluble fertilizer identical to the water soluble fertilizer supplied by Scotts under the supply agreement. The proposed Order prohibits Scotts from putting the Scotts brand name on water soluble fertilizer for consumer use for a period of two (2) years to prevent activity that might undermine the Peters brand for a reasonable transition period after the divestiture.

A Hold Separate Agreement signed by Scotts provides that Miracle-Gro will be operated independently of Scotts, pending the Commission's final approval of the proposed Order. The Hold Separate Agreement also requires Scotts to maintain the viability of the Peters consumer water soluble fertilizer business and limits the exchange of certain information pending divestiture.

The proposed Order provides that Scotts shall divest the Peters consumer water soluble fertilizer business no later than December 31, 1995. If Scotts does not divest the Peters consumer water soluble fertilizer business during the allotted time period, then a trustee may be appointed to divest the business. If the trustee does not divest the business within six (6) months, then the trustee may divest the entire Peter business (consisting of all consumer and professional horticultural products sold under the Peters brand name, as well as the assets needed to manufacture and sell those products) within a twelve (12) month period. The proposed Order requires Scotts to submit a report of compliance with the proposed Order's divestiture requirements within sixty (60) days following the date the proposed Order becomes final, and every sixty (60) days thereafter until Scotts has completed the divestiture.

Finally, the proposed Order prohibits Scotts from acquiring any interest in any other company engaged in the sale of water soluble fertilizer for consumer use, without prior approval from the Commission, for a period of ten (10) years.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–14693 Filed 6–14–95; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Intent To Prepare an Environmental Impact Statement for the Development of a Clifton Road Campus Annex for the Centers for Disease Control and Prevention, Atlanta, Georgia

Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR 1500–1508), as implemented by General Services Administration (GSA) Order PBS P 1095.4B, GSA announces its intent to prepare an Environmental Impact Statement (EIS) for the long-term development of a campus annex (West Campus) to house the Centers for Disease Control and Prevention (CDC).

The EIS will examine the short and long term impacts on the natural and built environments of developing and operating a mix of laboratory, office, and support space at the proposed West Campus. Potential impact assessment areas include but are not limited to air, water, public facilities & infrastructure, plant & animal life, transportation systems, parking, and community & economic issues.

The EIS will also examine measures to mitigate unavoidable adverse impacts of the proposed action. Concurrent with NEPA implementation, GSA will also implement its consultation requirements under Section 106 of the National Historic Preservation Act to determine the potential impacts of the proposed action on historic & cultural resources.

CDC's existing Main Campus occupies 27.6 acres, and is bounded by Clifton Road to the north, Michael Street to the south and east, and Clifton Way to the west.

CDC currently occupies approximately 884,000 gross square feet in 17 buildings, housing some 1,900 personnel. Approximately 60 percent of gross square footage consists of laboratory space, the remainder being office, administrative, and facility support space. There are approximately 1,800 parking spaces on site.

To meet CDC's known facility replacement needs, and to provide future expansion space, GSA proposes to acquire and develop approximately 16.8 acres bounded by Clifton Road to the north, Clifton Way to the east, and Michael Street to the south and west (West Campus). The maximum anticipated development over a twenty year planning horizon is approximately 633,000 additional gross square feet of laboratory, office, and support space, and 2,300 parking spaces.

GSA has identified the following alternatives to be examined in the EIS:

- ''No Action,'' that is, undertake no site acquisition and development at all.
- Development of the proposed West Campus Site, previously described in this Notice. This is the GSA/CDC preferred alternative.
- Development of the proposed West Campus housing requirements on the Main Campus.

GSA may examine alternative levels of development based on CDC's known and projected requirements in response to public comments received during the NEPA analysis period.

As part of the public scoping process, GSA encourages you to contact us in writing at the following address with your concerns regarding the proposed action: Mr. George Chandler, Technical Services Team Leader, PBS Portfolio Management—4PT, 401 West Peachtree Street, NW, Suite 3000, Atlanta, GA 30365, or, FAX your comments to Mr. Chandler at 404–331-4540. Comments should be postmarked no later than July 9, 1995.

GSA intends to conduct a Public Scoping Meeting to solicit comments, and to address general questions concerning the proposed action and NEPA. GSA will place a Notice of this and all subsequent public meetings and document releases concerning the proposed action in the Atlanta Journal-Constitution approximately two weeks prior to the event. GSA will notify persons and organizations on our mailing list by mail. Persons who wish to be added to the mailing list should write or FAX GSA as indicated in this Notice.

Dated: June 1, 1995.

Jimmy H. Bridgeman,

Assistant Regional Administrator, Public Buildings Service.

[FR Doc. 95–14613 Filed 6–14-95; 8:45 am]

BILLING CODE 6820–23–M

Intent To Prepare an Environmental Impact Statement for the Fresno United States Courthouse, CA

AGENCY: General Services Administration.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) for a new United States Courthouse.

SUMMARY: The action to be evaluated by this EIS is the construction of a new United States Courthouse in Fresno, California. The facility will be located on an approximately 4.5 acre site and includes construction of 392 subterranean and surface parking spaces.

ALTERNATIVES: The EIS will evaluate four alternative sites. Three of the sites are located in the downtown area of the city while the fourth is located in north Fresno. In addition, as required by the National Environmental Policy Act (NEPA), the EIS will also analyze the ''No Action'' alternative as a baseline for gauging the impacts of not building a new courthouse.

PUBLIC INVOLVEMENT: The public will be invited to participate in reviewing the Draft EIS and a public meeting that will be held at the City of Fresno Council's Chambers, 2600 Fresno Street in Fresno, California from 4:30 p.m. to 7:00 p.m. on June 16, 1995. A copy of the DEIS is available for public review at the Fresno County Library, 2420 Mariposa Street in Fresno, and at GSA's Field Office at the B.F. Sisk Federal Building—United

States Courthouse, 1130 'O' Street in Fresno.

POINT OF CONTACT: Mr. Javad Soltani, Asset Manager, United States General Services Administration, The Pacific Rim Region, at (415) 744–5255.

Dated: June 6, 1995.

Aki K. Nakao,

Deputy Regional Administrator.

[FR Doc. 95–14614 Filed 6–14–95; 8:45 am]

BILLING CODE 4820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Child Welfare Waiver Demonstrations Pursuant to Section 1130 of the Social Security Act (the Act); Titles IV–E and IV–B of the Act; Public Law 103–432

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Public notice.

SUMMARY: This public notice announces that the Department of Health and Human Services (Department) is seeking proposals on child welfare demonstration projects and informs interested parties of (1) the principles the Department will consider in exercising its discretion to approve or disapprove demonstration projects under the authority in section 1130 (b) (of Part A of title XI) of the Social Security Act, added by Pub. L. 103–432; (2) the procedures the Department expects States to employ in involving the public in the development of proposed demonstration projects under section 1130; and (3) the procedures the Department will follow in receiving demonstration proposals. The principles and procedures described in the public notice are being provided for the information of interested parties and are not legally binding on the Department. This notice does not create any right or benefit, substantive or procedural, enforceable at law or equity, by any person or entity, against the United States, its agencies or instrumentalities, the States, or any other person.

FOR FURTHER INFORMATION CONTACT: Michael W. Ambrose, Children's Bureau, Administration on Children, Youth and Families, HHS at (202) 205–8740.

SUPPLEMENTARY INFORMATION:

I. Introduction

Demonstration Proposals Pursuant to Section 1130 of the Social Security Act—General Policies and Procedures

Under section 1130, the Department of Health and Human Services is given authority to permit as many as ten States to conduct demonstration projects which involve the waiver of certain requirements of titles IV–B and IV–E, the sections of the Social Security Act which govern foster care, adoption assistance, independent living, child welfare services, family preservation and support, and related expenses for program administration, training, and automated systems.

The Department desires to facilitate the testing of new approaches to the delivery of a broad range of child welfare services. Such demonstrations can provide valuable knowledge that will help lead to improvements in the delivery, effectiveness and efficiency of services. The Department is committed to both a thorough and an expeditious review of State requests to conduct such demonstrations.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. In order to ensure a sound, expeditious and open decision-making process, the Department will be guided by the policies and procedures described in this statement in accepting and reviewing proposals submitted pursuant to Section 1130.

II. Background

The child welfare system is in a period of great crisis and great challenge. Current social and economic forces are placing enormous pressures and stresses on children and families and on the professionals and agencies that serve them. Rising rates of child and family poverty, a greater number of teen pregnancies, the substance abuse and AIDS epidemics and the increasing levels of interpersonal and community violence have resulted in a loss of family strength and unity and increasing multiple challenges to very fragile families. These issues have resulted in increasing caseloads, consisting of much more complex family problems. Community and State agencies with limited resources are struggling to address these issues.

New, creative efforts are needed to stimulate meaningful changes in the delivery of child welfare services and foster more effective methods of service delivery to children and families. Throughout the country, local and State child welfare agency administrators are developing innovative responses to these circumstances. Knowledgeable child welfare professionals are developing new solutions to these challenges even when faced with insufficient resources. In order to meet the existing service needs of families with diminishing resources, more flexibility is needed in devising service programs.

In addition, a wide range of efforts is underway to foster more effective working relationships among Federal, State and local governments which will strengthen Federal-State partnerships in developing a responsive child welfare service delivery system. This new partnership is an integral part of several programs administered by the Administration for Children and Families (ACF). For example, the Family Preservation and Support Services program (Subpart 2 of title IV–B of the Social Security Act) provides funds to assist States in assessing the needs of children and families, re-examining the States' systems for meeting such needs, and developing a five-year plan for the implementation of family preservation and support services and for the accomplishment of systems change. The Family Preservation and Support planning process is designed to involve all the stakeholders and other appropriate parties in an effort to improve services for children and families.

Another aspect of the Family Preservation and Support effort provides funds for State Courts to assess their role in responding to the needs of children and families, and develop improvement plans based on these self-assessments. The Statewide Automated Child Welfare Information System (SACWIS) provides funds, at the rate of 75 percent Federal share, for the development or expansion of child welfare information systems which will help States link child welfare program data and operations with other programs, especially AFDC and child abuse and neglect programs.

Another key example of the Department's efforts to foster more effective working relationships is the development of a new outcomes-based approach to child welfare monitoring. Several States have agreed to participate with ACF in the conduct of monitoring pilot tests during fiscal year 1995.

General Considerations

Principles

The implementation of the Child Welfare Waiver Demonstration Project will be guided by the principles

enumerated below. Projects conducted under this waiver authority must according to statute:

♦ Be consistent with the purposes of titles IV-B and IV-E of the Social Security Act in providing child welfare services, including foster care and adoption, that is:

—Assure the safety of children and protect the rights of children and their families; and

—Ensure permanency for children through intensive family preservation and support or through reunification or adoption efforts;

♦ Be cost neutral to the federal government for the duration of the project period; and

♦ Ensure that benefit eligibility to a qualified child or family will not be impaired.

In addition, the demonstration project should also be guided by the following principles:

♦ Focus on improving outcomes for children and families and the efficacy with which services are provided;

♦ Be open to public scrutiny at the local, State and Federal levels, and be based upon broad consultation and full opportunity for public comment;

♦ Provide services in which the level of State intrusion into family life is consistent with the seriousness of the risks to family members;

♦ Comply with appropriate civil rights statutes and regulations; and

♦ Present a policy-relevant hypothesis that is testable by a well-designed evaluation plan.

Objectives

In implementing the waiver demonstrations, the Administration for Children and Families proposes to encourage States to test programmatic hypotheses which accomplish certain service delivery program goals. Some of the general objectives to be considered by the States in developing their demonstration projects may include the following:

♦ Development of family focused, strengths-based, community-based service delivery networks that enhance the child-rearing abilities of families to enable them to remain safely together in their homes whenever possible;

♦ Better results for children and families, such as: Better assuring the safety and protection of children; enhancing and enriching child development; strengthening family functioning and averting family crises; providing early intervention to avoid out-of-home placement; reducing the time that children are separated from their families; speeding the process by which children who cannot return home are freed for adoption and adopted; or preparing young people in foster care for independent living;

♦ Knowledge which, when confirmed by rigorous evaluation, can be employed by other States and Federal policymakers to improve outcomes for children and families or increase efficiency or both;

♦ Innovation and State demonstrations of the benefits available from thoughtful initiatives developed at the State or local level; and

♦ Information and experience on which to base legislative changes.

Also, in the testing of new program approaches to the delivery of child welfare services, the Department will consider proposals which involve parallel projects of title IV-A (AFDC) waivers. Associated title IV-A waiver requests must be included in the proposal for titles IV-B and E waivers. However, cost neutrality must be measured for titles IV-B and E separately from the cost neutrality calculations associated with other waivers.

While the Department expects to review a range of proposals, it may disapprove or limit proposals on policy grounds or because the proposal creates potential constitutional problems or violations of civil rights laws or equal protection requirements. The Department seeks proposals which enhance the quality of and access to services. Within this overall policy framework, the Department is prepared to:

—Grant waivers to test the same or related policy innovations in multiple States (replication is a valid mechanism by which changes can be assessed); and

—Approve waiver demonstration projects ranging in scale from reasonably small to statewide.

Because this waiver authority must be limited to ten States, the Department will give preference to proposals which would test policy alternatives which are unique; which differ in their approach to serving families and children; and which differ in significant ways from other proposals. However, the Department encourages States which may be planning to propose demonstration projects which are similar to each other, to consider collaborating on the design of the projects and their evaluations, to produce a test of the same demonstration project in diverse settings.

Provisions Not Subject To Waiver

Section 1130 (b)(1) excludes certain provisions of titles IV–E and IV–B from waiver. They are:

A. Certain protections for children in foster care and their families, formerly required by section 427 of the Social Security Act (now section 422(b)(9), which will become effective April 1, 1996, will make those protections an element of a State's Child Welfare Services State Plan). These protections are fully explained in section 475 of the Act. This excludes from waiver: (1) All the protections having to do with periodic reviews of the status and progress of foster care cases; (2) dispositional hearings to determine or confirm the future plan for the child and to determine whether an independent living plan is needed for older children in care; (3) requirements that certain information be contained in a child's case plan; (4) protections for the child such as requirements that the placement be the most family-like setting and in close proximity to the parents' home; and (5) protections for the family such as procedural safeguards to assure that parental rights are respected.[1]

B. Section 479 which establishes the Adoption and Foster Care Data collection requirements.

C. Any provision of title IV–E to the extent that a waiver would impair the entitlement of any qualified child or family to benefits including the provisions of sections 471 (a)(8) and (12) which provide for confidentiality and fair hearings, respectively.

All other provisions are available to be waived. (See Appendix I for a brief listing of possible waivable provisions. This listing should be considered only as a list of possible suggestions and not an all-encompassing list of possible waivers.)

III. Duration

Section 1130 (d) of the Social Security Act limits the duration of the waiver demonstration to not more than five years. The Department will consider demonstrations with a duration of less than five years, and will work with States to:

♦ Approve waivers of sufficient duration to give new approaches a fair test. The duration of waiver approval should be commensurate with the magnitude and complexity of the

[1] While the *documentation* often associated with section 427 protections is not a statutory requirement, and therefore needs no waiver, some States may be interested in proposing alternative, less burdensome methods of assuring compliance with the law. The Department would entertain such alternative methods, even if no formal waiver is required.

project. For example, a large-scale statewide program may require the full five years. Smaller projects, for example a one-to several county demonstration effort, may demonstrate their effectiveness and utility in a shorter timeframe;

♦ Provide reasonable time for the preparation of meaningful evaluation results of the demonstration project; and

♦ Determine a reasonable start date for the project recognizing that new approaches often involve considerable start-up time.

Prior to final approval, negotiated agreements will be established between the State and the Department which include provisions to cancel/suspend/modify the demonstration project: (1) If it is determined that, in the conduct of the project, appropriate and sufficient services cannot be provided to eligible participants or the safety and protection of children would be jeopardized; or (2) for any other reason deemed adequate and sufficient for suspension/cancellation by the State or the Department.

IV. Evaluation

Section 1130 (f) requires that each State authorized to conduct a waiver demonstration project obtain an evaluation by an independent contractor to assess the effectiveness of the project. The evaluation plan, at a minimum, must provide for:

(1) A comparison of outcomes for children and families, and groups of children and families, under the project and such outcomes under an existing State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

(2) A comparison of methods of service delivery under the project and such methods under a State plan or plans, with respect to efficiency, economy and any other appropriate measures of program management.

Section 1130 (e)(1) requires the proposal to describe both the children and families who would be served by the waiver demonstration project and the services which would be provided. The Department is committed to testing a range of program strategies. The Department encourages, where appropriate, that the proposal provide for random assignment of children and families to groups served under the project and control groups, but is open to various other evaluation techniques. For example, in a proposed demonstration effort that would necessarily affect 100% of the population to be served, a random assignment methodology would not be appropriate.

The Department is also eager to ensure that the evaluation process be as unintrusive as possible to the clients in terms of implementing and operating the approach to be demonstrated, while ensuring that critical lessons are learned from the demonstration effort.

If the State proposes an alternative to random assignment, the proposal must include a justification explaining why random assignment is not appropriate and how the alternative methodology will meet evaluation needs.

The evaluation design must include a clear statement of the evaluation questions.

The State demonstration project managers must meet with Department staff within 30 days after project approval to finalize the evaluation design and reporting schedule and make changes, as necessary. In general, the Department will require an evaluation update report at 12 months; an Interim Evaluation Report to be submitted within 30 months after project start-up; another update report at 48 months; and a Final Evaluation Report to be submitted 90 days after the project ends.

The costs of the required independent evaluation of each State's demonstration project will be excluded from the cost-neutrality calculation. In addition, the costs for the development of the proposal and the evaluation design as well as the costs of the evaluation itself, may be charged to title IV–E administrative costs without cost allocation, so that States may claim a full fifty percent of these costs as title IV–E administrative costs.

Subject to the availability of funding, a national contract will be awarded to collect information from the approved demonstration projects; produce annual reports for the Department and the general public; collect, analyze and report the results of each demonstration project; and prepare a national summary of the Child Welfare Waiver Demonstrations at the completion of the project period. All approved applicants must provide an assurance that they will agree to cooperate and collaborate in this evaluation effort. Periodic meetings between the national contractor and the ten evaluators will be held in order to coordinate the evaluation of the waiver demonstration project. It is anticipated that there will be one coordination meeting annually in addition to the other required meetings indicated in this Public Notice.

V. Cost Neutrality

Section 1130 (g) requires that the waiver demonstration project be cost-neutral, that is, the total amount of federal funds used to support the demonstration project, over the approved project period, will not exceed the amount of federal funds that would have been expended by the State under the State plans approved under Parts B and E of title IV if the waiver demonstration project were not conducted. The Department will monitor demonstration projects, as outlined in this section and elsewhere in this Announcement, to track interim results and spending, and to assure federal cost neutrality, where needed, as the demonstration project progresses. The Department will work with a State to maintain cost neutrality throughout the period of the demonstration project, by modifying the project or taking other appropriate action.

The Department will allow States to project cost neutrality over the life of a demonstration project, rather than on a year by-year basis, since many demonstrations involve making ''up-front'' investments in order to achieve out-year savings. The Department will set a cap on the total ''up-front'' federal dollar amount associated with any demonstration project. The determination of cost-neutrality will be completed before the demonstration project begins, and fiscal effects will be carefully monitored, along with other project results, as the demonstration project progresses and the State submits the required fiscal and programmatic reports.

Waivers will not be granted if the Department determines that up-front costs present too great a risk to the maintenance of cost neutrality over the life of the project. Should added federal costs attributable to the demonstration project exceed projections or a cap on up-front costs, continuation of the demonstration project will be conditioned on modification of the project or other action that will maintain federal cost neutrality.

The Department encourages, where appropriate, the use of random assignment of individuals for evaluation and as a method for determining the fiscal effects of the demonstration project but recognizes that this method may not be appropriate for certain demonstration projects. In randomly assigning individuals to experimental and control groups, the costs associated with the control group (foster care rates and administrative costs) become the baseline for cost neutrality (i.e., the average cost for a control group case is assumed to be the amount that would have been spent on each experimental case). If an alternative method is proposed, then other methods of measuring cost neutrality should be used. In the proposal, States should

outline the projected costs for the demonstration project and detail:

—The method by which current costs have been derived, and their basis;
—The method for projecting costs of the demonstration, and for projecting the costs which would have been incurred in the absence of a demonstration, and their bases;
—Any factors the State may propose for adjusting cost estimates over the life of the demonstration project, and their bases; and
—The method the State proposes for measuring costs during the demonstration, including actual costs of the demonstration, and the frequency, nature, and specific cost elements of proposed fiscal reports.

The Department recognizes the difficulty of projecting and measuring title IV-E and title IV-B expenditures, and is open to methodology(ies) the State(s) may propose. However, the Department favors random assignment, where appropriate, as the methodology for the evaluation component, and as a method for determining the fiscal effects of a demonstration as well. The Department will work with States in measuring actual fiscal experience against cost projections. Fiscal reports on the demonstration project will be due on a quarterly or at least a semi-annual basis.

States may be required to conform, within a reasonable period of time, relevant aspects of the demonstrations to changes in Federal legislation.

VI. Technical Assistance

Pre-approval technical assistance will be provided by Children's Bureau staff or Regional Office staff to any State which requests assistance in applying for a waiver demonstration project. Pre-approval consultation with the State can include answering specific questions, providing assistance with cost neutrality and cost allocation issues, reviewing draft proposals and referring States to sources of non-federal assistance for the formulation of evaluation plans.

Federal staff will not participate in determining the basic nature of a State's demonstration project, but will provide assistance related to preparing a proposal. The Department will provide technical assistance to all interested States, upon request, in order to speed approvals and improve the quality of the review process.

After approval, Federally-provided third-party technical assistance will be available, to a limited extent, to support approved demonstration projects. In addition, the Department will consider proposals from interested States for other partnership roles which the Department might assume (the conduct of a targeted program review, for example) and which would be memorialized in the waiver approval document.

The Department is committed to minimizing the administrative burden on the States, and the processing time for waiver proposals.

VII. Proposal Review

The proposals will be evaluated by a panel of federal officials, who will also consider any comments received from outside experts and the general public. Regional Office staff will be asked to complete an independent review of proposals submitted by States in their respective Regions; these reviews will be included in the final decision-making process. If the review discloses questions or issues with a proposal, Regional Office staff will be asked to contact the State for more information or to resolve the problem so that the process can continue. The State(s) will be permitted a reasonable period of time to address the issues raised by the review.

Deadlines

Deadlines are established to provide a fair and orderly process for review and approval. It is anticipated that proposals will be received on a ''rolling'' basis. *The deadline for the initial set of proposals, Round One, is July 31, 1995.* Proposals received by that date will be reviewed first and will be given priority for consideration. However, if there are not ten proposals in Round One, or there are not ten proposals approved after completion of the review, then additional proposals will be accepted and considered for approval. *Additional proposals will be received any time after the initial due date until September 30, 1995 (Round Two).* If the Department has not already approved ten child welfare waiver demonstration projects, additional proposals will be reviewed quarterly until ten proposals are approved. Once ten projects have been approved, all States will be notified and all proposals not approved will be returned.

Approvals will be announced as decisions are made. If a State can make a compelling argument for an expedited review, the Department will try to accommodate such a request.

If necessary, an agreement can be negotiated between the State and the Department to start the demonstration project at some date in the future. For example, if some action of the State legislature is required as an integral element of a demonstration, the five year period for that demonstration would not start until the legislature had acted.

Public comments will be solicited in the course of the review process. (See Section VIII.) The States will be asked to demonstrate that their proposals are based on broad consultation, such as focus groups and public forums, or legislative hearings.

VIII. State Notice Procedures

The Department recognizes that individuals who may be affected by a demonstration project have a legitimate interest in learning about proposed projects and having input into the decision-making process prior to the time a proposal is approved by the Department. The Department requires that States provide notification to the public that a waiver demonstration effort is being proposed.

A process that facilitates public involvement and input promotes sound decision-making. There are many ways that States can provide for such input. In order to allow for public input into the proposal, the Department will accept any process that:

♦ Includes the holding of one or more public hearings, at which the most recent working proposal is described and made available to the public, and time is provided during which comments can be received; or

♦ Uses a commission or other similar process, where meetings are open to members of the public, in the development of the proposal; or

♦ Results from enactment of a proposal by the State legislature prior to submission of the demonstration proposal, where the legislature holds one or more public hearings and the outline of such proposal is contained in the legislative enactment; or

♦ Provides for formal notice and comment in accordance with the State's administrative procedures act; provided that such notice must be given at least 30 days prior to submission; or

♦ Includes notice of the intent to submit a demonstration proposal in newspapers of general circulation, and provides a mechanism for receiving a copy of the working proposal and an opportunity, which shall not be less than 30 days, to comment on the proposal; or

♦ Includes any other similar process for public input that would afford an interested party the opportunity to learn about the contents of the proposal, and to comment on its contents.

The State shall include in the demonstration proposal it submits to the Department a description of the process that was used in the State to obtain

public input. If the Department determines that the process was inadequate to meet the standards set forth above, the State can resolve the inadequacy by posting a notice in the newspaper of widest circulation in each city with a population of 100,000 or more, or in the newspaper of widest circulation in the State if there is no city with a population of 100,000, indicating that a demonstration proposal has been submitted. Such notice shall describe the major elements of the proposed demonstration and any changes in benefits, payments, responsibilities, or provider selection requested in the proposal. The notice shall indicate how an interested person can obtain copies of the proposal and shall specify that written comments will be accepted by the State for a period of thirty days. If a State follows such a procedure, the State should respond to requests for copies of the proposal within seven days. The State should maintain a record of all comments received through this process.

The States must advise the public that comments regarding the proposed child welfare demonstration project can be made directly to ACF. Written comments can be submitted to Michael W. Ambrose, Children's Bureau, ACF, PO Box 1182, Washington, DC 20013.

All HHS commitments with respect to times for responding to demonstration proposals shall be delayed until this process in completed.

IX. Proposal Requirements

Any State seeking to conduct a waiver demonstration must submit a proposal which, at a minimum, must include:

(a) A description of the proposed project with an explanation of its purpose (for example, if the project is intended to overcome barriers to services, a statement to that effect, a description of the barriers, and a description of the process that will be used to overcome the barriers to service provision).

(b) Demographic information, including the geographic area(s) in which the proposed project will be conducted; and a description and an estimate of the number of children or families who would be served by the proposed project.

(c) A description of the services which will be provided by the proposed project.

(d) A copy of letters of agreement between the State and any county, municipality, foundation, private agency or any other governmental organization that is to be a participant in the waiver demonstration project.

(e) A statement of the period during which the proposed project will be conducted.

(f) A discussion of the benefits that are expected from the project as compared to the continuation of current service delivery activities, including a statement of the State's vision or overall purpose for the waiver demonstration; a statement explaining how the State expects service provision will be improved for children and families or any anticipated changes in the service delivery mechanism(s); and a statement explaining what goals/purposes/aims/outcomes the State expects to realize at the end of the demonstration effort and how service provision will have changed for children and families.

(g) An estimate of the costs or savings of the project, along with a description of the basis and methodology for cost estimates or projections and the proposed method for measuring actual costs.

(h) A statement of program requirements for which waivers will be needed to permit the proposed project to be conducted.

(i) A description of the proposed evaluation design.

(j) A description of the State's efforts to encourage and support linkages and coordination among existing planning bodies, for example, the family preservation/family support planning or an Empowerment Zone/Enterprise Community (EZ/EC) planning body to be involved in the monitoring, oversight or support of the proposed waiver demonstration.

(k) A description of any similar project already underway in the State that is supported by State or foundation funds and/or a statement on the State's ability to successfully implement the waiver demonstration project.

(l) A specific proposal, if any is needed, to waive provisions of title IV–A (AFDC) in order to support or enhance the efforts of the title IV–B or IV–E waiver demonstration. (In any event, cost neutrality must be maintained for title IV–B and E funds separately from title IV–A funds.)

X. Federal Notice

The Department intends to publish a periodic summary in the **Federal Register** of all new and pending proposals submitted pursuant to section 1130. The notice will indicate that the Department accepts written comments regarding all child welfare waiver demonstration project proposals.

The Department will maintain a list of organizations that have requested notice that a demonstration proposal has been received and will notify such organizations when a proposal is received.

XI. Comments

The Department will not approve or disapprove a proposal for at least 30 days after the proposal has been received, in order to receive and consider comments. The Department will attempt, if feasible, to acknowledge receipt of all comments, but the Department will not provide written responses to comments.

XII. Federal Role

Because of the special nature of this effort and the critical national implications, the overall management of the waiver demonstration project will be the responsibility of the Children's Bureau in Washington, DC. ACF Regional Office staff will have the principal responsibility for on-site liaison.

State program managers for the demonstration projects will be required annually to attend a four day meeting in Washington, DC, to be held in conjunction with the Children's Bureau National Child Welfare Conference, to discuss the demonstration projects' developments and progress. The cost of attendance will be excluded from the cost-neutrality calculation, and will be chargeable to title IV–E administrative costs without cost allocation.

XIII. Administrative Record

The Department will maintain an administrative record which will generally consist of: The formal demonstration application from the State; correspondence sent to the State regarding issues/problems with the application and the State's response; public and Congressional comments sent to the Department and any Department responses; the Department's decision memorandum regarding the granting or denial of a proposal; and the final terms and conditions, and waivers, sent to the State and the State acceptance of them.

XIV. Sub-State Demonstration

When a demonstration is to be implemented in only part of a State, the State will be required to provide information on the likely demographic composition of populations subject to and not subject to the demonstration in the State. When relevant, the Department will require that the evaluation component of a project address the impact of the project on particular subgroups of the population.

XV. Implementation Reviews

As part of the terms and conditions of any demonstration proposal that is granted, the Department may require periodic assessments of how the project is being implemented. The Department will review, and when appropriate investigate, documented complaints that a State is failing to comply with requirements specified in the terms and conditions and implementing waivers of any approved demonstration.

XVI. Legal Effect

This notice is intended to inform the public and the States regarding procedures the Department ordinarily will follow in exercising the Secretary's discretionary authority with respect to State demonstration proposals under section 1130. This notice does not create any right or benefit, substantive or procedural, enforceable at law or equity, by any person or entity, against the United States, its agencies or instrumentalities, the States, or any other person.

(Catalog of Federal Domestic Assistance Program Numbers 93.645, Child Services—State Grants; 93.658, Foster Care Maintenance; 93.659, Adoption Assistance)

Dated: June 12, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Appendix I

This is a list of program ideas that have been suggested by States or others in response to the Department's requests for suggestions. They are listed only as a means of outlining, for States interested in proposing a child welfare waiver demonstration project, the broad range of possible demonstrations that the Department would consider. Whether these sample ideas would be cost-neutral would depend, of course, on how a State proposes to implement them. Similarly, the method of implementation could affect whether a waiver demonstration project would meet the statutory requirement that it not ''impair the entitlement of any qualified child or family to benefits under a State'' title IV-E Plan.

This list should not be regarded as limiting a State in any way in conceiving demonstration ideas.

♦ To meet the need for specialized foster care, and to reduce the amount spent on institutional care, train AFDC recipients or other low income persons to be professional, paid foster parents for specialized foster home placements; ensure appropriate licensing and possibly provide housing subsidies or homeownership assistance to assure the stability of the specialized foster home as a long-term resource.

♦ Broaden the use of title IV-E to fund services for children, their parents, and foster families, and to fund preventive services for families at risk, with the expectation that total time in out-of-home care would be reduced, and in some cases foster placements could be avoided.

♦ Provide better services at lower cost by, where appropriate, returning children, especially adolescents, from out-of-State institutional placements. Such a demonstration might include both foster care youth and youth who are in the juvenile justice system. The expectation is that placing them in community-based specialized family foster homes, or community-based group homes, will reduce the total time in out-of-home care.

♦ Provide subsidized guardianship or other arrangements which would allow children to stay or be placed in a familial setting that is more cost-effective than continuing them in foster care.

♦ For older adolescents in independent living, allow title IV-E funds to be used for the cost of an apartment for a period of time before the youth leaves foster care, and a short period thereafter, to achieve more stable placements for youth.

♦ Expand the availability of in-home respite care for foster families, with the expectation that administrative costs, including the costs of recruiting foster families, will be controlled, and more stable placements will result in shortened stays in out-of home care.

♦ Provide State-funded parental visitation for parents whose children are in institutional care, including the costs of telephone calls, transportation, and other expenses associated with maintaining or improving contact. The expectation is that more contact between parents/families and children in care can shorten stays in institutional placements.

♦ Enter into agreements with private providers to test a managed care concept, with clearly specified and measurable outcomes to be achieved for each family, at a fixed cost negotiated in advance, with the expectation that fiscal incentives would produce a better result with no increase in cost.

♦ Enter into agreements with Indian Tribes to permit full access to all aspects of title IV-E funding, with the expectation that services for tribal children and families will improve, while State costs of providing or managing those services will decline.

♦ Where court processes are unduly delaying adoptions, enter into agreements with courts to fund adoption-related work as if it were an administrative cost under title IV-E, with the expectation that the courts would then be able to speed adoptions, producing permanency for children earlier, and reducing foster care and case management costs.

♦ Seek a waiver of some provision(s) of title IV-A (AFDC), possibly in combination with a title IV-E or IV-B waiver, which might help achieve child welfare objectives. For example, a waiver which allowed a State to continue AFDC payments (in whole or in part) for a period of time, for a family from which the children had been removed, but where reunification is the goal and the loss of AFDC benefits would likely result in homelessness, thus frustrating reunification efforts.

[FR Doc. 95–14711 Filed 6–14–95; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 95N–0165]

Drug Export; COMBIVENT® (Ipratropium Bromide and Albuterol Sulfate) Inhalation Aerosol 20 Micrograms (μg)/120 μg/Metered Dose

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Boehringer Ingelheim Pharmaceuticals, Inc., has filed an application requesting conditional approval for the export of the human drug COMBIVENT® (ipratropium bromide and albuterol sulfate) Inhalation Aerosol 20 μg/120 μg/metered dose to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20857, 301–594–3150.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Boehringer Ingelheim Pharmaceuticals,

Inc., 900 Ridgebury Rd., P.O. Box 368, Ridgefield, CT 06877, has filed an application requesting conditional approval for the export of the human drug COMBIVENT® (ipratropium bromide and albuterol sulfate) Inhalation Aerosol 20 µg/120 µg/ metered dose to Canada. This product is used as a bronchodilator for the treatment of bronchospasm associated with chronic obstructive pulmonary disease in patients who require more than a single bronchodilator. The application was received and filed in the Center for Drug Evaluation and Research on May 10, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by June 26, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: June 6, 1995.

Betty L. Jones,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95–14722 Filed 6–14–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95D–0148]

Guidance for Labeling Reusable Medical Devices for Reprocessing in Health Care Facilities; Draft; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Labeling Reusable Medical Devices for Reprocessing in Health Care Facilities: FDA Reviewer Guidance.'' The draft guidance is intended to provide direction to the agency's personnel who are responsible for premarket evaluation of medical devices and to provide criteria for the labeling instructions for reprocessing reusable devices.

DATES: Written comments by August 14, 1995.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Labeling Reusable Medical Devices for Reprocessing in Health Care Facilities: FDA Reviewer Guidance'' to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0806 (outside MD 1–800–638–2041). Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance entitled ''Labeling Reusable Medical Devices for Reprocessing in Health Care Facilities: FDA Reviewer Guidance.'' The draft guidance is primarily directed to FDA personnel who are responsible for the evaluation of premarket notification submissions (510(k)'s) and premarket approval (PMA) applications. The draft guidance will also assist persons preparing 510(k)'s and PMA's for submission to FDA.

Under the Federal Food, Drug, and Cosmetic Act, and FDA labeling regulations (21 CFR 801.5), a device is required to bear adequate directions for use. In reprocessing a reusable device (e.g., clean, disinfect, or sterilize), adequate instructions are important in preparing the device for the next patient. The draft guidance provides criteria for the labeling instructions on reprocessing reusable medical devices. The criteria are also applicable to initial processing of single use only and reusable devices that are supplied nonsterile, and reprocessing of certain sterile, single use only implantable devices if they become contaminated before implantation (e.g., orthopedic implants).

The document does not provide in-depth guidance on design and testing factors related to infection control. It is essential that the manufacturer consider infection control requirements during product design and testing to facilitate cleaning and sterilization or disinfection. Design and testing factors are addressed in device specific FDA guidance and FDA's good manufacturing practices guidance.

FDA staff and persons preparing submissions should also refer to the Technical Information Report (TIR), developed by the Association for the Advancement of Medical Instrumentation (AAMI), entitled ''Designing, Testing, and Labeling Reusable Medical Devices for Reprocessing in Health Care Facilities: A Guide for Device Manufacturers,'' AAMI TIR No. 12–1994. The AAMI TIR provides comprehensive technical information for manufacturers and user perspectives on this topic.

Guidances have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidances to state procedures or standards of general applicability that are not legal requirements but that are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, the draft guidance is not being issued under the authority of current § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA in any way.

Interested persons may, on or before (*insert date 60 days after date of publication in the* **Federal Register**), submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 6, 1995.

D.B. Burlington

Director, Center for Devices and Radiological Health.

[FR Doc. 95–14588 Filed 6–14–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94D–0123]

International Memoranda of Understanding; New Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a new Compliance Policy Guide (CPG) 7150.19 entitled ''International Memoranda of Understanding.'' The text of the CPG is published in this document. The guide sets forth policy for initiating, developing, and monitoring agreements such as memoranda of understanding (MOU's) between FDA and foreign governments.

ADDRESSES: CPG 7150.19 is available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard M. Garwood, Office of Regulatory Affairs (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2175.

SUPPLEMENTARY INFORMATION: The FDA International Harmonization Task Force recommended in December 1992 that guidance be developed that describes the agency's objectives, and promotes uniformity, in developing MOU's with foreign government agencies or with international organizations. MOU's enhance FDA's ability to carry out its mission and promote harmonization of laws and regulations, compliance activities, and enforcement actions. Harmonization facilitates the efficient and effective execution of FDA's programs and promotes international trade.

It is the policy of FDA to pursue the development of MOU's that will further the agency's domestic public health mission. MOU's between FDA and an agency of a foreign government or an international organization should be designed to:

(1) Enhance FDA's ability to ensure that regulated products are safe, effective, of good quality, and properly labeled;

(2) Allow FDA to utilize its resources more effectively or efficiently, without compromising its ability to carry out its responsibilities; and

(3) Improve communications between FDA and foreign officials concerning FDA-regulated products.

This policy is detailed in the new CPG 7150.19, entitled ''International Memoranda of Understanding,'' the text of which is provided below. FDA MOU's are negotiated in accordance with the Department of State's Circular 175 procedures.

In order to facilitate future reorganization of the CPG manual system, the entire contents of CPG 7150.19 will be duplicated, assigned a second number, 7156.00, and carried in a second location in the CPG manual system. This fact will be cross-referenced and notated in the CPG manual system.

The text of CPG 7150.19 entitled ''International Memoranda of Understanding'' follows:

Compliance Policy Guide, Food and Drug Administration, International Memoranda of Understanding

SUBJECT:

This guide sets forth policy for initiating, developing, and monitoring agreements such as memoranda of understanding (MOU's) between the Food and Drug Administration (FDA) and foreign governments. The general principles herein may also be applicable to MOU's with international organizations.

BACKGROUND:

The FDA International Harmonization Task Force recommended in December 1992 that guidance be developed that describes the agency's objectives and promotes uniformity in developing MOU's with foreign government agencies. MOU's promote harmonization of laws, regulations, and enforcement activities. Further, MOU's, if negotiated and implemented properly, enhance FDA's ability to carry out its mission. Attachment A to this Compliance Policy Guide (CPG) sets forth the agency's criteria for setting priorities for international MOU's.

The three categories of MOU's described in the following paragraphs are merely examples. These categories are not mutually exclusive, and the concepts may be altered or combined as necessary. Because officials of sovereign nations have different approaches to regulation, FDA needs to maintain flexibility in its discussions with these officials.

Reciprocal Agreements with Countries Having the Same or Similar Systems

MOU's may provide for the mutual assessment of the comparability of specific FDA programs or activities with those of a foreign regulatory authority. These MOU's are similar to mutual recognition agreements (MRA's), referred to in recent trade agreements, and include equivalence agreements. FDA MOU's that provide for the mutual assessment of the comparability of a foreign regulatory system or measure are suitable when it can be determined that FDA's controls and the foreign regulatory authority's controls are comparable and are designed to provide the same level of protection. Under one form of such agreements, mutual acceptance of data and information, such as analytical findings and inspection results, may ordinarily be considered adequate for regulatory decisions. The MOU's now in place for the exchange of results of good manufacturing practices and good laboratory practices inspections are examples. Under another form of such agreements, FDA and another country may agree that their regulatory systems governing certain products are the same or similar and are designed to provide the needed level of protection, enabling each country to consider reducing the rate of inspection or sampling of imports from the other country that would otherwise be necessary.

Certification of Import/Exports

MOU's may establish certification criteria for products regulated by FDA. Historically, these MOU's have concerned products exported to the United States with inherent or consistent quality or safety problems. However, they may also involve products with a good compliance history (see Attachment A of this CPG). They may identify controls to be employed by the exporting country to assure the validity and reliability of certification. Such agreements should be designed with the intent of reducing the FDA rate of inspection or sampling that would otherwise be necessary and with the intent of providing a basis for assurance that the consumer protection objectives of FDA are being met. Certification may be shown by marks on the product, container, or entry documents or by other paper or electronic communication. An MOU based on the controls to be employed and maintained by the exporting country to ensure that articles exported comply with FDA laws and regulations may render such certifying marks, documents, or other communication unnecessary.

Communications

Formalizing communication links facilitates the exchange of technical, scientific, and regulatory information. Technical cooperation leads to better understanding of safety and quality standards for products traded between the United States and other countries and promotes harmonization. Improved communications with foreign officials may improve FDA decisionmaking and reduce resource expenditures for monitoring foreign made products.

POLICY:

It is the policy of FDA to pursue the development of MOU's that will further the agency's public health mission. FDA intends to enter into an MOU only with an agency of a foreign government or an international organization. The MOU should be designed to meet the following goals:

(1) To enhance FDA's ability to ensure that regulated products are safe, effective, of good quality, and properly labeled;

(2) To allow FDA to utilize its resources more effectively or efficiently, without compromising its ability to carry out its responsibilities; and

(3) To improve communications between FDA and foreign officials concerning FDA regulated products.

Further, before accepting the procedures and activities, including enforcement methods, of foreign governments as equivalent to its own, FDA will seek assurance that such activities provide the same level of product quality, safety and efficacy that is provided under the Federal Food, Drug, and Cosmetic Act (the act); the Fair Packaging and Labeling Act; the Public Health Service Act; and any other relevant law of the United States. FDA may find it necessary to confirm by on-site review or other appropriate means that the foreign government agency has the necessary authorities, product standards, capabilities, and infrastructure to successfully achieve the proposed terms of the MOU, and, therefore, that a determination of equivalence can be made. Where appropriate, FDA will publish a proposed equivalence determination for comment.

FDA's criteria for deciding when to initiate consideration of developing MOU's are set forth in Attachment A of this CPG. FDA intends to review and update these criteria periodically.

Affected agency units will review the proposal for a new or revised MOU for consistency with the agency's international policy objectives and priorities before an FDA component begins substantive discussions with foreign officials about the MOU.

FDA auditing may be necessary to assure that the circumstances supporting the basis for an agreement continue to exist, whether or not the foreign government intends to conduct audits. The liaison office identified in the MOU is responsible for preparing a written evaluation. Participating FDA components will be queried by the responsible liaison office as to the overall effectiveness of the agreement, whether provisions should be added or deleted, and whether the MOU should be terminated.

Countersigned agreements are commonly referred to by FDA as ''Memoranda of Understanding.'' However, some foreign governments have requested that such documents be titled as ''Notes Verbale,'' ''Arrangements,'' or ''Mutual Recognition Agreements.'' Regardless of title, such agreements will be filed in chapter 56 of the Compliance Policy Guides Manual, and a notice of availability will be published in the **Federal Register**.

An ''exchange of letters'' should be used in lieu of a formal agreement when the actions contemplated require only a limited resource expenditure and do not rise to the significance of a formal agreement. For example, an exchange of letters could formalize an understanding that each agency will provide the other with documents that are available upon request to any member of the public. Each letter should set out only the actions to be carried out by the agency signing the letter and not mutual considerations. Clearance of exchange of letters will be by the same process as used for MOU's except that, after clearance, the FDA letter may be signed by the appropriate Center or Office Director. Copies of the letters exchanged should be placed in the cooperative agreements portion of the Compliance Policy Guide Manual.

FDA's practice is to enter into MOU's for a period of 5 years. Each existing MOU should be evaluated at least once during the 5 year period of the agreement to determine whether the MOU should be modified, continued, or canceled. As part of the evaluation of an MOU, the agency may conduct independent or joint inspections or analyze imported products to evaluate the effectiveness of the MOU.

DEVELOPMENT GUIDANCE:

Developing an MOU with a foreign government requires coordination between the sponsoring center or office, the Office of Regulatory Affairs (ORA), the International Affairs Staff/Office of Health Affairs (IAS/OHA), and the Office of Policy (OP). Generally, there are three phases in the process as described below:

Stage I—Exploring Feasibility

a. The sponsoring Center or Office makes a preliminary assessment whether the proposed MOU is in line with FDA policy goals. If the sponsoring Center or Office believes that the MOU should be pursued, the Center or Office informs ORA (HFC–10) in writing and explain why it believes that the MOU should be pursued.

b. The initiating agency component provides a general description of the agreement it wishes to develop, e.g., mutual recognition of a quality assurance program, product certification, information exchange, etc.

c. The parties exchange information on laws, standards, and other requirements for subject products, inspection and sampling abilities, and analytical methodology, as appropriate.

d. On-site review of facilities, operations, and controls may be arranged.

e. If the foreign government appears not to be, and in FDA's opinion is not, capable of developing an adequate infrastructure to carry out the intended program, the sponsoring agency component will explain FDA's position in writing and suspend further action until FDA's concerns are adequately addressed. The letter addressing this issue should be reviewed by OP and IAS/OHA.

Stage II—Determining Effectiveness

a. If discussions are to continue, IAS/OHA should be notified so that appropriate notification to the Department of State (DOS) can be made.

b. The parties may consider an informal trial to gain confidence in the planned agreement. A draft MOU may be prepared along with a protocol that may provide a basis for the trial. Together these documents may include:

(1) A complete description of the trial program.

(2) Information regarding roles and capabilities of involved government and private organizations.

(3) Certificate issuance and use procedure, if any.

(4) Audit frequency and measures to be applied.

(5) Description of training or information needs.

c. Whether or not there is a trial, FDA may conduct as appropriate independent or joint inspections with the foreign government, or analyze imported products to evaluate the effectiveness of the program.

Stage III—Finalizing an MOU

a. The MOU should be prepared for clearance after the substance of the MOU has been finalized, including after rulemaking, where appropriate.

b. If appropriate, instructions for auditing the agreement should be issued to field offices by the sponsoring center or office, through ORA.

Attachment A

Food and Drug Administration Criteria for Memoranda of Understanding

In deciding whether to begin discussions that could lead to the development of an MOU, an agency component should consider the factors that are listed below.

Health Benefits (Including Risk Reduction) Associated With Products or Programs

FDA should consider the benefits to public health (particularly for the United States population) when it sets priorities for its international activities.

Products Imported into the United States

FDA should place a higher priority on international activities that are directed toward improving the quality, safety, or efficacy of products offered to consumers in the United States. For example, FDA should give a low priority to investing resources in developing a memorandum of understanding with a foreign country that covers a product where there is little likelihood of significant exports to the United States or significant risk to the public.

History of Compliance Problems

FDA should place a higher priority on international activities directed toward remedying product defects that have been demonstrated to be previous compliance problems or where there is a demonstrated scientific basis for increased surveillance.

Comparative Costs of Alternative Programs

FDA should pursue international programs and activities that provide the greatest benefit in relation to the resources required to administer them. For example, the costs of developing, implementing, and monitoring an agreement should be weighed against the costs of higher sampling levels to obtain the same degree of confidence in rates of compliance in the absence of an agreement.

Regulatory Burden on Industry

FDA should consider the regulatory burden on industry that could be diminished by harmonization efforts. However, these activities need to be compatible with FDA's primary public health mission, the act, and other laws and regulations that FDA enforces.

U.S. Foreign Policy Objectives and Priorities of Other U.S. Government Agencies

FDA should be knowledgeable of U.S. foreign policy objectives and international programs and policies of other U.S. Government agencies and appropriately

balance these interests with those of FDA's primary mission.

The statements made herein are not intended to bind the courts, the public, or FDA, or to create or confer any rights, privileges, immunities, or benefits on or for any private person, but are intended merely for internal FDA guidance.

Dated: June 7, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–14587 Filed 6–14–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects. To request more information on the proposed project, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

1. Study of Physicians' Educational Preparation for Practice in Managed Care Settings—New—A mail survey will be conducted of primary care physicians and medical directors in managed care organizations to assess their views of the adequacy of their preparation for practice in that setting. The survey of physicians will be limited to those who graduated between 1986 and 1990. The information will be used by the Bureau of Health Professions to formulate recommendations for curriculum changes. Because this is a mail survey, automated collection techniques will not be used. Burden estimates are as follows:

	No. of respondents	No. of responses per respondent	Avg. burden/response (in hours)
Physicians	1800	1	.25
Medical directors	200	1	.25

2. Study of the Dissemination of the Maternal and Child Assistance Programs Model Application Form—New—A telephone survey will be conducted of (1) governor's offices in 59 states and territories, (2) the leadership of state-level maternal and child assistance programs in 59 states and territories, and (3) the leadership of local maternal and child assistance programs in 10 carefully selected jurisdictions across the country. The survey will provide data on the effectiveness of the federal dissemination of the maternal and child assistance programs Model Application Form, and on the use and impact of the Model Application Form or other similar consolidated application forms on maternal and child assistance programs and clients. The data collected will inform Members of Congress, which mandated the development and dissemination of the Model Application Form, and state and federal maternal and child assistance program leaders about the effectiveness of the federal dissemination process, the extent of Model Application Form and other consolidated application form implementation, and their impact on agency operations and program clients. Because this is a targeted telephone survey with limited numbers, automated collection techniques will not be used. Burden estimates are as follows:

	No. of respondents	No. of responses per respondent	Avg. burden/response (in hours)
Governors office	59	1	.5
State level officials	236	1	.5
Local level officials	50	1	.5

3. Evaluation of Special Projects of National Significance: Adolescent Focussed Grantees—Under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Special Projects of National Significance are supported to evaluate and disseminate innovative models of care. In order to fulfill the evaluation requirements of the Act, grantees collect, on an ongoing basis, information on numbers of clients served, characteristics of those clients, services provided, and outcomes of those services. The information will be used to identify models of care with promise for national replication and dissemination. Most data are collected by care providers who complete very brief (one page or less) forms to document each client contact, and some data will be collected directly from volunteering care recipients. Burden estimates follow:

	No. of respondents	No. of responses per respondent	Avg. burden/response (in hours)
Care providers (nurses, case managers, counselors)	232	407	2.4 hours (2.8 minutes per form).
Care recipients	495	1	1 hour.

4. Evaluation of the Interdisciplinary Generalist Curriculum—New—The Interdisciplinary Generalist Curriculum (IGC) Project awards funds to Schools of Medicine that change their curricula to include preclinical generalist primary care training directed toward influencing medical students to select primary care medical careers. The evaluation of this project will include two surveys. A survey of faculty members of the schools funded by this project will assess the faculty attitudes and beliefs about the innovations in the curriculum one year after the project began and three years after the project began. The funded schools were selected through a request for proposal (RFP) process. All 141 allopathic and osteopathic Schools of Medicine received the RFP. The second survey will be sent to the Deans of these schools. This RFP survey will assess the extent to which the RFP process itself generated changes in curricula.

	No. of Respondents	No. of responses per respondent	Avg burden/response (in hours)
Faculty survey	3104	2	.25
RFP Survey	141	1	.50

5. Bureau of Primary Health Care (BPHC) Facility and Equipment Survey—New—Under the Capital Improvement Program, the Bureau of Primary Health Care provides additional funds to grantees supported under the BPHC primary health care delivery programs for renovations, repair, modernization or construction/replacement of health care facilities to correct fire and life-safety hazards and overcrowding conditions. In order to understand the nature and extent of such problems, the BPHC is planning to conduct a mail survey of all grantee facilities to collect information on their facility and equipment problems and on estimated costs to correct the problems. The information will be used to set program priorities and to target technical assistance to grantees in greatest need.

	No. of respondents	No. of responses per respondent	Avg. burden/ response (in hours)
Grantee facilities	1880	1	.6

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 12, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–14723 Filed 6–14–95; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–015–95–1430–01; AZA–27081]

Application for Conveyance of Land, Mohave County, Arizona; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction

SUMMARY: In notice document 95–3811 beginning on page 8728 in the issue of Wednesday, February 15, 1995, make the following correction:

On page 8729, the legal description should read:

Gila and Salt River Meridian, Arizona

T. 40 N., R. 6 W.,
sec. 4, Lots 3 and 4, S½NW¼;
sec. 5, Lots 1 and 2, S½NE¼.
Containing 270.170 acres.

Dated: May 22, 1995.

Raymond D. Mapston,

Acting Arizona Strip District Manager.

[FR Doc. 95–14617 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–32–P

[OR–120–95–6350–00–G5–108; 5–00151]

Coos Bay District, Oregon; Availability of the Approved Resource Management Plan and Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Approved Resource Management Plan and Record of Decision for the Coos Bay BLM District, Oregon.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (40 CFR 1550.2), and the Federal Land Policy and Management Act of 1976, (43 CFR 1610.2 (g)), the Department of the Interior, Bureau of Land Management (BLM), Coos Bay District provides notice of availability of the Approved Resource Management Plan (ARMP) and Record of Decision (ROD) for the Coos Bay District. In addition to describing the decisions, the ARMP will provide the framework to guide land and resource allocations and management direction for the next 10 to 20 years in the Coos Bay District. This ARMP supersedes the existing South Coast—Curry Management Framework Plan, the North Spit Plan Amendment, and other related documents for managing approximately 329,700 acres of mostly forested public land and 12,150 acres of non-federal surface ownership with federal mineral estate administered by the Bureau of Land Management in Coos, Curry, Douglas, and Lane counties in southwestern Oregon.

ADDRESSES: Copies of the ARMP/ROD are available upon request by contacting the Coos Bay District Office, Bureau of Land Management, 1300 Airport Lane, North Bend, Oregon 97459. This document has been sent to all those individuals and groups who were on the mailing list for the Proposed Coos Bay District Resource Management Plan/Final Environmental Impact Statement. The full supporting record for the ARMP is available for inspection in the Coos Bay District Office at the address shown above. Copies of draft RMP/EIS and proposed RMP/final EIS are also available for inspection in the public room on the 7th floor of the BLM Oregon/Washington State Office, 1515 SW Fifth Street, Portland, Oregon; and public libraries in Brookings, Gold Beach, Bandon, Myrtle Point, Coquille, Coos Bay, North Bend, Reedsport, and Powers during normal office hours.

FOR FURTHER INFORMATION CONTACT: Bob Gunther, Planning Team Leader, Coos

Bay District Office, Bureau of Land Management. He can be reached by telephone number at 503–756–0100 or by FAX at 503–756–9303.

SUPPLEMENTARY INFORMATION: The Coos Bay District ARMP/ROD is essentially the same as the Coos Bay District Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS). Virtually no changes to the proposed decisions have been made, except for some clarifying language in response to the five protests BLM received on the Coos Bay District PRMP/FEIS and as a result of ongoing staff review. The clarifying language concerns:

—Revisions intended to strengthen the link between the ARMP and the 1994 Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (or Northwest Forest Plan/ROD).

—Revisions that incorporate guidelines issued by the Regional Ecosystem Office since the issuance of the 1994 Record of Decision named above. Such guidelines may clarify or interpret the 1994 Record of Decision.

Seven alternatives that encompass a spectrum of realistic management options were considered in the planning process. The final plan is a mixture of the management objectives and actions that, in the opinion of the BLM, best resolve the issues and concerns that originally drove the preparation of the plan and also meet the plan elements or adopt decisions made in the Northwest Forest Plan/ROD. The Northwest Forest Plan/ROD was signed by the Secretary of the Interior who directed the BLM to adopt it in its Resource Management Plans for western Oregon. Further, those decisions were upheld by the United States District Court for the Western District of Washington on December 21, 1994.

Ecosystem Management and Forest Product Production: The ARMP/ROD responds to the need for a healthy forest ecosystem with habitat that will support populations of native species (particularly those associated with late-successional and old-growth forests). It also responds to the need for a sustainable supply of timber and other forest products that will help maintain the stability of local and regional economies, and contribute valuable resources to the national economy on a predictable and long-term basis. BLM-administered lands are primarily allocated to Riparian Reserves, Late-Successional Reserves, General Forest Management Areas, and Connectivity/Diversity Blocks. An Aquatic Conservation Strategy will be applied to all lands and waters under BLM jurisdiction.

Approximately 61,900 acres will be managed for timber production. The allowable sale quantity will be 5.3 million cubic feet (32.1 million board feet). To contribute to biological diversity, standing trees, snags, and down dead woody material will be retained. A process for monitoring, evaluating and amending or revising the plan is described.

Areas of Critical Environmental Concern (ACEC): The ARMP/ROD would continue the designation of one Area of Critical Environmental Concern (ACEC), one Research Natural Area (RNA), and will designate nine new ACECs. The ARMP/ROD designates or redesignates the following ACECs and RNA with the noted restrictions.

Area name	Approx. acres	Veg. harv.	OHV use	Min. loc.	Min. lease	R/W
Cherry Creek RNA/ACEC	570	NC	NC	NC	NC	NC
New River ACEC	860	NA	R	P	P	P
Wassen Creek ACEC	3,440	R	R	P	R	P
North Spit ACEC	580	NA	R	P	P	P
North Fork Coquille River ACEC	290	P	R	P	R	P
Tioga Creek ACEC	40	P	P	P	R	P
China Wall ACEC	240	P	P	P	R	P
North Fork Hunter Creek ACEC	1,730	R	R	P	R	P
Hunter Creek Bog ACEC	570	P	R	P	R	P
North Fork Chetco River ACEC	600	P	R	P	R	P
Upper Rock Creek ACEC	460	P	R	P	R	P

NC=No change from existing situation.
P=Use is prohibited.
R=Use is allowed but with restrictions.
NA=Use is not applicable to this area.

No potential ACEC areas were identified that met the Bureau ACEC criteria of relevance and importance that are not included in whole or in part in the ARMP/ROD described above.

Wild and Scenic Rivers: Approximately 184 miles of river found eligible for designation and studied by BLM are found not suitable for designation. Four river segments (involving approximately 168 miles) have been determined to be administratively eligible for further consideration for designation as a component of the National Wild and Scenic Rivers System under recreational river classifications, pending other interagency suitability studies. All eligible (pending further study) river segments will be managed under BLM interim management guidelines pending further administrative consideration. The supporting records for the ARMP/ROD document those river or stream segment analyses.

Off-Highway-Vehicle (OHV) Use: The ARMP/ROD makes the following designations for OHV management in the District: approximately 80 acres will be open; 326,600 acres will be restricted to designated existing roads and trails and/or seasonally closed; and 3,000 acres will be closed to all use, except for specified administrative or emergency uses. The closed areas include wilderness or wilderness study areas, administratively withdrawn areas such as seed orchards and progeny test sites, and various ACECs. In addition, the ARMP/ROD provides for road closures to meet ecosystem management objectives. Such closures may be permanent or seasonal, and will be effected by use of signs, gates, barriers or total road deconstruction and site restoration.

Land Tenure Adjustment: The ARMP/ROD identifies approximately 4,600 acres of BLM-administered lands that will be retained in public ownership; 324,000 acres of BLM lands that may be

considered for exchange under prescribed circumstances; and 1,100 acres of BLM lands that may be available for sale or disposal under other authorized processes. The ARMP also provides criteria for the acquisition of lands, or interests in lands, where such acquisition would meet objectives of the various resource programs. The plan allocates approximately 600 acres as right-of-way exclusion areas and 146,700 acres as right-of-way avoidance areas.

Special Recreation and Visual Resource Management Areas: The ARMP/ROD identifies seven Special Recreation Management Areas (SRMA), including four existing (Loon Lake/East Shore, Dean Creek Elk Viewing, Coos Bay Shorelands, and New River) and three new (Tioga, Gregory Point (Bal'diyaka), and Sixes River). The existing SRMAs total approximately 3,700 acres and the new SRMAs total approximately 25,700 acres. The ARMP/ROD allocates approximately 2,065 acres of BLM-administered lands for 23 existing or potential recreation sites. The plan also allocates lands for 12 existing or potential trails, totaling between 42 and 56 miles. The plan also identifies management objectives for four visual resource management classifications.

Mineral and Energy Resource Management: Most BLM-administered lands will remain available for mineral leasing and location of mining claims, but 1,600 acres will be closed to leasing for oil and gas and geothermal resources, and 12,500 acres will be closed to location of claims.

Dated: June 5, 1995.

Michael R. Crouse.

Acting Coos Bay District Manager.

[FR Doc. 95–14677 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–33–P

[AZ–020–00–1210–00; AZA–25486, 25487, 25489, 25490]

Notice of Approval of the Maricopa Complex Wilderness Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: The Maricopa Complex Wilderness Management Plan is approved. In accordance with 43 CFR part 4, this action is subject to appeal for a period of 30 days from the date of this notice. Barring appeal, the plan will be implemented.

SUMMARY: (1) Scope of the Approved Plan: The plan prescribes actions and policies for the management of four Wilderness Areas: the Sierra Estrella, the North Maricopa Mountains, South Maricopa Mountains and the Table Top for a period of ten years. An environmental assessment document was prepared describing the impacts of the plan along with three other alternatives.

(2) Geographic Areas Involved: Four separate wilderness areas, totaling 172,100 acres in the Sonoran Desert of Southwestern Arizona, southern Maricopa and western Pinal Counties, and 12 to 45 miles south of the metropolitan Phoenix. Other nearby towns are Gila Bend, Maricopa, Casa Grande, and Buckeye, Arizona.

(3) Summary of Plan Actions: Seventy nine miles of former vehicle ways reclaimed; 16 miles converted to pedestrian and/or equestrian trails. Three access routes may be shortened slightly. Twenty five vehicle barriers constructed. Four new trails and seven trailheads established and one existing trail and trailhead improved and maintained. Signs, defined parking areas, and minimal camping facilities provided at some trailheads. Maps and other information provided. Two vehicle safety shoulders may be created along Interstate 8. Commercial recreation outfitters may be permitted. Six wildlife water catchments and associated fencing modified, and along with two others, maintained. One wildlife well pump replaced. Transplants of desert bighorn sheep and aircraft telemetry following sanctioned. Installation of future wildlife catchments evaluated on a case-by-case basis. Non-mechanized animal damage control allowed. Five earthen livestock water tanks abandoned. Thirteen livestock control fences maintained. No new livestock watering facilities constructed. Coordination with multi-jurisdictional law enforcement and search and rescue agencies and organizations improved. Five thousand seven hundred and sixty two acres of State of Arizona surface and subsurface inholdings identified for acquisition plus some access easements. All wildfire suppressed; protocol for fire suppression activities established. Reduction in low-level civilian aircraft flights encouraged. Thirty three instances of motorized/mechanized use allowed annually over 9 years dropping to 22 per year thereafter, to: maintain 8 livestock fences, modify 6 wildlife catchments, maintain and haul water to these and two other catchments, pump one well for wildlife, census or track wildlife, check wildlife water levels in wildlife catchments, respond to life-threatening emergencies, rescue sick livestock, and pursue felons or major game violators. Monitoring standards adopted and response actions described.

(4) Proposed Restrictions: Campfires, charcoal fires, wood gathering or wood cutting, and other surface disturbances are prohibited. Dogs are prohibited on one trail; horses on another. Camping within 200 feet or within sight of established trails is prohibited; camping at some trailheads will be limited to a five day period. Pack stock associated with permitted activities confined to naturally hardened areas during long rest periods. Pack stock feed provided by outfitters.

(5) Summary of Alternatives Analyzed: A visitor use and wildlife enhancement alternative with additional hiking and/or riding trails and wildlife developments; a naturalness enhancement alternative without maintained trails, with mostly non-mechanized maintenance of developments, and 15 instances of low level aircraft use occurring yearly for wildlife census, checking water levels of wildlife water catchments and hauling water; and a no action alternative.

(6) Extent of Public Comment: A draft plan with an environmental assessment document was distributed for public review and comment for a 45 day period on September 13, 1994. Availability notice was via the **Federal Register** and local media. More than 400 copies of the draft plan were mailed to a wide spectrum of publics, governing bodies, organizations, and institutions expressing interest or directly affected. Two public meetings, in Gila Bend and Phoenix, Arizona, were held. A total of 14 individuals participated in these meetings and providing comments; eight written comments were also received. Comments were analyzed and appear in the final plan. Some changes were made due to the comments. Most notable are: The addition of a management action to disallow the construction of future livestock watering facilities within the wilderness; the addition of some mechanized wildlife management activities; and changes to the Naturalness Alternative and associated impact analysis.

NEXT STEP IN THE PLANNING PROCESS: The decision to adopt this plan is subject to appeal for a period of 30 days following the publication of this notice. Barring appeal, implementation will follow. Appeals must be filed in accordance with the procedures found in 43 CFR 4.4110 through 4.415.

FOR FURTHER INFORMATION CONTACT: John Jamrog, Bureau of Land Management, Phoenix District Office, Lower Gila Resource Area, 2015 West Deer Valley

Road, Phoenix, Arizona 85027, telephone 602–780–8090.

Date June 8, 1995.

Gordon L. Cheniae,

District Manager.

[FR Doc. 95–14643 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–32–P

[CO–956–95–1420–00]

Colorado; Filing of Plats of Survey

May 26, 1995.

The plats of survey of the following described land are officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m. on May 31, 1995.

The plat representing the dependent resurvey of a portion of the subdivisional lines, certain mineral surveys and the subdivision of certain sections, T. 14 S., R. 100 W., Sixth Principal Meridian, Colorado, Group No. 1000, was accepted April 18, 1995.

The plat representing the dependent resurvey of a portion the Twelfth Standard Parallel North (south boundary, T. 49 N., R. 10 W.), east and west boundaries, and subdivisional lines and the subdivision of certain sections, T. 48 N., R. 10 W., New Mexico Principal Meridian, Colorado, Group No. 879, was accepted April 5, 1995.

The plat representing the dependent resurvey of the north and east boundaries, portions of the south and west boundaries, subdivisional lines, and certain mineral claims, and the subdivision of sections, T. 46 N., R. 10 E., New Mexico Principal Meridian, Colorado, Group No. 860, was accepted December 29, 1994.

The plat representing the dependent resurvey of the north and west boundaries of lot 1, sections 13, T. 7 N., R. 87 W., Sixth Principal Meridian, Colorado, Group No. 1083, was accepted March 29, 1995.

The plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines and mineral survey number 13952, Diamond Placer, T. 19 S., R. 71 W., Sixth Principal Meridian, Colorado, Group No. 996, was accepted March 9, 1995.

The supplemental plat amending the acreage of lots 2, 6, 9 and Tract A and clarifying the bearing and distance of certain claim lines, in section 10, T. 4 S., R. 73 W., Sixth Principal Meridian, Colorado, was accepted April 7, 1995.

The supplemental plat creating new lots 78 and 79 from previous lotting and portions of cancelled Mineral Survey No. 5370, John Welch lode, and amending the acreage of Lot 3 in the N 1/2 of the NE 1/4 of section 20, T. 3 S., R. 73 W., Sixth Principal Meridian, Colorado, was accepted March 17, 1995.

The supplemental plat creating new lots 5, 6 and 7 from previous lotting and areas in section 10, T. 8 N., R. 75 W. Sixth Principal Meridian, Colorado, was accepted March 29, 1995.

The supplemental plat creating new lots 13, 14 and 15 from original lots 3, 7, and 8 in section 21, T. 49 N., R. 11 E., New Mexico Principal Meridian, Colorado, was accepted March 31, 1995.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the limited corrective dependent resurvey of a portion of the subdivisional line between sections 8 and 9, T. 9 N., R. 69 W., Sixth Principal Meridian, Colorado, Group No. 628, was accepted January 20, 1995.

This survey was executed to meet certain administrative needs of the Larimer County Engineering Department, Fort Collins, Colorado.

The plat representing the dependent resurvey of portions of the New Mexico Principal Meridian (east boundary), north boundary, and subdivisional lines, and the subdivision of certain sections, T. 35 N., R. 1 W., New Mexico Principal Meridian, Colorado, Group No. 1043, was accepted April 17, 1995.

The plat representing the dependent resurvey of a portion of the east boundary (west boundary T. 22 S., R. 73 W., Sixth Principal Meridian, Colorado), certain mineral claims, and the metes-and-bounds surveys in section 24, T. 45 N., R. 12 E., New Mexico Principal Meridian, Colorado, Group No. 1059, was accepted March 24, 1995.

The plat representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines and the subdivision of certain sections, T. 34 N., R. 6 W., South of the Ute Line, Sixth Principal Meridian, Colorado, Group No. 1003, was accepted March 8, 1995.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

Darryl A. Wilson,

Chief Cadastral for Colorado.

[FR Doc. 95–14616 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–JB–P

Fish and Wildlife Service

Receipt of Application(s) for Permit

The following Applicant(s) have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

PRT–800897

Applicant: Ms. Cornelia Pasche, Phase One Technologies, L.L.C., Houston, TX.

The Applicant requests a permit amendment to expand the area previously permitted to take the red-cockaded woodpecker (*Picoides borealis*) in Texas, for the purpose of scientific research, recovery actions, and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days for the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above.)

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–14635 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Application(s) for Permit

The following Applicant(s) have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.)

PRT–803472

Applicant: Mr. Steven Ray Votaw, Owasso, Oklahoma.

The Applicant requests a permit to take the American burying beetle (*Nicrophorus americanus*) in Oklahoma, for the purpose of scientific research, recovery actions, and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant

Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days for the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above.)

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–14636 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Draft General Management Plan for Cabrillo National Monument, California;Notice of Management Proposals and Notice of Availability of Draft Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service has prepared an environmental impact statement (EIS) and General Management Plan for Cabrillo National Monument, California.

This Draft General Management Plan and Environmental Impact Statement presents a proposal and three other alternatives for the management, use, and development of Cabrillo National Monument. The Proposal (Alternative B) would add staff and facilities to more adequately protect and interpret the monument's significant resources. Resource management programs would be increased to protect the tidepool ecosystem and coastal sage scrub habitat and to open safe military defense structures to public use and enjoyment. The Proposal would result in a broader range of visitor choices and experiences within the monument than is available now. A new location for the entrance station would provide better orientation to the monument, allow entrance fees to be collected from those who use the tidepools, and include the tidepools and western part of the monument in the visitors' perception of the monument. An interpretive building would be constructed at the lighthouse. The Navy Marine Science facility near the tidepools would be converted to an intertidal interpretive center, if the Navy declares the facility excess to its needs and it is transferred to the monument. Outdoor educational facility seating would be improved at the Ballast View rest area. The Whale Overlook would be replaced to accommodate more visitors and improve its aesthetic quality. The Bayside Trail would be extended to form a loop trail. Administrative and storage space would be added to increase staff efficiency and effectiveness and to better care for museum artifacts and resources.

Alternatives described in this document, in addition to the Proposal, include No Action (Alternative A), Minimum Requirements (Alternative C), and Enhanced Visitor Use (Alternative D). Alternative C would improve resource management, relocate the entrance station, improve the outdoor educational facility, and open some defense structures to the public, but would not include adding interpretive facilities at the lighthouse or the tidepools or extending the Bayside Trail. Administrative or storage needs would only be partially met. Alternative D is similar to the Proposal but includes construction of an amphitheater at the Ballast View rest area as the outdoor educational facility and considers an alternative location for the lighthouse interpretive facility.

The environmental consequences of the proposed action and other alternatives are documented.

SUPPLEMENTARY INFORMATION: The public review period for this document will end 60 days after the publication of a notice of availability in the **Federal Register**. Comments will be accepted until August 18, 1995. All review comments must be received by that time and should be addressed to Regional Director, Western Region, Attention Meredith Kaplan, National Park Service, 600 Harrison Street, Suite 600, San Francisco, CA 94107–1372. For further information, write to the above address or telephone at 415–744–3968. For copies of the document, please contact the Superintendent of Cabrillo National Monument by writing to P.O. Box 6670, San Diego, CA 92166–0670 or by telephoning to 619–557–5450. Copies of the documents are also available at libraries in San Diego, California.

Dated: June 6, 1995.

Patricia L. Neubacher,

Acting Regional Director, Western Region.

[FR Doc. 95–14594 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–70–P

National Park Service

AGENCY: Big Cypress National Preserve, Florida, National Park Service.

ACTION: Notice of availability of Plan of Operations.

SUMMARY: In accordance with section 9.52 of Title 36 of the Code of Federal Regulations, the National Park Service has received a Plan of Operations from Calumet Florida, Inc. for oil and gas operations in Big Cypress National Preserve. The public is invited to review and comment on the Plan of Operations, copies of which are available for review during normal business hours at the following locations.

ADDRESSES: Superintendent, Big Cypress National Preserve, Star Route, Box 110, Ochopee, Florida 33943, telephone (813) 695–2000 (ext 33 or 39); National Park Service, Southeast Field Office, 75 Spring Street, SW., Atlanta, Georgia 30303, telephone (404) 331–4916.

FOR FURTHER INFORMATION CONTACT: The Superintendent at the above address.

SUPPLEMENTARY INFORMATION: Comments received within 30 days of the publication of this notice will become part of the official record.

Dated: May 30, 1995.

Robert Deskins,

Acting Field Director, Southeast Region.

[FR Doc. 95–14593 Filed 6–12–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The U.S. Agency for International Development (USAID) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, (44 U.S.C. Chapter 35). Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Records Management Officer, Renee Roehls, (202) 736–4743, M/AS/ISS Room 930B, N.S., Washington, DC 20523.

Date Submitted: May 30, 1995
Submitting Agency: U.S. Agency for International Development
OMB Number: 0412–0003
Form Number: AID 1550–3
Type of Submission: Renewal
Title: Title II, P.L. 480 Commodities—Annual Estimate of Requirements—Fiscal Year _____

Purpose: The Annual Estimate of Requirements (AER) is used by the Office of Food for Peace to obtain information critical for the planning and budgeting cycle of P.L. 480, Title II Program. The AERs include planned recipient and ration levels, number of distributions; operating reserves that are needed and inventories on hand

Annual Reporting Burden: Respondents: 19, Annual responses: 56; Annual burden hours: 1,344

Reviewer: Jeffery Hill (202) 395–7340, Office of Management and Budget, Room 3201 New Executive Office Building, Washington DC 20503

Dated: May 31, 1995.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Service, Bureau of Management.

[FR Doc. 95–14609 Filed 6–14–95; 8:45 am]

BILLING CODE 6116–01–M

Notice of Request for Proposals in Democracy and Governance

The U.S. Agency for International Development's (USAID's) Center for Democracy and Governance has the goal of promoting sustainable development by providing technical and intellectual leadership services in democracy and governance. The purpose of the activities that constitute the Democracy Center's program is to enhance the Agency's capacity to support the growth and sustainability of (1) legal and judicial systems which promote a rule of law consistent with respect for human rights and democratic principles; (2) civil societies capable of participating in governance decision making and implementation at the national and local levels; (3) improved public sector governance performance and particularly its ability to manage public affairs accountably, transparently, responsively, and efficiently; and (4) electoral and political process development in transition and sustainable development countries, and non-presence countries.

To assist in achieving these objectives, the Democracy Center anticipates awarding several Indefinite Quantity Contracts (IQCs) in each of the four program areas mentioned above as well as general democracy and governance analytical services. One contract will be reserved for a small business under the Governance activities; and one contract will be reserved for a Gray Amendment entity under the Rule of Law activity.

Subcontracting With Disadvantaged Enterprises: Unless the offeror is a disadvantaged enterprise (Gray Amendment entity), no less than 10 percent of the total value of the contract will have to be subcontracted to Gray Amendment entities (U.S. socially and economically disadvantaged, including women-owned businesses: Historically Black Colleges and Universities; U.S. colleges and universities with at least 40 percent Hispanic American students; and U.S. Private Voluntary Organizations controlled by socially and economically disadvantaged individuals including women). To help identify potential subcontractors, a list of all organizations requesting a cop of the solicitation will be sent with each solicitation document. Organizations are encouraged to indicate whether they are Gray Amendment entities when requesting the solicitation and may indicate if they do not wish to be included on the list. By providing the list, USAID does not endorse the listed. What is the effect of preferring one to the other? Organization as being capable of carrying out the activity, nor does USAID verify the claimed status of the organizations. Necessarily the list will contain the names of only those organizations known prior to the issuance of the solicitation document.

Subcontracting With Small and Small Disadvantaged Business Concerns: In addition to the above requirement, in accordance with FAR 52.219, a small business/small disadvantaged business subcontracting plan must be submitted unless the offeror is a small business or small disadvantaged business.

The RFP will be issued no less than 15 days after publication of this synopsis and will close 45 days after issuance. Those interested in receiving a Request for Proposal should send a letter referencing solicitation OP/B/AEP 95–006 along with 3 self-addressed mailing labels. Telephone or fax requests for the solicitation will NOT be honored. All RFP's will be mailed through the U.S. postal service. RFP's will not be expressed mailed. Address requests to:

United States Agency for International Development, M/OP/B/AEP, Ms. Anne Quinlan, SA–14, Room 1543, Washington DC 20523–1429

This CBD notice can be viewed and downloaded using the Agency Gopher. The RFP can be downloaded from the Agency Gopher. The Gopher address is GOPHER.INFO.USAID.GOV. Select USAID Procurement and Business Opportunities from the Gopher menu. The RFP text can be downloaded via Anonymous File Transfer Protocol (FTP). The FTP address is FTP.INFO.USAID.GOV. Log on using the user identification of ''anonymous'' and the password is your e-mail address. Look under the following directory for the RFP:pub/OP/RFP/BAEP506/baep506.rfp. Receipt of this RFP through Internet must be confirmed by written notification to the contact person noted above. This will ensure that you will receive amendments to the solicitation. It is the responsibility of the recipient of this solicitation document to ensure that it has been received from Internet in its entirety and USAID bears no responsibility for data errors resulting from transmission or conversion processes.

United States Agency for International Development, M/OP/B/AEP, Ms. Anne Quinlan, SA–14, Room 1543, Washington, DC 20523–1429

This CBD notice can be viewed and downloaded using the Agency Gopher. The RFP can be downloaded from the Agency Gopher. The Gopher address is GOPHER.INFO.USAID.GOV. Select USAID Procurement and Business Opportunities from the Gopher menu. The RFP text can be downloaded via Anonymous File Transfer Protocol (FTP). The FTP address is FTP.INFO.USAID.GOV. Log on using the user identification of ''anonymous'' and the password is your e-mail address. Look under the following directory for the RFP: pub/OP/RFP/BAEP506/baep506.rfp. Receipt of this RFP through Internet must be confirmed by written notification to the contact person noted above. This will ensure that you will receive amendments to the solicitation. It is the responsibility of the recipient of this solicitation document to ensure that it has been received from Internet in its entirety and USAID bears no responsibility for data errors resulting from transmission or conversion processes.

Dated: June 9, 1995.

Charles Costello,

Deputy Assistant Administrator, Center for Democracy and Governance, Bureau for Global Programs, Field Support and Research.

[FR Doc. 95–14608 Filed 6–14–95; 8:45 am]

BILLING CODE 6116–01–M

Meeting of Advisory Committee on Voluntary Foreign Aid

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: June 21, 1995 (8:30 a.m. to 5:00 p.m.).

Location: State Department, Loy Henderson Auditorium, 23rd Street Entrance.

The purposes of the meeting are: to be briefed on, and provide nongovernmental

input regarding USAID's New Partnerships Initiative; to examine USAID's re-engineering process and its implications for private voluntary organizations; and to discuss the status of USAID procurement reforms.

The meeting is free and open to the public. However, notification by June 19, 1995, through the advisory committee headquarters is required. Persons wishing to attend the meeting must call Lisa Douglas-Watson (703) 351–0243 or Susan Saragi (703) 351–0244 or FAX (703) 351–0228/0212. Persons attending must include their name, organization, birthdate and social security number for security purposes.

Dated: May 31, 1995.

Louis C. Stamberg,

Office Director, Office of Private and Voluntary Cooperation, Bureau for Humanitarian Response.

[FR Doc. 95–14615 Filed 6–14–95; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–705 (Final)]

Furfuryl Alcohol from Thailand

AGENCY: International Trade Commission.

ACTION: Notice of cancellation of public hearing.

SUMMARY: On June 7, 1995, the Commission received a letter from counsel for petitioner in the subject investigation (QO Chemicals, Inc., West Lafayette, IN) withdrawing its request to appear at the hearing, provided that such withdrawal would result in a determination by the Commission not to hold a hearing. No other party has filed a request to appear at the hearing, which was scheduled for June 13, 1995 (60 FR 27554, May 24, 1995). Accordingly, the Commission has determined to cancel its public hearing in this investigation, and that no earlier announcement of this cancellation was possible.

EFFECTIVE DATE: June 9, 1995.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

Authority: This notice is published pursuant to §§ 201.10 and 201.35 of the Commission's rules (19 CFR 201.10 and 201.35).

Issued: June 12, 1995.

By order of the Commission.

Donna R. Koehnke ,

Secretary.

[FR Doc. 95–14696 Filed 6–14–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32705]

Glenwood and Southern Railroad Company—Acquisition and Operation Exemption—Arkansas Midland Railroad Company, Inc.

Glenwood and Southern Railroad Company (GSR) has filed a notice of exemption to acquire by lease (pending the exercise of its option to purchase) and to operate the northern segment of Arkansas Midland Railroad Company, Inc.'s (AMR) Norman Branch between milepost 430.0 near Gurdon and milepost 479.2 at Birds Mill, AR. GSR also seeks limited overhead trackage rights over the southern segment of AMR's line between milepost 426.3 and milepost 430.0 to interchange with the Union Pacific Railroad Company at Gurdon.[1] The portion of AMR's rail line to be leased is approximately 49.2 miles and the incidental trackage rights cover 3.7 miles, totaling 52.9 miles of rail line in Pike, Clark, and Montgomery Counties, AR.

Consummation of the transaction was scheduled to take place on or after the May 24, 1995 effective date.

Any comments must be filed with the Commission and served on: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW., Washington, DC 20005–3934.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[2] The filing of a petition to revoke will not automatically stay the transaction.

Decided: June 9, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–14688 Filed 6–14–95; 8:45 am]

BILLING CODE 7035–01–P

[1] This is GSR's second such filing. Its first was rejected by the Commission because of the pendency of a feeder line application filed by Caddo Antoine and Little Missiouri Railroad Company (CALM). In *Caddo Antoine and Little Missouri Railroad Company—Feeder Line Acquisition—Arkansas Midland Railroad Company Line Between Gurdon and Birds Mill, AR*, Finance Docket No. 32479 (ICC served Apr. 18, 1995), the Commission approved CALM's feeder line application for the acquisition of AMR's northern segment of the Norman Branch. Acquisition of the southern segment was not approved. No effort has been made to consummate the transaction. A petition by CALM seeking judicial review of the Commission's decision is pending before the United States Court of Appeals for the Eighth Circuit.

The northern segment is currently being operated by Dardanelle & Russellville Railroad Company (DRRC/CALM). By decision served May 16, 1995, DRRC/CALM, pursuant to Commission Service Order No. 1516, was granted an extension of 30 days, until June 15, 1995, to continue its operation over the line. On May 31, 1995, CALM and various shippers filed a petition seeking a further extension of the service order. That request will be handled in a separate decision.

[2] A petition to revoke the exemption notice was filed May 31, 1995, by CALM and various shippers located on the Norman Branch. The revocation request will be handled in a separate decision.

[Finance Docket No. 32547]

Kansas City Southern Railway Company—Construction and Operation Exemption—to Exxon Corporation's Plastics Plant Near Baton Rouge and Baker, Louisiana

AGENCY: Interstate Commerce Commission.

ACTION: Notice of conditional exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 Kansas City Southern Railway Company's (KCS) construction and operation of a line of railroad. The proposed line would be about .375 miles long, beginning at KCS milepost 40 + 07.2 on the KCS Stupp lead, located near the intersection of U.S. Highway 61 and Thomas Road (LA Hwy 423), near Baker, LA, and connecting with the industry track facilities of the Exxon Corporation's Baton Rouge Plastics Plant (Baton Rouge Plant or BRP) located south of Thomas Road (LA Hwy 423) near Baker, LA. (milepost 17 + 99.8 of the Stupp lead). This decision will become effective, if appropriate, only upon completion of the Commission's environmental review concerning construction of the proposed rail line and issuance of a further decision.

DATES: Petitions to reopen must be filed by July 5, 1995.

ADDRESSES: Send pleadings referring to Finance Docket No. 32547, to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue NW., Washington,

DC 20423; and (2) Petitioner's representative: John R. Molm, Troutman Sanders, 601 Pennsylvania Avenue NW., Suite 640, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359.

Decided: June 2, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–14689 Filed 6–14–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that a proposed consent decree in *United States and State of Ohio v. City of Akron, Ohio,* Case No. 88–CV–2279A, was lodged with the United States District Court for the Northern District of Ohio on May 24, 1995. The proposed consent decree resolves civil Clean Water Act claims brought by the United States and the State relating to the operation of Akron's wastewater treatment plant and its discharges to the Cuyahoga River. The decree requires Akron to perform plant and sewer system improvements valued at over $20 million, to pay a civil penalty of $290,000 and to perform three supplemental environmental projects valued together at $3.325 million. The supplemental environmental projects require Akron to extend sewer service to areas now served by private septic tanks, to install an advanced radio control system for its combined sewer overflow and pump stations, and to study odor problems at its wastewater treatment plant.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and State of Ohio v. City of Akron, Ohio,* Case No. 88–CV–2279A and the Department of Justice Reference No. 90–5–1–1–3144.

The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 1800 Bank One center, 600 Superior Avenue East, Cleveland, Ohio 44114–2600; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $9.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–14618 Filed 6–14–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Settlement Agreement in *In re: Big Four Metals, Inc.,* Case No. 93 04010–B–V 11, was lodged on May 3, 1995, with the United States Bankruptcy Court for the Southern District of Indiana.

This Settlement Agreement resolves the claims asserted by the United States on behalf of the Environmental Protection Agency (''EPA'') against Big Four Metals, Inc. (''Debtor'') pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 et seq., for response costs incurred and to be incurred at the Interstate Lead Company, Inc., Superfund Site located in Leeds, Alabama (the ''ILCO Site'').

The Debtor filed a Petition for Reorganization under Chapter 11 of the Bankruptcy Code on November 22, 1994. EPA filed a Proof of Claim on February 3, 1995. EPA and the Debtor have agreed that the Debtor shall pay EPA $10,000, or approximately one-half of the proceeds available for distribution to general unsecured creditors, in settlement of EPA's claim. In return, EPA will agree not to sue the Debtor for CERCLA claims related to the ILCO Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to In Re: Big Four Metals, Inc., DOJ Ref. # 90–11–2–108E.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney, Southern District of Indiana, 5th Floor United States Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204; the Region 4 Office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Section Chief, Environment and Natural Resources Division.

[FR Doc. 95–14619 Filed 6–14–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Publication of a New System of Records; Amendment of an Existing System

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of a new system of records; amendment of an existing system of records.

SUMMARY: The Privacy Act of 1974 requires that each agency publish notice of all of the systems of records that it maintains. This document adds a new system of records to this Department's current systems of records. With the addition of this new system of records, the Department will be maintaining 142 systems of records. This document also proposes an amendment to one of the Department's existing system of records. The amended system will permit the

Department to track the time spent litigating court cases and for providing legal services.

DATES: Persons wishing to comment on this new systems of records may do so by July 25, 1995.

EFFECTIVE DATE: Unless there is a further notice in the **Federal Register**, this new system of records and the amendment to the existing system will become effective on August 9, 1995.

ADDRESSES: Written comments may be mailed or delivered to Robert A. Shapiro, Associate Solicitor, Division of Legislation and Legal Counsel, 200 Constitution Avenue, NW., Room N–2428, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Miriam McD. Miller, Co-Counsel for Administrative Law, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Room N–2428, Washington, DC 20210, telephone (202) 219–8188.

SUPPLEMENTARY INFORMATION: Pursuant to section three of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), hereinafter referred to as the Act, the Department hereby publishes notice of a new system of records currently maintained pursuant to the Act. This document supplements this Department's last publication in full of all of its Privacy Act systems of records. On September 23, 1993, in volume 58 at page 49548 of the **Federal Register**, we published a notice of all 138 systems of records which were maintained under the Act. Of those 138 systems, there were 37 new systems. On April 15, 1994 (59 FR 18156) the Department published two new systems, which brings the total of system of records to 140. On May 10, 1995 (60 FR 24897) the Department published one new system, which brings the total of systems of records to 141.

1. The new system presented herein is entitled DOL/ILAB–2, Senior Technical Assistance Register (STAR). The system contains the names, addresses and related information of individuals who are offering unpaid assistance to ILAB in carrying out technical assistance in developing counties. The purpose of the system is to provide for the collection and maintenance of information on these individuals who can offer expert advice to developing nations.

2. The Department also hereby proposes to amend an existing system of records, DOL/SOL–7, Solicitor's Legal Activity Recordkeeping System, in order to revise a number of categories, such as Categories of Individuals Covered, Categories of Records, Purpose and Routine Uses. The purpose and effect of the revisions will enable the Department to track the time spent on litigating court cases and for providing other legal services. This tracking will assist the Department to prepare budget submissions and to assist in allocating resources within the Office of the Solicitor. In a related matter, the revision will add paralegal specialists as a newly covered group of employees. The revision will also make certain non-substantive revisions to the Categories for System Manager and System Location.

Universal Routine Uses

In its September 23, 1993 publication, the Department gave notice of eleven paragraphs containing routine uses which apply to all of its systems of records, except for DOL/OASAM–5 and DOL/OASAM–7. There eleven paragraphs were presented in the General Prefatory Statement for that document, and it appeared at pages 49554–49555 of volume 58 of the **Federal Register**. Those eleven paragraphs were republished in an April 15, 1994 document in order to correct grammatical mistakes in the September 23, 1993 version. In the May 10, 1995 publication the General Prefatory Statement was again republished as a convenience to the reader of the document. At this time we are again republishing the May 10, 1995 version of the General Prefatory Statement as a convenience to the reader of this document.

The public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on this new system. A report on this new system has been provided to OMB and to the Congress as required by OMB Circular A–130, Revised, and 5 U.S.C. 552a(r).

General Prefatory Statement

The following routine uses apply to and are incorporated by reference into each system of records published below unless the text of a particular notice of a system of records indicates otherwise. These routine uses do not apply to DOL/OASAM–5 Rehabilitation and Counseling File nor to DOL/OASAM–7 Employee Medical Records.

1. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

2. It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

4. A record from this system of records may be disclosed to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. Records from this system of records may be disclosed to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. Disclosure may be made to agency contractors, or their employees, consultants, grantees, or their employees, or volunteers who have been engaged to assist the agency in the performance of a contract, service, grant, cooperative agreement or other activity related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a; see also 5 U.S.C. 552a(m).

7. The name and current address of an individual may be disclosed from this system of records to the parent locator service of the Department of HHS or to other authorized persons defined by Pub. L. 93–647 for the purpose of locating a parent who is not paying required child support.

8. Disclosure may be made to any source from which information is requested in the course of a law enforcement or grievance investigation, or in the course of an investigation concerning retention of an employee or other personnel action, the retention of a security clearance, the letting of a contract, the retention of a grant, or the retention of any other benefit, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

9. Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the granting or retention of a security clearance, the letting of a contract, a suspension or debarment determination or the issuance or retention of a license, grant, or other benefit.

10. A record from any system of records set forth below may be disclosed to the Office of Management and Budget in connection with the review of private relief, legislative coordination and clearance process.

11. Disclosure may be made to a debt collection agency that the United States has contracted with for collection services to recover debts owed to the United States.

I. Publication of a New System of Records

DOL/ILAB–2

SYSTEM NAME:

Senior Technical Assistance Register (STAR).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Foreign Relations, Bureau of International Labor Affairs (ILAB), U.S. Department of Labor, Room S–5006, 200 Constitution Ave., NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals offering unpaid assistance to ILAB in carrying out technical assistance in developing countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, area(s) of expertise, statement of related experience in and outside the United States, foreign language fluency, availability for travel, any additional information provided by covered individual, information on assistance opportunities offered to the individual, and on any assignments undertaken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSES:

This system provides for the collection and maintenance of information on individuals who can offer expert advice to developing nations.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those universal routine uses listed in the General Prefatory Statement, last published in the **Federal Register** on May 10, 1995 (60 FR 24897–24898) records from this system may be disclosed to the U.S. Agency for International Development to assist that agency in identifying individuals to whom an opportunity to lend technical assistance can be offered.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS ON THE SYSTEM:

STORAGE:

Records are stored in manual files, computer databases, a document imaging system, and archive disks. Information from the paper documents provided by the applicant is transferred to a computer database and electronic images.

RETRIEVABILITY:

Records are retrieved by any record element, including name.

SAFEGUARDS:

Paper files, magnetic disks and optical disks are maintained in a locked storage cabinet. Computer files are password protected.

RETENTION AND DISPOSAL:

Records will be held in ILAB for either one year after completion of overseas assignment or, if not selected, for two years after date of application. Records are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Director, Office of Foreign Relations, Bureau of International Labor Affairs, U.S. Department of Labor, Room S–5006, 200 Constitution Avenue, NW, Washington, DC 20210 or

(2) STAR Project Coordinator; same address.

NOTIFICATION PROCEDURE:

Individuals wishing to access this system of records should contact the System Manager or the STAR Project Coordinator as indicated above. Individuals must furnish the following information for their inquiries to be honored: Full name, address most recently furnished the STAR project, current telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the one of the System Managers indicated above. Individuals must furnish the following information for their inquiries to be honored: Full name, address most recently furnished the STAR project, current telephone number, and signature.

CONTESTING RECORD PROCEDURES:

Individuals wishing to change, augment, or remove their records from this system of records should write to one of the System Managers indicated above. Include full name, address most recently furnished to STAR, current telephone number, and signature.

RECORD SOURCE CATEGORIES:

Applicants; Office of Foreign Relations, ILAB

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

II. Publication of a Revised System of Records

DOL/SOL–7, Solicitor's Legal Activity Recordkeeping System, is amended by revising several categories, including Categories of Individuals Covered, Categories of Records, Purpose and Routine Uses. The categories for System Manager and System Location are being updated but these are non-substantive changes.

For the convenience of the reader, the entire system is being republished, in full, in its proposed form.

DOL/SOL–7

SYSTEM NAME:

Solicitor's Legal Activity Recordkeeping System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The central database is maintained in the Office of the Solicitor (SOL), Office of Administration, Management, and Litigation Support, Washington, DC. Computer access terminals are located in SOL Divisional Offices in Washington, DC, and in all SOL Regional Officer and their branches.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and paralegal specialists employed by SOL, judges assigned to DOL cases, and individuals and/or parties involved in the cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual attorney and paralegal specialist assignments, records which identify pending cases and opinions requested, status of assignments, cases and options, statutes enforced, client agencies served, and time spent on assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To track the status of cases and other legal work, to manage attorney and paralegal specialist assignments, to track the time spent litigating cases and providing other legal services, to prepare budget submissions and to assist in allocating resources among Divisional and Regional Offices.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Those universal routine uses listed in the General Prefatory Statement last published in the **Federal Register** on May 10, 1995 (60 FR 24897–24898). In addition, selected data may be shared with the Office of Management and budget (OMB) and Congress as part of the budget submission process.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and computer files.

RETRIEVABILITY:

By initials of the SOL attorney or paralegal specialist, name of the judge, name or social security number of the individual involved, and/or the name of the party involved in a case.

SAFEGUARDS:

Manual and computer files are accessible only by authorized persons, in accordance with SOL operating procedures.

RETENTION AND DISPOSAL:

Records are retained permanently.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Administration, Management and Litigation, Support/ Office of the Solicitor, 200 Constitution Avenue NW., Room N2414, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Inquiries should be mailed or presented to the system manager at the address listed above.

RECORD ACCESS PROCEDURE:

A request for access shall be mailed or presented to the system manager at the address listed above. Individuals must furnish the following information for their records to be identified: (a) Name and (b) verification of identity as required by the regulations implementing the Privacy Act of 1974 at 29 CFR 70a.4.

CONTEST RECORD PROCEDURES:

A request for amendment should be addressed to the system manager noted above and must meet the requirements of 29 CFR 70a.7.

RECORD SOURCE CATEGORIES:

Covered individuals, case files, correspondence files, opinion files and miscellaneous files.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Signed at Washington, DC, this 12th day of June, 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–14682 Filed 6–14–95; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Native American Employment and Training Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of Labor has determined that the renewal of the Native American Employment and Training Council is in the public interest consistent with the requirements of title IV, Section 410(k)(1) of the Job Training Partnership Act.

The Council will provide advice to the Assistant Secretary for Employment and Training regarding the overall operation and administration of native American programs authorized under Title IV, Section 401, as amended, as well as the implementation of other programs providing services to Native American youth and adults under this Act. The Assistant Secretary views the Council as the primary vehicle to accomplish the Department's commitment to work in partnership with the Indian and Native American community on employment and training concerns.

The Council shall consist of no less than 17 Indians, Alaskan Natives and Hawaiian Natives appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Alaskan Native or Hawaiian Native organizations. An equitable geographic distribution will be sought in addition to appropriate representation of both tribes and non-tribal organizations. The members shall not be compensated and shall not be deemed to be employees of the United States.

The Council will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from this publication.

Interested persons are invited to submit comments regarding the renewal of the Native American Employment and Training Council.

Such comments should be addressed to: Mr. Thomas M. Dowd, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N–4641, Washington, D.C. 20210, Telephone: (202) 219–8502 (this is not a toll free number).

Signed at Washington, D.C. this 1st day of June, 1995

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–14681 Filed 6–14–95; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. R. & D. Coal Company

[Docket No. M–95–78–C]

R. & D. Coal Company, 214 Vaux Avenue, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.332(b)(1) & (b)(2) (working sections and working places) to its Buck Mountain Slope (I.D. No. 36–02053) located in Schuylkill County, Pennsylvania. The petitioner proposes to use air passing through inaccessible abandoned workings and additional areas by mixing with the air in the intake haulage slope to ventilate the only active workings section, to ensure air quality by sampling intake air during preshift and on-shift examinations, and to suspend mine production when air quality fails to meet specified criteria. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Jericol Mining, Inc.

[Docket No. M–95–79–C]

Jericol Mining, Inc., General Delivery, Holmes Mill, Kentucky 40843 has filed a petition to modify the application of 30 CFR 75.1710 (canopies or cabs; electric face equipment) to its No. 2 Darby Mine (I.D. No. 15–16627) located in Harlan County, Kentucky. Due to the fluctuating height of the seam, the petitioner proposes to operate the Simmons Rand Model 828 battery powered coal haulers and the Simmons Rand 488 scoop without canopies. The petitioner asserts that compliance with the mandatory standard would diminish the safety of miners.

3. Andalex Resources, Inc.

[Docket No. M–95–80–C]

Andalex Resources, Inc., P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.325(b) (air quantity) to its Island Mine No. 1 (I.D. No. 15–17515) located in Hopkins County, Kentucky. The petitioner requests a modification of the standard to determine the volume of air at alternate locations on a working section and in areas where mechanized mining equipment is being installed or removed. The petitioner proposes to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Andalex Resources, Inc.

[Docket No. M–95–81–C]

Andalex Resources, Inc., P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.360(c)(1) (preshift examination) to its Island Mine No. 1 (I.D. No. 15–17515) located in Hopkins County, Kentucky. The petitioner requests a modification of the standard to determine the volume of air at alternate locations on a working section and in areas where mechanized mining equipment is being installed or removed. The petitioner proposes to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Andalex Resources, Inc.

[Docket No. M–95–82–C]

Andalex Resources, Inc., P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.362 (on-shift examination) to its Island Mine No. 1 (I.D. No. 15–17515) located in Hopkins County, Kentucky. The petitioner requests a modification of the standard to determine the volume of air at alternate locations on a working section and in areas where mechanized mining equipment is being installed or removed. The petitioner proposes to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 17, 1995. Copies of these petitions are available for inspection at that address.

Dated: June 7, 1995.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 95–14672 Filed 6–14–95; 8:45 am]

BILLING CODE 4510–43–P

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 94–45; Exemption Application No. D–09841, et al.]

Grant of Individual Exemptions; Bank of Ashland, Inc., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for

a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bank of Ashland, Inc. (the Bank) Located in Ashland, Kentucky

[Prohibited Transaction Exemption 95–45; Application Nos. D–09841 thru D–09843]

Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply as of December 23, 1994, to the cash sale of certain collateralized mortgage obligations (CMOs) by six employee benefit plans for which the Bank acts as trustee (the Plans) to Ashland Bankshares, Inc. (the Holding Company), a party in interest with respect to the Plans, provided that the following conditions were met:

(a) Each sale was a one-time transaction for cash;

(b) Each Plan received an amount which was equal to the greater of (i) the outstanding principal balance for the CMOs owned by the Plan, plus accrued but unpaid interest, at the time of sale, (ii) the amortized cost for the CMOs owned by the Plan, plus accrued but unpaid interest, as determined by the Bank based on the outstanding principal balance for each CMO on the date of sale, or (iii) the fair market value of the CMOs owned by the Plan as determined by an independent, qualified appraiser at the time of the sale;

(c) The Plans did not pay any commissions or other expenses with respect to the sale;

(d) The Bank, as trustee of the Plans, determined that the sale of the CMOs is in the best interests of each Plan and their participants and beneficiaries at the time of the transaction;

(e) The Bank took all appropriate actions necessary to safeguard the interests of the Plans and their participants and beneficiaries in connection with the transactions; and

(f) Each Plan received a reasonable rate of interest on the CMOs during the period of time it held the CMOs.

EFFECTIVE DATE: This exemption is effective as of December 23, 1994.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 14, 1995, at 60 FR 19090.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Simplex Time Recorder Co., Employee Savings Plan (the Plan), Located in Gardner, Massachusetts

[Prohibited Transaction Exemption 95–46; Exemption Application No. D–09935]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the extension of credit (the Loan) to the Plan by Simplex Time Recorder Co., a party in interest with respect to the Plan, with regard to a group annuity contract (the GAC) issued by Executive Life Insurance Company of California (ELIC), and (2) the Plan's potential repayment of the Loan (the Repayment); provided the following conditions are satisfied:

(A) No interest or expenses are paid by the Plan in connection with the transaction;

(B) The Loan will be repaid only out of amounts paid to the Plan by ELIC, its successors, or any other responsible third party making payment with respect to ELIC's obligations under the GAC (the GAC Proceeds); and

(C) Repayment of the Loan is waived with respect to the amount by which the Loan exceeds GAC proceeds.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on April 27, 1995 at 60 FR 20769.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 9th day of June, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–14575 Filed 6–14–95; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–09500, et al.]

Proposed Exemptions; Fidelity Management Trust Company (FMTC) and its Affiliates, et al

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Fidelity Management Trust Company (FMTC) and its Affiliates (collectively, Fidelity) Located in Boston, Massachusetts; Proposed Exemption

[Application No. D–09500]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Exemption for Payment of Certain Fees to Fidelity

The restrictions of section 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the payment of certain performance fees (the Performance Fee) to Fidelity by employee benefit plans for which Fidelity provides investment management or discretionary trustee services (the Client Plans) pursuant to an investment management or trust agreement (the Agreement) entered into between Fidelity and the Client Plans either individually, through the establishment of a single client separate account (Single Client Account), or collectively as participants in a multiple client commingled account (Multiple Client Account), provided that the conditions set forth below in Section III are satisfied. (Single Client Accounts and Multiple Client Accounts are collectively referred to herein as Accounts.)

Section II—Exemption for Investments in a Multiple Client Account

The restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any investment by a Client Plan in a Multiple Client Account managed by Fidelity, provided that the conditions set forth below in Section III are satisfied.

Section III—General Conditions

(a) The investment of plan assets in a Single or Multiple Client Account, including the terms and payment of any Performance Fee, shall be approved in writing by a fiduciary of a Client Plan which is independent of Fidelity (the Independent Fiduciary). Notwithstanding the foregoing, Fidelity may authorize the transfer of cash from a Single Client Account to a Multiple Client Account provided that: (1) The Multiple Client Account has similar investment objectives and the identical fee structure as the Single Client Account; (2) the Agreement governing the Single Client Account authorizes Fidelity to invest in a Multiple Client Account; (3) Fidelity receives no additional fees from the Single Client Account for cash invested in the Multiple Client Account; (4) a binding commitment to make the transfer to the Multiple Client Account occurs within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account or, in the event Fidelity's binding commitment to make the transfer occurs more than six months after such fiduciary's decision, Fidelity obtains an additional authorization from the Independent Fiduciary; and (5) each transfer of assets from the Single Client Account to the Multiple Client Account occurs within sixty (60) days of the actual transfer of such assets to the Single Client Account.

(b) The terms of any investment in an Account and of any Performance Fee shall be at least as favorable to the Client Plans as those obtainable in arm's-length transactions between unrelated parties.

(c) At the time any Account is established and at the time of any subsequent investment of assets (including the reinvestment of assets) in such Account:

(1) Each Client Plan shall have total net assets with a value in excess of $50 million; and

(2) No Client Plan shall invest, in the aggregate, more than five percent (5%) of its total assets in any Account or more than ten percent (10%) of its assets in all Accounts established by Fidelity.

(d) Prior to making an investment in any Account, the Independent Fiduciary of each Client Plan investing in an Account shall receive offering materials from Fidelity which disclose all material facts concerning the purpose, structure, and operation of the Account, including any fee arrangements.

(e) With respect to its ongoing participation in an Account, the Independent Fiduciary of each Client Plan shall receive the following written information from Fidelity:

(1) Audited financial statements of the Account prepared by independent public accountants selected by Fidelity no later than ninety (90) days after the end of the fiscal year of the Account;

(2) Quarterly and annual reports prepared by Fidelity relating to the overall financial position of the Account and, in the case of a Multiple Client Account, the value of such Client Plan's interest in the Account. Each such report shall include a statement regarding the amount of fees paid to Fidelity during the period covered by such report;

(3) Annual reports indicating the fair market value of the Account's assets determined using market sources and valuation methodologies acceptable to the Independent Fiduciary of the Client Plan for a Single Client Account or the responsible independent fiduciaries of Client Plans and other authorized persons acting for investors in a Multiple Client Account (the Responsible Independent Fiduciaries, as defined in Section IV(c) below), or if market sources are not available, values determined by a qualified appraiser independent of Fidelity which has been approved by the Independent Fiduciary or Responsible Independent Fiduciaries. However, no independent appraisals shall be required for assets acquired for the Account within the twelve (12) months preceding the end of the period covered by the report, unless such appraisals are necessary for purposes of determining any compensation due to Fidelity based on the value of the assets in the Account for that period; and

(4) In the case of any Multiple Client Account, a list of all other investors in the Account.

(f) The total fees paid to Fidelity shall constitute no more than reasonable compensation.

(g) The Performance Fee shall be payable after the Client Plan has received distributions from the Account in excess of an amount equal to 100% of its invested capital plus a pre-specified annual compounded cumulative rate of return (the Threshold Amount), except that in the case of Fidelity's removal or resignation, Fidelity shall be entitled to receive a Performance Fee payable either at the time of removal, or in the event of Fidelity's resignation, on the scheduled termination date of the Account, subject to the requirements of paragraph (j) below, as determined by a deemed distribution of the assets of the Account based on an assumed sale of such assets at their fair market value (in accordance with market sources or independent appraisals as described in paragraph (k) below), only to the extent that the Client Plan would receive distributions from the Account in excess of an amount equal to the Threshold Amount at the time of Fidelity's removal or resignation. Both the Threshold Amount and the amount of the Performance Fee, expressed as a percentage of the amount distributed (or deemed distributed) from the Account in excess of the Threshold Amount, shall be established by the Agreement and agreed to by the Independent Fiduciary of the Client Plan.

(h) The Threshold Amount for any Performance Fee shall include at least a minimum rate of return to the Client Plan, as defined below in Section IV(d). The Independent Fiduciary acting for a Client Plan shall specifically agree in writing with Fidelity, prior to any investment in the Account, that it would be appropriate for the minimum rate of return applicable to the Account to be based upon the rate of change in the consumer price index (CPI) during the period specified in the Agreement, as described in Section IV(d).

(i) For any sale of an asset in an Account which shall give rise to the payment of a Performance Fee to Fidelity prior to the termination of the Account, the sale price of the asset shall be at least equal to a target amount (the Target Amount), as defined in Section IV(e), in order for Fidelity to sell the asset and receive its Performance Fee without further approvals. If the proposed sale price of the asset is less than the Target Amount, the proposed sale shall be disclosed to and approved by the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, in which event Fidelity will be entitled to sell the asset and receive its Performance Fee. If the proposed sale price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained, Fidelity shall still have the authority to sell the asset, if the Agreement provides Fidelity with complete investment discretion for the Account, provided that the Performance Fee that would have been payable to Fidelity by reason of the sale of the asset is paid only at the termination of the Account.

(j) In the event Fidelity resigns as investment manager or trustee of an Account, the Performance Fee shall be calculated at the time of resignation based upon a deemed distribution of the assets of the Account at their fair market value (determined using market sources or independent appraisals as described in paragraph (k) below). The amount arrived at by this calculation shall be multiplied by a fraction, the numerator of which shall be the sum of the disposition proceeds of all assets in the Account received prior to the termination date plus the fair market value of the assets remaining in the Account on the termination date and the denominator of which shall be the aggregate value of the assets in the Account used in determining the amount of the Performance Fee as of the date of resignation, provided that this fraction shall never exceed 1.0. The resulting amount shall be the Performance Fee payable to Fidelity on the scheduled termination date of the Account.

(k) With respect to the valuation of the assets in an Account for purposes of determining any Performance Fee based on a deemed distribution of such assets, Fidelity shall establish the fair market value for the assets using market sources and valuation methodologies disclosed to, and approved in writing by, the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account. In the event market sources are not available for the valuation of assets in the Account, the fair market value of such assets shall be determined by an independent qualified appraiser approved by either the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account prior to any valuation of the assets. If a new appraiser for an asset is chosen by Fidelity, the appraiser shall be approved by such Fiduciaries prior to any valuation of the asset. In any event, the fair market value of all assets involved in any deemed distribution shall be based on the current market value of such assets as of the date of the transactions giving rise to the payment of the Performance Fee.

(l) Fidelity shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (m) of this Section III to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Fidelity, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest, other than Fidelity, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (m) below.

(m)(1) Except as provided in paragraph (m)(2) and notwithstanding any provisions of sections 504(a)(2) and (b) of the Act, the records referred to in paragraph (l) of this Section III shall be unconditionally available at their customary location for examination during normal business by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any fiduciary of a Client Plan or any duly authorized employee or representative of such fiduciary;

(iii) Any contributing employer to any Client Plan or any duly authorized employee or representative of such employer; and

(iv) Any participant or beneficiary of any Client Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described above in paragraph (m)(1)(ii)–(iv) shall be authorized to examine the trade secrets of Fidelity or any commercial or financial information which is privileged or confidential.

Section IV—Definitions

(a) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative of, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term ''Responsible Independent Fiduciaries'' means with respect to a Multiple Client Account the Independent Fiduciary of Client Plans invested in the Account and other authorized persons acting for investors in the Account which are not employee benefit plans as defined under section 3(3) of the Act (such as governmental plans, university endowment funds, etc.) that are independent of Fidelity and that collectively hold at least 50% of the interests in the Account.

(d) The term ''Threshold Amount'' means with respect to any Performance Fee an amount which equals all of a Client Plan's capital invested in an Account plus a pre-specified annual compounded cumulative rate of return that is at least a minimum rate of return determined as follows:

(1) A non-fixed rate which is at least equal to the rate of change in the CPI during the period from the deposit of the Client Plan's assets in the Account until distributions of the Client Plan's assets from the Account equal or exceed the Threshold Amount; or

(2) A fixed rate which is at least equal to the average annual rate of change in the CPI over some period of time specified in the Agreement, which shall not exceed 10 years.

(e) The term ''Target Amount'' means a value assigned to each asset in the Account established by Fidelity either (1) at the time the asset is acquired, by mutual agreement between Fidelity and the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, or (2) pursuant to an objective formula approved by such fiduciaries at the time the Account is established. However, in no event will such value be less than the acquisition price of the asset.

(f) The term ''Account'' means any Single Client Account or Multiple Client Account established with Fidelity, under a written investment management or trust agreement, that is invested primarily (i.e. more than 50%) in securities or other assets which are not publicly-traded equity securities or publicly-traded, investment grade debt securities, pursuant to written instructions and guidelines established and approved by an Independent Fiduciary for the Client Plan prior to any investment by the Client Plan in the Account. For purposes of an ''Account'' meeting the 50% test for assets which are *not* ''publicly-traded equity securities'' or ''publicly-traded, investment grade debt securities'', any private market securities held by the Account that become publicly-traded securities shall not be considered as such for a period of thirty (30) months following the date such securities become publicly-traded so as to allow Fidelity sufficient time to dispose of such securities in order for the Account to remain primarily invested in assets which are not publicly-traded securities, including for such purposes any publicly-traded debt securities which are not investment grade.[1]

The availability of this exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Summary of Facts and Representations

1. FMTC is a Massachusetts trust company with its principal office located in Boston, Massachusetts, and is a ''bank'' as defined under the Investment Advisers Act of 1940. FMTC manages approximately $24 billion worth of assets for a variety of clients, virtually all of which are employee benefit plans. FMTC's client accounts consist of either separate accounts for a single client or commingled accounts for multiple clients.

2. Fidelity will offer the investment arrangement described below involving the payment of a Performance Fee to Client Plans that seek to invest primarily in securities and have aggregate net plan assets with a fair market value in excess of $50 million.[2] Fidelity will serve such Client Plans as the investment manager or discretionary trustee of either a Single Client Account or a Multiple Client Account. In general, Fidelity will have complete discretion for identifying appropriate investments, making investment decisions, and managing and disposing of the securities or other assets acquired for the Accounts. However, with respect to certain Single Client Accounts, Fidelity will not exercise absolute investment discretion and will be required to obtain approval for certain investment

[1] As noted above in Section III(f), an Independent Fiduciary must specifically agree in writing with Fidelity that it would be appropriate for the minimum rate of return applicable to the Account to be based upon the rate of change in the CPI during the period specified in the Agreement. However, with respect to any Account with an investment strategy designed to invest in distressed, defaulted or other non-performing debt instruments that may be publicly-traded securities at the time they are acquired by the Account, the Department encourages Client Plan fiduciaries to determine whether or not any of the published indices for publicly- traded debt securities would be a more appropriate performance benchmark to measure a minimum rate of return for such securities.

[2] In the case of multiple plans maintained by a single employer or a single controlled group of employers, the assets of which are invested on a commingled basis (e.g. through a master trust), this $50 million threshold will be applied to the aggregate assets of all such plans.

decisions from the Independent Fiduciary of the Client Plan. Such approvals will typically be obtained from the Client Plan sponsor or an investment committee appointed by the Client Plan sponsor.

3. Single Client Accounts will be established pursuant to Agreements negotiated with the Independent Fiduciaries of the Client Plans. The terms of Fidelity's compensation will be established in the Agreements governing the Single Client Account and will be fully disclosed to the Independent Fiduciary prior to the investment of assets of the Client Plan in the Single Client Account. If agreed to by the Independent Fiduciary, the compensation arrangement involving the payment of the Performance Fee (as described in Item 5 below) will be included in the Agreement.[3] The term of each Account will be predetermined in the Agreement and approved by the Independent Fiduciary of the Client Plan (see Item 8 below).

A Multiple Client Account typically will be organized either as a common law trust or a group trust as defined in IRS Revenue Ruling 81–100 (as to which Fidelity would serve as discretionary trustee), or as a limited partnership (as to which Fidelity would be general partner).[4] For any Multiple Client Account, various decisions regarding the Account other than investment management decisions for the Account (such as the initial decision to allocate Client Plan assets to the Account, decisions with respect to the removal of Fidelity or the termination of the Account) will be made by the Responsible Independent Fiduciaries. Fidelity represents that in all instances the Responsible Independent Fiduciaries will be acting for Account investors that collectively hold at least 50% of the interests in the Account. The exact percentage required for such decisions will be specified in the governing documents of the Account.

The decision to invest assets of a Client Plan in any Multiple Client Account will be made by the Independent Fiduciary of such Client Plan, based upon full written disclosure of the Performance Fee prior to such investment. Notwithstanding the foregoing, Fidelity may authorize the transfer of cash from a Single Client Account to a Multiple Client Account where: (i) The Multiple Client Account has similar investment objectives and the identical fee structure as the Single Client Account; (ii) the Agreement governing the Single Client Account authorizes Fidelity to invest in a Multiple Client Account; (iii) Fidelity receives no additional fees from the Single Client Account for cash invested in the Multiple Client Account; (iv) a binding commitment to make the transfer to the Multiple Client Account is made within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account or, in the event Fidelity's binding commitment to make the transfer occurs more than six months after such fiduciary's decision, Fidelity obtains an additional authorization from the Independent Fiduciary; and (v) each transfer of assets from the Single Client Account to the Multiple Client Account occurs within sixty (60) days of the actual transfer of such assets to the Single Client Account. Fidelity represents that its commitment to invest the cash would normally occur within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account. However, if more than six months has transpired since the Independent Fiduciary's decision to invest the assets in the Single Client Account, Fidelity will obtain an additional authorization from such fiduciary. Such authorization will occur following written disclosure to the Independent Fiduciary of Fidelity's binding commitment to make a cash transfer to the Multiple Client Account which will be deemed approved unless such fiduciary objects within a reasonable time.

After a transfer of cash, the fee structure for the Multiple Client Account will govern all fees received by Fidelity for such Client Plan assets. The precise terms of Fidelity's compensation arrangement will be established as part of the documents pursuant to which the Multiple Client Account is organized and can be amended only with the affirmative approval of the Responsible Independent Fiduciaries.

4. The applicant represents that, in general, the investment objectives of each Account will be to obtain current income and/or capital appreciation through investments primarily in various types of private market securities and real estate related investments. Fidelity represents that it offers a wide range of investment services and utilizes a wide variety of investment approaches. While the bulk of Fidelity's business entails investing Client Plan assets in publicly-traded securities which are readily valued or easily liquidated, other aspects of its investment business entail, at least in part, investing Client Plan assets in non-publicly-traded securities and other property.

Fidelity's objective with respect to the requested exemption is to achieve sufficient flexibility to respond to client demands and preferences for utilization of a Performance Fee arrangement of the type described below. Fidelity believes that such a fee arrangement may be attractive to Client Plans in situations involving Accounts which are to be invested primarily (i.e. more than 50%) in certain types of assets other than publicly-traded equity securities or publicly-traded, investment grade debt securities. For purposes of an Account meeting the 50% test for assets which are *not* ''publicly-traded equity securities'' or ''publicly-traded, investment grade debt securities'', any private market securities held by the Account that become publicly-traded securities shall not be considered as such for a period of thirty (30) months following the date such securities become publicly-traded so as to allow Fidelity sufficient time to dispose of such securities in order for the Account to remain primarily invested in assets which are not publicly-traded securities, including for such purposes any publicly-traded debt securities which are not investment grade.[5]

An Account could entail a wide range of types of investments, including privately placed debt and equity securities, high-yield fixed income securities, publicly-traded debt securities issued by distressed companies, partnership interests in venture capital operating companies, various real estate or real estate-related interests, and other ''alternative investments'' which have greater risk but potentially greater returns than traditional classes of equity or debt

[3] Section 404 of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interest of the plan's participants and beneficiaries. Thus, the Department expects a plan fiduciary, prior to entering into any performance-based compensation arrangement with an investment manager, to fully understand the risks and benefits associated with the compensation formula following disclosure by the investment manager of all relevant information pertaining to the proposed arrangement. In addition, a plan fiduciary must be capable of periodically monitoring the actions taken by the investment manager in the performance of its duties and must consider, prior to entering into the arrangement, whether such plan fiduciary is able to provide oversight of the investment manager during the course of the arrangement.

[4] With respect to any Multiple Client Account organized by Fidelity as a limited partnership, Fidelity represents that its interest as a general partner will not exceed 1% of the aggregate outstanding partnership interests of such limited partnership at any time.

[5] The Department notes that a ''publicly-traded security'' would include any security that is a ''publicly-offered security'' as described in the Department's regulations relating to the definition of ''plan assets'' in the context of certain plan investments (see 29 CFR 2510.3–101(b) (2)–(4)).

securities.[6] Fidelity states that it would not necessarily enter into a Performance Fee arrangement for all Accounts which are invested in the these types of assets. However, Fidelity wishes to have the opportunity to do so in circumstances where an Independent Fiduciary has specifically approved the particular investment objectives and fee arrangements for the Account, as being appropriate for the payment of such a Performance Fee. The Accounts may be designed as either ''blind'' accounts for which Fidelity will select the investments after the Client Plans have invested therein or ''pre-identified asset'' accounts for which Fidelity identifies particular securities or other assets for investment prior to the Client Plans' investments in the Accounts.

5. Fidelity proposes to have the Client Plans pay for investment management or discretionary trustee services rendered to the Accounts based upon a two-part fee structure which will be approved in advance by the Independent Fiduciaries of the Client Plans. In addition to an on-going investment management or trustee fee (the Base Fee) paid to Fidelity by the Client Plan, the fee structure may include the Performance Fee, a fee payable upon a distribution (or deemed distribution) of the assets from the Account after the Client Plan has received (or would receive) a return of all its invested capital plus a certain pre-specified rate of return on its investments in the Account. Fidelity requests an exemption for the payment by Client Plans of the Performance Fee under circumstances described below.

With respect to the Base Fee, such fee will be paid throughout the term of the Account on a pre-specified periodic basis. The amount of the Base Fee will be based on either (i) a percentage of the net fair market value of the Client Plan assets in the Account (i.e. without regard to any leveraged amounts) as of the last day of each period or (ii) a percentage of the assets allocated to the Account (i.e. the invested capital) less any amounts thereof which have been distributed from the Account. In either event, the Base Fee will be pro-rated for any partial periods. The exact percentage to be used in determining the Base Fee will be negotiated between Fidelity and the Independent Fiduciary of the Client Plan prior to the initial investment of any Plan assets in the Account.

If the Base Fee is calculated based upon the fair market value of the assets in the Account as of a specified determination date, the fee will be based upon values determined using market sources approved in writing by the Independent Fiduciary of the Client Plan (or specified in the documents establishing the Account, in the case of a Multiple Client Account).[7] If market sources are not available, the fee will be based upon values determined immediately prior to the payment of such fee by an appraiser independent of Fidelity. For any appraisal used to determine the Base Fee, Fidelity will initially notify in writing the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account regarding the identity of the appraiser whom Fidelity proposes to retain to value the asset. The Independent Fiduciary or the Responsible Independent Fiduciaries will have an opportunity to approve or disapprove the suggested appraiser with an approval being deemed to have occurred unless such fiduciaries object to the appraiser within a reasonable time. Once approved, the appraiser could perform all future valuations of the particular asset unless either (i) the Independent Fiduciary or Responsible Independent Fiduciaries affirmatively withdraw the prior approval of the appraiser, or (ii) Fidelity suggests a different appraiser, in which case an approval by such fiduciaries would again be required.

In lieu of the Base Fee described above, Fidelity and the Independent Fiduciaries of the Client Plans may agree to an alternative fee arrangement for an Account (the Alternative Fee) which is based upon either a fixed amount or amounts or an objective formula to be negotiated (in either case) between Fidelity and the Independent Fiduciary of the Client Plan prior to the initial investment of any Client Plan assets in the Account. Neither the Base Fee nor any such Alternative Fees will be covered by the requested exemption.[8]

The Performance Fee will be payable either (i) after the Client Plan has actually received distributions from the Account, or (ii) in the case of the removal or resignation of Fidelity, based on deemed distributions from the Account (as discussed in Item 7 below), which in each case must be at least equal to such Plan's invested capital plus a pre-specified annual compounded cumulative rate of return (i.e. the Threshold Amount). The Performance Fee will be equal to a fixed percentage (or several fixed percentages) of all amounts distributed from an Account in excess of the Threshold Amount (or several Threshold Amounts). In this regard, Fidelity represents that there is a possibility that several Threshold Amounts may be established with different percentages being utilized to determine the Performance Fee depending upon which Threshold Amount has been exceeded.[9] Fidelity states that this structure will allow a Client Plan to negotiate an arrangement pursuant to which the

[6] In this regard, Fidelity represents that an Account will not invest in or use any swap transactions (including caps, floors, collars, or options relating thereto), forward contracts, exchanged-traded futures transactions, or options (other than covered call options). The Department notes that no relief is being provided in this proposed exemption for any underlying investments made by an Account which may involve parties in interest with respect to the Client Plans invested in the Account.

In addition, the Department is expressing no opinion as to whether the investment of ''plan assets'' by an Account in any particular type of asset would violate any provision of Part 4 of Title I of the Act. Thus, the Department is not providing an opinion regarding whether any particular category of investments or investment strategy would be considered prudent or in the best interests of a Client Plan as required by section 404 of the Act.

However, the Department notes that in order to act prudently in making investment decisions, plan fiduciaries must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. A particular investment by a plan, which is selected in preference to other available investments, would generally not be prudent if such investment involves a greater risk to the security of ''plan assets'' than other comparable investments offering a similar return.

The Department notes further that Client Plan fiduciaries must thoroughly understand the risks involved with any investment course of action and must be capable of monitoring at appropriate intervals the investment course of action taken by Fidelity, particularly with respect to any period when the payment of a Performance Fee to Fidelity would be applicable. In this regard, section 405(a) of the Act states, among other things, that a plan fiduciary shall be liable for a breach of fiduciary responsibility of another fiduciary for the same plan if, by his failure to comply with section 404(a)(1) in the administration of his specific duties which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach.

[7] Fidelity states that in instances where the Base Fee is determined based on the amount of capital invested in the Account, rather than on the value of the assets in the Account, no such market valuations will be utilized to determine the Base Fee. Thus, the independent valuation requirements discussed herein, including any independent appraisal of assets in an Account, will be limited to situations where such valuations are used to calculate either the Base Fee or the Performance Fee.

[8] Fidelity represents that both the Base Fee and the Alternative Fee would be covered by section 408(b)(2) of the Act and the regulations thereunder (see 29 CFR 2550.408b–2). However, the Department expresses no opinion as to whether the payment of such fees, as described herein, would meet the conditions of section 408(b)(2) of the Act.

[9] For example, a Client Plan could negotiate a Performance Fee whereby Fidelity would receive 10% of all distributions from the Account once an initial Threshold Amount (e.g. return of all invested capital plus an 8% annual return) has been achieved and 20% of all distributions once a second Threshold Amount (e.g. return of all invested capital plus a 12% annual return) has been achieved.

amount of the Performance Fee will increase as the level of investment performance increases. Both the annual rate(s) of return used in determining the Threshold Amount(s) and the percentage(s) used to determine the amount of the Performance Fee will be negotiated between, and agreed to by, Fidelity and the Independent Fiduciary of the Client Plan prior to the Client Plan's initial investment in the Account.

With respect to the determination of the Threshold Amount, Fidelity represents that all amounts invested by a Client Plan in an Account will have to earn a pre-specified rate of return, which is at least equal to the minimum rate of return specified in Section IV(d) above,[10] for the entire period such assets are in the Account and must actually be distributed (or deemed distributed) back to the Client Plan in order for the Threshold Amount to be reached. Fidelity states that a bookkeeping account will be maintained for each Client Plan which will show the amount required to be distributed from the Account to satisfy the Threshold Amount. When a certain amount is invested in the Account on a particular date, this bookkeeping account will be reduced by the full amount of the distribution. Thereafter, the required return will be added to this reduced amount until the next distribution is made when the bookkeeping account will be reduced to reflect the amount of that distribution. Only when this bookkeeping account is reduced to zero will the Threshold Amount be satisfied. At this time, the Performance Fee will be payable to Fidelity on all further distributions (or any deemed distribution) from the Account.

Fidelity states that for any sale of an asset in an Account which causes the payment of a Performance Fee and which occurs prior to the termination of the Account, the sale price for the asset must be at least equal to a Target Amount (as defined in Section IV(e) above), in order for Fidelity to be able to sell the asset and receive its Performance Fee without any further approvals. The Target Amount will be established by Fidelity either at the time the asset is acquired, by mutual agreement between Fidelity and the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, or pursuant to a formula approved by such fiduciaries at the time the Account is established. If the proposed sale price of the asset is less than the Target Amount, the proposed sale will be disclosed to the Independent Fiduciary or Responsible Independent Fiduciaries for approval in order for Fidelity to receive its Performance Fee as a result of the sale. Such approval will be deemed to have occurred unless the Independent Fiduciary or Responsible Independent Fiduciaries object to the sale within a reasonable time after notice of the proposed transaction. If the proposed sale price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained, Fidelity will still have the authority to sell the asset in situations where the Agreement provides Fidelity with complete investment discretion for the Account. However, in such instances and in all other circumstances where the sale price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained, the Performance Fee which would have been payable to Fidelity by reason of the sale of such asset will be paid only at the termination of the Account. In this regard, Fidelity states that any Performance Fee which is not paid currently to Fidelity because of the Target Amount rule will be segregated within the Account and invested until the termination of the Account with Fidelity to receive any income (or loss) earned by such investment.

6. All realized income, and proceeds from the sale of the assets of the Account, net of expenses (including reasonable reserves), will be either (i) distributed from the Account to the applicable investors in such Account, including Client Plan(s), or (ii) if the documents pursuant to which the Account is maintained so provide, reinvested until a specified date, with any income and proceeds (net of expenses, including reasonable reserves) of the Account after such date to be distributed to the applicable investors. All distributions from the Account shall be included in calculating whether the Threshold Amount has been reached. Only actual distributions from an Account, and not any amounts reinvested as described above, will be included in calculating whether the Threshold Amount has been reached for purposes of the payment of the Performance Fee.

7. Fidelity may be removed as investment manager or trustee for an Account at any time, without cause, upon the delivery of a notice of removal to Fidelity by the Independent Fiduciary for a Single Client Account or by the Responsible Independent Fiduciaries of a Multiple Client Account. Fidelity may resign as investment manager or trustee of an Account at any time, without cause, upon written notice to the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account.

With respect to a Single Client Account, such removal or resignation will not become effective until a successor investment manager or trustee is appointed by the Independent Fiduciary for the Account.

With respect to a Multiple Client Account, the removal of Fidelity will become effective when either: (i) A successor investment manager or trustee is appointed by the Responsible Independent Fiduciaries; or (ii) sixty (60) days (or such greater number of days as may be specified by the Responsible Independent Fiduciaries) elapse, whichever is sooner. Any resignation by Fidelity for a Multiple Client Account will become effective when either: (i) A successor investment manager or trustee is appointed by the Responsible Independent Fiduciaries; or (ii) 180 days elapse, whichever is sooner.

Upon removal of Fidelity as investment manager or trustee, Fidelity will be entitled to receive a Performance Fee if the Client Plans would receive distributions from the Account in excess of an amount equal to the Threshold Amount at the time of Fidelity's removal. Such Performance Fee will be determined by a deemed distribution of the assets of the Account based on an assumed sale of such assets at their fair market value using market sources approved by the Independent Fiduciary of the Client Plan (or specified in the documents establishing the Account, in the case of a Multiple Client Account). If market sources are not available, the fair market value of the assets will be determined by an independent appraiser mutually agreed upon by Fidelity and the Independent Fiduciary of each Client Plan in the case of a Single Client Account or the

[10] Fidelity represents that the Independent Fiduciary acting for a Client Plan shall specifically agree in writing with Fidelity, prior to any investment in the Account, that it would be appropriate for the performance benchmark used to measure the minimum rate of return applicable to the Account to be based upon the rate of change in the CPI over the period specified in the Agreement. However, the Department notes that a Client Plan fiduciary should thoroughly scrutinize the performance objectives for the Account prior to agreeing with Fidelity that such a performance benchmark is appropriate to measure the required minimum rate of return. In this regard, the Department encourages Client Plan fiduciaries to analyze whether any performance benchmarks other than a minimum rate of return based on changes in the CPI, such as an index of publicly-traded equity or debt securities, would be more appropriate to measure the Account's performance.

Responsible Independent Fiduciaries in the case of a Multiple Client Account. If Fidelity and such fiduciaries cannot agree on an appraiser, then the fair market value of such assets will be equal to the average of the two closest appraisals generated by three independent appraisers—one selected by Fidelity, one selected by such fiduciaries, and the third selected by the two appraisers chosen by the parties.

Upon Fidelity's resignation as investment manager or trustee, Fidelity will not receive a Performance Fee until the scheduled termination date for the Account. The amount of the Performance Fee will be based upon a deemed distribution of the assets of the Account at their fair market value at the time of Fidelity's resignation, as determined using market sources approved by the Independent Fiduciary of the Client Plan (or specified in the documents establishing the Account, in the case of a Multiple Client Account). If such market sources are not available, the fair market value of the assets will be determined by an independent appraiser mutually agreed to by Fidelity and the Independent Fiduciary of the Client Plan in the case of a Single Client Account or the Responsible Independent Fiduciaries in the case of a Multiple Client Account. However, if Fidelity and such fiduciaries cannot agree on an appraiser, the procedure described above will be followed.

The Performance Fee will be calculated at the time of resignation based upon the total value of the assets in the Account. The amount of the Performance Fee for such assets will be multiplied by a fraction, the numerator of which will be the sum of the disposition proceeds of all assets in the Account received prior to the termination date plus the fair market value of the assets remaining in the Account on the termination date and the denominator of which will be the aggregate value of the assets in the Account used in determining the amount of the Performance Fee as of the date of resignation, provided that this fraction will never exceed 1.0. The resulting amount will be the Performance Fee payable to Fidelity on the scheduled termination date of the Account. Thus, even if the value of the assets declines after Fidelity's resignation, Fidelity will still receive the Performance Fee for the period of time that it acted as an investment manager or discretionary trustee for the Account if the Client Plans would have received distributions from the Account in excess of an amount equal to the Threshold Amount at the time of Fidelity's resignation, subject to the operation of the fraction discussed above. The fraction ensures that an appropriate reduction in the Performance Fee will be made upon termination of the Account if the value of the assets in the Account declines after Fidelity resigns as the investment manager or discretionary trustee of the Account, based on the valuation of such assets at the time of resignation.

8. A Single Client Account will terminate upon expiration of the period of years specified as the term for the Account in the Agreement or upon the removal or resignation of Fidelity. However, the period of years specified in the Agreement may be extended by the Independent Fiduciary of the Client Plan. In addition, a Single Client Account may be terminated at any time by the Independent Fiduciary upon ninety (90) days written notice to Fidelity.

A Multiple Client Account will terminate upon the occurrence of any of the following events: (i) The affirmative decision of the Responsible Independent Fiduciaries; (ii) the failure of the Responsible Independent Fiduciaries to appoint a successor investment manager or trustee; (iii) expiration of the period of years specified as the term of the Account in the Agreement, provided that the period of years is not extended by the Responsible Independent Fiduciaries; (iv) the distribution of all assets of the Account; or (v) such other circumstances as may be specified in the documents governing the Accounts.

Upon termination of a Single Client Account, the assets in the Account will be distributed to the Client Plan in cash or in kind as agreed to by Fidelity and the Independent Fiduciary. In case of a Multiple Client Account, such distributions (i.e., cash or in-kind) will be agreed to by Fidelity and the Responsible Independent Fiduciaries for the Account.

Fidelity will be entitled to the Performance Fee upon termination of the Account for all remaining distributions made from the Account if the Threshold Amount has been or would be reached at such time. In the case of an in kind distribution of assets of the Account, the Performance Fee will be based on the fair market value of the assets of the Account as determined using market sources approved by the Independent Fiduciary of the Client Plan (or specified in the documents establishing the Account, in the case of a Multiple Client Account). If market sources are unavailable, the fair market value of the assets will be determined by an independent appraiser mutually agreed to by Fidelity and the Independent Fiduciary of the Client Plan in the case of a Single Client Account or the Responsible Independent Fiduciaries in the case of a Multiple Client Account. If Fidelity and such fiduciaries cannot agree on an appraiser, then the same procedure described in Item 7 above will be followed.

9. Each Client Plan will receive throughout the term of an Account the following information:

(a) Quarterly and annual reports prepared by Fidelity relating to the overall financial position of the Account and, in the case of a Multiple Client Account, the balance of such Client Plan's interest in the Account. In addition, such reports will include a statement regarding the amount of all fees paid to Fidelity during the period covered by the report.

(b) Annual reports indicating the current fair market value of all assets in the Account as established by using market sources or independent appraisals (provided that no such appraisals will be required for assets acquired for the Account within twelve (12) months preceding the end of the period covered by the report unless such appraisals are necessary for purposes of determining any compensation due to Fidelity based on the value of the assets in the Account for that period).

(c) In the case of a Multiple Client Account, a list of the investors in the Multiple Client Account.

(d) Audited financial statements prepared by independent public accountants selected by Fidelity, within ninety (90) days of the end of the Account fiscal year.

The Independent Fiduciary for the Client Plan, as well as other authorized persons described above in paragraph (m)(1) of Section III, will have access during normal business hours to Fidelity's records for the Accounts in which the Client Plan has an interest.

10. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because, among other things:

(a) Each investment in any Account will be authorized in writing by an Independent Fiduciary of a Client Plan;

(b) No Client Plan may establish a Single Client Account or invest in a Multiple Client Account unless the Client Plan has total net assets with a value in excess of $50 million. In addition, a Client Plan may not invest, in the aggregate, more than five percent (5%) of its total assets in any one Account or more than ten percent (10%)

of its total assets in all Accounts established by Fidelity;

(c) Prior to making an investment in any Account, an Independent Fiduciary for each Client Plan will receive offering materials disclosing all material facts concerning the purpose, structure and operation of the Account, including any fee arrangements;

(d) Fidelity will provide each Independent Fiduciary of a Client Plan with periodic written disclosures with respect to the financial condition of the Account, the fees paid to Fidelity, the balance of each Client Plan's interest in the Account, the fair market value of the Account's assets using market sources or independent appraisals approved by the Independent Fiduciary where the value of such assets was used to calculate Fidelity's compensation and, in the case of a Multiple Client Account, a list of other investors in the Account;

(e) The total fees paid to Fidelity will constitute no more than reasonable compensation; and

(f) The timing and formula for determining the Performance Fee will be established and agreed to by the Independent Fiduciary for each Client Plan prior to the Client Plan's investment in the Account and will be based on pre-specified percentages of the Client Plan's assets distributed (or deemed distributed) from the Account in excess of an agreed upon Threshold Amount.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Bankers Trust Company (Bankers Trust) Located in New York, NY; Proposed Exemption

[Application No. D–09869]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1)(A) through (E) of the Code, shall not apply as of October 28, 1994, to the cash sale of certain structured notes (the Notes) for $432,131,250 by three collective investment funds for which Bankers Trust acts as trustee (the Funds) to Bankers Trust New York Corporation (BTNY), a party in interest with respect to employee benefit plans invested in the Funds, provided that the following conditions were met:

(a) Each sale was a one-time transaction for cash;

(b) Each Fund received an amount which was equal to the greater of either (i) the par value of the Notes owned by the Fund at the time of sale, (ii) the purchase price paid by the Fund for its interest in each of the Notes, or (iii) the fair market value of the Notes owned by the Fund, as determined by bid quotations for the Notes obtained from independent broker-dealers at the time of sale;

(c) The Funds did not pay any commissions or other expenses with respect to the sale;

(d) Bankers Trust, as trustee of the Funds, determined that the sale of the Notes was in the best interests of each Fund, and the employee benefit plans invested in the Fund, at the time of the transactions;

(e) Bankers Trust took all appropriate actions necessary to safeguard the interests of the Funds, and the employee benefit plans invested in the Funds, in connection with the transactions; and

(f) The Funds received a reasonable rate of return during the period of time that the Funds held the Notes.

EFFECTIVE DATE: The proposed exemption, if granted, will be effective as of October 28, 1994.

Summary of Facts and Representations

1. Bankers Trust, a New York banking corporation, is a leading commercial bank which provides a wide range of banking, fiduciary, recordkeeping, custodial and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide. Bankers Trust is wholly owned by BTNY, which is a bank holding company established in 1965 under the laws of the State of New York. As of December 31, 1993, BTNY and its affiliates had consolidated assets in excess of $92 billion and capital of approximately $4.5 billion.

2. Bankers Trust is one of the largest providers of trust and other services to employee benefit plans. Many of these plans also engage BTNY or an affiliate to provide investment advice or to be the plan's investment manager, within the meaning of the Act. Bankers Trust maintains more than 80 collective investment funds for employee benefit plan investment.

3. The Funds are the Bankers Trust Pyramid Aggressive Cash Fund (the BT Aggressive STIF), the Bankers Trust Pyramid Cash Plus Fund (the BT Cash Plus Fund), and the Bankers Trust Pyramid Super Cash Fund (the BT Super Cash Fund).

These three Funds are actively managed, market valued money market vehicles which endeavor to provide a rate of return in excess of traditional par valued short-term money market funds by extending eligible maturities, modifying credit restrictions, and taking advantage of trading opportunities in the money markets. The applicant represents that there are certain differences in the investment strategies used by each Fund, including the duration of average maturities and, in the case of the BT Aggressive STIF, the permitted use of equities and equity equivalents. Bankers Trust states that the Notes were permissible investments under the investment guidelines for each Fund and initially paid above market returns. However, unexpected increases in interest rates during 1994 adversely affected the market value of the Notes. Therefore, the Funds sold the Notes to BTNY on October 28, 1994, for an amount equal to the par value of the Notes owned by each Fund. The Funds had purchased the Notes for an amount which equalled the par value of the Notes, except for Note #2 which was purchased at a slight discount (see Paragraph 5 below).

4. The Notes consisted of U.S. Government Constant Maturity Treasury (CMT) Notes issued by various U.S. Government agencies, and Index Amortizing Notes (IANs) issued by various private sector corporations (as described in Paragraph 5 below). All of the issuers were parties unrelated to the Funds and employee benefit plans invested in the Funds (the Plans) as well as BTNY or any affiliate. In addition, the Notes were purchased by the Funds from broker-dealers that were independent of the Funds, the Plans, BTNY and its affiliates.

The CMT Notes were debt instruments which initially paid a premium rate of interest monthly based on changes in a specified index, such as the London Interbank Offered Rate (LIBOR), the U.S. Treasury Bill Rate or the U.S. Federal Reserve's Cost of Funds Index (COFI). However, under the terms of CMT Notes at the time of issuance, the formula for interest rate payments, and the index upon which such payments were based, was scheduled to change on a specified future date to a different formula based on the U.S. Treasury CMT Rate. Bankers Trust states that the formulas for the interest rate payments made the market value of CMT Notes particularly sensitive to certain changes in the U.S. Treasury CMT Rate. In this regard, Bankers Trust represents that the CMT Notes paid a

rate of return that was higher than the existing rates for U.S. Treasury securities of comparable maturity as long as the yield curve for such securities was ''steep''—with interest rates falling based on the specified index. However, Bankers Trust states that once the yield curve became ''flat'' (i.e. with short-term interest rates rising faster than long-term interest rates) or ''climbed'' (i.e. with a general rise in both short-term and long-term rates), the relative yield on the CMT Notes fell and their market value was below par.

The IANs were debt instruments which initially paid a premium rate of interest monthly based on LIBOR, pursuant to certain formulas used to calculate such rates at various specified times. However, the IANs risked a maturity extension if short-term interest rates, as measured by LIBOR, rose above a certain level. Under such circumstances, once the maturity on the IANs was extended, the IANs would stop paying interest and the outstanding principal balance would be paid down over the remaining term pursuant to certain specified schedules.

5. The terms of the Notes, and the circumstances relating to their yield as investments for the Funds, are described as follows:

Note #1 was a five-year CMT note issued by the Federal National Mortgage Association (FNMA or ''Fannie Mae''), which was purchased by the Funds on February 15, 1994 from McDonald & Company for $95 million, with final maturity on March 2, 1999. Note #1 paid interest monthly at a rate equal to one-month LIBOR plus 20 basis points for the first and second years, .65 times the two-year CMT rate plus 129 basis points for the third through fifth years. At the time of the sale of Note #1 by the Funds to BTNY, the note was paying a coupon of LIBOR plus 20 basis points. Bankers Trust states that at the time of sale, the forward curve (i.e. a measurement of future interest rates based on yields for U.S. Treasury securities of comparable duration) suggested that the performance of Note #1 would be significantly impaired once the LIBOR-based coupon payment period ended. According to the forward curve determined by Bankers Trust on October 28, 1994, the comparable investment rate for the time horizon of February 15, 1996 through March 15, 1999 was 7.55%. Bankers Trust represents that Note #1 would have had a market value greater than par if the ''time weighted average'' of the expected coupons had been greater than or equal to 7.55%. However, at the time of sale, Bankers Trust did not expect that the coupons to be received on Note #1 would be greater than the comparable investment rate for the duration of Note #1. Therefore, Bankers Trust determined that it was appropriate to sell the security.

Note #2 was a three-year CMT note issued by the Federal Home Loan Bank (FHLB), which was purchased by the BT Cash Plus Fund on October 27, 1993 from McDonald & Company for $26,831,250, with a final maturity on November 12, 1996. The par value of Note #2 was $27 million. Thus, the BT Cash Plus Fund purchased Note #2 at a discounted price. Note #2 paid interest quarterly at a rate equal to the three-month U.S. Treasury Bill Rate plus 25 basis points for the first year and .4 times the two-year CMT rate plus 205 basis points for the second and third years. At the time of the sale of Note #2 by the BT Cash Plus Fund to BTNY, the period for the note to pay the three-month U.S. Treasury Bill Rate plus 25 basis points had ended. Bankers Trust states that once this payment period ended, the forward curve suggested that the performance of Note #2 would be significantly impaired. According to the forward curve determined by Bankers Trust on October 28, 1994, since the remaining life of Note #2 was two years, the comparable investment rate was equal to the then current two-year CMT rate which was 6.82%. Bankers Trust represents that Note #2 would have had a market value greater than par if the ''time weighted average'' of the expected coupons had been greater than 6.82%. However, at the time of sale, Bankers Trust did not expect that the coupons to be received on Note #2 would be greater than the comparable investment rate for the duration of Note #2. Therefore, Bankers Trust determined that it was appropriate to sell the security.

Note #3 was a five-year CMT note issued by Fannie Mae, which was purchased by the BT Cash Plus Fund on February 7, 1994 from McDonald & Company for $95 million, with final maturity on February 17, 1999. Note #3 paid interest monthly at a rate equal to the COFI rate plus 10 basis points for the first and second years, .4 times the two-year CMT rate plus 245 basis points for the third through fifth years. At the time of the sale of Note #3 by the BT Cash Plus Fund to BTNY, the note was paying the COFI rate plus 10 basis points. However, Bankers Trust states that once this COFI-based coupon payment ended, the forward curve suggested that the performance of the note would be significantly impaired. According to the forward curve determined by Bankers Trust on October 28, 1994, the comparable investment rate for the period February 17, 1996 to February 1, 1999 was 7.53%. Bankers Trust represents that Note #3 would have had a market value greater than par if the ''time weighted average'' of the expected coupons had been greater than 7.53%. At the time of sale, Bankers Trust did not expect that the coupons to be received on Note #3 would be greater than the comparable investment rate for the duration of Note #3. Therefore, Bankers Trust determined that it was appropriate to sell the security.

Note #4 was a five-year CMT note issued by the Federal Home Loan Mortgage Corporation (FHLMC or ''Freddie Mac''), which was purchased by the BT Cash Plus Fund and the BT Super Cash Fund on February 16, 1994 from Nikko Securities for $71 million, with final maturity on March 2, 1999. Note #4 paid interest monthly at a rate equal to .5 times the two-year CMT rate plus 209 basis points. According to the forward curve determined by Bankers Trust on October 28, 1994, the comparable investment rate for the period October 28, 1994 through March 2, 1999 was 7.4%. Bankers Trust represents that Note #4 would have had a market value greater than par if the ''time weighted average'' of the expected coupons had been greater than 7.4%. However, at the time of sale, Bankers Trust did not expect that the coupons to be received on Note #4 would be greater than the comparable investment rate for the duration of Note #4. Therefore, Bankers Trust determined that it was appropriate to sell the security.

Note #5 was a three-year CMT note issued by the Student Loan Marketing Association (SLMA or ''Sallie Mae''), which was purchased on February 10, 1994 from Nikko Securities for $95 million, with final maturity on February 24, 1997. Note #5 paid interest monthly at a rate equal to one-month LIBOR plus 20 basis points for the first year and .65 times the two-year CMT rate plus 75 basis points for the second and third years. At the time of the sale of Note #5 by the Funds to BTNY, the note was paying LIBOR plus 20 basis points. However, Bankers Trust states that once this LIBOR-based coupon payment ended, the forward curve suggested that the performance of the note would be significantly impaired. According to the forward curve determined by Bankers Trust on October 28, 1994, the comparable investment rate was equal to the then current two-year CMT rate which was 6.82%. Bankers Trust represents that Note #5 would have had a market value greater than par if the ''time weighted average'' of the expected coupons had been greater than 6.82%. At the time of sale, Bankers Trust did not expect that the coupons to be received on Note #5 would be greater

than the comparable investment rate for the duration of Note #5. Therefore, Bankers Trust determined that it was appropriate to sell the security.

Note #6 was an IAN issued by Rabobank, which was purchased by the Funds on November 9, 1993 from Lehman Brothers for $14 million, with initial maturity on November 17, 1994. Note #6 paid interest quarterly at a rate equal to three-month LIBOR plus 50 basis points until November 17, 1994 and paid 4.33% thereafter. Bankers Trust states that Note #6 was subject to the risk of a maturity extension if short-term rates rose above a certain level on a specified date. Under the terms of Note #6, if three-month LIBOR was less than 4.9% on November 15, 1994, the note would mature and the principal would be repaid in full on November 17, 1994. However, if three-month LIBOR was above 4.9% on November 15, 1994, the term of Note #6 would be extended for three years with a fixed coupon rate of 4.33% and principal would be repaid according to a pre-set amortization schedule. On October 28, 1994, three-month LIBOR was 5.69%, approximately 79 basis points above Note #6's trigger rate of 4.9%. Thus, it appeared highly probable that the note's maturity would be extended until November 1997. Bankers Trust considered the fixed coupon rate of 4.33% on Note #6 to be significantly below the comparable investment rate for the duration of the note, which was calculated to be 7.14%. Therefore, Bankers Trust determined that the security should be sold.

Note #7 was an IAN issued by Prudential Funding, which was purchased by the Funds on September 24, 1993 from Lehman Brothers for $34 million, with initial maturity on October 18, 1994. Note #7 paid interest quarterly at a fixed rate of 4.75% until October 18, 1994. Like Note #6 described above, Bankers Trust states that Note #7 was subject to the risk of a maturity extension if short-term rates rose above a certain level on a specified date. Under the terms of Note #7, if three-month LIBOR was above 5.04% on October 16, 1994, the maturity of the note extended for three years at a 0% coupon rate with quarterly payments of principal in amounts based on a pre-set amortization schedule. If three-month LIBOR was below 5.04% on October 16, 1994, Note #7 would mature in full on that date. However, Bankers Trust states that three-month LIBOR was above 5.04% on October 16, 1994. At the time of sale, Note #7 was scheduled to pay a 0% coupon and its maturity had been extended. Thus, Bankers Trust determined that the security should be sold.

Note #8 was an IAN issued by E.I. du Pont, which was purchased by the BT Super Cash Fund on September 24, 1993 from Morgan Stanley for $1.3 million, with initial maturity on October 14, 1994. Note #8 paid interest quarterly at a fixed rate of 4.75%. Like Note #7 described above, Bankers Trust states that Note #8 was subject to the risk of a maturity extension if short-term rates rose above a certain level on a specified date. Under the terms of Note #8, if three-month LIBOR was above 5.04% on October 12, 1994, the maturity of the note extended for three years at a 0% coupon rate with quarterly payments of principal in amounts based on a pre-set amortization schedule. If three-month LIBOR was below 5.04% on October 12, 1994, Note #8 would mature in full on October 14, 1994. Since three-month LIBOR was above 5.04% on October 12, 1994, the maturity of Note #8 extended for three years paying a 0% coupon. Thus, Bankers Trust determined that the security should be sold.

6. Bankers Trust had the Funds sell their respective interests in the Notes to BTNY on October 28, 1994, for the par value of the Notes, which in each case was greater than the fair market value of the Notes owned by the Fund (see table below). At the time of the transaction, the par value of the Notes was equal in each case to the outstanding principal balance of the Notes because no principal payments had been made on any of the Notes (see charts in Paragraph 7 below). In addition, Bankers Trust states that the par value of the Notes was either greater than or equal to the initial purchase price paid by the Fund for its interest in the Notes.

Bankers Trust obtained bids from independent broker-dealers to establish the fair market value of the Notes at the time of the transaction. The most recent bids obtained by Bankers Trust prior to the sale of the Notes were as of October 21, 1994. Bankers Trust states that bids for the Notes obtained on October 31, 1994 showed no significant change had occurred over the ten-day period, thereby confirming that the fair market value of the Notes was significantly less than the par value of the Notes on the transaction date of October 28, 1994. Bankers Trust represents that on both October 21, 1994 and October 31, 1994, the bids for Note #1 through Note #5 were quoted by Nikko Securities, for Note #6 and Note #7 by Lehman Brothers, and for Note #8 by Morgan Stanley. The bids for the Notes were quoted by the broker-dealers as a percentage of the outstanding principal balance of each Note. These bids, in comparison with the par value of the Notes, were as follows:

Note	Price quoted		Price received (par value)
	10/21/94	10/31/94	
#1	[11] 96.06	96.00	100 ($95,000,000)
#2	96.10	96.05	100 (27,000,000)
#3	91.15	91.08	100 (95,000,000)
#4	94.08	94.00	100 (71,000,000)
#5	96.00	95.27	100 (95,000,000)
#6	90.29	90.25	100 (14,000,000)
#7	79.25	80.21	100 (34,000,000)
#8	80.38	80.50	100 (1,300,000)

[11] Bankers Trust states that the prices quoted are per $100 of principal. To determine the total price quoted, the face value of each Note is multiplied by the quote, expressed as a percentage of 100. Thus, for example, since the par value of Note #1 is $95,000,000, the quoted price on October 21, 1994 would have been $91,257,000 since $95,000,000 × .9606 = $91,257,000.

In addition, Duff & Phelps Capital Markets Co. (D&P) in Chicago, Illinois, provided an opinion letter to Bankers Trust on October 27, 1994, which stated that the fair market value of each Note was less than its par value at that time. In providing this opinion, D&P used a valuation methodology which was based on a predicted stream of cash flows for each Note, discounted at a rate that reflected each Note's credit risk and average life. D&P established the predicted stream of cash flows based on implied forward interest rates for each Note adjusted according to the terms of the Note. In doing this analysis, D&P states that it attempted to apply conservative assumptions whenever possible such that the analysis would tend to overvalue rather than undervalue the Notes. Bankers Trust states that D&P's opinion letter helped confirm that the market value of the Notes was less than par at the time of sale because D&P's conclusions were consistent with the bid quotations received by Bankers Trust for each Note as well as Bankers Trust's own analysis of the Notes.

7. The Funds' holdings regarding each Note, including the percentage of the Fund that the Note represented and the interest earnings on the Note as of October 28, 1994, are shown on the tables below: [12]

BT AGGRESSIVE STIF

Note	Purchase price/basis	Outstanding balance	Approx. % of fund	Interest earnings
#1	$10,000,000	$10,000,000	19.95	$295,965
#2	0	0	0.00	0
#3	0	0	0.00	0
#4	0	0	0.00	0
#5	5,000,000	5,000,000	9.97	120,617
#6	2,500,000	2,500,000	4.99	162,556
#7	3,000,000	3,000,000	5.98	146,458
#8	0	0	0.00	0
	20,500,000	20,500,000	40.89	725,596

BT CASH PLUS FUND

Note	Purchase price/basis	Outstanding balance	Approx. % of fund	Interest earnings
#1	$70,000,000	$70,000,000	5.44	$2,071,758
#2	26,831,250	27,000,000	2.08	383,229
#3	95,000,000	95,000,000	7.38	2,572,424
#4	55,000,000	55,000,000	4.27	1,803,636
#5	70,000,000	70,000,000	5.44	1,688,635
#6	5,500,000	5,500,000	0.43	939,705
#7	26,000,000	26,000,000	2.02	960,555
#8	0	0	0.00	0
	348,331,250	348,500,000	27.06	10,419,942

BT SUPER CASH FUND

Note	Purchase price/basis	Outstanding balance	Approx. % of fund	Interest earnings
#1	$15,000,000	$15,000,000	5.32	$295,376
#2	0	0	0.00	0
#3	0	0	0.00	0
#4	16,000,000	16,000,000	5.67	524,694
#5	20,000,000	20,000,000	7.09	482,467
#6	6,000,000	6,000,000	2.13	369,828
#7	5,000,000	5,000,000	1.77	244,097
#8	1,300,000	1,300,000	0.46	46,313
	63,300,000	63,300,000	22.43	1,962,775

Bankers Trust represents that the Notes paid the Funds a reasonable rate of interest during the period of time that the Funds held the Notes. For example, Bankers Trust states that the annualized rate of interest for each Note at the time of the transaction was as follows: (i) 5.2% for Note #1; (ii) 5.34% for Note #2; (iii) 4.05% for Note #3; (iv) 5.39% for Note #4; (v) 5.26% for Note #5; (vi) 5.44% for Note #6; (vii) 4.75% for Note #7; and (viii) 4.75% for Note #8.

8. Bankers Trust, as trustee of the Funds, believed that the sale of the Notes to BTNY was in the best interests of each Fund, and the employee benefit plans invested in the Fund, at the time of the transaction. Bankers Trust states

[12] With respect to the figures shown for each Note in the tables, if a Fund did not own an interest in the particular Note a zero dollar amount is shown.

that any sale of the Notes on the open market would have produced significant losses for the Funds and for the individual employee benefit plan investors involved.[13]

9. Bankers Trust represents that it took all appropriate actions necessary to safeguard the interests of the Funds, and the employee benefit plans invested therein, in connection with the transactions. Bankers Trust ensured that each Fund received the appropriate amount of cash from BTNY in exchange for such Fund's interests in the Notes at the time of the transactions. Bankers Trust reviewed the latest information regarding the fair market value of the Notes, based on bid quotations received from independent broker-dealers. Bankers Trust also ensured that the Funds did not pay any commissions or other expenses for the sale of the Notes to BTNY.

10. In summary, the applicant represents that the transactions satisfied the statutory criteria of section 408(a) of the Act and section 4975 of the Code because: (a) Each sale of the Notes by the Funds was a one-time transaction for cash; (b) each Fund received an amount which was equal to the greater of either (i) the par value of the Notes owned by the Fund at the time of sale, (ii) the purchase price paid by the Fund for its interest in each of the Notes, or (iii) the fair market value of the Notes owned by the Fund as determined by bid quotations for the Notes obtained by Bankers Trust from independent broker-dealers at the time of sale; (c) the Funds did not pay any commissions or other expenses with respect to the sale; (d) Bankers Trust, as trustee of the Funds, determined that the sale of the Notes was in the best interests of each Fund, and the employee benefit plans invested in the Fund, at the time of the transaction; (e) Bankers Trust took all appropriate actions necessary to safeguard the interests of the Funds in connection with the transactions; and (f) the Funds received a reasonable rate of return during the period of time that the Funds held the Notes.

Notice to Interested Persons

The applicant states that notice of the proposed exemption shall be made by first class mail to the appropriate Plan fiduciaries for each employee benefit plan participating in the Funds at the time of the transactions. Notice to the plan fiduciaries shall be made within fifteen (15) days following the publication of the proposed exemption in the **Federal Register**. This notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within forty-five (45) days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

General Electric Pension Trust (the Trust) Located in Fairfield, Connecticut; Proposed Exemption

[Application No. D–09880]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply effective August 3, 1994, to the past and continued lease (the Lease) by the Trust of office space in a commercial office building located at 201 Mission Street in San Francisco, California (the Property), to GE Capital Aviation Services, Inc. (GE Aviation), a party in interest with respect to employee benefit plans participating in the Trust, provided the following conditions are met:

(a) All terms and conditions of the Lease are at least as favorable to the Trust as those which the Trust could have obtained in an arm's-length transaction with an unrelated party at the time the Lease was executed;

(b) The rent paid by GE Aviation to the Trust under the Lease is not less than the fair market rental value of the office space, as established by an independent qualified real estate appraiser;

(c) David P. Rhoades (Mr. Rhoades), acting as a qualified, independent fiduciary for the Trust reviewed all terms and conditions of the Lease prior to the transaction, as well as any subsequent modifications to the Lease, and determined that such terms and conditions would be in the best interests of the Trust at the time of the transaction; and

(d) Mr. Rhoades represents the interests of the Trust for all purposes under the Lease as a qualified, independent fiduciary for the Trust, monitors the performance of the parties under the terms and conditions of the Lease and the exemption, and takes whatever action is necessary to safeguard the interests of the Trust throughout the duration of the Lease.

EFFECTIVE DATE: This proposed exemption, if granted, will be effective for the period from August 3, 1994, until the scheduled termination date of the Lease (i.e. September 16, 1999) or, if earlier, the date the Lease is actually terminated by the parties.

Summary of Facts and Representations

1. The Trust holds assets of the General Electric Company Pension Plan (the GE Pension Plan), the Knolls Atomic Laboratories Pension Plan, ERC Retirement Plan, GE Components Pension Plan For Puerto Rico, and Neutron Devices Department Pension Plan (collectively, the Plans). The Plans are all defined benefit plans that cover employees of General Electric Company (GE) and various GE subsidiaries. There are a total of over 488,000 participants and beneficiaries under the Plans. As of December 31, 1993, the Trust held approximately $27.3 billion in assets.

The trustees of the Trust are five individuals (the Trustees) who are

[13] The Department is expressing no opinion in this proposed exemption regarding whether the acquisition and holding of the Notes by the Funds violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act.

The Department notes that section 404(a) of the Act requires, among other things, that a fiduciary of a plan act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making investment decisions on behalf of a plan. Section 404(a) of the Act also states that a plan fiduciary should diversify the investments of a plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

In this regard, the Department is not providing any opinion as to whether a particular category of investments or investment strategy would be considered prudent or in the best interests of a plan as required by section 404 of the Act. The determination of the prudence of a particular investment or investment course of action must be made by a plan fiduciary after appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including a plan's potential exposure to losses and the role the investment or investment course of action plays in that portion of the plan's portfolio with respect to which the fiduciary has investment duties (see 29 CFR 2550.404a–1). The Department also notes that in order to act prudently in making investment decisions, a plan fiduciary must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. Thus, a particular investment by a plan, which is selected in preference to other alternative investments, would generally not be prudent if such investment involves a greater risk to the security of a plan's assets than other comparable investments offering a similar return or result.

officers of GE and its subsidiaries. The Trustees are appointed by the GE Benefit Plans Investment Committee, an oversight committee that determines the investment policies of the Trust. The Trustees maintain overall responsibility for investment of the Trust's assets. The Trustees have delegated specific responsibility for investment management of most of the Trust's assets to the General Electric Investment Corporation (GEIC).

GEIC, a Delaware corporation and a wholly-owned subsidiary of GE, is a registered investment adviser under the Investment Advisers Act of 1940. GEIC provides investment management services to a variety of GE-affiliated entities. As of January 1, 1994, GEIC managed approximately $40.4 billion in assets.

2. GE Aviation, a Delaware corporation formerly known as the Polaris Corporation, is a wholly-owned subsidiary of General Electric Capital Corporation. The primary business of GE Aviation is airplane equipment leasing. GE Aviation's employees are participants in the GE Pension Plan.

3. The transaction for which an exemption is requested involves the leasing of office space between the Trust, as landlord, and GE Aviation, as tenant, in the office building located at 201 Mission Street in San Francisco, California (the Property).

The Property is a 30-story office building located in the southern financial district of San Francisco. The Property is part of a series of high-rise buildings developed during the 1980s on the fringes of the city's traditional financial district. The ground floor is leased to retail businesses and the other floors are leased as office space. The rentable area of the Property is approximately 475,675 square feet. The current value of the Property is approximately $40 million.

Construction of the Property was completed in 1981. The Trust financed the acquisition of the Property by an unrelated party that subsequently went into receivership. The Trust acquired the Property by deed in lieu of foreclosure in April 1993. The Trust currently owns the Property through a real estate title holding company, Pacific Gateway Realty Corporation.

Most of the office space in the Property was originally rented by Bank of America. Bank of America subsequently decided to relocate and consolidate its offices, and vacated one-half of the office space it occupied in the Property in 1991. At that time, the vacated area was leased on a short-term basis to Pacific Gas & Electric (PG&E), which was making repairs to its existing offices as a consequence of earthquake damage. While there were negotiations in 1993 for PG&E to extend its existing lease and to lease additional space, PG&E's board of directors ultimately decided against remaining in the Property. PG&E intends to vacate the Property in January 1996, when the repairs to its original offices are expected to be completed.

Bank of America vacated the other half of the office space it occupied in the Property in late 1993 upon completing its relocation. As a result, about 34 percent (i.e. 160,014 square feet) of the rentable area in the Property was vacant as of early 1994, compared to a general vacancy rate in San Francisco-area office buildings of around 12 percent at that time.

In the months after Bank of America vacated, the managers of the Property actively searched for tenants, in an effort to lease the vacant space as quickly as possible before PG&E leaves. As of June 1994, tenants had been found for approximately 77,000 square feet of space, or about 16 percent of rentable area, leaving around 18 percent of the Property vacant. One of the tenants was GE Aviation.

4. The applicant represents that in early 1994 GE Aviation had its offices at Four Embarcadero Center in San Francisco's main business district. However, GE Aviation was in the process of downsizing its operations and was looking for smaller space in a less expensive part of San Francisco. In the course of its search for office space, GE Aviation contacted Sentre Partners (Sentre), the independent property manager retained by the Trust to manage the Property. GE Aviation decided that it was interested in leasing space in the Property and entered into negotiations with Sentre.

The Lease was executed by GE Aviation in July 1994, after which the documents were sent to Sentre. The Lease was executed by Pacific Gateway Realty Corporation as landlord on August 3, 1994, following receipt of the report by Mr. Rhoades, the independent fiduciary acting for the Trust in connection with the subject transaction. The applicant states that once the Lease was signed by all of the parties, the landlord began making extensive improvements to the space in order to accommodate a planned occupancy date for GE Aviation of September 1, 1994.

5. Under the Lease, GE Aviation has leased approximately 9,376 square feet of space located on the eastern and southern portions of the 27th floor of the Property. This space constitutes approximately two percent of the rentable square footage in the Property. The term of the Lease is five years, which commenced on September 16, 1994, the date that work on the premises was substantially completed. The annual rent is $20 per square foot of rentable area, or $187,520, for the first three years of the Lease, and $21 per square foot of rentable area, or $196,896, for the fourth and fifth years, payable monthly. The Lease requires that GE Aviation pay its proportionate share of the Trust's real estate taxes and expenses relating to the Property for years after 1995, to the extent these taxes and expenses exceed those for 1995 (the ''base'' year) or to the extent any additional taxes or expenses are properly chargeable solely to GE Aviation in connection with its activities with the leased space.

Late payments are subject to a 5% late payment charge after written notice is given. If the late payment becomes an event of default, or in the event of any failure by GE Aviation to perform its obligations under the Lease, GE Aviation will be obligated for interest charges and other amounts necessary to compensate the Trust for damages caused by GE Aviations' failure to perform.

GE Aviation does not have any options or rights to expand or extend the Lease, nor has it received any period of free rent. Any assignments or subleases by GE Aviation are void unless the Trust has provided prior written consent and, if consented to, are subject to additional charges.

6. The Trust has provided agreed-upon improvements to the space which, prior to the Lease, contained only nominal improvements. The total cost of the improvements shall not exceed $42.50 per rentable square foot ($398,480), with any additional costs to be paid by GE Aviation.[14] The Trust is responsible to repair any defects in this work of which it is notified by GE Aviation within one year, other than defects resulting from compliance with the specifications provided by GE Aviation's architect or engineer. GE Aviation is responsible at its expense for any additional work it needs or desires that is not part of the agreed-upon

[14] The Department expresses no opinion in this proposed exemption as to whether the expenses incurred by the Trust relating to the tenant improvements provided for GE Aviation would violate any provision of Part 4 of Title I of the Act. In this regard, the Department notes that section 404(a) of the Act requires, among other things, that plan fiduciaries act prudently and solely in the interest of the plan's participants and beneficiaries when making investment decisions on behalf of a plan. In addition, section 404(a) of the Act requires that plan fiduciaries act for the exclusive purpose of providing benefits to participants and beneficiaries and to defray reasonable expenses of administering the plan.

improvements. Any alterations to be made during the term of the Lease are subject to the Trust's written consent. Alterations generally become the property of the Trust and remain at the expiration of the Lease, except that the Trust may require the alterations to be removed at GE Aviation's expense.

7. Mr. Rhoades was retained by GEIC to act as an independent fiduciary for the Trust in connection with the Lease. Mr. Rhoades is president of the real estate appraisal and consulting firm of David P. Rhoades & Associates, Inc., of San Francisco, California. Mr. Rhoades represents that he and his firm are independent of, and unrelated to, GE and its affiliates. Mr. Rhoades states that he is a Member of the Appraisal Institute (MAI) and has 22 years experience as a real estate appraiser dealing with the valuation and analysis of all types of property, including urban office buildings similar to the Property. Mr. Rhoades has acknowledged in writing that he is a fiduciary for the Trust and that he understands his duties, responsibilities, and liabilities as a fiduciary under the Act.

8. Mr. Rhoades reviewed the Lease and inspected the Property prior to the transaction. In an appraisal dated July 6, 1994, Mr. Rhoades concluded that the market rent for the space covered by the Lease would be in the range of $19.00 to $21.00 per square foot. Thus, Mr. Rhoades determined that the proposed average rental rate under the Lease of $20.22 per square foot would be at the upper end of the range of rents for comparable leases in the San Francisco area and would not be less than the fair market rental value for the space. Mr. Rhoades states that the terms of the Lease are comparable to the terms that would have been negotiated in arm's-length transactions between unrelated parties. Mr. Rhoades concluded that the Lease would be in the best interest of the Trust because it would yield the Trust a market rate of return, would avoid additional leasing efforts, and would avoid the lost revenue and associated costs of having the space remain vacant.

Mr. Rhoades represents that the tenant improvement allowance for the Lease of $42.50 per square foot was necessary because of the unimproved condition of the particular space. Mr. Rhoades states that the space on the 27th floor leased by GE Aviation was previously demolished in connection with work that was done for another tenant, who currently occupies part of the 27th floor and the two floors above the 27th floor. In this regard, the applicant represents that the 27th floor space previously was occupied by Bank of America, which had been a major tenant in the Building from 1981 through 1991. The entire 27th floor, when occupied by the Bank of America, was primarily open space with movable partitions. At the time the Bank of America vacated the 27th floor space, substantial work on the space was needed to satisfy applicable legal requirements, such as current fire and safety codes. In addition, the Bank of America's use of the space was not readily adaptable to a new tenant desiring up-to-date conventional office space and was functionally obsolete. Consequently, the applicant states that it was cost effective to demolish the entire floor when work was being done for a new tenant that would occupy half of the 27th floor and to re-build sufficiently to meet the minimum requirements for the entire floor, including the part that was not yet being leased. As a result, when the other half of the floor was leased to GE Aviation, it was in unimproved condition. Thus, prior to the Lease, the space was effectively ''first generation'' or unimproved space which required relatively high outlays for tenant improvements.

Mr. Rhoades states that the improvements made to the space leased by GE Aviation are functional and reusable by a wide range of tenants without major costs, and are typical of the types of improvements landlords usually build for such tenants. Mr. Rhoades maintains that the residual value of the tenant improvements at the end of the Lease (i.e. 5 years) will be about 50 percent of the original cost of the tenant improvements, or approximately $21.25 per square foot.

9. With respect to the overall rate of return to the Trust under the terms of the Lease, Mr. Rhoades conducted an analysis of both the ''internal rate of return'' (IRR) and the ''net present value'' (NPV) to the Trust from the Lease.

Mr. Rhoades represents that the ''rate of return'' on a real estate investment is the ratio of income to the original investment and the ''IRR'' is the *annualized* rate of return on capital that is generated within an investment over a period of ownership.[15] Thus, the IRR measures the returns from an investment in relation to the original capital outlay. In this case, Mr. Rhoades states that the ''returns'' consist of the rental income over the Lease term and the pass-through of certain expenses after the first year, as well as the residual value of the tenant improvements at the end of the Lease. The ''original capital outlay'' consists of expenses relating to the leased space, including the tenant improvements, operating expenses, brokerage fees, parking, and taxes. This ''original capital outlay'' was approximately $421,920.

In addition, Mr. Rhoades states that the ''NPV'' is the difference between the present value of all expected investment benefits, or positive cash flows, and the present value of capital outlays, or negative cash flows, over the entire period of the investment. The present value calculation involved in determining NPV requires the use of a specific discount rate, which operates as the annual rate of return objective. In this regard, Mr. Rhoades used the standard real estate industry rate of 9 percent for the NPV calculation, which provided a basis for comparing the rate of return on the Lease to different leasing arrangements in the Property.

Mr. Rhoades states that his approach to evaluating leases and leasing costs is customary in the real estate industry. Mr. Rhoades states further that he was consistent in using this approach to evaluate the comparable leases in the Building and other comparable properties for purposes of determining the fair market rental value of the space under the Lease as well as the IRR and NPV of the Lease to the Trust. However, Mr. Rhoades notes that his approach did not consider the original cost or value of the Building in evaluating the specific leases. In this regard, Mr. Rhoades has confirmed that it is not customary to consider the cost or value of a building for this purpose because the focus in valuing a lease is on the incremental costs and income of the lease and the ongoing costs relating to the space.

Based on an extensive analysis and comparison of the terms of the Lease to all other leases in the Property at the time of the transaction, Mr. Rhoades concluded that the Lease had a greater NPV and would yield a higher IRR than any other lease of a comparable term in the Property. Mr. Rhoades represents that the Lease will yield an IRR to the Trust of approximately 10.83 percent on an annual basis and has a NPV of $4.87 per square foot based on a discount rate of 9 percent, when taking into account the residual value of the tenant improvements. Therefore, Mr. Rhoades states that it is unlikely that the Trust would have obtained a lease for the space on more favorable terms from

[15] Mr. Rhoades cites *The Dictionary of Real Estate Appraisal* (3rd edition) as his source for the definition of these terms.

other tenants in the market at the time of the transaction.[16]

10. Mr. Rhoades, as independent fiduciary for the Trust, will monitor the Lease on an ongoing basis. Mr. Rhoades will determine GE Aviation's compliance with the terms of the Lease and has the authority to take any action necessary to enforce the rights of the Trust under the Lease, including the termination of the Lease. Any renewals of the Lease will be subject to the oversight, review and approval of Mr. Rhoades. Such a renewal will not be executed in the absence of Mr. Rhoades' opinion that the proposed renewal would be in the best interests of the Trust.

11. In summary, the applicant states that the transaction meets the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) the terms of the Lease are at least as favorable to the Trust as the terms which would exist in an arm's-length transaction with an unrelated party; (b) the Trust will receive rental amounts under the Lease equal to the fair market rental value for the space, as determined by a qualified, independent appraiser; (c) an independent fiduciary (i.e. Mr. Rhoades) acting for the Trust reviewed the terms and conditions of the Lease and determined that the transaction would be in the best interests of the Trust; (d) Mr. Rhoades, as the independent fiduciary, will monitor the Lease on behalf of the Trust and take whatever actions are necessary to protect the interests of the Trust; and (e) the Lease only involves a small percentage of the Trust's total assets.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

The Amended and Restated Profit Sharing Retirement Plan for Employees of 84 Lumber Company (the Profit Sharing Plan) and The Amended and Restated Savings Fund Plan for Employees of 84 Lumber Company (the Savings Plan; together, the Plans) Located in Eighty Four, Pennsylvania; Proposed Exemption

[Application Nos. D–09945 and D–09946]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) The proposed extension of credit by 84 Lumber Company (Lumber) to the Plans in the form of loans (the Loans) with respect to Guaranteed Investment Contract, Number CG0124601A issued by Executive Life Insurance Company (ELIC) to the Profit Sharing Plan and Guaranteed Investment Contract No. CG0124701A (both Contracts together, the GICs) issued by ELIC to the Savings Plan; and (2) the Plans' potential repayment of the Loans (the Repayments), provided: (a) all terms of such transactions are no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with an unrelated party; (b) no interest and/or expenses are paid by the Plans; (c) the Loans are made with respect to amounts invested by the Plans in the GICs; (d) the Repayments are restricted to the amounts, if any, paid to the Plans after the date of the Loans by ELIC or other responsible third parties with respect to the GICs (the GIC Proceeds); (e) the Repayments under each Loan will not exceed the total amount of the Loan; and (f) the Repayments are waived with respect to the amount by which any Loan exceeds the GIC Proceeds.

Summary of Facts and Representations

1. Lumber is a Pennsylvania general partnership engaged in the retail lumber and building products business. As of January 1, 1995, Lumber operated 374 individual store locations in 31 states. The headquarters of Lumber are in Eighty Four, Pennsylvania. The managing general partner of Lumber is Pierce-Hardy Real Estate, Inc., a Pennsylvania business trust. Lumber is the sponsor of both Plans, each of which covers the employees of Lumber. The Profit Sharing Plan also covers employees of the Trusty Building Components Company, an affiliate of Lumber.

2. Each of the Plans is a defined contribution plan that is qualified under section 401(a) of the Code. The Savings Plan is intended to constitute a qualified cash or deferred arrangement in accordance with section 401(k) of the Code. The Savings Plan is a participant-directed individual account plan under which the participants may direct the investment of their accounts in one or more investment funds. As of December 31, 1994, (i) the Profit Sharing Plan had 3,018 active and terminated vested participants and total assets of approximately $24,718,415; and (ii) the Savings Plan had 2,080 active and terminated vested participants and total assets of approximately $17,187,503.

3. On September 25, 1987, ELIC issued the GICs to the Plans. The Profit Sharing Plan's GIC was in the principal amount of $2 million, and the Savings Plan's GIC was in the principal amount of $1 million. Each GIC guaranteed an annual interest rate of 9.92% from the issue date to the September 25, 1992 maturity date. Interest accrued under the GICs was payable yearly, and each Plan received interest payments for 1988, 1989 and 1990. The final interest payments made by ELIC were received by the Plans on September 25, 1990. No interest accrued under the GICs was paid in 1991.

4. On April 11, 1991 (the Conservation Date), ELIC was placed in conservatorship by the Commissioner of Insurance for the State of California. As of that date, payments under the GICs were suspended, and no payments were made to the Plans.[17] As of the Conservation Date, the accumulated book values of the GICs (Accumulated Book Value), defined as the amount of deposits, plus interest at the contract rate, less interest paid, were $2,051,440 for the Profit Sharing Plan and $1,049,923 for the Savings Plan. Effective June 30, 1991, the Plans' Administrative Committees (the Committees) froze the GICs and a proportionate share of the accounts of participants with account balances invested in the GICs. The Plans have not permitted distributions or withdrawals from the respective plans with respect to the frozen portion of a participant's account. Moreover, the Savings Plan has not allowed participants to receive a loan from or reallocate the frozen portion of their accounts to any other investment option under the Savings Plan.

5. On August 13, 1993, the Los Angeles Superior Court approved the terms of the Rehabilitation/Liquidation Plan for ELIC effective September 3,

[16] Mr. Rhoades states in his letter dated August 12, 1994, that the NPV of leaving the space vacant for the five year term of the Lease would have been a negative $19.45 per square foot due to the operational and tax expenses related to the space. Mr. Rhoades notes that while it is unlikely that the space would have remained vacant for the entire five year period, it would have taken about six months for the Trust to have obtained a lease on terms at least as favorable to the Trust, with the same IRR and NPV values, as the terms of the Lease.

[17] The Department notes that the decisions to acquire and hold the GICs are governed by the fiduciary responsibility provisions of Part 4, Subtitle B, of Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs by the Plans.

1993 (the Rehab Plan). On or about December 1, 1993, each ELIC contract holder was provided with an election form and a summary of the Rehab Plan. Under the Rehab Plan, ELIC guaranteed investment contracts were reduced in value to approximately 79% of the Accumulated Book Value as of the Conservation Date and each holder of such contracts was paid an amount for accumulated interest and fees for the period between the Conservation Date and September 3, 1993 (the Interim Payments). Each contract holder, including the Plans, was informed that it could elect by February 12, 1994 to ''opt in'' or ''opt out'' of the Rehab Plan. By opting in, a contract holder would have been issued a new 5-year guaranteed investment contract issued by Aurora National Life Assurance Company (Aurora), the successor to ELIC, in an amount equal to the restructured percentage of the Accumulated Book Value as of the Conservation Date, plus the right to receive possible distributions from certain trusts and settlements that may occur in the liquidation of ELIC. Opting out of the Rehab Plan would have resulted in a cash settlement, payment of which would be made by immediate payments and future payments from an Allocation Holdback Trust, plus the right to receive possible distributions from certain trusts and settlements that may occur in the liquidation of ELIC.

6. After reviewing the Rehab Plan materials supplied by ELIC, Lumber elected to ''opt in'' with respect to the GICs. As a result, the Plans' GICs were replaced, effective February 27, 1994, with the Aurora GICs in accordance with the approved Rehab Plan. A comparison of the terms of the ELIC GICs and the Aurora GICs is set forth below:

	ELIC GIC	Aurora GIC
1. Profit sharing plan:		
Contract number	CG0214601A	CG01246A1A
Maturity date	9/25/92	9/3/98
Account value	$2,000,000	$1,280,487
Guaranteed interest rate	9.92%	5.61%
2. Savings Plan:		
Contract number	CG0214701A	CG01247A1A
Maturity date	9/25/92	9/3/98
Account value	$1,000,000	$640,243
Guaranteed interest rate	19.92%	5.61%

7. As the chart indicates, the present account value of the Aurora GICs is substantially less than the pre-conservatorship book values of the ELIC GICs. In addition, the interest rate on the Aurora GICs is substantially less than the stated interest under the ELIC GICs. Interest received by the Plans during ELIC's conservatorship and prior to the consummation of the Rehab Plan was also substantially less than the ELIC contract rate. The foregoing factors have resulted in a significant reduction in value and yield of the contracts held by the Plans.

8. The extended maturity date of the Aurora GICs has also had a significant impact on participants in the Plans and their beneficiaries. Under the terms of the Aurora GICs, the only payments that may be made prior to maturity are semi-annual interest payments. The only other benefit withdrawals permitted are the annuitization of benefits under the contract, which is not permitted under the Plans (which provide only a lump sum form of benefit).[18] As a result, participants who terminate their employment with Lumber are not able to have their lump sum distributions paid out of the respective Aurora GICs at this time.

9. In order to permit the Plans to resume full funding of all Plan events, including distributions, withdrawals, loans, interfund transfers and fund investments, Lumber proposes to make the Loans to each of the Plans and has requested an exemption to permit the Loans under the terms and conditions described herein. The Loans will be made (i) pursuant to written agreements and (ii) as a single lump sum cash payment to each Plan (the Loan Amount).[19] It is contemplated that the Loan Amount to the Profit Sharing Plan will be $1,378,000, representing the original $2,000,000 principal amount of that Plan's ELIC GIC, less an Interim Payment received by the Profit Sharing Plan of $405,852, and less payments of $93,416 under the Aurora Replacement GIC characterized as return of principal, and certain Rehab Plan adjustments attributable to distributions from various trusts (see rep. 5, above) in the amount of $123,033. It is contemplated that the Loan Amount to the Savings Plan will be $689,000, representing the original principal amount of that Plan's ELIC GIC, less an Interim Payment received by the Savings Plan of $202,925, and less payments of $46,708 under the Aurora Replacement GIC characterized as return of principal, and certain Rehab Plan adjustments attributable to distributions from various trusts (see rep. 5, above) in the amount of $61,516.[20] The Loans will be made as soon as practicable after the granting of the exemption proposed herein, and a closing agreement with respect thereto has been entered into between Lumber and the Internal Revenue Service. The Repayments will be limited to the cash proceeds of any payments received by the respective Plans as GIC Proceeds after the date of the Loans. Repayments are due only when GIC Proceeds are received by the Plans. No interest will be paid on the Loans. Under no circumstances will Repayments exceed the Loan Amounts, even if GIC Proceeds should exceed such amounts. At such time that Lumber learns that no further GIC Proceeds will be received, Repayments of any outstanding Loan Amounts will be waived by Lumber.

10. If the exemption proposed herein is granted, the Committees intend to value the Aurora GICs at the original principal amount of the ELIC GICs. Each frozen account would then be adjusted to reflect this new value, and the freeze placed on each participant's account would be removed. The Plans would then resume distributions and withdrawals under the Plans with

[18] The applicant represents that pursuant to section 401(a)(11) of the Code, the Plans are not required to provide joint and survivor annuities. The Department expresses no opinion with respect to the applicant's representation.

[19] The Department notes that this exemption, if granted, will not affect the rights of any participant or beneficiary with respect to any civil action against Plan fiduciaries for breaches of section 404 of the Act in connection with any aspect of the GIC transactions.

[20] The Loan Amounts have been rounded to $1,378,000 and $689,000 for the Profit Sharing Plan and the Savings Plan, respectively.

respect to frozen account balances. Loans and interfund transfers under the Savings Plan would also resume with respect to amounts that had been frozen.

11. In summary, the applicant represents that the proposed transactions satisfy the criteria contained in section 408(a) of the Act because: (a) All terms of the transactions will be no less favorable to the Plans than those obtainable in arm's-length transactions with unrelated parties; (b) the Loans will enable the Plans to resume normal operations with respect to distributions, withdrawals, loans, interfund transfers and fund investments; (c) the Plans will pay no interest or other expenses in connection with the Loans; (d) Repayments will be made only out of any cash proceeds of any amounts received by the Plans as GIC Proceeds after the date of the Loans; (e) the Repayments will not exceed the principal amount of the Loans; and (f) the Repayments will be waived to the extent the Loan Amounts exceed the GIC Proceeds.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Warburg Investment Management International Ltd. (Warburg International) Located in London, England; Proposed Exemption

[Application No. D–09998]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1)(A) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) of the Code, shall not apply to the proposed cross-trading of securities between various accounts managed by Warburg International or its Affiliates (the Accounts) where at least one Account involved in any cross-trade is an employee benefit plan account (Plan Account) for which Warburg International acts as a fiduciary; provided that both the General Conditions of Section I and the Specific Conditions of Section II below are met.

Section I—General Conditions

(a) Each employee benefit plan comprising a Plan Account participating in Warburg International's cross-trading program has total assets equal to at least $25 million. In the case of multiple employee benefit plans maintained by a single employer or controlled group of employers, the $25 million requirement may be met by aggregating the assets of such plans if the assets are commingled for investment purposes in a single master trust.

(b) A Plan's participation in the cross-trade program is subject to a written authorization executed in advance by a qualified Plan Fiduciary which is independent of Warburg International and its Affiliates (the Independent Fiduciary).

(c) The authorization referred to in paragraph (b) above is terminable at will without penalty to the Plan Account, upon receipt by Warburg International of written notice of termination.

(d) Before an authorization is made for any Plan Account, the Independent Fiduciary is furnished with any reasonably available information necessary for the Independent Fiduciary to determine whether the authorization should be made, including (but not limited to) a copy of the final exemption (if granted), an explanation of how the authorization may be terminated, a description of Warburg International's cross-trade practices, and any other reasonably available information regarding the matter that the Independent Fiduciary requests.

(e) Each cross-trade transaction involves only equity or debt securities for which there is a generally recognized market. With respect to any non-U.S. securities, only those securities traded on a recognized foreign securities exchange for which market quotations are readily available shall be covered by the exemption.[21]

(f) Each cross-trade transaction is effected at the current market value for the security on the date of the transactions. For equity securities, this shall be the closing price for the security on the date of the transaction. The ''closing price'' shall be the last trade price on exchanges where dealing is order-driven and the closing mid-market price (i.e. the average of the closing bid and offer prices) where dealing is quote-driven. For debt securities, the current market value shall be the fair market value determined in accordance with paragraph (b) of Rule 17a-7 issued by the Securities and Exchange Commission (SEC) under the Investment Company Act of 1940.

(g) Neither Warburg International nor its Affiliates charges a Plan Account affected by a cross-trade transaction any fee or commission for such transaction.

(h) At least every three months, and not later than 45 days following the period to which it relates, Warburg International furnishes the Independent Fiduciary with a report disclosing: (1) a list of all cross-trade transactions engaged in on behalf of the Plan Account, and (2) with respect to each cross-trade transaction, the prices at which the securities involved in the transaction were traded on the date of such transaction.

(i) The Independent Fiduciary is furnished with a summary of certain additional information at least once per year. The summary must be furnished within 45 days after the end of the period to which it relates, and must contain the following: (1) A description of the total amount of the Plan Account's assets involved in cross-trade transactions during the period, (2) a description of Warburg International's cross-trade practices, if such practices have changed materially during the period covered by the summary, (3) a statement that the Independent Fiduciary's authorization of cross-trade transactions may be terminated upon receipt by Warburg International of written notice to that effect, and (4) a statement that the Independent Fiduciary's authorization of the Plan Account's participation in the cross-trade program will continue in effect unless it is terminated.

(j) For all Accounts participating in the cross-trading program, if the number of shares of a particular security which any Accounts need to sell on a given day is less than the number of shares of such security which any Accounts need to buy, or vice versa, the direct cross-trade opportunity is allocated among the buying or selling Accounts on a pro rata basis.

(k) The Accounts involved in cross-trade transactions do not include assets of any Plan established or maintained by Warburg International or its Affiliates.

Section II—Specific Conditions

(a) An Independent Fiduciary of each Plan specifically authorizes each cross-trade transaction in accordance with the following procedure:

(1) No more than three business days prior to the execution of any cross-trade transaction, Warburg International shall inform an Independent Fiduciary of each Plan Account involved in the

[21] With respect to all non-U.S. securities that are ''plan assets'' managed by Warburg or an Affiliate, the applicant represents that the requirements of section 404(b) of the Act and the regulations thereunder will be met (see 29 CFR 2550.404b-1). In this regard, section 404(b) of the Act states that no fiduciary may maintain the indicia of ownership of any assets of a plan outside the jurisdiction of the district courts of the United States, except as authorized by regulation by the Secretary of Labor. The Department is providing no opinion herein as to whether such requirements will be met.

cross-trade transaction that Warburg International proposes to buy or sell specified securities in a cross-trade transaction if an appropriate opportunity is available, the current trading price for such securities, and the total number of shares to be acquired or sold by each such Plan Account;

(2) Prior to each cross-trade transaction, the transaction shall be authorized either orally or in writing by the Independent Fiduciary of each Plan Account involved in the cross-trade transaction;

(3) If a cross-trade transaction is authorized orally by an Independent Fiduciary, Warburg International shall provide written confirmation of such authorization in a manner reasonably calculated to be received by such Independent Fiduciary within one business day from the date of such authorization;

(4) The authorization referred to in this Section II shall be effective for a period of three business days; and

(5) No more than ten days after the completion of a cross-trade transaction, the Independent Fiduciary shall be provided with a written confirmation of the transaction and the price at which the transaction was executed.

(b) A cross-trade transaction is effected only where the transaction involves less than five (5) percent of the aggregate average daily trading volume for the securities involved in the transaction for the week immediately preceding the authorization of the transaction. A cross-trade transaction may exceed this limit only by express authorization of Independent Fiduciaries on behalf of Plan Accounts affected by the transaction, prior to the execution of the cross-trade.

(c) The cross-trade transaction is effected at a price which is within ten (10) percent of the closing price of the security on the day before the date on which Warburg International received authorization by the Independent Fiduciary to engage in the cross-trade transaction.

Section III—Definitions

For purposes of this proposed exemption:

(a) ''Account'' means a Plan Account or Non-Plan Account;

(b) ''Affiliate'' means any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Warburg International;

(c) ''Buying Account'' means the Account which seeks to purchase securities in a cross-trade transaction;

(d) ''Cross-trade transaction'' means a purchase and sale of securities between Accounts for which Warburg International or an Affiliate is acting as investment manager;

(e) ''Plan Account'' means an Account managed by Warburg International consisting of assets of one or more employee benefit plans which are subject to the Act;

(f) ''Non-Plan Account'' means an Account managed by Warburg International consisting of assets of clients which are not employee benefit plans subject to the Act; and

(g) ''Selling Account'' means the Account which seeks to sell its securities in a cross-trade transaction.

Summary of Facts and Representations

1. Warburg International is a wholly-owned subsidiary of Mercury Asset Management plc (MAM), a public limited company organized under the laws of the United Kingdom. As of September 30, 1994, MAM and its subsidiaries had over $90 billion of assets under management. Warburg International is registered as an investment adviser under the U.S. Investment Advisers Act of 1940 (the 1940 Act) and is a member of the Investment Management Regulatory Organization Limited (IMRO) in the United Kingdom. Warburg International's clients are primarily U.S. institutional investors, such as qualified pension funds and registered investment companies. As of December 31, 1994, Warburg International had more than $3 billion in assets under management, of which approximately $2 billion consisted of assets of Plan Accounts and governmental plan accounts for which it had agreed to act as a fiduciary.

2. The Accounts for which an exemption is requested are those Plan Accounts for which Warburg International provides active portfolio management. Investment decisions are generally subject to the investment manager's discretion, subject to general written guidelines as to which types of securities to acquire or sell for the Accounts. For some Accounts, investment selections are based in part on the corresponding decisions made for registered investment companies or other institutional accounts for which Warburg International or an Affiliate serves as the investment adviser. Thus, Accounts with the same or similar investment guidelines or objectives often will be acquiring or selling the same securities on the same day.

3. Warburg International states that the acquisition or disposition of any particular security for an Account would be unrelated to the fact that an opportunity for a cross-trade transaction may be available. Under the cross-trade program, if Warburg International or an Affiliate sells securities to another Account it manages, or acquires such securities from another Account it manages, it would have an opportunity to save commissions for both the selling or acquiring Account. Under current procedures, all securities transactions are effected by an independent broker which may be dealing with a second broker acting for the party on the other side of the transaction. If Warburg International effects a transaction through a broker on the open market, the client would ordinarily be charged a commission at the market rate (normally about 0.2 percent, but commissions vary according to the country where the transaction is effected). However, under the cross-trade program, Warburg International states that no commission would be charged where the transaction is effected by Warburg International or an Affiliate, and in certain markets, transfer or registration taxes would also not be charged. Warburg International states that even if a broker is involved, matching the buy and sell orders for a particular day through a single broker in an off-market transaction would still result in lower commission charges for the Accounts.

4. Warburg International represents that the Plan Accounts would also benefit under the cross-trade program by not incurring the cost (in terms of price) of dealing with a person or a firm acting as ''market-maker'' for the specific security involved in the transaction. This cost is generally measured by the spread between the asking and the bidding price for the securities. In normal trading by Warburg International, the Selling Account receives a lower ''bid'' price, while the Buying Account pays a higher ''ask'' price. By contrast, in a direct cross-trade, the price received by the Selling Account would be the same as the price paid by the Buying Account, based on an average of the ''bid'' and ''ask'' prices, without any dealer mark-ups. In addition, if permitted to direct a cross-trading of securities from one Account to another, Warburg International would be able to implement its investment strategies at the earliest possible point in time. Finally, the trading of some securities may be ''thin'', that is there are limited numbers of shares available. In such cases, the spread may be particularly wide. Matched sales would essentially provide the Accounts with early opportunities to acquire or sell such thinly-traded securities without paying the spread.

5. Participation by Plan Accounts in Warburg International's cross-trade program will be subject to several conditions. Each cross-trade transaction will involve only securities for which there is a generally recognized market. With respect to any non-U.S. securities, only those securities traded on a recognized foreign securities exchange for which market quotations are readily available will be involved in the cross-trade program. Each cross-trade transaction will be effected at the current market value for the security on the date of the direct cross-trade. For equity securities, the current market value will be the closing price for the security on the date of the transaction. The ''closing price'' will be the last trade price on exchanges where dealing is order-driven and the closing mid-market price (i.e. the average of the closing bid and offer prices) where dealing is quote-driven. For all domestic or foreign debt securities, the current market value will be the fair market value of the security as determined pursuant to paragraph (b) of SEC Rule 17a–7 under the 1940 Act. In this regard, SEC Rule 17a–7(b) contains four possible means of determining ''current market value'' depending on such factors as whether the security is a reported security and whether its principal market is an exchange. This Rule is also applicable to registered investment companies for which Warburg International or an Affiliate acts as an investment advisor.

Warburg International will receive no fees or other incremental compensation (other than its previously agreed upon investment management fee) with respect to any direct cross-trade transaction.

6. A fiduciary of a Plan Account independent of Warburg International and its Affiliates (i.e. the Independent Fiduciary) will provide written authorization allowing for the Plan Account's participation in Warburg International's cross-trading program, before any specific cross-trades for such Account are effected. This authorization will be terminable at will without penalty to the Plan Account upon written notice to Warburg International of such termination. In addition, before any such general authorization is granted, Warburg International will provide the Independent Fiduciary with all materials necessary to permit an evaluation of the cross-trade program. These materials will include (but not be limited to) a copy of the proposed and final exemptions, an explanation of how the authorization may be terminated, a description of Warburg International's cross-trade practices, and any other reasonably available information regarding the matter which the Independent Fiduciary may request.

7. After a Plan Account's participation in Warburg International's cross-trading program is authorized, Warburg International will furnish periodic reports to the Independent Fiduciary, at least once every three months, and no later than 45 days following the period to which it relates, disclosing: (a) A list of all cross-trade transactions engaged in on behalf of the Plan Account; and (b) with respect to each cross-trade transaction, the prices at which the securities involved in the transaction were traded on the date of such transaction. The Independent Fiduciary will also be furnished with a summary of certain additional information at least once per year. The summary will be furnished within 45 days after the end of the period to which it relates, and will contain the following: (a) A description of the total amount of the Plan Account's assets involved in cross-trade transactions during the period, (b) a description of Warburg International's cross-trade practices, if such practices have changed materially during the period covered by the summary, (c) a statement that the Independent Fiduciary's authorization of cross-trade transactions may be terminated upon receipt by Warburg International of written notice to that effect, and (d) a statement that the Independent Fiduciary's authorization of the Plan Account's participation in the cross-trade program will continue in effect unless it is terminated.

8. The Accounts involved in cross-trade transactions will not include assets of any Plan established or maintained by Warburg International or its Affiliates to provide income to its employees or to result in a deferral of income by employees for periods extending to the termination of covered employment or beyond.

Each employee benefit plan comprising a Plan Account participating in Warburg International's cross-trading program will have total assets equal to at least $25 million. In the case of multiple employee benefit plans maintained by a single employer or controlled group of employers, the $25 million requirement may be met by aggregating the assets of such plans if the assets are commingled for investment purposes in a single master trust.

9. Warburg International states that a Plan Account's participation in its cross-trade program will also be subject to certain special conditions. In addition to requiring a general authorization of a Plan Account's participation in the cross-trade program, an Independent Fiduciary will specifically authorize each cross-trade transaction. Any such authorization will be effective only for a period of three business days and will be subject to certain pricing and volume limitations (as discussed in Paragraph 10 below). The authorization to proceed with the cross-trade transaction will be either oral or written. If a cross-trade transaction is authorized orally by an Independent Fiduciary, Warburg International will provide a written confirmation of the authorization in a manner reasonably calculated to be received by the Independent Fiduciary within one business day from the date of such authorization. The Independent Fiduciary will be sent a written confirmation of the cross-trade transaction, including the price at which it was executed, within ten days of the completion of the transaction.

10. Warburg International states that a cross-trade transaction will be effected only where the trade involves less than five (5) percent of the aggregate average daily trading volume for the securities involved in the transaction for the week immediately preceding the authorization of the transaction. A cross-trade will exceed this limit only by express written or oral authorization of an Independent Fiduciary for each Plan Account involved, prior to the execution of the cross-trade. With respect to pricing, a cross-trade transaction will not be made at a price which differs by more than ten (10) percent from the price at the close on the day before specific authorization was provided by the Independent Fiduciary.

11. Warburg International represents that it is conceivable that situations will arise in which it will be necessary to allocate cross-trade opportunities among several Accounts. Warburg International will make these decisions pursuant to a non-discretionary pro-rata allocation system. For example, in the event that the number of shares of a particular security which a Selling Account needs to sell on a given day is less than the number of shares of such security which other Buying Accounts need to buy on that date, the cross-trade opportunity will be allocated among potential Buying Accounts on a pro-rata basis. A similar procedure would apply where the number of shares of a particular security to be sold by Selling Accounts is more than the number of such shares which any Buying Accounts need to buy on that date. Thus, the Accounts participating in Warburg International's cross-trade program will have the opportunity to participate on a proportional basis in cross-trade

transactions during the operation of the program. Warburg International states that this aspect of the cross-trading program will be part of the information disclosed in writing to the fiduciaries of the Plan Accounts prior to their authorization for participation in the program.

12. In summary, Warburg International represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because, among other things: (a) An Independent Fiduciary will provide written authorization, which will be terminable at will, to Warburg International to permit the Plan Account to participate in the cross-trading program; (b) cross-trades will always be executed at the current market price of the security on the date of the transaction, as determined by an independent, third party source; (c) specific oral or written authorization will be provided by the Independent Fiduciary to Warburg International prior to each cross-trade transaction; (d) all securities involved in cross-trades will be securities for which there is a generally recognized market; (e) Warburg International will provide periodic reporting of the cross-trade transactions to the Independent Fiduciary; (f) the Plan Accounts will realize significant cost savings due to reduced brokerage commissions and avoidance of the bid and offer spread and will benefit from more efficient implementation of investment strategies; (g) each employee benefit plan comprising a Plan Account participating in the cross-trade will have total assets of at least $25 million or must be part of a master trust of plans maintained by a single employer or controlled group of employers which has at least $25 million in assets; (h) the cross-trade transactions will not include any assets of a Plan established or maintained by Warburg International or its Affiliates; and (i) neither Warburg International nor its Affiliates will receive any additional fees or other compensation as a result of the proposed cross-trade transactions.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 9th day of June, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–14576 Filed 6–14–95; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–040]

NASA Advisory Council (NAC), Life and Microgravity Sciences Advisory Committee, Space Station Utilization and Applications Advisory Subcommittee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life and Microgravity Science and Applications Advisory Committee, Space Station Science Utilization Advisory Subcommittee.

DATES: July 10, 1995, 8 a.m. to 9 p.m.; July 11, 1995, 8 a.m. to 9 p.m.; July 12, 1995, 8 a.m. to 6 p.m.; July 13, 1995, 8 a.m. to 10 p.m.; July 14, 1995, 8 a.m. to 3:00 p.m.

ADDRESSES: US Air Force Academy, Colorado Springs, CO 80914.

FOR FURTHER INFORMATION CONTACT:

Dr. Edmond M. Reeves, Code US, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2560.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Other Topics Related to the Scientific Technologies and Commercial Utilization of the Space Station may be included in the Meeting Discussions

—Station Capabilities Program Update

—Science Utilization Plans

—Institute Concepts for Space Station

—International Utilization Coordination

—Operations Scheduling

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dennis C. Bridge,

Chief, Budget Office.

[FR Doc. 95–14713 Filed 6–14–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirements Submitted to OMB for Review

Dated: June 2, 1995.

The National Credit Union Administration submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission may be obtained by calling the NCUA Clearance Officer listed. Comments regarding information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NCUA, Office of Administration, Room 4009, 1775 Duke Street, Alexandria, VA 22314–3428.

National Credit Union Administration

OMB Number: 3133–0061.
Form Number: CLF 8703.
Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.
Title: Central Liquidity Repayment Agreement—Regular Member.
Description: The form is a contract which is necessary to document loans made by or on behalf of the CLF and establishes an enforceable legal right to repayment of such loans, create a security interest in specified assets in case of non-payment, and establishes reporting requirements. Financial condition of the credit union can be monitored via the reporting requirement.
Respondents: Credit unions with a loan from CLF.
Estimated Number of Respondents: 25.
Estimated Burden Hours per Response: 1 hour.
Frequency of Response: Once per year.
Estimated Total Reporting Burden: 25 hours.

OMB Number: 3133–0064.
Form Number: NCUA 7000, 7001, 7002, 7003, and 7004.
Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.
Title: Forms and Instructions for CLF Loans.
Description: The information provided in the request for funds, statement of cash receipts and disbursements, cash flow projections and the seasonal flow computations will be used to assist in an analysis of the credit union's request for credit and in determining the applicant's ability to repay the advance requested.
Respondents: Credit unions that request a loan from the CLF.
Estimated Number of Respondents: 25.
Estimated Burden Hours per Response: 1 hour.
Frequency of Response: Once per application.
Estimated Total Reporting Burden: 25 hours.

OMB Number: 3133–0063.
Form Number: CLF 8702.
Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.
Title: Central Liquidity Facility Membership Application.
Description: In order to gain access to CLF loans, credit unions must join the CLF. This collection provides for membership application. The information requested is necessary to establish a creditor-debtor relationship between the CLF and the credit union.
Respondents: Credit unions that apply for loans from the CLF and credit unions with loans from the CLF.
Estimated Number of Respondents: 25.
Estimated Burden Hours per Response: .50 hours.
Frequency of Response: One time.
Estimated Total Reporting Burden: 18.5.

OMB Number: New Collection.
Form Number: CLF 8704.
Type of Review: New collection.
Title: Central Liquidity Facility Repayment Agreement—Agent Member.
Description: The loan agreement requires the borrowing credit union to submit to the CLF a copy of its month-end financial report each month while the loan is outstanding.
Respondents: Credit unions with a loan from the CLF.
Estimated Number of Respondents: 15.
Estimated Burden Hours per Response: 6 hours.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 90 hours.

OMB Number: 3133–0067.
Form Number: NCUA 5310.
Type of Review: Extension of currently approved collection.
Title: Corporate Credit Union Monthly Report.
Description: Section 202(a)(1) of the Federal Credit Union Act requires federally insured credit unions to make reports of condition to the NCUA Board upon dates selected by it. Each corporate credit union completes a monthly financial statement. The information is electronically transmitted to a central corporate credit union. The information is collected on a disk and forwarded to NCUA. The information is collected and used by NCUA to monitor financial and statistical trends in corporate credit unions and to allocate examination and supervision resources.
Respondents: Federally insured corporate credit unions.
Estimated Number of Respondents: 44.
Estimated Burden Hours per Response: 1.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 528.

OMB Number: 3133–0116.
Form Number: NCUA 4221, 4401, 4506, 4506 and 9600.
Type of Review: Extension of currently approved collection.
Title: 12 U.S.C. 1771—Conversion From Federal to State Credit Union and From State to Federal Credit Union.
Description: The information collection makes up the application for a credit union's conversion from federal to state charter and from state to federal charter. In addition the package contains an application for approval of federal insurance of member accounts in credit unions.
Respondents: Credit unions.
Estimated Number of Respondents: 50.
Estimated Burden Hours per Response: 2 hours.
Frequency of Response: Once.
Estimated Total Reporting Burden: 200.

Clearance Officer: Wilmer A. Theard (703) 518–6410, National Credit Union Administration, Room 4009, 1775 Duke Street, Alexandria, VA 22314–3428.
OMB Reviewer: Milo Sunderhauf (202) 395–5167, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Becky Baker,
Secretary of the NCUA Board.

[FR Doc. 95–14620 Filed 6–14–95; 8:45 am]
BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company; Zion Nuclear Power Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of amendments to Facility Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (the licensee), for operation of Zion Nuclear Power Station, Units 1 and 2, located in Lake County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the storage of fuel in the new fuel storage vault with an enrichment up to and including 4.65 weight percent U–235, revise the description of the enrichment of the fuel in the reactor core, and add references to three previously approved documents in the Technical Specifications (TSs).

The Need for the Proposed Action

The proposed action is needed since future core designs will incorporate fuel enrichments up to 4.65 weight percent U–235. Use of the higher enrichment fuel will permit increased flexibility in planning fuel cycles, with the potential for longer fuel cycles or higher burnup rates.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TSs. The proposed revisions would permit storage of fuel enriched to a nominal 4.65 weight U–235. The safety considerations associated with storing new and spent fuel of a higher enrichment have been evaluated by the NRC staff. The staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure.

The environmental impacts of transportation resulting from the use of higher enrichment fuel and extended irradiation were published and discussed in the staff assessment entitled, ''NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation,'' dated July 7, 1988, and published in the **Federal Register** (53 FR 30355) on August 11, 1988, as corrected on August 24, 1988 (53 FR 32322) in connection with Shearon Harris Nuclear Power Plant, Unit 1: Environmental Assessment and Finding of No Significant Impact. As indicated therein, the environmental cost contribution of the proposed increase in the fuel enrichment and irradiation limits are either unchanged or may, in fact, be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52(c). Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendment.

With regard to potential nonradiological impacts of reactor operation with the higher enrichment fuel, the proposed changes to the TS involve systems located entirely within the restricted area, as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Zion Nuclear Power Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on May 31, 1995, the staff consulted with the Illinois State official, Mr. Frank Niziolek; Head, Reactor Safety Section; Division of Engineering; Illinois Department of Nuclear Safety; regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare and environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 23, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 8th day of June 1995.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate III–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–14669 Filed 6–14–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Mediation of Disputes

[Release No. 34–35830; File No. SR–NASD–95–25]

June 9, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 6, 1995,[1] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend the Code of Arbitration Procedure (''Code'') by adding a new Part IV to set forth rules to govern the administration of mediations. The NASD is also proposing to amend Sections 37, 43 and 44 of the Code[2] to add fee and other provisions relating to the administration of

[1] The NASD amended the proposed rule change subsequent to its original filing on May 19, 1995. Amendment No. 1 was a minor technical amendment, the text of which may be examined in the Commission's Public Reference Room. *See* Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, Over-the-Counter Regulation, Division of Market Regulation, SEC (June 2, 1995).

[2] *NASD Manual*, Code of Arbitration Procedure, Part III, Secs. 37, 43 and 44, (CCH) ¶¶3737, 3743, 3744.

mediations. Below is the text of the proposed rule change. Proposed new language is in italics.

Code of Arbitration Procedure

* * * * *

Record of Proceedings

Sec. 37. *(a)* A verbatim record by stenographic reporter or tape recording of all arbitration hearings shall be kept. If a party or parties to a dispute elect to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the request unless the arbitrators direct otherwise. The arbitrators may also direct that the record be transcribed. If the record is transcribed at the request of any party, a copy shall be provided to the arbitrators.

(b) A verbatim record of mediation conducted pursuant to Part IV of this Code shall not be kept.

* * * * *

Schedule of Fees for Customer Disputes

Sec. 43.

* * * * *

(i) Each party to a matter submitted to a mediation administered by the Association where there is no Association arbitration proceeding pending shall pay an administrative fee of $150.

(j) The parties to a mediation administered by the Association shall pay all of the mediator's charges, including the mediator's travel and other expenses. The charges shall be specified in the Submission Agreement and shall be apportioned equally among the parties unless they agree otherwise. Each party shall deposit with the Association their proportional share of the anticipated mediator charges and expenses, as determined by the Director of Mediation, prior to the first mediation session. Mediator charges, except travel and other expenses, are as follows:

(1) Initial Mediation Session: $600 or four (4) times the mediator's hourly rate agreed to by the parties and the mediator; and

(2) Additional Mediation Sessions: $150 per hour, or such other hourly rate agreed to by the parties and the mediator, per hour or portion thereof.

Schedule of Fees for Industry and Clearing Controversies

Sec. 44.

* * * * *

(j) Each party to a matter submitted to a mediation administered by the Association where there is no Association arbitration proceeding pending shall pay an administrative fee of $250.

(k) The parties to a mediation administered by the Association shall pay all of the mediator's charges, including the mediator's travel and other expenses. The charges shall be specified in the Submission Agreement and shall be apportioned equally among the parties unless they agree otherwise. Each party shall deposit with the Association their proportional share of the anticipated mediator charges and expenses, as determined by the Director of Mediation, prior to the first mediation session. Mediator charges, except travel and other expenses, are as follows:

(1) Initial Mediation Session: $600 or four (4) times the mediator's hourly rate agreed to by the parties and the mediator; and

(2) Additional Mediation Sessions: $150 per hour, or such other hourly rate agreed to by the parties and the mediator, per hour or portion thereof.

* * * * *

Sec. 47 Reserved.[3]
Sec. 48 Reserved.
Sec. 49 Reserved.

PART IV—MEDIATION RULES

Scope and Authority

Sec. 50. (a) The NASD Mediation Procedures (''Procedures'') set forth in this Part shall apply to the mediation of any dispute, claim or controversy (''matter'') administered by the Association.

(b) A Director of Mediation shall be designated by the Association to administer mediations under these Procedures. The Director will consult the Association's National Arbitration Committee on the administration of mediations and the Committee shall, as necessary, make recommendations to the Director and recommend to the Board of Governors amendments to the Procedures. The duties and functions of the Director may be delegated as appropriate. For purposes of this Part, the term ''Director'' refers to the Director of Mediation.

(c) Neither the NASD nor any mediator appointed to mediate a matter pursuant to these Procedures shall have any authority to compel a party to participate in a mediation or to settle a matter.

Submission of Eligible Matters

Sec. 51. Any matter eligible for arbitration under this Code, any part thereof, or any issue related to the matter, including procedural issues, may be submitted for mediation under these Procedures upon the agreement of all parties. A matter will be deemed submitted when the Director has received an executed Submission Agreement for each party. The Director shall have the sole authority to determine if a matter is eligible to be submitted for mediation.

Arbitration Proceedings

Sec. 52. Unless the parties agree otherwise, the submission of a matter for mediation shall not stay or otherwise delay the arbitration of a matter pending under this Code.

Mediator Selection

Sec. 53. (a) A mediator may be selected: (1) by the parties from a list supplied by the Director; (2) by the parties from a list or other source of their own choosing; or (3) by the Director if the parties do not act to select a mediator after submitting a matter to mediation.

(b) With respect to any mediator assigned or selected from a list provided by the Association, the parties will be provided with information relating to the mediator's employment, education, and professional background, as well as information on the mediator's experience, training, and credentials as a mediator. Any mediator selected or assigned to mediate a matter shall comply with the provisions of Sections 23(a), (b) and (c) of the Code, unless, with respect to a mediator selected from a source other than the Association's list, the parties elect to waive such disclosure.

(c) No mediator shall be permitted to serve as an arbitrator of any matter pending in NASD arbitration in which he served as mediator, marshall the mediator be permitted to represent any party or participant to the mediation in any subsequent NASD arbitration proceeding relating to the subject matter of the mediation.

Limitation on Liability

Sec. 54. The Association, its employees, and any mediator named to mediate a matter under this Part, shall not be liable for any act or omission in connection with a mediation administered pursuant to these Procedures.

Mediation Ground Rules

Sec. 55. (a) The following Ground Rules are established to govern the mediation of a matter. The parties to a mediation may agree to amend any or all of the Ground Rules at any time. The Ground Rules are intended to be standards of conduct for the parties and the mediator.

[3] These new ''reserved'' sections are being added to provide room for additional new provisions of the Code that should precede the mediation provisions.

(b) Mediation is voluntary and any party may withdraw from mediation at any time prior to the execution of a written settlement agreement by giving notice of withdrawal to the mediator, the other parties, and the Director.

(c) The mediator shall act as a neutral, impartial, facilitator of the mediation process and shall not have any authority to determine issues, make decisions or otherwise resolve the matter.

(d) Following the selection of a mediator, the mediator, all parties and their representatives will meet in person or by conference call for all mediation sessions, as determined by the mediator or by mutual agreement of the parties. The mediator shall facilitate, through joint sessions, caucuses and/or other means, discussions between the parties, with the goal of assisting the parties in reaching their own resolution of the matter. The mediator shall determine the procedure for the conduct of the mediation. The parties and their representatives agree to cooperate with the mediator in ensuring that the mediation is conducted expeditiously, to make all reasonable efforts to be available for mediation sessions, and to be represented at all scheduled mediation sessions either in person or through a person with authority to settle the matter.

(e) The mediator may meet with and communicate separately with each party on their representative. The mediator shall notify all other parities of any such separate meetings or other communications.

(f) The parties agree to attempt, in good faith, to negotiate a settlement of the matter submitted to mediation. Notwithstanding that a matter is being mediated, the parties may engage in direct settlement discussions and negotiations separate from the mediation process.

(g) Mediation is intended to be private and confidential. The parties and the mediator agree not to disclose, transmit, introduce, or otherwise use opinions, suggestions, proposals, offers, or admissions obtained or disclosed during the mediation by any party or the mediator as evidence in any action at law, or other proceeding, including a lawsuit or arbitration, unless authorized in writing by all other parties to the mediation or compelled by law, except that the fact that a mediation has occurred shall not be considered confidential.

Notwithstanding the foregoing, the parties agree and acknowledge that the provisions of this subsection shall not operate to shield from disclosure to the Association or any other regulatory authority, documentary or other information that the Association or other regulatory authority would be entitled to obtain or examine in the exercise of its regulatory responsibilities.

The mediator will not transmit or otherwise disclose confidential information provided by one party to any other party unless authorized to do so by the party providing the confidential information.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Introduction

The NASD is the premier securities industry arbitration forum. The more than 5,500 cases filed with the NASD in calendar year 1994 represented 82 percent of all securities arbitrations filed in all forums combined (including the American Arbitration Association) and 86 percent of all arbitrations filed with self-regulatory organizations. The volume of arbitration cases has been growing dramatically since the U.S. Supreme Court in 1987 recognized the enforceability of predispute arbitration agreements with respect to securities law claims.

Coincidentally with the growth in volume, the NASD has noted that arbitration has become increasingly complex, costly, time-consuming and resembling of court litigation to the point that some of the advantages of arbitration as a low cost, swift, alternative to judicial resolution of disputes are disappearing. The result of this trend has been renewed interest in other forms of alternative dispute resolution that would recapture the low cost and time saving that arbitration once provided. To that end, the NASD has determined that mediation could serve as a valuable alternative to arbitration for all parties. The goal of mediation is to explore and come to a settlement of an outstanding dispute without resort to adversarial adjudication. Accordingly, the NASD is proposing to adopt a new Part IV to the Code setting forth rules to govern the mediation of disputes administered by the NASD.

Description of Proposed Mediation Rules

The NASD published Notice to Members 95–01 (''NTM 95–01'') in January 1995 requesting comment on proposed Mediation Rules. The comments received by the NASD are discussed below and a copy of NTM 95–01 is attached to the NASD's filing as Exhibit 2. The proposed Mediation Rules, as revised in response to the comment letters received and as a result of further internal NASD review, have been drafted to preserve the elements of the procedural structure envisioned in the rules published in NTM 95–01, while eliminating those portions that were educational in nature. The proposed Mediation Rules have been structured, by subject, as follows:

1. General Scope and Authority
2. Submission of Eligible Matters
3. Stay or Delay of Arbitration Pending Mediation
4. Mediator Selection
5. Liability Limitation
6. Ground Rules

The Mediation Rules are proposed to be incorporated into the Code as a new Part IV, with provisions matching the structure referred to above, and numbered consecutively with the current provisions of the Code. This structure permits reference in the proposed Mediation Rules to both the subject matter jurisdiction of the Code and the arbitrator disclosure provisions as they apply to mediators.

Record of Sessions. The NASD is proposing to amend Section 37 of the Code to add a new paragraph (b) to prohibit the keeping of a verbatim record of any mediation session conducted pursuant to the proposed rules. The NASD believes that a verbatim record is not consistent with the goals or methods of mediation; a free-flowing and confidential exchange of views, opinions, proposals and admissions.

Fees. The fees for mediations are set forth as amendments to Sections 43 and 44 of the Code. The NASD is proposing that the administrative fees of the NASD for administering a mediation set forth in proposed Subsections 43(i) and 44(j) will only be charged when there is no Association arbitration pending. Where there is no arbitration pending, under proposed Subsection 43(i) the NASD will charge each party $150 to administer the mediation of a public

customer matter and, under proposed Subsection 44(j), the NASD will charge each party $250 to administer the mediation of an industry matter.

The fees will be assessed for each matter submitted to mediation. Pursuant to proposed Section 5, discussed below, a matter is deemed submitted to mediation when the Director has received an executed mediation Submission Agreement from all parties.[4]

In addition, proposed Subsections 43(j) 44(k) provide that the parties shall pay all of the mediator's charges, including travel and other expenses. The NASD proposes to set forth the mediator's charges in the Submission Agreement and they will be apportioned equally among the parties unless they agree otherwise. The NASD also will make an initial estimate the mediator's charges based on the anticipated length of the session or sessions The parties will be required to deposit their proportional share of such estimated charges with the NASD prior to the first mediation session.

The NASD's standard mediator charges will be $150 per hour, although the parties may agree to pay different charges for a particular mediator. While the NASD intends to make its best efforts to make mediators available at the specified hourly rate, some qualified mediators may decline to serve unless compensated at a higher rate.

Finally, the NASD intends that the mediator's hourly fee for both joint sessions (except for the first session) and separate sessions will be assessed for each half hour or portion thereof. In addition, the mediator's hourly rate for separate meetings will be apportioned equally among all parties without regard to the actual amount of time each party has spent with the mediator. The NASD believes that all parties benefit equally from the mediator's efforts in meeting with each party even if the mediator spends more time with one than the other.

General Scope and Authority. The NASD is proposing to adopt new Section 50 to establish the scope and authority of the rules. Proposed Section 50 provides that the rules apply to mediations administered by the Association and calls for the designation of a Director of Mediation to administer mediations. Section 50 also specifies that the Director of Mediation will consult the National Arbitration Committee (''Committee'') on administering the Mediation program and the Committee, as necessary, may make recommendations concerning the administration of the Mediation Program to the Director and recommend amendments to the rules to the Board. Finally, Section 50 states that neither any mediator nor the NASD shall have any authority to compel a party to submit to mediation or to settle a matter. This last provision is intended to clarify the voluntary nature of mediation.[5]

Submission of Eligible Matters. Proposed Section 51 provides that any matter, or part of a matter (such as procedural issues), eligible for arbitration under the NASD's Code may be mediated. Any ambiguities about the eligibility of a matter for mediation will be decided by the Director. Proposed Section 51 also states a matter will be deemed submitted when the Director has received an executed mediation Submission Agreement from each party. The submission of a matter triggers the obligation to pay applicable fees and initiates the NASD's activities in finding a mediator and making arrangements for facilities for the mediation.

The NASD anticipates that indications of interest in mediation will be solicited by the Director, as well as expressed informally by parties. When an indication of interest is expressed, the Director will seek commitments to participate from other parties. Once those commitments are obtained, either orally or in writing, the Director will forward a mediation Submission Agreement to the parties for execution.

Stay or Delay of Arbitration Pending Mediation. Proposed Section 52 provides that any arbitration pending at the time of a mediation will not be stayed or delayed unless the parties agree. The NASD believes this provision is important to prevent gamesmanship through the use of mediation as a delaying tactic.

Mediator Selection. Proposed Section 53 provides for the appointment of mediators and permits the parties to select a mediator from a list supplied by the Director, or to obtain, on their own, a non-NASD mediator. If the parties do not act to select a mediator, the Director will assign a mediator. The parties will also be provided with information relating to the mediator's employment, education, and professional background, as well as information on the mediator's comply with the same background disclosure requirements as arbitrators.

Finally, proposed Subsection 53(c) prohibits a mediator from serving as an arbitrator or from representing any party to a mediation in any subsequent arbitration proceeding relating to the subject matter of the mediation. The NASD does not believe that mediators, having served as a neutral in a position of trust and confidence with the parties, should be permitted to serve either as an arbitrator or as an advocate of on party with respect to matters that the has knowledge of due to his involvement with both parties. The NASD also believes that state law, attorney codes of ethics, and mediator cods of conduct[6] provide sufficient protection for parties in judicial forums.

Liability Limitation. Proposed Section 54 provides for the limitation of liability of mediators, the Association, and its employees, for any act or omission in connection with a mediation administered by the NASD under the rules.

Ground Rules. Proposed Subsection 55(a) states that the Section sets forth standard Ground Rules government mediations and permits the parties to amend any of the Ground Rules at any time. The Subsection also provides that the Ground Rules are intended to be standards of conduct for the parties and for the mediation. The NASD intends that the parties be able to tailor the ground rules governing their mediation to meet their needs.

Proposed Subsection 55(b) states that mediation is voluntary and that parties may withdraw from a mediation at any time prior to the execution of a settlement agreement by giving written notice of withdrawal to the mediator, the other parties, and the Director. This provision is intended to clarify that, while the goal of mediation is to explore and settle outstanding disputes, if possible, the proposed rules are process oriented, not result oriented. The NASD does not intend that any party will be subject to any compulsion or coercion to come to a particular conclusion of a mediation. The process is completely voluntary and any party may withdraw from a mediation at any time and for any reason, or for no reason at all. If at any time a party feels that continuing

[4] The NASD is developing a standard form mediation Submission Agreement containing terms essential to the NASD. A copy of the Submission Agreement will be provided to all parties.

[5] The NASD intends to solicit participation in mediation by approaching parties to arbitration cases to advise them about mediation, explain the program and its merits and explore whether mediation might meet the needs of the parties. The NASD believes an outreach program such as this will increase the utilization of mediation and reduce the number of cases going to hearing.

[6] The American Bar Association (''ABA'') is considering draft mediator standards of conduct. It is anticipated that the ABA will approve the draft standards at its next meeting. Draft Standard III states in pertinent part that ''[w]ithout the consent of all parties, a mediator shall not subsequently establish a professional relationship with one of the parties in a related matter, or in an unrelated matter under circumstances which would raise legitimate questions about the integrity of the mediation process.''

with a mediation is not in his interests he is free to terminate the mediation.

Proposed Subsection 55(c) establishes that the mediator's role is to act as a neutral, impartial, facilitator, without authority to impose decisions or a settlement on the parties.

Proposed Subsection 55(d) requires that the parties and their representatives meet jointly with the mediator, in person or by conference call as determined by the mediator or by mutual agreement of the parties. The mediator will facilitate through joint sessions, caucuses and/or other means, discussions between the parties on the subject matter of the mediation.

Proposed Subsection 55(d) also provides that the mediator will determine the procedure for the mediation and the parties agree to cooperate with the mediator in conducting the mediation expeditiously, to make reasonable efforts to be available for mediation sessions, and to be represented at all sessions either in person or by someone with authority to settle the matter. This subsection is intended to ensure that common obstacles to expeditious, effective mediation are avoided and it sets forth rules that will discourage dilatory conduct and prevent gamesmanship. Parties failing to adhere to these standards send a strong signal that they are not interested in mediating in good faith.

Proposed Subsection 55(e) permits the mediator to meet with and communicate separately with each party, provided the mediator notifies the other parties. This is intended to permit the mediator to take steps to keep the mediation on track, if necessary, by initiating separate communications. These private caucuses are intended to provide the mediator with an opportunity to explore candidly each party's underlying interests and the strengths and weaknesses of their positions; however, the mediator will not disclose confidential information in violation of the confidentiality provisions. Subsection 55(g), discussed below, bars the mediator from disclosing one party's confidential information to another party without authorization.

Proposed Subsection 55(f) sets forth the goal of mediation—to negotiate a settlement in good faith. The Subsection also permits direct negotiations between the parties outside of the mediation process.

Proposed Subsection 55(g) provides that mediation is intended to be private and confidential. The Subsection obligates the parties and the mediator not to disclose or otherwise communicate anything disclosed during the mediation in any other proceeding, unless authorized by all other parties to the mediation. The Subsection permits disclosure if compelled by law, which provides for situations where a party is subpoenaed or where there are regulatory requirements, such as the disclosures required in Form U–4 or under Article IV, Section 5 of the Rules of Fair Practice. This Subsection also provides expressly that the fact that a mediation occurred is not confidential.

Proposed Subsection 55(g) also makes clear that the confidentiality provisions will not operate to shield from disclosure documentary or other information that the Association or other regulatory authority would be entitled to obtain or examine in the exercise of its regulatory responsibilities. Thus, a party could not refuse to disclose that information to the NASD or an opposing party in civil litigation under the confidentiality clause by disclosing documentary or other information during the course of a mediation and then claiming that it is confidential.

In addition, the Subsection bars the mediator from disclosing one party's confidential information to another party without authorization, which memorializes a standard practice of mediators.

The NASD is requesting that the proposed rule change be effective within 45 days of SEC approval.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[7] in that the proposed rule change will facilitate the dispute resolution process for all participants by providing an alternative to adversarial adjudication of disputes resulting in lower-cost, quicker resolution of disputes.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed rule change was published for comment by the NASD in Notice to Members 95–01 (January 1995). Five comments were received in response thereto. Of the 5 comment letters received, all generally were in favor of the proposed rule change.

As noted above, the proposed rules as published for comment in Notice to Members 95–01 are substantially different in structure from those being submitted for approval in this proposed rule change. The proposed rule change described in this filing represents modifications that respond to the comments received and to other considerations developed following the publication of Notice to Members 95–01.

The *Securities Industry Association (SIA)* urged the NASD to seek experienced mediators, but said that the amount of detail sought by the Mediation Profile Questionnaire could limit the size of the mediator pool. The SIA also expressed concern about the meaning of paragraph (4)(B)[8] of the Ground Rules which provides that the mediator will decide when to hold ''separate meetings with the parties.'' The SIA said that the typical mediation begins with a joint session at which all parties are given an opportunity to express their positions, after which the parties retire to separate rooms and the mediator shuttles back and forth between them trying to resolve the controversy. The SIA said it is not concerned about paragraph 4(b) unless it is contemplated that a mediator would hold separate sessions on separate days with the involved parties. The SIA believes this would not be productive. The SIA would prefer that paragraph 4(b) state simply ''[t]he mediator will decide when to hold meetings with the parties.''

The SIA also asks that the proposed rules provide ''the mediator shall destroy all notes and other records of the mediation once the matter is concluded whether by settlement or by decision of the parties not to proceed further.'' The SIA said that destruction of notes and records is a general practice of mediators and should be included in the Ground Rules.

The SIA also expressed concern that the mediator session fees contemplate the parties agreeing to more than one mediator. The SIA believes that the introduction of additional mediators will only prolong the process by introducing potential complexity, confusion and disagreement over the appropriate course of action for the mediators, and recommends that any suggestion of multiple mediators be eliminated.

[7] 15 U.S.C. § 78*o*–3.

[8] The citations of the commenters to subsections of the proposed rules correspond to the proposed rules in Notice to Members 95–01. They do not correspond to the proposed rule contained herein because the proposed rules as published for comment by the Association were substantially different in structure.

The SIA also suggests the confidentiality provisions of the proposed rules be amended to require the parties to keep confidential any refusal by any party to submit to mediation. The SIA argues that there can be any number of reasons for a party deciding not to mediate and no inference should be drawn from such a decision. The SIA also asks that a party seeking mediation should agree that the refusal of the other party to mediate will not be introduced as evidence into any arbitral, judicial or other proceeding.

The SIA also asks for further consideration about who is the proper party to initiate mediation and whether mediation can be initiated after the first hearing in an arbitration. Finally, the SIA asks that, in order to prevent breaches of the agreement and forestall future litigation on the same issues, a mechanism be created to reduce the agreement to an arbitration award at the request of a party.

The Association believes that the changes in the proposed rules are responsive to the SIA's concerns. Specifically, with respect to the SIA's suggested language, ''[t]he mediator will decide when to hold meetings with the parties,'' the NASD has determined not to adopt the SIA's proposed language. While the NASD understands the SIA's concern about ''separate meetings,'' the NASD believes nevertheless that such separate meetings may be necessary and productive and that the rules should provide for such meetings. The NASD has, however, modified the proposed rules to eliminate any suggestion that such separate meetings would occur prior to the first joint meeting of the parties. In addition, the NASD has determined to eliminate any references to multiple mediators in response to the concerns raised by the SIA.

Associated Securities Corp. (ASC), an NASD member firm, expressed support for the proposed mediation program. ASC also said that mediation by teleconference should not be allowed because personal contacts are important to the mediation process. ASC also said that the mediators should not make enforcement referrals in order to facilitate frank and open discussion with the mediator, during the course of the mediation sessions.

The Association believes that teleconference sessions by the agreement of the parties may be an effective option that should be available to the parties. With respect to disciplinary referrals, mediators as a matter of course do not make such referrals; however, the NASD does not believe it is necessary to specify such a prohibition.

Robert Burke of the San Francisco law firm of Pettit & Martin commented favorably on the proposed mediation rules, but had two suggestions. First, Mr. Burke believes mediators should disclose their association with the NASD as an NASD arbitrator because the mediator's history as an arbitrator could have an adverse effect on the public customer's willingness to accept the mediator's neutrality. Moreover, the NASD should consider whether to include arbitrators in its mediator pool because good arbitrators do not generally make good mediators. Second, Mr. Burke believes the mediator should not draft settlement agreements as the proposed rules permit because in mediation the settlement is the parties', not the mediator's. Moreover, the mediator could inadvertently or by design fail to include a term that had been part of the parties' understanding, potentially resulting in liability for the mediator and the sponsoring organization.

The Association believes that Mr. Burke's comments with respect to arbitrator selection are addressed in the background information acquisition and disclosure process specified in the proposed rule change. With respect to Mr. Burke's second comment the NASD has eliminated that provision from the proposed rule change.

Joan Protess & Associates suggested that the proposed Mediation Program could be made more accommodating by (1) subsidizing some of the mediator's charges, and (2) designating a mediator to invite the parties and their counsel to mediation.

The NASD believes this commenter's comments are related to the NASD's internal management decisions related to the administration of the program and do not require a response. The issues raised, however, remain under continuing consideration.

Lawyers Mediation Service Corporation (LMSC) commented that the proposed Mediation Program should be administered separately from the arbitration program because the two are different in their functions and in their goals.

The mediation and arbitration programs are being administered separately under the single management umbrella of the Arbitration Department.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submission should refer to File No. SR–NASD–95–25 and should be submitted by July 6, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14686 Filed 6–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35831; File No. SR–NASD–95–13]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Cold Calling Requirements

June 9, 1995.

On April 10, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule

[1] 15 U.S.C. 78s(b)(1).

19b–4 thereunder.[2] The proposed rule change amends Article III, Section 21 of the Rules of Fair Practice [3] to include a provision relating to cold calling. Under the rule as amended, each member who engages in telephone solicitation to market its products and services will be required to make and maintain a centralized do-not-call list of persons who do not wish to receive telephone solicitations from such member or its associated persons.

Notice of the proposed rule change, together with its terms of substance, was provided by issuance of a Commission release [4] and by publication in the **Federal Register**.[5] This order approves the proposed rule change.

Pursuant to the Telephone Consumer Protection Act (''TCPA''), which became law in 1991, the Federal Communications Commission (''FCC'') developed rules to protect the rights of telephone consumers while allowing legitimate telemarketing practices. The FCC rules include a requirement that a person or entity making telephone solicitations must maintain a do-not-call list.

In addition, the Telemarketing and Consumer Fraud and Abuse Prevention Act (''Prevention Act'') became law in August 1994, and requires the Federal Trade Commission (''FTC'') to adopt rules on abusive cold calling within twelve months. The Prevention Act also requires the SEC to engage in its own rulemaking or, alternatively, to require the self-regulatory organizations (''SROs'') to promulgate telemarketing rules consistent with the legislation.

In August 1994, SEC Chairman Arthur Levitt wrote a letter urging the NASD and the other SROs to adopt rules similar to the cold calling rule established by the FCC. Since then, there have been ongoing discussions between the Commission and SROs on the structure of a rule or rules to apply pursuant to the Prevention Act.

The Commission has determined to approve the NASD's proposal. The Commission believes that the rule change is a good first step in the effort to protect against abusive cold calling. In fact, the Commission has recently approved a substantially similar proposal filed by the New York Stock Exchange.[6] The Commission believes that the proposed rule change is consistent with the Prevention Act as well as the FCC rules concerning restrictions on telephone solicitations.

The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, including the requirements of Section 15A(b)(6) of the Act.[7] Section 15A(b)(6) requires, in part, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; and, in general, to provide for the protection of customers and the public interest. The proposed rule change addresses the practices of members that make telemarketing calls. Members will be required to maintain centralized do-not-call lists. The maintenance of such lists is a first step toward establishing standards designed to protect persons against abusive telemarketing practices.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–95–13 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14687 Filed 6–14–95; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 240.19b–4.

[3] *NASD Manual*, Rules of Fair Practice, Article III, Sec. 21, (CCH) ¶ 2171.

[4] Securities Exchange Act Release No. 35657 (May 1, 1995).

[5] 60 FR 22529 (May 8, 1995).

[6] Securities Exchange Act Release No. 35821 (June 7, 1995).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 2222]

Bureau of Oceans and International Environmental and Scientific Affairs; U.S. National Committee for the Man and the Biosphere Program (U.S. MAB) Requests for Proposals for an Environmental Project

The United States Man and the Biosphere Program hereby announces its request for proposals for a Coordinator for the Integration of Youth and Environmental Projects including Biodiversity Conservation, Global Climate Change, Desertification, and Environmental Education to assist in development of Peace Corps Worldwide Environmental Projects by providing technical assistance including but not limited to the following description.

U.S. MAB will accept proposals of a maximum length of six (6) pages that outline how the objectives described below could be accomplished.

A curriculum vitae (C.V.) of a maximum length of four (4) pages for each principal(s), that clearly demonstrates a history of competency in the implementation of such tasks, must accompany the proposal.

Proposals may not request more than the sum of sixty-four thousand, six hundred and twelve ($64,612) dollars to implement this initiative.

All proposals must specify that all tasks will be completed at the headquarters of the U.S. Peace Corps and field offices during the period of July 31, 1995 through July 30, 1996.

Payments will be made on a quarterly basis.

All proposals and accompanying documents must be received by the U.S. MAB Secretariat no later than the close of business (COB) on July 24, 1995. Proposals and C.V.'s will be evaluated on the criteria noted in the following section.

Selection will be made no later than July 31, 1995.

Objectives

- Provide technical support to Peace Corps Volunteers (PCVs) who are taking part in environment and youth projects as primary or secondary assignments including, but not limited to:

—Taking part in approximately 6–9 consultancies in response to requests from Peace Corps posts for technical assistance in project development, training activities, project evaluation, and other activities.

—Developing In-Service Training (IST), Pre-Service Training (PST) and Monitoring and Evaluation models for PCVs and their host country counterparts working in youth and environmental education projects. Assist with country implementation of ISTs based on these models.

—Assisting with other environmental education activities including collaboration with other governmental and private agencies offering assistance to Peace Corps in project development and training.

- Provide technical support to Associate Peace Corps Directors (APCDs) responsible for youth and Environment programs by:

—Planning, designing, and implementing regional and subregional workshops for APCDs and their host country counterparts aimed at strengthening their ability to develop and manage quality youth projects;

—Responding to individual APCD requests for technical assistance in the design and management of environment projects.

- Assist with the ongoing collaboration between the Youth Sector and other sectors within the Office of

Training and Program Support (education, small business, agriculture, health and water/sanitation) in the design of Youth project components. As part of this effort, develop and coordinate country assessments, project designs, reviews, and evaluations, in-service training workshops, and other related programming and training activities for Peace Corps Volunteers and their counterparts in countries requesting this assistance.

- Take primary responsibility for identifying appropriate resource materials for PCVs working in the Youth Sector and work closely with Peace Corps' Information Collection and Exchange (ICE) to maintain a current Youth resource library for Washington staff, field staff, and Volunteers.
- Support Peace Corps in the implementation of the Programming and Training System (PATS), including project design, monitoring, and evaluation assistance. In addition, collaborate with incumbent Sector Specialists in the following tasks:

—Participate in project plan reviews for youth projects;
—Undertake annual reviews of country program and technical assistance requests.

- Work with other OTAPS Sector Specialists in regular sector activities, including, but not limited to:

—Initiating and maintaining collaborative relationships with private organizations and other governmental agencies;
—Preparing documentation of sector activities;
—Maintaining computerized files used to plan, monitor, and evaluate youth projects;
—Collaborating with other sectors in the Office of Training and Program Support (OTAPS); for example, incorporating Women and Youth Issues into Youth Sector projects and activities, and working with other offices in Peace Corps.

- Develop and assist implementation of new Youth projects and initiatives which will strengthen Peace Corps' ability to undertake activities addressing biodiversity conservation, global climate change, and desertification;
- Assist, on occasion, Area Recruitment Offices in their effort to recruit applicants for Youth assignments;
- Represent the Youth Sector in various domestic and international workshops, conferences, and symposia;

Selection Criteria

- Demonstrated ability of the proposer to plan, design, manage, monitor, and evaluate Peace Corps Youth projects.
- Demonstrated ability of the proposer to design and deliver Youth workshops for both formal and nonformal audiences. National and international workshop experience preferred.
- Demonstrated ability of the proposer to conduct needs assessments and development project designs.
- Demonstrated ability of the proposer to write reports, conduct research, and handle administrative responsibilities as needed.
- Fluency in Spanish or French preferred.

For further information concerning technical or grant performance-related inquiries, please contact: George Mahaffey, Director, Office of Training and Program Support, U.S. Peace Corps, Room 8624, 1990 K Street NW., Washington, DC 20526, Tel. (202) 606–3101 FAX (202) 606–3024.

Proposals must be submitted by July 24, 1995 to: Roger E. Soles, Executive Director U.S. MAB, OES/EGC/MAB, SA–44C, U.S. Department of State, Washington, DC 20522–4401, Tel. (202) 466–1935 FAX (202) 466–2106.

Dated: June 9, 1995.

Roger E. Soles,

Executive Director, U.S. Man and the Biosphere Program, Office of Ecology and Terrestrial Conservation.

[FR Doc. 95–14586 Filed 6–14–95; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–049]

Consolidation of U.S. Coast Guard Training Centers; Environmental Assessment and Proposed Finding of No Significant Impact

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: The Coast Guard has prepared a Programmatic Environmental Assessment (PEA) for the proposed consolidation of U.S. Coast Guard training centers. This may result in transfer of training activities from one training center to other centers. One or more of the five training centers may be closed or partially closed. Based on the information presented in the PEA, the Coast Guard finds that no significant impacts to the environment will result from the proposed implementation of several alternatives consolidating the training functions at the five facilities, and a proposed Finding of No Significant Impact (FONSI) has been prepared. The Coast Guard seeks comments from the public on the PEA and proposed FONSI. It will also hold a number of public meetings.

DATES: Written comments on the PEA and proposed FONSI should be received not later than July 17, 1995. Public meetings will be held as indicated below under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Copies of the PEA and proposed FONSI are available for public review at the following libraries: Petaluma Library, 100 Fairgrounds Drive, Petaluma, CA; Cape May Public Library, 110 Ocean Street, Cape May, NJ; Pasquotank-Camden Library, 205 East Main Street, Elizabeth City NC; Newport News Public Library, 2400 Washington Avenue, Newport News VA; and the New London Public Library, 63 Huntington Street, New London, CT. Written comments should be mailed to, and copies of the PEA and proposed FONSI may be obtained from, Ms. Susan Boyle, NEPA Branch Chief, U.S. Coast Guard Maintenance and Logistics Command Pacific, Coast Guard Island, Building #54D, Alameda, CA 94501–5100, at (510) 437–3626. Comments may also be submitted by facsimile to Ms. Boyle at (510) 437–5753.

FOR FURTHER INFORMATION CONTACT: Contact LT Jan Proehl, Public Affairs Staff, at (202) 267–2304. Persons requiring assistance for the public meetings described in **Public Meetings** below should call Ms. Boyle, at (510) 437–3626, by June 19, 1995.

SUPPLEMENTARY INFORMATION:

Background

The Coast Guard is proposing to consolidate training activities throughout the United States to reduce operational expenditures and achieve long-term savings. A PEA has been prepared which evaluates the potential environmental and socioeconomic impacts from consolidation alternatives.

Five Coast Guard training centers may be directly affected by the proposed action: Training Center (TRACEN) Petaluma, California; TRACEN Cape May, New Jersey; Aviation Technical Training Center (ATTC) Elizabeth City, North Carolina; Reserve Training Center (RTC) Yorktown, Virginia; and the Coast Guard Academy in New London, Connecticut. Under the consolidation proposals, some installations may be expanded, some may be downsized, and some may be closed.

Alternatives

Based on a detailed feasibility and streamlining study, the Coast Guard developed and considered three consolidation alternatives, in addition to a no action alternative. Under all consolidation alternatives, the Coast Guard Academy would experience minor expansion, receiving about 40 new staff members and 13000 square feet of new construction. This expansion represents a small change in the operational size of the academy that would be absorbed by refurbishing existing structures in developed areas. The action is not expected to result in any significant environmental impacts, therefore, the impact on the Academy is not analyzed in detail in the PEA.

The four alternatives evaluated are summarized below. The Coast Guard has not yet identified a preferred alternative.

1. Consolidate East Coast: TRACEN Petaluma would close and most of its training functions would be relocated to RTC Yorktown. ATTC Elizabeth City and TRACEN Cape May would not be significantly affected by this alternative.

2. Consolidate Tidewater Area: TRACEN Petaluma and TRACEN Cape May would close and their functions would be relocated to RTC Yorktown and ATTC Elizabeth City.

3. Consolidate to a DOD Facility: TRACEN Petaluma, TRACEN Cape May, and ATTC Elizabeth City would be closed and their functions relocated to an undetermined closed Department of Defense (DOD) military base. The impacts at TRACEN Petaluma and TRACEN Cape May for this alternative are the same as those under Alternative 2.

4. No Action: The Coast Guard would continue to operate the training centers as they currently exist. However, this alternative would not achieve the Coast Guard's goal of long-term cost savings.

The PEA evaluates the environmental impacts of each alternative, including: Land use; infrastructure/transportation; hazardous materials and waste management; biological resources; cultural resources; air quality; noise; water resources; and socioeconomics. Other environmental impacts, including impacts on geology, soils, and bathymetry, are not expected to be affected from the action and are not evaluated in detail. Environmental impacts related to potential reuse and disposal of facilities will be the subject of subsequent NEPA analyses.

The PEA identifies no significant biophysical impacts under alternatives 1, 2, and 4, because the proposed action is relatively small in scale and is not expected to adversely affect sensitive resources. If a DOD facility is identified and alternative 3 is selected, an appropriate NEPA analysis will be conducted to address environmental impacts at the DOD facility.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations (40 CFR Part 15); and the Coast Guard Implementing Procedures and Policies (COMDTINST M16475.1B), and based on this analysis, the Coast Guard finds that Alternatives 1, 2, and 4 will have no significant environmental effects and concludes that an EIS is not required.

The Coast Guard recognizes that there may be potentially significant socioeconomic impacts. For example, closure of TRACEN Petaluma could have a significant socioeconomic impact on Two Rock Elementary School because the closure would reduce federal and state funding that is provided to the school on a per pupil basis. However, because there are no significant environmental impacts, the presence of a potential significant socioeconomic impact does not require the preparation of an Environmental Impact Statement (EIS).

Public Meetings

Public meetings to discuss the proposed consolidation of training facilities and alternatives considered, present findings of the PEA, and to receive public comments have been scheduled for the following times and locations:

June 22, 1995 (7 to 10pm) at the Petaluma Community Center, 320 North McDowell Blvd., Petaluma, CA;
June 26, 1995 (7 to 10pm) at the City Hall, 643 Washington Street, Cape May, NJ;
June 27, 1995 (7 to 10pm) at the Base Auditorium, Coast Guard Reserve Training Center, Yorktown, VA;
June 28, 1995 (7 to 10pm) at the Kerman E. White Grad Center, Elizabeth City State University, 1704 Weeksville Road, Elizabeth City, NC; and
June 29, 1995 (6:30 to 9pm) at the New London Public Library, 63 Huntington Street, New London, CT.

All interested persons will be given opportunity to express their views by making an oral statement or filing a written comment. The meetings will be recorded to help ensure that all comments will be considered.

Request for Comments

Copies of the PEA and proposed FONSI are available as described under **ADDRESSES**. The Coast Guard encourages interested persons to comment on these documents. The Coast Guard will consider these comments prior to making a decision to implement a consolidation proposal.

Dated: June 8, 1995.

Kent H. Williams,

Chief of Staff.

[FR Doc. 95–14695 Filed 6–12–95; 1:26 pm]

BILLING CODE 4910–14–M

Federal Aviation Administration

Civil Tiltrotor Development Advisory Committee; Meeting

Pursuant to section 10(A) (2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) to be held June 29 at 10:00 a.m. The meeting will take place at the U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. in rooms 8236–8240.

The agenda for the third meeting of the CTRDAC will include:

(1) A review of the October 6 meeting minutes

(2) Discussion of subcommittee executive summaries

(3) Discussion of subcommittee reports

(4) Review of work plans/schedule

(5) Other business.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lenora Harris, Staff Assistant to the Designated Federal Official on (202) 267–8787 prior to June 22. Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Harris.

Members of the public may present a written statement to the Committee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Karen Braxton 9202) 267–9451 at least seven days prior to the meeting.

Issued in Washington, D.C. on June 7, 1995.

Paul S. Erway,

Acting Designated Federal Official, Civil Tiltrotor Development Advisory Committee.

[FR Doc. 95–14658 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee, Subcommittee on Human Factors; Meeting

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. app. 2), notice is hereby given of a meeting of the Subcommittee on Human Factors of the Federal Aviation Administration (FAA) Research, Engineering and Development (R, E&D) Advisory Committee to be held on Wednesday, June 28, 1995, from 9 a.m. to 5 p.m. and continuing on Thursday, June 29, 1995, from 9 a.m. to 5 p.m. The meeting will take place in Washington, DC, at the Capital Gallery Building, 600 Maryland Avenue, Fifth Floor, Suite 500.

The agenda for this meeting will include discussion of the role of human factors in the acquisition of systems in the FAA and the operation of systems in the national airspace system.

Attendance is open to the interested public but limited to the space available. With the approval of the subcommittee chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements, obtain information, or attend the meeting should contact Dr. Mark Hofmann, AAR–100, 800 Independence Avenue, SW., Washington, DC at (202) 267–7125, the FAA designated federal official to the subcommittee.

Members of the public may present a written statement to the subcommittee at any time.

Issued in Washington, DC, on June 8, 1995.

Lee A. Olson,

Coordinator for the R, E&D Advisory Committee.

[FR Doc. 95–14657 Filed 6–14–95; 8:45 am]

BILLING CODE 4310–13–M

Notice of Intent To Rule on Application to Impose and Use the Revenues From a Passenger Facility Charge (PFC) at Charlottesville-Albermarle Airport, Charlottesville, Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Charlottesville-Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before July 17, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington Airports District Office, 101 West Board Street, Suite 300, Falls Church, Virginia 22046

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bryan Elliot, Director of Aviation, Charlottesville-Albermarle Airport Authority, at the following address: Charlottesville-Albermarle Airport Authority, 201 Bowen Loop, Charlottesville, Virginia 22901

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albermarle Airport Authority under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Robert Mendez, Manager, Washington Airports District Office 101 West Broad Street, Suite 300 Falls Church, Virginia 22046. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Charlottesville-Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158)

On May 30, 1995, the FAA Determined that the application to impose and use the revenue from a PFC submitted by the Charlottesville-Albermarle Airport Authority was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 16, 1995

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: April 1, 1995

Proposed charge expiration date: June 15, 2001

Total estimated PFC revenue: $2,697,646

Brief description of proposed project(s):

—Debt Financing for Acquisition of Snow Removal and ARFF Vehicle approved by FAA PFC eligible Projects (Impose & Use)

—Construct Air Carrier Ramp (Impose Only)

—Reconstruct Taxiway A (Impose Only)

Class or classes of air carriers which the public agency has requested not be required to collect PFC: Air Taxi/commercial operators filing FAA Form 1800–31 and foreign air carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albermarle Airport Authority.

Issued in Jamaica, New York, on June 6, 1995.

Anthony P. Spera,

Acting Manager, Airports Division, Eastern Region.

[FR Doc. 95–14668 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenues From a Passenger Facility Charge (PFC) at John F. Kennedy International Airport, Jamaica, NY; LaGuardia Airport (LGA), Flushing, NY, and Newark International Airport (EWR), Newark, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of intent to rule on application to impose and use the revenues from a Passenger Facility Charge (PFC) at JFK, LGA and EWR Airports.

SUMMARY: This correction incorporates information from the public agency's application which was omitted from the previously published notice.

In notice document FR 95–1754 beginning on Page 27592 in the issue of Wednesday, May 24, 1995, on the Third column, under the heading of EWR Projects the last 7 paragraphs should read as follows:

EWR Projects

—EWR Monorail

To Impose and Use an additional $50 million, also use $50 million in PFC already imposed, for the construction of a monorail linking various areas within the airport.

—Landside Access—Phase 1A

To impose and use $50 million for on-airport roadway improvements and

modifications to reduce congestion.
—EWR I–78 Flyover
To amend previously PFC to withdraw this project.
—EWR Monorail—Northeast Corridor Connection
To Impose $250 million for the construction of a monorail linking the on airport monorail system and the new rail station on the Amtrak's Northeast Corridor (NEC).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi, except commuter air carriers.

Any person may inspect the applications in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the applications, notice and other documents germane to the application in person at the Port Authority of New York & New Jersey.

Issued in Jamaica, New York on June 6, 1995.

William DeGraaff,

Manager, Planning and Programming Branch, Eastern Region.

[FR Doc. 95–14659 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–25; Notice 2]

Decision That Nonconforming 1994 and 1995 Ford Escort RS Cosworth Passenger Cars Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1994 and 1995 Ford Escort RS Cosworth passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1994 and 1995 Ford Escort RS Cosworth passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The decision is effective on June 15, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Sun International Racing of Manhattan Beach, California (Registered Importer R–95–050) petitioned NHTSA to decide whether 1994 and 1995 Ford Escort RS Cosworth passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 12, 1995 (60 FR 18659) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligible number indicating that the vehicle is eligible for entry. VCP–09 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1994 and 1995 Ford Escort RS Cosworth passenger cars are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 12, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–14720 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–24; Notice 2]

Decision That Nonconforming 1994 Porsche 964 Turbo Passenger Cars Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1994 Porsche 964 Turbo passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1994 Porsche 964 Turbo passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1994 Porsche 911 Turbo), and they are capable of being readily altered to conform to the standards.

DATES: The decision is effective June 15, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas, (Registered Importer R–90–005) petitioned NHTSA to decide whether 1994 Porsche 964 Turbo passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 12, 1995 (60 FR 18660) to afford an opportunity for public comment. The reader is referred to that notice for at thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–116 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1994 Porsche 964 Turbo is substantially similar to a 1994 Porsche 911 Turbo originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 490 CFR 1.50 and 501.8.

Issued on: June 12, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–14719 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before July 17, 1995.

ADDRESS COMMENTS TO: Dockets Units, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11464–N	Zeneca Inc., Wilmington, DE ..	49 CFR 174.67(i) & (j)	To authorize rail cars to remain attached to connectors without the physical presence of an unloader. (mode 2)
11465–N	Monsanto Co., St. Louis, MO .	49 CFR 173.240(c)	To authorize the transportation in commerce of solid hazardous waste, Class 9, to be transported in non-DOT specification bulk fiberboard boxes. (mode 1)
11466–N	Monsanto Co., St. Louis, MO .	49 CFR 177.837(a)	To authorize the engine of a motor vehicle to remain running while loading or unloading Class 3 material at temperature below 10 degrees F to prevent engine starting problems. (mode 1)
11468–N	Dept. of Energy, Richland, VA	49 CFR 173.211	To authorize the transportation of test equipment containing residual amounts of sodium metal, Division 4.3, inside a Type 304 stainless steel piping overpacked with a non-specification plywood box. (mode 1)
11470–N	North East Chemical Corp., Cleveland, OH.	49 CFR 172.301	To authorize the transportation in commerce of aerosol containers meeting the requirements of 49 CFR 173.306(h), described and marked as Consumer Commodity ORM–D to be transported without required markings. (modes 1, 2)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11472–N	American Pyrotechnics Assoc. et al., Chestertown, MD.	49 CFR 177.848(f)	To authorize the transportation in commerce of pyrotechnic articles classed as Division 1.4G explosives on the same vehicle and in the same storage area that contains other 1.4 explosive articles. (mode 1)
11473–N	FMC Corp., Philadelphia, PA ..	49 CFR 179.101–1, 179.103–3, 179.103–4.	To authorize the transportation in commerce of elemental phosphorus, Division 4.2, in non-DOT Specification 114A340W tank cars except for top fitting protection and safety relief valve setting built to 340 psi design, with 850 psi burst pressure. (mode 2)
11476–N	Schrupp Industries Inc., Parker, PA.	49 CFR 173.302(a)(1), 173.306(f), 173.5.	To authorize the manufacture, mark and sale of hydraulic accumulators for use in transporting nitrogen, Division 2.2. (modes 1, 2, 3, 5)
11477–N	MTI Analytical Instruments Inc., Fremont, CA.	49 CFR 1, 2, 3	To authorize the transportation in commerce of analytical equipment which contains a cylinder equipped with a pressure regulator for use in transporting helium, Division 2.2. (mode 4)

Note: Notice of Application No. 11441–N Radian Corp., Research Triangle Park, NC appeared at page 18663 of the Federal Register for April 12, 1995, should have appeared 11441–N United Technologies Carrier, Syracuse, NY.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 9, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–14645 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–01–M

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application number with the suffix ''M'' denote a modification request. Application numbers with the suffix ''p'' denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before June 30, 1995.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application	Applicant	Renewal of exemption
8757–M	YZ Industries Inc., Snyder, TX (See Footnote 1)	8757
9421–M	Taylor-Wharton, Harrisburg, PA (See Footnote 2)	9421
9778–M	Western Atlas Int., Houston, TX (See Footnote 3)	9778
10963–M	SGL Carbon Group, Union, NJ (See Footnote 4)	10963
11055–M	Rollis Chempak, Inc., Wilmington, DE (See Footnote 5)	11055
11239–M	ABS Industrial Verification, Inc., Houston, TX (See Footnote 6)	11239
11329–M	Degesch America, Inc., Weyers Cave, VA (See Footnote 7)	11329
11391–M	DHE (Fabrication and Machining), Vereeniging 1930, SA (See Footnote 8)	11391

(1) To modify exemption to provide for additional non-DOT specification cylinders constructed of 316 or SA 340 type 304 stainless steel.
(2) To modify the exemption to provide for various technical changes to non–DOT specification cylinders for use in transporting certain Division 2.1 and 2.2 material.
(3) To modify exemption to provide for additional non-DOT specification tanks and tubes, for shipment of sulfur hexafluoride, Division 2.2.
(4) To modify exemption for the transportation of Chlorosilanes, Division 4.3, in non-DOT specification fully-removable head carbon steel salvage cylinder of welded construction.
(5) To modify the exemption to authorize Division 6.1, Zone A material to be transported in the same vehicle with other hazardous materials.
(6) To modify exemption to provide for additional non-DOT specification steel portable tank mounted in an ISO frame for use in transporting Division 2.1 and 2.2 material.
(7) To modify exemption to provide for additional combination packaging and delete the requirement to label inside containers with Dangerous When Wet and poison labels.

(8) To modify exemption to provide for manufacturing of alternative tank design similar to DOT Specification 51, equipped with openings in various location on the same end for use in transporting various materials classed as Division 2.1, 2.2 and 2.3.

Application	Applicant	Parties to exemption
6743–P	Green Mountain Explosives, Inc., Auburn, NH	6743
7991–P	Paducah & Louisville Railway, Inc., Paducah, KY	7991
9346–P	Freeport Sulphur Co., New Orleans, LA	9346
9491–P	BOC Gases, Riverton, NJ	9491
9929–P	McDonnell Douglas, Huntington Beach, CA	9929
10307–P	SCM Chemicals, Inc., Baltimore, MD	10307
10441–P	Findly Chemical Disposal, Inc., Fontana CA	10441
10441–P	Hazpak, Inc., Fontana, CA	10441
10798–P	BioLab, Inc., Westlake, LA	10798
10802–P	BOC Gases, Riverton, NJ	10802
10898–P	Gulf Controls Corporations, Tampa, FL	10898
11043–P	Findly Chemical Disposal, Inc., Fontana, CA	11043
11055–P	Findly Chemical Disposal, Inc., Fontana, CA	11055
11230–P	Conex, Inc., Derby, IN	11230
11230–P	Dama, Inc., Roanoke, VA	11230
11230–P	IRECO of Florida, Inc., Miramar, FL	11230
11230–P	Winchester Building Supply Co., Inc., Winchester, VA	11230
11230–P	W.H. Burt Explosives, Inc., Moab, UT	11230
11230–P	Buckley Powder Co. of Oklahoma, Inc., Mill Creek, OK	11230
11230–P	St. Lawrence Explosives Corp., Adams Center, NY	11230
11230–P	Boren Companies, Inc., Birmingham, AL	11230
11230–P	SCM Chemicals, Inc., Baltimore, MD	11230
11230–P	Cherokee Explosives, Inc., Plainville, CT	11230
11230–P	Econex North, Inc., Standish, MI	11230
11230–P	ECONEX, Inc., Pittsfield, IL	11230
11230–P	Binns & Stevens Explosives, Inc., Oskaloosa, IA	11230
11230–P	Alaska-Pacific Powder Co., Olympia, WA	11230
11230–P	Buckley Powder Co., Englewood, CO	11230
11294–P	Findly Chemical Disposal, Inc., Fontana, CA	11294
11346–P	Schlumberger Well Services, Rosharon, TX	11346

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 8, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–14644 Filed 6–14–95; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Public Information Collection Requirements Submitted to OMB for Review

June 8, 1995.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–11. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Number: 1550–0018

Form Number: Not Applicable

Type of Review: Extension

Title: Amendment of a Savings Association's Charter

Description: Parts 544 and 552 of the OTS Regulations require Federally-chartered savings associations to obtain agency approval of any change in its Charter that is not preapproved by regulations.

Respondents: Savings and Loan Associations and Savings Banks

Estimated Number of Respondents: 43

Estimated Burden Hours Per Respondent: 10 Hrs. Avg

Frequency of Response: On Occasion

Estimated Total Recordkeeping Burden: 430 Hrs.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 Street, N. W., Washington, D.C. 20552.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Cora Prifold Beebe,

Director of Administration.

[FR Doc. 95–14697 Filed 6–14–95; 8:45 am]

BILLING CODE 6720–01–P

Public Information Collection Requirements Submitted to OMB for Review

June 8, 1995.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–11. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N. W., Washington, D.C. 20552.

OMB Number: 1550–0017

Form Number: Not Applicable

Type of Review: Extension

Title: Amendment of a Savings Associations Bylawsr

Description: Parts 544 and 552 of the OTS Regulations require Federally-

chartered savings associations to obtain agency approval of any change in its bylaws that is not preapproved by regulation.

Respondents: Savings and Loan Associations and Savings Banks

Estimated Number of Respondents: 20

Estimated Burden Hours Per Respondent: 8 Hrs. Avg

Frequency of Response: On Occasion

Estimated Total Recordkeeping Burden: 160 Hrs.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 Street, N. W., Washington, D.C. 20552

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Cora Prifold Beebe,

Director of Administration.

[FR Doc. 95–14698 Filed 6–14–95; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

International Creative Arts Exchanges for Public and Private Non-Profit Organizations

ACTION: Notice request for proposals.

SUMMARY: The Office of Arts America Creative Arts Exchanges Division of the U.S. Information Agency's [USIA] Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and non-profit organizations that demonstrate disciplinary expertise in the arts and meet the provisions described in IRS regulation 26 CFR 1.501(c)(3)–(1) may apply to develop projects for artists and arts administrators. These will consist of residences and/or exchange programs in which artists from the United States and other countries work and learn together. Interested applicants are invited to request and read the complete Solicitation Package before submitting their proposals.

Overall grant making and funding authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Programs and projects must conform with requirements and guidelines outlined in the Solicitation Package. A Solicitation Package consists of the **Federal Register** Request For Proposals (RFP); a Project Objectives, Goals, and Implementation (POGI) statement; and Proposal Submission Instructions (PSI). USIA projects and programs are subject to the availability of funds. Individuals interested in other USIA programs can access information via the USIA Internet gopher site: Gopher. USIA.GOV

ANNOUNCEMENT NAME & NUMBER: All communications concerning this announcement should refer to the title and reference number—E/DE–96–06.

DATES: All proposal materials must be received at USIA by 5:00 p.m. Washington, DC time on Thursday, September 7, 1995. Faxed documents will not be accepted, nor will documents postmarked on September 7, 1995, but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline. Projects should begin between February 1, 1996 and July 31, 1996. For projects that begin after July 31, 1996, proposals should be submitted under the next award competition. The next competition will be announced in the **Federal Register** on or about December 7, 1995.

FOR FURTHER APPLICATION INFORMATION: Please contact the Office of Arts America, Creative Arts Exchanges Division, Room 568, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547 (Phone: 202–619–5338, Fax: 202–619–6315, Internet: JDorsey@USIA.gov) to request a Solicitation Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify Christopher Paddack on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before submitting their proposals. Creative Arts staff are available to answer any programmatic or technical questions applicants may have prior to submission of applications. Once the RFP deadline has passed, staff may not discuss this competition with applicants until after the proposal review process has been completed.

Proposal Submission Instructions

Applicants must follow all instructions given in the Solicitation Package and send an original and two (2) copies of the full package plus nine (9) additional copies of Tabs A–E to: U.S. Information Agency, REF: E/DE–96–01, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit to E/EX the ''Executive Summary,'' ''Proposal Narrative,'' and ''Budget'' sections of each proposal on a 3.5″ diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Guidelines

The Creative Arts Exchanges Division works with U.S. non-profit organizations to develop cooperative international group projects that introduce American and foreign participants to each other's cultural and artistic life and traditions. The Division seeks projects with organizations that have disciplinary expertise in the arts as well as broad outreach and networking capabilities into American arts activities nationwide. International projects in the United States or overseas may involve composers, choreographers, playwrights, theater designers, writers and poets, filmmakers, visual artists, and arts administrators. Arts administration programs can include topics such as arts management, institutional development, community outreach, fundraising, tour management, and organizational structure.

Organizations interested in museum/curatorial projects should contact the American Association of Museums (AAM) International Partnerships Among Museums (IPAM) program: Office of International Programs, American Association of Museums, 1225 Eye Street, NW., Washington, DC 20005; telephone: (202) 289–1818; FAX: (202) 289–6578. We will not accept direct applicants from museums for international projects.

Projects should involve the following components:

1. An international exchange of professionals in the fields listed above;

2. The development of institutional linkages between American organizations and their counterparts in other countries;

3. Travel to or from the United States, preferably in both directions;

4. Assurances of quality, fairness, balance and openness in the selection of project participants.

Proposed projects should involve U.S. Information Service (USIS) posts worldwide to carry out activities supportive of the USIA mission to increase mutual understanding between the United States and other countries and to promote international cooperation in educational and cultural fields. USIS' role in such projects should be substantive and integral and not purely facilitative.

Proposals including performances and/or exhibitions will be considered only if the performance or exhibition is integral to the creative process. Projects in which exhibitions and/or performances are the main focus will not be supported.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including but not limited to race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle.

Drafts of all printed materials developed for this program using USIA funds should be submitted to the Agency for review and approval. USIA must receive a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. Funded projects must acknowledge USIA sponsorship in all printed project materials and official project documents.

Special conditions and exclusions:

1. USIS Posts should be given the option of nominating foreign program participants, while the U.S. grantee organization will make final selection decisions.

2. Proposals involving more than one country are preferred. However, single-country projects that have strong USIS Post support and clearly demonstrate the potential for creating and strengthening linkages between foreign and U.S. institutions are also welcome.

3. Proposals involving foreign organizations should identify them and clearly define their role in the project. Letters of commitment from these organizations should be included in the proposal package. Prospective applicants should consult with USIS Posts regarding such organizations prior to submitting their proposals.

4. Proposals centering on films or videos must deal with the creative aspects of film or video making. Projects may include story development, other aspects of the creative processes, or management issues like funding and distribution. They should not include installations, screenings, competitions, full scale film production or distribution, or any other type of project prohibited in this announcement.

The following types of projects are ineligible for support:

1. Vocational and technical training projects;

2. Scholarly programs, long-term academic study or training programs, and student and/or faculty exchanges (Organizations interested in programs of this nature should contact USIA's Office of Academic Programs—202–619–6409);

3. Speaking tours, conferences, research projects, research for project development purposes, publications;

4. Youth or youth-related activities (participants' age under 25) or projects for the exchange of amateurs or semi-professionals;

5. International arts competitions, community-level arts presentations or festivals for general audiences;

6. Study tours and observerships;

7. Projects in the fields of historical and cultural conservation and preservation.

USIA is a major supporter of Sister Cities International and Partners of the Americas. It has agreed to fund administrative expenses of these organizations' national offices, but will not fund projects arising from sister city and partner state relationships once they are established.

Geographic guidelines:

Proposals which address themselves to various geographic regions of the world, and allow across-the-board participation from all areas are preferred. In addition, preferences for specific geographic areas are:

1. Africa, East Asia and the Pacific, the Near/Middle East, and South Asia: Proposals are especially encouraged for projects in these regions. There are no specific preferences in terms of thematic fields.

2. American Republics (South America, Central America and the Caribbean): Proposals are invited in all appropriate areas. Preference will be given to proposals that focus on ethnic and indigenous arts.

3. Eastern Europe and the Newly Independent States of the former Soviet Union: Proposals should clearly demonstrate knowledge of the host country environment and the institutional partner in that country and provide evidence of long-term commitment to project goals.

4. Western Europe and Canada: Only proposals that are multi-country, address arts financing in the U.S., and invite arts administrators as participants will be considered.

Visa/Insurance/Tax Requirements

Programs must comply with J–1 visa regulations. Please refer to program specific guidelines in Solicitation Package for further details. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Budgetary Requirements

Detailed budgetary requirements and guidelines are included in the Solicitation Package. Creative Arts discretionary awards are on average approximately $58,000 with many successful proposals coming in at well below this level. Organizations may request up to $100,000 for single-country projects. In exceptional cases awards of up to $200,000 dollars are available for multi-country projects. Organizations with less than four years of experience in conducting international exchange programs are eligible for awards up to $60,000. Please note that proposal budgets must include a minimum of 33% cost sharing of the total project cost. Administrative costs must be no more than 20% of the total amount requested from USIA.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines in the Solicitation Package. Eligible proposals will be reviewed by the Office of Arts America, USIA geographic area policy offices, and USIA Posts overseas. Panels of USIA officers will make funding recommendations. Proposals may also be reviewed by the Office of the General Counsel or by other USIA elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Office of Contracts.

Review Criteria

Technically eligible applications will be competitively reviewed according to

the criteria stated below. These criteria are not rank ordered:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to USIA's mission and the goals of the Creative Arts Exchanges Program as stated under the Summary and Guidelines sections of this document.

2. Program planning: Detailed agenda and relevant work plan should demonstrate substantive artistic/organizational undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to achieve program objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Institutional capacity/ability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past USIA grants ad determined by USIA's Office of Contracts. USIA will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. Multiplier effect/impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

6. Follow-on activities: Proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA supported programs are not isolated events.

7. Support diversity: Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity as defined under the *Guidelines* section of this document.

8. Project evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. USIA recommends that the proposal include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. Award-receiving organizations/institutions will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

9. Cost-effectiveness: The overhead and administrative components of the proposals, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

10. Cost-sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

11. Value to U.S.-partner country relations: Proposed programs should receive positive assessments by USIA's geographic area desk and overseas USIS officers of program need, potential impact, and significance in the partner country(ies).

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by USIA that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. USIA reserves the right to reduce, revise, or increase proposed budgets in accordance with the needs of the program. Final awards cannot be made until funds have been appropriate by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about January 1, 1996. Awards made will be subject to periodic reporting and evaluation requirements.

Dated: June 5, 1995.

Dell Pendergrast,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 95–14248 Filed 6–14–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Wage Committee, Notice of Meetings

The Department of Veterans Affairs (VA), in accordance with Pub. L. 92–463, gives notice that meetings of the VA Wage Committee will be held on: Wednesday, July 19, 1995, at 2:00 p.m., Wednesday, August 16, 1995, at 2:00 p.m., Wednesday, August 30, 1995, at 2:00 p.m., Wednesday, September 27, 1995, at 2:00 p.m.

The meetings will be held in Room 1225, Department of Veterans Affairs, Tech World Plaza, 801 I Street, NW, Washington, DC 20001.

The Committee's purpose is to advise the Under Secretary for Health on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Department of Veterans Affairs and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairperson for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairperson, VA Wage Committee, Room 1225, 801 I Street, NW., Washington, DC 20001.

Dated: June 7, 1995.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–14612 Filed 6–14–95; 8:45 am]

BILLING CODE 8320–01

Sunshine Act Meetings

Federal Register

Vol. 60, No. 115

Thursday, June 15, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 11:00 a.m.–2:00 p.m.

PLACE: ADF Headquarters.

DATE: Monday, 20 June 1995.

STATUS: Open.

Agenda

11:00 a.m.—Chairman's Report
11:15 a.m.—President's Report
11:30 a.m.—Other
12:00 noon—Lunch
1:00 p.m.—Executive Session (Closed)

If you have any questions or comments, please direct them to Ms. Janis McCollim, Executive Assistant to the President, who can be reached at (202) 673–3916.

William R. Ford,

President.

[FR Doc. 95–14765 Filed 6–13–95; 8:45 am]

BILLING CODE 6116–01–P

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m.—June 20, 1995.

PLACE: Room 100 (Hearing Room)—800 North Capitol Street, N.W., Washington, D.C. 20573–0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTER(S) TO BE CONSIDERED: Portion open to the public:

1. Docket No. 94–07—*Financial Reporting Requirements and Rate of Return Methodology in the Domestic Offshore Trades*—Access to annual Reports

Portion closed to the public:

1. Transpacific Stabilization Agreement and Westbound Transpacific Stabilization Agreement

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 95–14824 Filed 6–13–95; 2:18 pm]

BILLING CODE 6730–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 19, 1995.

An open meeting will be held on Tuesday, June 20, 1995, at 10:00 a.m. A closed meeting will be held on Tuesday, June 20, 1995, following the 10:00 a.m. open meeting.

Commissioners, Counsel to the Commissioner, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a close session.

The subject matter of the open meeting scheduled for Tuesday, June 20, 1995, at 10:00 a.m., will be:

The Division of Investment Management will present its conclusions and recommendations regarding its year-long study of the Public Utility Holding Company Act of 1935. In addition, the Division will recommend that the Commission (1) amend rule 52 under the Act to exempt certain types of securities of subsidiary companies of a registered holding company, subject to certain terms and conditions; (2) amend rule 45(b)(4) under the Act to exempt all capital contributions and open account advances by a parent company to its subsidiary company; (3) seek public comment on a further proposal to amend rule 52 to permit a subsidiary of a registered holding company to issue and sell any security without the need to apply for Commission approval, where the conditions of the rule are otherwise met; and (4) seek public comment on proposed rule 58 that would exempt from prior Commission approval the acquisition by a registered holding company or any subsidiary company of securities of an energy-related company. For further information, please contact William Weeden at (202) 942–0545.

The subject matter of the closed meeting scheduled for Tuesday, June 20, 1995, following the 10:00 open meeting, will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: June 12, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–14797 Filed 6–13–95; 2:17 p.m.]

BILLING CODE 8010–01–M

Federal Register

Thursday
June 15, 1995

Part II

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

1995–1996 Subsistence Taking of Fish and Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AC82

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—1995–1996 Subsistence Taking of Fish and Wildlife Regulations

AGENCY: Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule republishes the customary and traditional use determinations and establishes regulations for seasons, bag limits, methods, and means related to taking of fish and wildlife for subsistence uses during the 1995–1996 regulatory year. The rulemaking is necessary because there have been numerous changes to Subpart C; and, Subpart D is subject to an annual public review cycle. This rulemaking replaces the wildlife regulations included in the ''Subsistence Management Regulations for Public Lands in Alaska, Subpart D—1994–1995 Subsistence Taking of Fish and Wildlife Regulations'', which expire on June 30, 1995. This rule also revises Section _____.24 of Subpart C, the Customary and Traditional Use Determinations of the Federal Subsistence Board in a more orderly form and with various recent amendments. This rule also revises Sections _____.26 (Subsistence taking of fish) and _____.27 (Subsistence taking of shellfish), including correcting amendments.

EFFECTIVE DATES: Section _____.24 becomes effective July 1, 1995. Section _____.25 becomes effective July 1, 1995, and remains effective through June 30, 1996. Sections _____.26 and _____.27 become effective July 1, 1995, and remain effective through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Richard S. Pospahala, Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3447. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628, telephone (907) 586–7921.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability which are consistent with ANILCA, and which provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from the subsistence statute, and therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). Consistent with Subparts A, B, and C of these regulations, a Federal Subsistence Board (Board) was established to administer the Federal subsistence management program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. All Board members have reviewed this final rule and agree with its substance. Because this final rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR Part 242 and 50 CFR Part 100.

Applicability of Subparts A, B, and C

Subparts A, B, and C of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR §§ 100.1 to 100.24 and 36 CFR §§ 100.1 to 100.24, remain effective and apply to this rule for subpart D. Therefore, all definitions located at 50 CFR § 100.4 and 36 CFR § 100.4 apply to regulations found in this subpart. The identified sections include definitions for the following terms:

''*Federal lands* means lands and waters and interests therein title to which is in the United States''; and

''*public land* or *public lands* means lands situated in Alaska which are Federal lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal Law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in Section 19(b) of the Alaska Native Claims Settlement Act.''

Navigable Waters

At this time, Federal subsistence management program regulations apply to all non-navigable waters located on public lands and to navigable waters located on the public lands identified at 50 CFR § 100.3(b) and 36 CFR § 242.3(b) of the Subsistence Management Regulations for Public Lands in Alaska, subparts A, B, and C (57 FR 22940–22964) published May 29, 1992. Nothing in these regulations is intended to enlarge or diminish authorities of the Departments to manage submerged lands, title to which is held by the United States government.

The Board recognizes Judge Holland's order granting preliminary relief to the plaintiffs in the case of the *Native Village of Quinhagak et al.* v. *United States of America et al.* Therefore, to the extent that the proposed regulations would continue any existing restrictions on the taking of rainbow trout by the

residents of Quinhagak and Goodnews Bay in the Kanektok, Arolik, and Goodnews Rivers, those regulations will not be enforced pending completion of proceedings in that case. However, in light of the 9th Circuit decision in *Katie John, et al.* v. *U.S.*, the Secretaries are developing amendments to parts of subpart A dealing with the definitions of navigable waters and public lands. Once that final determination is made by the Secretaries, the regulations in subparts C and D will likely be modified.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR § 242.11 (1992) and 50 CFR 100 § 242.11 (1992), and for the purposes identified therein, Alaska has been divided into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Alaska pubic lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils have had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, presented their Council's recommendations at the Board meeting in April 1995.

Summary of Changes

Section _____.24 (Customary and traditional use determinations) was published in the **Federal Register** (57 FR 22940) on May 29, 1992. Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of affected subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** (59 FR 27462, published May 27, 1994; 59 FR 51855, published October 13, 1994; and 60 FR 10317, published February 24, 1995.) During its April 10–14, 1995, meeting, the Board made additional determinations in conjunction with various annual season and harvest limit changes. The public has had extensive opportunity to review and comment on all changes. Additional details on the recent Board modifications are contained in the section on Analysis of Proposals Adopted by the Board.

Section _____.25 (Subpart D) regulations are subject to an annual cycle and require development of an entire new rule each year. Proposed Subpart D regulations for the 1995–1996 seasons and bag limits, and methods and means were published on September 2, 1994, in the **Federal Register** (59 FR 45924–45961). A 60-day comment period providing for public review of the proposed rule and calling for proposals was advertised by mail, radio, and newspaper. During that period the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. Overall, the Board received a total of 80 proposals, 71 within the scope of authority under Subpart D. Of the other nine, four were withdrawn by the originator, four were deferred for further study within the customary and traditional use determination process, and one was resolved by an earlier Board action. Subsequent to the 60-day review period, the Board prepared a booklet describing the 71 proposals for change to Subpart D and distributed it to the public. The public then had an additional 30 days in which to comment on the proposals for changes to the regulations. The ten Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments submitted to the Board.

Section _____.26 (Subsistence taking of fish) and Section _____.27 (Subsistence taking of shellfish) were last published on June 1, 1993, (58 FR 31252). Fish and shellfish regulations are effective from January 1 through December 31 each year. Due to a pending appeal of litigation and petitions to the Secretaries of the Interior and Agriculture, both relating to extended jurisdiction to navigable waters, the 1994 fish and shellfish regulations were not revised for 1995 but, rather, were extended through December 31, 1995 by interim regulation, published June 27, 1994 (59 FR 32923.)

Analysis of Proposals Rejected by the Board

The Board rejected 18 proposals based on recommendations from the respective Regional Council and additional factors. Except in one instance as indicated, the Board actions to reject the proposals reflect Regional Council recommendations.

The Board addressed and rejected five proposals to institute or increase seasons and harvest limits on black bears and brown bears. These proposals were for the purpose of reducing the bear population in an area or rid an area of ''problem'' bears. The Seward Peninsula Regional Council did recommend adoption of one of these proposals relating to brown bear in Unit 22. The Board has determined that the removal of problem animals or the take of animals in defense of life and property is properly addressed under State regulations; but based on the concerns expressed by the Seward Peninsula Regional Council, will study whether the taking bears in defense of life and property should be covered as part of the Federal Subsistence Management Program.

Four proposals requested that public lands on the Alaska Peninsula be closed to hunting by non-Federally qualified users. The Board determined that the biological data did not support a need to close the areas in order to protect the subsistence user's opportunity to harvest wildlife.

Four proposals requested that season dates or harvest limits be changed. These proposals were rejected because the requests were accommodated by the adoption of other proposals.

Two proposals requested opening antlerless moose hunting in certain areas; one proposal asked that a spike/fork-50 inch antler restriction be removed; and one proposal asked that a caribou season be instituted. In all of these cases, examination of the biological data indicated that the target population could not withstand the proposed harvest.

The Board rejected a proposal that would have reduced the harvest limit for coyote. There was no biological justification to limit the subsistence take in the area.

The Board also deferred action on five proposals in order to collect additional data, examine jurisdictional issues, or allow communities or the Regional Council to provide additional needed regulatory information.

Analysis of Proposals Adopted by the Board

The Board adopted 48 proposals for the 1995–1996 regulatory year. Some of these proposals were adopted as submitted and others were adopted with modifications suggested by the respective Regional Council or developed during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by the respective Regional Councils and were based on meeting customary and traditional harvest practices or protecting wildlife populations. Detailed information relating to justification on each proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management at the address listed previously.

Southeast Region

Four proposals affecting the Southeast Region were acted on by the Board resulting in changes to the regulations found in § _____.25. The following Board actions affect the Southeast Region and have been incorporated in this final rule:

- Added an antlerless deer season in Unit 2 to accommodate local customary and traditional use patterns.
- Instituted a designated hunter system for deer in Units 1–5 to accommodate local customary and traditional use patterns.
- Instituted a designated hunter system for moose in Unit 5 to accommodate local customary and traditional use patterns.
- Opened a trapping season for marten, mink, and weasel in a portion of Unit 4 to accommodate local customary and traditional use patterns, but prohibited the use of motorized vehicles for trapping access to prevent overharvest and protect the viability of the populations.

Southcentral Region

Five proposals affecting the Southcentral Region were acted on by the Board resulting in changes to the regulations found in § _____.25. The following Board actions affect the Southcentral Region and have been incorporated in this final rule:

- Extended the caribou season in Unit 13 to accommodate local customary and traditional use patterns.
- Closed the goat season in a small hunt area in Unit 6(D) to protect the viability of the population.
- Opened the moose season in Unit 13 earlier to accommodate local customary and traditional use patterns.
- Closed the red fox and lynx hunting seasons in Unit 6 to protect the viability of the populations.

Kodiak/Aleutians Region

Two proposals affecting the Kodiak/Aleutians Region were acted on by the Board resulting in changes to the regulations found in § _____.25 and § _____.27. The following Board actions affect the Kodiak/Aleutians Region and have been incorporated in this final rule:

- Instituted a designated hunter system for deer in Unit 8 to accommodate local customary and traditional use patterns.
- Limited the capacity of king crab pots to protect the viability of the population.

Bristol Bay Region

Eight proposals affecting the Bristol Bay Region were acted on by the Board resulting in changes to the regulations found in § _____.25. The following Board actions affect the Bristol Bay Region and have been incorporated in this final rule:

- Changed the harvest regime for caribou for Unit 9(C) to accommodate local customary and traditional use patterns and to protect the viability of the population.
- Closed a portion of Unit 9(E) to the hunting of caribou to protect the viability of the population.
- Provided for the harvest by five villages of moose for ceremonial purposes to accommodate local customary and traditional use patterns.
- Opened the moose season in Unit 9(C) earlier to accommodate local customary and traditional use patterns.
- Changed the season dates and instituted a spike/fork-50 inch antler restriction to accommodate local customary and traditional use patterns and to protect the viability of the population.
- Extended the season and changed other portions of the regulations for Unit 9(B) sheep (two proposals) to accommodate local customary and traditional use patterns.
- Lengthened the season for beaver in Unit 9, increased the harvest limit, and allowed firearms to be used to take beaver to accommodate local customary and traditional use patterns.

Yukon-Kuskokwim Delta Region

Two proposals affecting the Yukon-Kuskokwim Delta Region were acted on by the Board resulting in changes to the regulations found in § _____.25. The following Board actions affect the Yukon-Kuskokwim Delta Region and have been incorporated in this final rule:

- Revised the way the harvest quota is set for the Kilbuck caribou herd in Unit 18.
- Instituted a caribou season in a portion of Unit 18 to accommodate local customary and traditional use patterns.

Western Interior Region

Three proposals affecting the Western Interior Region were acted on by the Board resulting in changes to the regulations found in § _____.25. The following Board actions affect the Western Interior Region and have been incorporated in this final rule:

- Increased the harvest limit for caribou in Unit 19(A) to accommodate local customary and traditional use patterns.
- Changed the season dates for moose in Units 21(A) and 21(E) to accommodate local customary and traditional use patterns.
- Added a closure zone along the Innoko River during the February moose season to protect the viability of the population.

Seward Peninsula Region

Eight proposals affecting the Seward Peninsula Region were acted on by the Board resulting in changes to the regulations found in § _____.24 and § ____.25. The following Board actions affect the Seward Peninsula Region and have been incorporated in this final rule:

- Extended the moose season in Unit 22(A) for the residents of that unit only to accommodate local customary and traditional use patterns.
- Established a positive customary and traditional use determination for muskox for some residents of Units 22 and 23.
- Established a muskox hunt for portions of Units 22 and 23 to accommodate local customary and traditional use patterns and closed Federal lands to non-Federally qualified subsistence users.
- Closed the coyote hunting season in Unit 22 to protect the viability of the population.
- Reduced the hare season in Unit 22 to protect the viability of the population.
- Reduced the wolf hunting season to protect the viability of the population and to accommodate local customary and traditional use patterns.
- Recognized that nets may be legally used to harvest ptarmigan.
- Increased the harvest limit for ptarmigan in portions of Unit 22 to accommodate local customary and traditional use patterns.

Northwest Arctic Region

Two proposals affecting the Northwest Arctic Region were acted on by the Board resulting in changes to the regulations found in § _____.24 and § _____.25. The following Board actions affect the Northwest Arctic Region and have been incorporated in this final rule:

- Expanded and revised the description of the Noatak Controlled

Use Area in Unit 23 to provide a consistent description with the Alaska Department of Fish and Game.

- Increased the harvest limit for caribou in Unit 23 to accommodate local customary and traditional use patterns.
- Established a muskox hunt for portions of Unit 23 (See Seward Peninsula Region above.)

Eastern Interior Region

Seven proposals affecting the Eastern Interior Region were acted on by the Board resulting in changes to the regulations found in § _____.25. The following Board actions affect the Eastern Interior Region and have been incorporated in this final rule:

- Permitted the use of boats and snowmachines to take caribou and moose in Unit 25 to accommodate local customary and traditional use patterns.
- Increased the size of the Arctic Village Sheep Management Area to protect the opportunity for subsistence harvest.
- Changed the season for caribou in Unit 20(E) to accommodate local customary and traditional use patterns.
- Lengthened the moose season and revised subarea boundaries for Units 20(E) and 25(B) to accommodate local customary and traditional use patterns.
- Converted a November moose hunt to a registration hunt to aid in protecting the viability of the population.
- Closed the sheep season in a portion of Unit 25(A) where no subsistence hunting occurs.
- Established a beaver hunting season in a portion of Unit 25 to accommodate local customary and traditional use patterns.

North Slope Region

Seven proposals affecting the North Slope Region were acted on by the Board resulting in changes to the regulations found in § xxx.24 and § xxx.25. The following Board actions affect the North Slope Region and have been incorporated in this final rule:

- Closed a portion of the Federal lands in Units 26(A) and 26(B) to caribou hunting by non-Federally qualified users in order to protect the opportunity for subsistence users to harvest caribou.
- Revised the seasons and harvest limits for brown bear in Unit 26 to accommodate local customary and traditional use patterns.
- Increased the harvest limit for caribou in Unit 26 to accommodate local customary and traditional use patterns.
- Included Nuiqsut in the list of communities having a customary and traditional use determination for sheep in Unit 26(C).
- Established customary and traditional use determinations for muskox for communities in Units 26(A) and 26(B).
- Increased the hunting harvest limits for wolf and wolverine (two proposals) in Unit 26 to accommodate local customary and traditional use patterns.

Two additional items were also adopted. The first action rectified a customary and traditional use determination that had split the community of Chickaloon. The Board indicated that a community should be treated as a whole without regard for a line that happens to bisect that community. The Southcentral Regional Council supported this action. The second action confirmed a season opening in a portion of Denali National Park that had been instituted last year and was intended to continue in future years. This was also supported by the affected Regional Councils.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implements the Federal Subsistence Management Program and includes a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appears in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but it does not appear that the program may significantly restrict subsistence uses.

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501–3520. They apply to the use of public lands in Alaska. The information collection requirements described above are approved by the OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018–0075.

Public reporting burden for this form is estimated to average .1382 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, D.C. 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0075), Washington, D.C. 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

This rule was not subject to OMB review under Executive Order 12866.

Economic Effects

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of ''Federalism Effects'' as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

Drafting Information

These regulations were drafted by William Knauer under the guidance of Richard S. Pospahala, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Thomas H. Boyd, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; John Borbridge, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National Forests, Public Lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public Lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, Title 36, Part 242, and Title 50, Part 100, of the Code of Federal Regulations, are amended as set forth below.

PART _____—SUBSISTENCE MANAGEMENT REGULATIONS FOR FEDERAL PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § _____.24 is revised to read as follows:

§ _____.24 Customary and traditional use determinations.

(a) Rural Alaska residents of the listed communities and areas have been determined to have customary and traditional subsistence use of the specified species on Federal public lands in the specified areas:

(1) Wildlife determinations.

Area	Species	Determination
Unit 1(C)	Black Bear	Rural residents of Unit 1(C) and Haines, Gustavus, Klukwan, and Hoonah.
1	Brown Bear	No determination, except no subsistence for residents of Wrangell, Klukwan, Haines and Skagway.
1(A)	Deer	Rural residents of 1(A) and 2.
1(B)	Deer	Rural residents of Unit 1(A), residents of 1(B), 2 and 3.
1(C)	Deer	Rural residents of 1(C) and (D), and residents of Hoonah and Gustavus.
1(D)	Deer	No subsistence.
1(B)	Goat	No determination, except no subsistence for residents of Petersburg, Kupreanof and outlying areas.
1(C)	Goat	Residents of Haines, Klukwan, and Hoonah.
1(B) The Stikine River drainages only	Moose	No determination.
1(B) North of the LeConte Glacier and 1(C) Berner's Bay.	Moose	No subsistence.
1(D)	Moose	Residents of Unit 1(D).
Unit 2	Brown Bear	No subsistence.
2	Deer	Rural residents of Unit 1(A) and residents of Units 2 and 3.
Unit 3	Deer	Residents of Unit 1(B) and 3, and residents of Port Alexander, Port Protection, Pt. Baker, and Meyer's Chuck.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
4	Deer	Residents of Unit 4 and residents of Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, and Wrangell.
Unit 5	Brown Bear	Residents of Yakutat.
5	Deer	Residents of Yakutat.
5	Moose	Residents of Unit 5(A).
Unit 6(A)	Black Bear	Residents of Yakutat.
6(B) and (C)	Black Bear	Residents of Unit 6(B) and (C), except Cordova.
6(D)	Black Bear	Residents of Chenega Bay and Tatilek.
6	Brown Bear	No subsistence.

Area	Species	Determination
6(C) and (D)	Goat	Rural residents of Unit 6(C) and (D).
6	Moose	No subsistence.
6	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 7	Brown Bear	No subsistence.
7	Caribou	No subsistence.
7, Brown Mountain hunt area	Goat	Residents of Port Graham and English Bay.
7	Moose	No subsistence.
7	Sheep	No subsistence.
Unit 8	Brown Bear	No subsistence.
8	Deer	Residents of Unit 8.
8	Elk	No subsistence.
8	Goat	No subsistence.
9(A), (C) and (D)	Brown Bear	No subsistence.
9(B)	Brown Bear	Residents of Unit 9(B).
9(E)	Brown Bear	Residents of Chignik Lake, Ivanof Bay and Perryville.
Unit 9(D)	Bison	No subsistence.
9(A) and (B)	Caribou	Residents of Units 9(B), 9(C) and 17.
9(C)	Caribou	Residents of Unit 9(B), 9(C), 17 and residents of Egegik.
9(D)	Caribou	Residents of Unit 9(D), and residents of False Pass.
9(E)	Caribou	Residents of Units 9(B), (C), (E), 17, and residents of Nelson Lagoon and Sand Point.
9(A), (B), (C) and (E)	Moose	Residents of Unit 9(A), (B), (C) and (E).
9(D)	Moose	No subsistence.
9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chicakaloon and 16–26.
Unit 10 Unimak Island	Caribou	Residents of False Pass.
10 Remainder	Caribou	No determination.
10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 11	Bison	No subsistence.
11	Brown Bear	No subsistence.
11	Caribou	Mentasta Herd—residents of Units 11, 12 (along Nabesna Road) and 13 (A)–(D) and the residents of Chickaloon.
11	Goat	No Subsistence.
11	Moose	Residents of Unit 11, residents of Unit 12 (along Nabesna Road) and Unit 13 (A)–(D) and the residents of Chickaloon.
11	Sheep	Residents of Chisana, Chistochina, Chitina, Cooper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy Road, Mentasta Lake, Mentasta Pass (milepost 79–110) Nabesna Road, Slana, McCarthy/South Wrangell/South Park, Tazlina, and Tonsina. However no subsistence for Cantwell, east Glenn Highway (milepost 110–180) and to milepost 14 on the Lake Louise Road, Homestead North, Homestead South, Lake Louise, Paxson, Sourdough, Tanacross, Tok, and west Glenn Highway (milepost 78–110).
11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
11	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
11	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 12	Brown Bear	No subsistence.
12	Caribou—Nelchina Herd	Residents of Northway and Tetlin.
12	Caribou—40 Mile Herd	Residents of Unit 12, north of Wrangell Park Preserve and rural residents of Unit 20(D) and (E).
12 South of a line from Noyes Mountain, southeast of the confluence of Tatschunda Creek to Nabesna River.	Moose	Residents of Unit 11 north of 62nd parallel and excluding BLM parcels of north and south Slana; and residents of Unit 12, 13(A)–(D) and the residents of Chickaloon and residents of Dot Lake.
12 East of the Nabesna River, south of the Winter Trail from Pickerel Lake to the Canadian Border.	Moose	Residents of Unit 12.
12 Remainder of Unit 12	Moose	Residents of Unit 12 and residents of Dot Lake and Mentasta Lake.
12 Tok Management area	Sheep	No subsistence.
12 Remainder of Unit 12	Sheep	No determination.
12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 13	Brown Bear	No Subsistence.

Area	Species	Determination
13	Caribou Nelchina Herd	Residents of Units 11, 13 and the residents of Chickaloon, and 12 (along Nabesna Road).
13(D)	Goat	No subsistence.
13	Moose	Residents of Unit 13 and the residents of Chickaloon.
13(E)	Moose	No subsistence for residents of McKinley Village and the area along the Parks Highway between milepost 216 and 239 and households of the Denali National Park Headquarters.
13 Tok and Delta Management Areas	Sheep	No subsistence.
13(D)	Sheep	No subsistence.
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and 16–26.
13	Grouse (Spruce, Blue, Ruffed & Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 & 23.
13	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 & 23.
Unit 14(B) and (C)	Brown Bear	No subsistence.
14	Goat	No subsistence.
14	Moose	No subsistence.
14(A) and (C)	Sheep	No subsistence.
15	Brown Bear	No subsistence.
15(C), Port Dick and English Bay hunt areas	Goat	Residents of Port Graham and English Bay.
15(C), Seldovia hunt area	Goat	Residents of Seldovia area.
15 (A) and (B)	Moose	No subsistence.
15(C), that portion southwest of a line from Point Pogibshi to the point of land between Rocky Bay and Windy Bay.	Moose	Residents of Port Graham and English Bay.
15(C), Port Dick and English Bay hunt areas	Moose	No subsistence.
15	Sheep	No subsistence.
15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
15	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 16	Brown Bear	No subsistence.
16(A)	Moose	No subsistence.
16(B)	Moose	Residents of Unit 16(B).
16	Sheep	No subsistence.
16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and 16–26.
16	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 17(A)	Brown Bear	Residents of Unit 17, and residents of Goodnews Bay and Platinum.
17 (A) and (B) Those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Kwethluk.
17 (B) and (C)	Brown Bear	Residents of Unit 17.
17	Caribou	Residents of Units 9(B), 17 and residents of Lime Village and Stony River.
17 (A) and (B) Those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Kwethluk.
17 (A) and (B) Those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Moose	Residents of Kwethluk.
17(A)	Moose	Residents of Unit 17 and residents of Goodnews Bay and Platinum.
17(B) and (C)	Moose	Residents of Unit 17, and residents of Nondalton, Levelock, Goodnews Bay and Platinum.
17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and 16–26.

Area	Species	Determination
Unit 18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mt. Village, Napaskiak, Platinum, Quinhagak, St. Mary's, and Tuluksak.
18	Caribou (Kilbuck caribou herd only).	INTERIM DETERMINATION BY FEDERAL SUBSISTENCE BOARD (12/18/91): residents of Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaskiak, Napakiak, Kasigluk, Atmanthluak, Nunapitchuk, Tuntutliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills.
18 North of the Yukon River	Caribou (except Kilbuck caribou herd).	Residents of Alakanuk, Andreafsky, Chevak, Emmonak, Hooper Bay, Kotlik, Kwethluk, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Mary's, St. Michael, Scammon Bay, Sheldon Point, and Stebbins.
18 Remainder	Caribou (except Kilbuck caribou herd).	Residents of Kwethluk.
18	Moose	Residents of Unit 18 and residents of Upper Kalskag.
18	Muskox	No subsistence.
18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 19(C), (D)	Bison	No subsistence.
19(A)	Brown Bear	Residents of Unit 19(A), (D), and Residents of Tuluksak, Lower Kalskag and Kwethluk.
19(B)	Brown Bear	Residents of Kwethluk.
19(C)	Brown Bear	No subsistence.
19(D)	Brown Bear	Residents of Unit 19(A) and (D), and residents of Tulusak and Lower Kalskag.
19(A) and (B)	Caribou	Residents of Unit 19(A) and (B) and Kwethluk; and residents of Unit 18 in Kuskokwim Drainage and Kuskokwim Bay during the winter season.
19(C)	Caribou	Residents of Unit 19(C), and residents of Lime Village, McGrath, Nikolai, and Telida.
19(D)	Caribou	Residents of Unit 19(D), and residents of Lime Village, Sleetmute and Stony River.
19(A) and (B)	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and Unit 19.
19(C)	Moose	Residents of Unit 19.
19(D)	Moose	Residents of Unit 19 and residents of Lake Minchumina.
19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 20(D)	Bison	No subsistence.
20(E)	Brown Bear	No subsistence.
20(A), (C) (Delta, Yanert, and 20(C) herds) and (D)	Caribou	No determination, except no subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters.
20(D) and 20(E)	Caribou 40-mile Herd	Residents of Unit 12 north of Wrangell Park-Preserve, rural residents of 20(D) and residents of 20(E).
20(A)	Moose	Residents of Cantwell, Minto, and Nenana. No subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters.
20(B)	Moose	Minto Flats Management Area—residents of Minto and Nenana.
20(B)	Moose	Remainder—rural residents of Unit 20(B), and residents of Nenana and Tanana.
20(C)	Moose	Rural residents of Unit 20(C) (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), and residents of Cantwell, Manley, Minto, Nenana, the Parks Highway from milepost 300–309, Nikolai, Tanana and Telida. No subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters.
20(D)	Moose	Rural residents of Unit 20(D) and residents of Tanacross.
20(F)	Moose	Residents of Unit 20(F), Manley, Minto and Stevens Village.
20 Tok and Delta Management Areas	Sheep	No subsistence.

Area	Species	Determination
20	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
20(D)	Grouse, (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13, 15, 16, 20(D), 22 and 23.
20(D)	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, 15, 16, 20(D), 22 and 23.
Unit 21	Brown Bear	Rural residents of Unit 21 and 23.
21	Caribou, Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of 22(A), (B), 23, 24, and 26(A).
21(A) and (E)	Caribou	Residents of Unit 21(A) and Aniak, Chuathbaluk, Crooked Creek, Grayling, Holy Cross, McGrath, Shageluk and Takotna.
21(A)	Moose	Residents of Unit 21(A), (E), Takotna, McGrath, Aniak and Crooked Creek.
21(B) and (C)	Moose	Residents of Unit 21(B) and (C), residents of Tanana and Galena.
21(D)	Moose	Residents of Unit 21(D), and residents of Huslia and Ruby.
21(E)	Moose	Residents of Unit 21(E) and residents of Russian Mission.
21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and 16–26.
Unit 22	Brown Bear	Residents of Units 22.
22	Caribou, Western Arctic Caribou Herd only.	Residents of Units 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22(A), (B), 23, 24, and 26(A).
22	Moose	Residents of Unit 22.
22(B)	Muskox	Residents of Unit 22(B).
22(C)	Muskox	Residents of Unit 22(C).
22(D)	Muskox	Residents of Unit 22(D) excluding St. Lawrence Island.
22(E)	Muskox	Residents of Unit 22(E) excluding Little Diomede Island.
22	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
22	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
22	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 23	Brown Bear	Rural residents of Units 21 and 23.
23	Caribou Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Unit 22(A), (B), 23, 24, and 26(A).
23	Moose	Residents of Unit 23.
23 South of Kotzebue Sound and west of and including the Buckland River draingage.	Muskox	Residents of Unit 23 South of Kotzebue Sound and west of and including the Buckland River drainage.
23 Remainder	Muskox	No subsistence.
23	Sheep	Residents of Unit 23 north of the Arctic Circle.
23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and 16–26.
23	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13, and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 24	Brown Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24	Moose	Residents of Unit 24, and residents of Anaktuvuk Pass, Koyukuk and Galena.
24	Sheep	Residents of Unit 24 residing north of the Arctic Circle and residents of Allakaket, Atatna and Anaktuvuk Pass.
24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 25	Brown Bear	No subsistence.
25(A)	Moose	Residents of Unit 25(A) and residents of Venetie only.
25(D) West	Moose	Residents of Beaver, Birch Creek and Stevens Village.
25(D) Remainder	Moose	Residents of Remainder of Unit 25.
25(A)	Sheep	Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik and Venetie.
25(B) and (C)	Sheep	No subsistence.
25	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.

Area	Species	Determination
Unit 26	Brown Bear	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex) and residents of Anaktuvuk Pass and Point Hope.
26	Caribou Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and 23, 24, and 26(A).
26(B)	Caribou Central Arctic Herd	Residents of Anaktuvuk Pass, Kaktovik, Nuiqsut and Wiseman.
26	Moose	Residents of Unit 26, (except the Prudhoe Bay-Deadhorse Industrial Complex), and residents of Point Hope and Anaktuvuk Pass.
26(A)	Muskox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
26(B)	Musk Oxen	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
26(C)	Musk Oxen	Residents of Kaktovik.
26(A) and (B)	Sheep	Residents of Anaktuvuk Pass, Kaktovik, Nuiqsut and Wiseman.
26(C)	Sheep	Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik, Nuiqsut and Venetie.
26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.

(2) Fish and shellfish determinations.

Area	Species	Determination
KOTZEBUE—NORTHERN AREA—Northern District	All finfish	Residents of the Northern District, except for those domiciled in State of Alaska Unit 26–B.
Kotzebue District	Salmon, sheefish, char	Residents of the Kotzebue District.
NORTON SOUND—PORT CLARENCE AREA	Salmon	Residents of the Norton Sound—Port Clarence Area.
YUKON AREA	Salmon	Residents of the Yukon Area, including the community of Stebbins.
	Yukon River, Fall chum, salmon.	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
	Freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, char, and blackfish.	Residents of the Yukon Area.
KUSKOKWIM AREA	Salmon	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiak, and Platinum.
	Pacific cod	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak.
Waters adjacent to the western-most tip of the Naskonant Peninsula and the terminus of the Ishowik River and around Nunivak Island.	Herring and herring roe	Residents within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island.
BRISTOL BAY AREA—Nushagak District, including drainages flowing into the district.	Salmon	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichek District—Naknek River drainage	Salmon	Residents of the Naknek and Kvichak River drainages.
Naknek-Kvichek District—Iliamna-Lake Clark drainage	Salmon	Residents of the Iliamna-Lake Clark drainage.
Togiak District, including drainages flowing into the district.	Salmon and other freshwater finfish.	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
KODIAK AREA—except the Mainland District, all waters along the southside of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°52′ North latitude) mid-stream Shelikof Strait, and west of the longitude of the southern entrance of Kmuya Bay near Kilokak Rocks (57°11′22″ North latitude, 156°20′30″ W longitude).	Salmon	Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.
KODIAK AREA—except the Semidi Island, the North Mainland, and the South Mainland Sections.	King crab	Residents of the Kodiak Island Borough except those residents on the Kodiak Coast Guard base.
COOK INLET AREA—Port Graham Subdistrict	Dolly Varden	Residents of Port Graham and English Bay.
Port Graham Subdistrict and Koyuktolik Subdistrict	Salmon	Residents of Port Graham and English Bay.
Tyonek Subdistrict	Salmon	Residents of the village of Tyonek.

Area	Species	Determination
PRINCE WILLIAM SOUND AREA—South-Western District and Green Island.	Salmon	Residents of the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands.
PRINCE WILLIAM SOUND AREA—North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.	Salmon	Residents of the villages of Tatitlek and Ellamar.
YAKUTAT AREA—Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River.	Salmon	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby.	Dolly Varden char, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
SOUTH-EASTERN ALASKA AREA—District 1—Section 1–E in waters of the Naha River and Roosevelt Lagoon.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 1—Section 1–F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 2—North of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon and Dolly Varden Char.	Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132°20′ W. long. and east of 132°25′ W. long.
District 3—Section 3–A	Salmon and Dolly Varden char.	Residents of the townsite of Hydaburg.
District 3—Section 3–B in waters east of a line from Point Ildefonso to Tranquil Point.	Salmon, Dolly Varden char, and steelhead trout.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 3—Section 3–C in waters of Sarkar Lakes	Salmon, Dolly Varden char, and steelhead trout.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 5—North of a line from Point Barrie to Boulder Point.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–A	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–B north of the latitude of Swain Point.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 10—West of a line from Pinta Point to False Point Pybus.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 12—South of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution.	Salmon and Dolly Varden char.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30′ W. long., including Killisnoo Island.
District 13—Section 13–A south of the latitude of Cape Edward.	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–B north of the latitude of Redfish Cape.	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C east of the longitude of Point Elizabeth.	Salmon and Dolly Varden char.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30′ W. long., including Killisnoo Island.

Area	Species	Determination
District 14—Section 14–B and 14–C	Salmon, smelt and Dolly Varden char.	Residents of the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia.
District 15—Chilkat and Chilkoot Rivers	Salmon and smelt	Residents west of the Haines highway between Mile 20 and Mile 24 and east of the Chilkat River, but not elsewhere in Klukwan; and, those residents of other areas of the city and borough of Haines, excluding residents in the drainage of Excursion Inlet.

3. In Subpart D of 36 CFR 36 part 242 and 50 CFR part 100, § ———.25 is added to read as follows:

Subpart D—Subsistence Taking of Fish and Wildlife

§ ___.25 Subsistence taking of wildlife.

(a) *Definitions.* The following definitions shall apply to all regulations contained in this section.

ADF&G means the Alaska Department of Fish and Game.

Aircraft means any kind of airplane, glider, or other device used to transport people or equipment through the air, excluding helicopters.

Airport means an airport listed in the Federal Aviation Administration, Alaska Airman's Guide and chart supplement.

Animal means those species with a vertebral column (backbone).

Antler means one or more solid, horn-like appendages protruding from the head of a caribou, deer, or moose.

Antlered means any caribou, deer, or moose having at least one visible antler.

Antlerless means any caribou, deer, or moose not having visible antlers attached to the skull.

Bear means black bear, or brown or grizzly bear.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow, or any bow equipped with a mechanical device that holds arrows at full draw.

Broadhead means an arrowhead that is not barbed and has two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Buck means any male deer.

Bull means any male moose, caribou, or musk oxen.

Closed season means the time when wildlife may not be taken.

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Designated hunter means a Federally qualified, licensed hunter who may take all or a portion of another Federally qualified, licensed hunter's harvest limit(s) only under situations approved by the Board.

Edible meat means the breast meat of ptarmigan and grouse, and, those parts of black bear, brown and grizzly bear, caribou, deer, mountain goat, moose, musk oxen, and Dall sheep that are typically used for human consumption which are: the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humerus and radius-ulna (elbow), hindquarters as far as the distal joint (bottom) of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; however, edible meat of species listed above does not include: meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, and incidental meat reasonably lost as a result of boning or close trimming of the bones, or viscera.

Federally-qualified subsistence user means a rural Alaska resident qualified to harvest fish or wildlife on Federal public lands in accordance with these Federal Subsistence Management Regulations.

Fifty-inch (50-inch) moose means a bull moose with an antler spread of 50 inches or more.

Full curl horn means the horn of a Dall sheep ram; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken, or that the sheep is at least 8 years of age as determined by horn growth annuli.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, ground squirrel, marmot, wolf or wolverine.

Grouse collectively refers to all species found in Alaska, including spruce grouse, ruffed grouse, blue grouse and sharp-tailed grouse.

Hare or hares collectively refers to all species of hares (commonly called rabbits) in Alaska and includes snowshoe hare and tundra hare.

Harvest limit means the number of any one species permitted to be taken by any one person in a Unit or portion of a Unit in which the taking occurs.

Highway means the driveable surface of any constructed road.

Household means that group of people residing in the same residence.

Hunting means the taking of wildlife within established hunting seasons with archery equipment or firearms, and as authorized by a required hunting license.

Marmot collectively refers to all species of marmot that occur in Alaska including the hoary marmot, Alaska marmot, and the woodchuck.

Motorized vehicle means a motor-driven land, air or water conveyance.

Open season means the time when wildlife may be taken by hunting or trapping; an open season includes the first and last days of the prescribed season period.

Otter means river or land otter only, excluding sea otter.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance which is toxic, or poisonous upon contact or ingestion.

Possession means having direct physical control of wildlife at a given time or having both the power and intention to exercise dominion or control of wildlife either directly or through another person or persons.

Ptarmigan collectively refers to all species found in Alaska, including white-tailed ptarmigan, rock ptarmigan, and willow ptarmigan.

Ram means a male Dall sheep.

Registration permit means a permit which authorizes hunting and is issued to a person who agrees to the specified hunting conditions. Hunting permitted by a registration permit begins on an announced date and continues throughout the open season, or until the season is closed by Board action. Registration permits are issued in the order applications are received and/or are based on priorities as determined by 50 CFR 100.17 and 36 CFR 242.17.

Sealing means placing a mark or tag on a portion of a harvested animal by an authorized representative of the ADF&G; *sealing* includes collecting and

recording information about the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing, or surrendering a specific portion of the animal for biological information.

Seven-eighths curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eights (315 degrees) of a circle, described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Skin, hide, pelt or fur mean any tanned or untanned external covering of an animal's body; excluding bear. The skin, hide, fur or pelt of a bear shall mean the entire external covering with claws attached.

Spike-fork moose means a bull moose with only one or two tines on either antler; male calves are not spike-fork bulls.

Take or *Taking* means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or *antler point* refers to any point on an antler, the length of which is greater than its width and is at least one inch.

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

Trapping means the taking of furbearers within established trapping seasons and with a required trapping license.

Unclassified wildlife or unclassified species means all species of animals not otherwise classified by the definitions herein, or regulated under other Federal law as listed in § _____.25(i).

Ungulate means any species of hoofed mammal, including deer, caribou, moose, mountain goat, Dall sheep, and musk oxen.

Unit means one of the 26 geographical areas in the State of Alaska known as Game Management Units, or GMU, and collectively listed in § _____.25 as Units.

Wildlife means any hare (rabbit), ptarmigan, grouse, ungulate, bear, furbearer, or unclassified species and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Wildlife may be taken for subsistence uses by any method, except as prohibited below or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this subpart. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this subpart is prohibited.

(1) Except for special provisions found at § _____.25(k) (1) through (26), the following methods and means of taking wildlife for subsistence uses are prohibited:

(i) Shooting from, on, or across a highway;

(ii) Using any poison;

(iii) Using a helicopter in any manner, including transportation of individuals, equipment or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life threatening situation;

(iv) Taking wildlife from a motorized vehicle, except from a motor-driven boat if the motor has been completely shut off, and the boat's progress from the motor's power has ceased;

(v) Using a motorized vehicle to drive, herd, or molest wildlife;

(vi) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge;

(vii) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle or pistol using center-firing cartridges, for the taking of ungulates, bear, wolves or wolverine, except that—

(A) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine.

(B) A muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, moose, musk oxen and mountain goat;

(viii) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over nine inches, or conibear style trap with a jaw spread over 11 inches;

(ix) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and, individuals in possession of a valid trapping license may use snares to take furbearers;

(x) Using a trap to take ungulates or bear;

(xi) Using hooks to physically snag, impale or otherwise take wildlife; however, hooks may be used as a trap drag;

(xii) Using a crossbow in any area restricted to hunting by bow and arrow only to take ungulates, bear, wolf or wolverine;

(xiii) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting a 7/8 inch wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least one ounce (437.5 grains);

(xiv) Using bait for taking ungulates, bear, wolf, or wolverine; except, bait may be used to take wolves and wolverine with a trapping license, and, bait may be used to take black bears with a hunting license as authorized in Unit-specific regulations at § _____.25(k) (1) through (26). Baiting of black bears is subject to the following restrictions:

(A) No person may establish a black bear bait station unless he or she first registers the site with ADF&G;

(B) A person using bait shall clearly mark the site with a sign reading ''black bear bait station'' that also displays the person's hunting license number and ADF&G assigned number;

(C) Only biodegradable materials may be used for bait; only the head, bones, viscera, or skin of legally harvested fish and wildlife may be used for bait;

(D) No person may use bait within one-quarter mile of a publicly maintained road or trail;

(E) No person may use bait within one mile of a house or other permanent dwelling, or within one mile of a developed campground, or developed recreational facility;

(F) A person using bait shall remove litter and equipment from the bait station site when hunting is completed;

(G) No person may give or receive remuneration for the use of a bait station, including barter or exchange of goods;

(H) No person may have more than two bait stations with bait present at any one time;

(xv) Taking swimming ungulates, bear, wolves or wolverine;

(xvi) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3:00 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft); however this restriction does not apply to subsistence taking of deer;

(xvii) Taking a bear cub or a sow accompanied by cub(s).

(2) Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(3) The following methods and means of trapping furbearers, for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at § _____.25(b)(1):

(i) Disturbing or destroying a den, except that any muskrat pushup or

feeding house may be disturbed in the course of trapping;

(ii) Disturbing or destroying any beaver house;

(iii) Taking beaver by any means other than a steel trap or snare, except that firearms may be used in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(iv) Taking otter with a steel trap having a jaw spread of less than five and seven-eighths inches during any closed mink and marten season in the same Unit;

(v) Using a net, or fish trap (except a blackfish or fyke trap);

(vi) Taking beaver in the Minto Flats Management Area with the use of an aircraft for ground transportation, or by landing within one mile of a beaver trap or set used by the transported person;

(vii) Taking or assisting in the taking of furbearers by firearm before 3:00 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare;

(c) *Possession and transportation of wildlife.* (1) Except as specified in § _____.25(c)(3)(ii) or (c)(4), or as otherwise provided, no person may take a species of wildlife in any Unit, or portion of a Unit, if that person's total statewide take of that species has already been obtained under Federal and State regulations in other Units, or portions of other Units.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § _____.6(f)(3), an animal taken by an individual as part of a community harvest limit counts toward that individual's harvest limit for that species taken under Federal or State regulations for areas outside of the community harvest area.

(3) *Individual harvest limits.* (i) Harvest limits authorized by § _____.25 and bag limits established in State regulations may not be accumulated.

(ii) Wildlife taken by a designated hunter for another person pursuant to § _____.6(f)(2), counts toward the individual harvest limit of the person for whom the wildlife is taken.

(4) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that a person who has taken a harvest limit for a particular species under a trapping season may take additional animals under the harvest limit specified for a hunting season or vice versa.

(5) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of one brown/grizzly bear per year counts against a one brown/grizzly bear every four regulatory years harvest limit in other Units; an individual may not take more than one brown/grizzly bear in a regulatory year.

(6) A harvest limit applies to the number of animals that can be taken during a regulatory year; however, harvest limits for grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of grouse and ptarmigan are also regulated by the number that can be held in possession.

(7) Unless otherwise provided, any person who gives or receives wildlife shall furnish, upon a request made by a Federal or State agent, a signed statement describing the following: names and addresses of persons who gave and received wildlife, the time and place that the wildlife was taken, and identification of species transferred. Where a qualified subsistence user has designated another qualified subsistence user to take wildlife on his or her behalf in accordance with § _____.6, the permit shall be furnished in place of a signed statement.

(8) A rural Alaska resident who has been designated to take wildlife on behalf of another rural Alaska resident in accordance with § _____.6, shall promptly deliver the wildlife to that rural Alaska resident.

(9) No person may possess, transport, give, receive or barter wildlife that was taken in violation of Federal or State statutes or a regulation promulgated thereunder.

(10) *Evidence of sex and identity.* (i) If subsistence take of Dall sheep is restricted to a ram, no person may possess or transport a harvested sheep unless both horns accompany the animal.

(ii) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, no person may possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal; however, § _____.25(c)(10)(ii) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(iii) If a moose harvest limit includes an antler size or configuration restriction, no person may possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. A person possessing a set of antlers with less than the required number of brow tines on one antler shall leave the antlers naturally attached to the unbroken, uncut skull plate; however, § _____.25(c)(10)(iii) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(d) A person who takes an animal that has been marked or tagged for scientific studies must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker, when and where the animal was taken. Any ear tag, collar, radio, tattoo, or other identification must be retained with the hide until it is sealed, if sealing is required; in all cases, any identification equipment must be returned to the ADF&G or to an agency identified on such equipment.

(e) *Sealing of bear skins and skulls.* (1) Sealing requirements for bear shall apply to brown bears taken in all Units, except as specified in this paragraph (e), and black bears of all color phases taken in Units 1–7, 11–16, and 20.

(2) No person may possess or transport from Alaska, the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in the Western Alaska Brown Bear Management Area, the Northwest Alaska Brown Bear Management Area, Unit 5, or Unit 9(B) need not be sealed unless removed from the area.

(3) A person who possesses a bear shall keep the skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision shall not apply to brown bears taken within the Western Alaska Brown Bear Management Area, the Northwest Alaska Brown Bear Management Area, Unit 5, or Unit 9(B) which are not removed from the Management Area or Unit.

(i) In areas where sealing is required by Federal regulations, no person may possess or transport the hide of a bear which does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in the Western Alaska Brown Bear Management Area is removed from the

area, it must first be sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iii) If the skin or skull of a bear taken in the Northwestern Alaska Brown Bear Management Area is removed from the area, it must be first be sealed by an ADF&G representative in Barrow, Fairbanks, Galena, or Kotzebue; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iv) If the skin or skull of a bear taken in Unit 5 is removed from the area, it must first be sealed by an ADF&G representative in Yakutat; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(v) If the skin or skull of a bear taken in Unit 9(B) is removed from the area, it must first be sealed by an ADF&G representative in Port Alsworth or King Salmon; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(4) No person may falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(f) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* No person may possess or transport from Alaska the untanned skin of a marten taken in Units 1–5, 7, 13(E), and 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the state, unless the skin has been sealed by an authorized representative of ADF&G in accordance with State regulations.

(g) A person who takes a species listed in § _____.25(f) but who is unable to present the skin in person, must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in § _____.25(f).

(h) *Utilization of wildlife.* (1) No person may use wildlife as food for a dog or furbearer, or as bait, except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a furbearer;

(iii) Squirrels, hares (rabbits), grouse and ptarmigan; however, the breast meat of grouse and ptarmigan may not be used as animal food or bait;

(iv) Unclassified wildlife.

(2) A person taking wildlife for subsistence shall salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel or otter;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in the Western and Northwestern Alaska Brown Bear Management Areas and Units 5 and 9(B) need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide or meat of squirrels, hares (rabbits), marmots, beaver, muskrats, or unclassified wildlife.

(3) Failure to salvage edible meat of ungulates, bear, or grouse and ptarmigan is prohibited.

(4) Failure to salvage the edible meat may not be a violation if such failure is caused by circumstances beyond the control of a person, including theft of the harvested wildlife, unanticipated weather conditions, or unavoidable loss to another animal.

(i) The regulations found in § _____.25 do not apply to the subsistence taking and use of wildlife regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 927, 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), or any amendments to these Acts. The taking and use of wildlife, covered by these Acts, will conform to the specific provisions contained in these Acts, as amended, and any implementing regulations.

(j) Rural residents, non-rural residents, and nonresidents not specifically prohibited by Federal regulations from hunting or trapping on public lands in an area, may hunt or trap on public lands in accordance with the appropriate State regulations.

(k) *Unit regulations.* Subsistence taking of unclassified wildlife, all squirrel species, and marmots is allowed in all Units, without harvest limits, for the period of July 1–June 30. Subsistence taking of wildlife outside established Unit seasons, or in excess of the established Unit harvest limits, is prohibited unless otherwise modified by subsequent regulation. Taking of wildlife under State regulations on public lands is permitted, except as otherwise restricted at § _____.25(k)(1) through (26). Additional Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at § _____.25(k)(1) through (26).

(1) Unit 1. Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1(A) consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound;

(ii) Unit 1(B) consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound and Seward Passage;

(iii) Unit 1(C) consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay;

(iv) Unit 1(D) consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay;

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1(A)—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1(B)—the Anan Creek drainage is closed to the taking of black bear;

(D) Unit 1(C):

(*1*) The area within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area, is closed to hunting;

(*2*) The area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier, is closed to the taking of mountain goat;

(vi) In Unit 1(C), Juneau area, the trapping of furbearers for subsistence uses is prohibited on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail.

(vii) Unit-specific regulations;

(A) Bait may be used to hunt black bear in Units 1(A), 1(B), and 1(D) between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled.

(C) A federally qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1(A)–4 antlered deer	Aug. 1–Dec. 31.
Unit 1(B)–2 antlered deer	Aug. 1–Dec. 31.
Unit 1(C)–4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1(A)—Revillagigedo Island only	No open season.
Unit 1(B)—that portion north of the Bradfield Canal and the North Fork of the Bradfield River. 1 goat by State registration permit only; that portion between LeConte Bay and the North Fork of Bradfield River/Canal will require a Federal registration permit for the taking of a second goat; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1(A) and Unit 1(B)—Remainder—2 goats by State registration permit only	Aug. 1–Dec. 31.
Unit 1(C)—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1(C)—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier, and all drainages of the Chilkat Range south of the Endicott River.	No open season.
Remainder of Unit 1(C)—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1(D)—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sept. 15–Nov. 30.
Unit 1(D)—that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Remainder of Unit 1(D)—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1(A)—1 antlered bull	Sept. 15–Oct. 15.
Unit 1(B)—south and east of LeConte Bay and Glacier—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by Federal registration permit only. Public lands within the Stikine River drainage are closed to the taking of moose, except in accordance with these regulations by qualified rural residents during seasons identified above.	Sept. 15–Oct. 15.
Remainder of Unit 1(B)	No open season.
Unit 1(C)—excluding drainages of Berners Bay—1 antlered bull by State registration permit only	Sept. 15–Oct. 15.
Unit 1(D)	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Unit 1(A), (B), and (C)—No limit	Dec. 1–May 15.

Harvest limits	Open season
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(2) Unit 2. Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled.

(C) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(ii) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
4 deer; however, no more than one may be an antlerless deer. Antlerless deer may be taken only during the period Oct. 15–Dec. 31.	Aug. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(3) Unit 3. (i) Unit 3 consists of all islands west of Unit 1(B), north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground is closed to the taking of ungulates, bear, wolves and wolverine;

(B) The Petersburg Creek drainage on Kupreanof Island is closed to the taking of black bears;

(C) Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge, are closed to all hunting.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled.

(C) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
Unit 3—Mitkof Island, Woewodski Island, Butterworth Islands, and that portion of Kupreanof Island which includes Lindenburg Peninsula east of the Portage Bay/Duncan Canal Portage—1 antlered deer by State registration permit only; however, the city limits of Petersburg and Kupreanof are closed to hunting.	Oct. 15–Oct. 31.
Remainder of Unit 3—2 antlered deer	Aug. 1–Nov. 30.
Moose:	
Unit 3—Mitkof and Wrangell Islands—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler by State registration permit only.	Oct. 1–Oct. 15.
Remainder of Unit 3	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3—Mitkof Island No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(4) Unit 4. (i) Unit 4 consists of all islands south and west of Unit 1(C) and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands, is closed to the taking of bears;

(B) The Salt Lake Bay Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay, is closed to the taking of bears;

(C) Port Althorp (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock), is closed to the taking of brown bears;

(D) Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwest point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay, is closed to the use of any motorized land vehicle for brown bear hunting, or for the taking of marten, mink, or weasel.

(iii) Unit-specific regulations;

(A) Boats may not be used to take bear, wolves, or wolverine, except for persons certified as disabled.

(B) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(C) Chichagof Island is closed to the use of any motorized land vehicle for the taking of marten, mink, and weasel.

Harvest limits	Open season
Hunting:	
Brown Bear:	
Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136° 21′ W. long.), to Rodgers Point (57° 35′ N. lat., 135° 33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57° 34′ N. lat., 135° 25′ W. long.), to the entrance of Gut Bay (56° 44′ N. lat., 134° 38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sept. 15–Dec. 31. Mar. 15–May 31.
Unit 4—that portion in the Northeast Chichagof Controlled Use Area—1 bear every four regulatory years by State registration permit only.	Mar. 15–May 20.
Remainder of Unit 4—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
Deer:	
6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat:	
1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Unit 4—that portion east of Chatham Strait—No limit	Dec. 1–May 15.
Remainder of Unit 4	No open season.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
Marten:	
Unit 4—Chichagof Island—No limit	Dec. 1–Dec. 31.
Remainder of Unit 4—No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
Unit 4—Chichagof Island—No limit	Dec. 1–Dec. 31.
Remainder of Unit 4—No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(5) Unit 5. (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills;

(A) Unit 5(A) consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5(B) consists of the remainder of Unit 5;

(ii) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled.

(C) Unit 5 is open to brown bear hunting by Federal registration permit in lieu of a State metal locking tag; no State metal locking tag is required for taking a brown bear in Unit 5, provided that the hunter has obtained a Federal registration permit prior to hunting.

(D) The taking by residents of Unit 5(A) of up to 10 moose per regulatory year in Unit 5(A), except Nunatak Bench, is allowed for ceremonial potlatches and other ceremonial uses, under the terms of a Federal registration permit. Moose may be taken from August 1 through December 31. Permits will be issued to individuals only at the request of a local organization. This 10 moose limit is not cumulative with any potlatch moose permitted by the State.

(E) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer or moose on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear by Federal registration permit only	Sept. 1–May 31.
Deer:	
Unit 5(A)—1 buck	Nov. 1–Nov. 30.
Unit 5(B)	No open season.
Goat:	
1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 5(A), except Nunatak Bench—1 antlered bull by State registration permit only. The season will be closed when 60 antlered bulls have been taken from the Unit. The season will be closed in that portion west of the Dangerous River when 30 antlered bulls have been taken in that area. From Oct. 15–Oct. 21, public lands will be closed to taking of moose, except by rural Alaska residents of Unit 5(A).	Oct. 15–Nov. 15.
Unit 5(B)—1 antlered bull by State registration permit only. The season will be closed when 25 antlered bulls have been taken from the entirety of Unit 5(B).	Sept. 1–Dec. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	

Harvest limits	Open season
Beaver:	
No limit	Nov. 10–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Nov. 10–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:.	
No limit	Nov. 10–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(6) Unit 6. (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6(A) consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6(B) consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6(C) consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6(D) consists of the remainder of Unit 6;

(ii) For the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Goat Mountain goat observation area, which consists of that portion of Unit 6(B) bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River, is closed to the taking of mountain goat;

(B) The Heney Range goat observation area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River, is closed to the taking of mountain goat.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Coyotes may be taken in Units 6(B) and 6(C) with the aid of artificial lights.

Harvest limits	Open season
Hunting:	
Black Bear:	
1 bear	Sept. 1–June 30.
Deer:	
4 deer; however, antlerless deer may be taken only from Nov. 1–Dec. 31	Aug. 1–Dec. 31.
Goats:	
Unit 6(A), (B)—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6(C)	No open season.
Unit 6(D) (subareas RG242, RG244, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only	Aug 20–Jan. 31.
In each of the Unit 6(D) subareas, goat seasons will be closed when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG244—2 goats, RG249—2 goats, RG266—4 goats, RG252—1 goat.	
Unit 6(D) (subareas RG243 and RG245)—The taking of goats is prohibited on all public lands	No open season.
Coyote:	
Unit 6(A) and (D)—2 coyotes	Sept. 1–Apr. 30.
Unit 6(B)—No limit	July 1–June 30.
Unit 6(C)—South of the Copper River Highway and east of the Heney Range—No limit	July 1–June 30.
Remainder of Unit 6(C)—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases)	No open season.
Hare (Snowshoe and Tundra)	
No limit	July 1–June 30.
Lynx	No open season.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.

Harvest limits	Open season
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Trapping—20 beaver per season	Dec. 1–Mar. 31.
Coyote:	
Unit 6(A), (B) and (D)—No limit	Nov. 10–Mar. 31.
Unit 6(C)—South of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Remainder of Unit 6(C)—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(7) Unit 7. (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Kenai Fjords National Park is closed to all subsistence uses;

(B) The Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek and Byron Glacier, is closed to hunting; however, grouse, ptarmigan, hares, and squirrels may be hunted with shotguns after September 1.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15; except Resurrection Creek and its tributaries.

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
Unit 7—3 bears	July 1–June 30.
Coyote:	
No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7—Remainder—5 wolves	Aug. 10–Apr. 30
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
20 Beaver per season	Dec. 1–Mar. 31.
Coyote:	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.

Harvest limits	Open season
Otter:	
No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Feb. 28.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(8) Unit 8. Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) A firearm may be used to take beaver with a trapping license in Unit 8 from Nov. 10–Apr. 30.

(ii) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Deer:	
Unit 8—that portion of Kodiak Island north of a line from the head of Settlers Cove to Crescent Lake (57° 52′ N. lat., 152° 58′ W. long.), and east of a line from the outlet of Crescent Lake to Mount Ellison Peak and from Mount Ellison Peak to Pokati Point at Whale Passage, and that portion of Kodiak Island east of a line from the mouth of Saltery Creek to the mouth at Elbow Creek, and adjacent small islands in Chiniak Bay—1 deer; however, antlerless deer may be taken only from Oct. 25–Oct. 31.	Aug. 1–Oct. 31.
Unit 8—that portion of Kodiak Island and adjacent islands south and west of a line from the head of Terror Bay to the head of the south-western most arm of Ugak Bay—5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31.	Aug. 1–Dec. 31.
Remainder of Unit 8—5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31; no more than 1 antlerless deer may be taken from Oct. 1–Nov. 30.	Aug. 1–Dec. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Jan. 31.

(9) Unit 9. (i) Unit 9 consists of the Alaska Peninsula and adjacent islands including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9(A) consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(B) Unit 9(B) consists of the Kvichak River drainage;

(C) Unit 9(C) consists of the Alagnak (Branch) River drainage, the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(D) Unit 9(D) consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(E) Unit 9(E) consists of the remainder of Unit 9;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Katmai National Park is closed to all subsistence uses;

(B) The use of motorized vehicles, excluding aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts, is prohibited from Aug. 1–Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9(C) within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, this restriction does not apply to a motorized vehicle on the Naknek-King Salmon,

Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(C) A firearm may be used under a trapping license to take beaver in Unit 9(B) from April 1–May 31 and in the remainder of Unit 9 from April 1–April 30.

(D) Unit 9(B) (Nondalton residents only) is open to brown bear hunting by Federal registration permit in lieu of a resident tag; no resident tag is required for taking a brown bear in Unit 9(B), provided that the hunter has obtained a Federal registration permit prior to hunting.

(E) The taking in Unit 9(B) by residents of Newhalen, Nondalton, Iliamna, Pedro Bay, and Port Alsworth of up to a total per regulatory year of 10 bull moose among the communities is allowed for ceremonial purposes, under the terms of a Federal registration permit. Bull moose may be taken from July 1 through June 30. Permits, available to all 5 communities, will be issued until all 10 permits are used to individuals only at the request of a local organization. This 10 moose limit is not cumulative with that permitted for potlatches by the State.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 9(B)—Rural residents of Nondalton only—1 bear by Federal registration permit only	Oct. 1–Oct. 21 May 10–May 25.
Unit 9(B)—1 bear every four regulatory years	Oct. 1–Oct. 21 (odd years only); May 10–May 25 (even years only).
Unit 9(E)—1 bear by Federal registration permit only	Oct. 1–Dec. 31. May 10–May 25.
Caribou:	
Unit 9(A)—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Sept. 30 and no more than 1 caribou may be taken Oct. 1–Nov. 30.	Aug. 10–Mar. 31.
Unit 9(C)—4 caribou; however, no more than 1 may be a cow, no more than 2 caribou may be taken Aug. 10–Nov. 30, and no more than 1 caribou may be taken per calendar month between Dec. 1–Mar. 31.	Aug. 10–Mar. 31.
Unit 9(B)—5 caribou; however no more than 2 may be bulls	Aug. 1–Apr. 15.
Unit 9(D)—closed to all hunting of caribou	No open season.
Unit 9(E)—that portion southwest of the headwaters of Fireweed and Blueberry Creeks (north of Mt. Veniaminof) to and including the Sandy River drainage on the Bristol Bay side of the Alaska Peninsula; and that portion south of Seal Cape to Ramsey Bay on the Pacific side of the Alaska Peninsula divide is closed to all hunting of caribou.	No open season.
Remainder of Unit 9(E)—4 caribou	Aug. 10–Apr. 30.
Sheep:	
Unit 9(B)—Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth only—1 ram with 7/8 curl horn by Federal registration permit only.	Aug. 10–Oct. 10.
Remainder of Unit 9—1 ram with 7/8 curl horn	Aug. 10–Sept. 20.
Moose:	
Unit 9(A)—1 antlered bull	Sept. 1–Sept. 15.
Unit 9(B)—1 antlered bull	Aug. 20–Sept. 15 Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the north—1 antlered bull	Sept. 1–Sept. 15 Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the south—1 antlered bull. However, during the period Aug. 20–Aug. 31, bull moose may be taken by Federal registration permit only. During the December hunt, antlerless moose may be taken by Federal registration permit only. The antlerless season will be closed when 5 antlerless moose have been taken. Public lands are closed during December for the hunting of moose, except by eligible rural Alaska residents during seasons identified above..	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Remainder of Unit 9(C)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31.	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9(E)—1 antlered bull	Sept. 1–Sept. 20. Dec. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Artic (Blue and White):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	

Harvest limits	Open season
Beaver:	
Unit 9(B)—40 beaver per season; however, no more than 20 may be taken between Apr. 1–May 31	Jan. 1–May 31.
Remainder of Unit 9—40 beaver per season; however, no more than 20 may be taken between Apr. 1–Apr. 30	Jan. 1–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White):	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(10) Unit 10. (i) Unit 10 consists of the Aleutian Islands, Unimak Island and the Pribilof Islands;

(ii) On Otter Island in the Pribilof Islands the taking of any wildlife species for subsistence uses is prohibited.

Harvest limits	Open season
Hunting:	
Caribou:	
Unit 10—Unimak Island only	No open season.
Remainder of Unit 10—No limit	July 1–June 30.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(11) Unit 11. Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved].

(ii) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Closed to all hunting of caribou	No open season.
Sheep:	
1 sheep	Aug. 10–Sept. 20.
Moose:	
1 antlered bull	Aug. 25–Sept. 20.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine Public lands are closed to the taking of wolverine except by eligible rural Alaska residents during seasons identified above.	Sept. 1–Jan. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
2 wolverine Public lands are closed to the taking of wolverine except by eligible rural Alaska residents during seasons identified above.	Nov. 10–Jan. 31.

(12) Unit 12. Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) Trapping of wolves in Unit 12 during April and October with a steel trap, or with a snare using cable smaller than 3/32 inch diameter, is prohibited.

(ii) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Unit 12—that portion west of the Nabesna River within the drainages of Jack Creek, Platinum Creek, and Totschunda Creek—The taking of caribou is prohibited on public lands.	No open season.

Harvest limits	Open season
Unit 12—that portion lying east of the Nabesna River and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—The taking of caribou is prohibited on public lands.	No open season.
Remainder of Unit 12—1 bull	Sept. 1–Sept. 20.
1 bull caribou may be taken by a Federal registration permit during a winter season to be announced for the rural Alaska residents of Tetlin and Northway only.	Winter season to be announced by the Board.
Sheep:	
1 ram with full curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 12—that portion drained by the Tanana, Nabesna, and Chisana Rivers within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to the southern boundary of the Tetlin National Wildlife Refuge—1 antlered bull. The November season is open by Federal registration permit only.	Sept. 1–Sept. 15. Nov. 20–Nov. 30.
Unit 12—that portion lying east of the Nabesna River and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Sept. 1–Sept. 30.
Unit 12—Remainder—1 antlered bull	Sept. 1–Sept. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Jan. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
15 beaver per season	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Sept. 20–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Oct. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(13) Unit 13. (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north bank of the Talkeetna River; the drainages into the east bank of the Chickaloon River; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13(A) consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the

Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13(B) consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13(C) consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13(D) consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13(E) consists of the remainder of Unit 13;

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980 are closed to subsistence. Subsistence uses as authorized by § _____.25(k)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) Use of motorized vehicles or pack animals for hunting is prohibited from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River;

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Board, the use of motorized vehicles for subsistence hunting, is prohibited in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13(B) bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Meiers Creek Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
2 caribou by Federal registration permit only. Hunting within the Trans-Alaska Oil Pipeline right-of-way is prohibited. The right-of-way is identified as the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline.	Aug. 10–Sept. 30. Jan. 5–Mar. 31.
Sheep:	
Unit 13—excluding Unit 13(D) and the Tok and Delta Management Areas—1 ram with 7/8 curl horn	Aug. 10–Sept. 20.
Moose:	
1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household	Aug. 1–Sept. 20.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Jan. 31.
Public lands are closed to the taking of wolverine, except by eligible rural Alaska residents during seasons identified above.	
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
30 beaver per season	Oct. 10–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31
Wolverine:	
2 wolverine	Nov. 10–Jan. 31.
Public lands are closed to the taking of wolverine, except by eligible rural Alaska residents during seasons identified above.	

(14) Unit 14. (i) Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south bank of the Talkeetna River:

(A) Unit 14(A) consists of drainages in Unit 14 bounded on the west by the Susitna River, on the north by Willow Creek, Peters Creek, and by a line from the head of Peters Creek to the head of the Chickaloon River, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14(B) consists of that portion of Unit 14 north of Unit 14(A);

(C) Unit 14(C) consists of that portion of Unit 14 south of Unit 14(A);

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Fort Richardson Management Area, consisting of the Fort Richardson Military Reservation, is restricted to the subsistence taking of ungulates, bear, wolves, or wolverine by permit only;

(B) The Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek is closed to subsistence taking of wildlife for subsistence uses.

(iii) Unit-specific regulations;

(A) In Unit 14(A), bait may be used to hunt black bear between April 15 and May 25;

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
Unit 14 (A) and (C)—1 bear	July 1–June 30.
Brown Bear:	
Unit 14(A)—1 bear every four regulatory years	Sept. 15–Oct. 10. May 1–May 25.
Coyote:	
Unit 14 (A) and (C)—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
Unit 14(A)—5 hares per day	July 1–June 30.
Unit 14(C)—5 hares per day	Sept. 8–Apr. 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
Unit 14(A)—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 14(C)—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 14(A)—10 per day, 20 in possession	Aug. 10–Mar. 31.
Unit 14(C)—10 per day, 20 in possession	Sept. 8–Mar. 31.
Remainder of Unit 14—20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
Unit 14(A)—30 beaver per season	Nov. 10–Apr. 30.
Unit 14(C)—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote:	

Harvest limits	Open season
Unit 14(A)—No limit	Nov. 10–Mar. 31.
Unit 14(C)—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14(A)—No limit	Nov. 10–Feb. 28.
Unit 14(C)—1 fox	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
Unit 14(A)—No limit	Nov. 10–Mar. 31.
Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolf:	
Unit 14(A)—No limit	Nov. 10–Mar. 31.
Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(15) Unit 15. (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet and Turnagain Arm from Gore Point to the point where longitude line 150° 00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150° 00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15(A) consists of that portion of Unit 15 north of the Kenai River and Skilak Lake;

(B) Unit 15(B) consists of that portion of Unit 15 south of the Kenai River and Skilak Lake, and north of the Kasilof River, Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15(C) consists of the remainder of Unit 15;

(ii) The Skilak Loop Management Area, which consists of that portion of Unit 15(A) bounded by a line beginning at the eastern most junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its western most junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning, is closed to the taking of wildlife, except that grouse and ptarmigan may be taken only from October 1–March 1 by bow and arrow only;

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) The Skilak Loop Wildlife Management Area is closed to subsistence trapping of furbearers;

(C) That portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier is closed to the trapping of marten;

(D) Taking a red fox in Unit 15 by any means other than a steel trap or snare is prohibited.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Coyote:	
No limit	Sept. 1–Apr. 30.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Wolf:	
Unit 15—that portion within the Kenai National Wildlife Refuge—2 Wolves	Aug. 10–Apr. 30.
Unit 15—Remainder—5 Wolves	Aug. 10–Apr. 30.
Wolverine:	
1 Wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15 (A) and (B)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15(C)—20 per day, 40 in possession	Aug. 10–Dec. 31.
Unit 15(C)—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping:	
Beaver: 20 Beaver per season	Dec. 1–Mar. 31.
Coyote:	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
1 Fox	Nov. 10–Feb. 28.
Marten:	
Unit 15(B)—that portion east of the Kenai River, Skilak Lake, Skilak River and Skilak Glacier	No open season.

Harvest limits	Open season
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
Unit 15 (A), (B)—No limit	Nov. 10–Jan. 31.
Unit 15(C)—No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Feb. 28.
Wolverine:	
Unit 15 (B) and (C)—No limit	Nov. 10–Feb. 28.

(16) Unit 16. (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16(A) consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16(B) consists of the remainder of Unit 16; (ii) The Mount McKinley National Park, as it existed prior to December 2, 1980, is closed to subsistence uses. Subsistence uses as authorized by _____.25(k)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16(B)—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 antlered bull	Sept. 1–Sept. 15.
Remainder of Unit 16(B)—1 moose; however, antlerless moose may be taken only from Sept. 25–Sept. 30 and from Dec. 1–Feb. 28 by Federal registration permit only.	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.

Harvest limits	Open season
Wolverine:	
No limit	Nov. 10–Feb. 28.

(17) Unit 17. (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17(A) consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17(B) consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17(C) consists of the remainder of Unit 17; (ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legally permitted hunting camps, the Upper Mulchatna Controlled Use Area consisting of Unit 17(B), is closed from Aug. 1–Nov. 1 to the use of any motorized vehicle for hunting ungulates, bear, wolves and wolverine, including transportation of hunters and parts of ungulates, bear, wolves or wolverine;

(B) The Western Alaska Brown Bear Management Area which consists of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19(A) and (B) downstream of and including the Aniak River drainage, is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 17(A) and that portion of Unit 17(B) draining into the Nuyakuk Lake and Tikchik Lake—1 bear	Sept. 1–May 31.
Remainder of Unit 17(B)—1 bear every four regulatory years	Sept. 20–Oct. 10. May 10–May 25.
Unit 17(C)—1 bear every four regulatory years	Sept. 10–Oct. 10. Apr. 10–May 25.
Caribou:	
Unit 17(A) and (C)—that portion of 17(A) and (C) consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—1 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by the residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk during seasons identified above.	Jan. 1–Mar. 31.
Unit 17(B) and (C)—that portion of 17(C) east of the Nushagak River—5 caribou; however, no more than 2 caribou may be bulls.	Aug. 1–Apr. 15.
Sheep:	
1 ram with full curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 17(B)—that portion that includes all the Mulchatna River drainage upstream from and including the Chilchitna River drainage—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Remainder of Unit 17(B)—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 17(C)—that portion that includes the Iowithla drainage and Sunshine Valley and all lands west of Wood River and south of Aleknagik Lake—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Remainder of Unit 17(C)—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	

Harvest limits	Open season
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 17(A)—20 beaver per season	Jan. 1–Feb. 28.
Unit 17(B) and (C)—20 beaver per season	Jan. 1–Feb. 28.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit.	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit.	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(18) Unit 18. (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Kalskag Controlled Use Area which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag is closed to the use of aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area;

(B) The Western Alaska Brown Bear Management Area which consists of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19(A) and (B) downstream of and including the Aniak River drainage, is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations;

(A) A firearm may be used to take beaver under a trapping license in Unit 18 from Apr. 1–Jun. 10.

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear	Sept. 1–May 31.
Caribou:	
Unit 18—that portion south of the Yukon River—Kilbuck caribou herd; rural Alaska residents domiciled in Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaaskiak, Napakiak, Kasigiuk, Atmauthluak, Nunapitchuk, Tuntutuliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills, only. A Federal registration permit is required. The number of permits available for these hunts will be determined at a later date. The season will be closed when the total harvest reaches guidelines as described in the approved ''Oavilnguut (Kilbuck) Caribou Herd Cooperative Management Plan.	Dec. 15–Jan. 9. Feb. 23–Mar. 15.
Unit 18—that portion north of the Yukon River—5 caribou per day	Aug. 1–Mar. 31.
Remainder of Unit 18	No open season.
Moose:	
Unit 18—that portion north and west of a line from Cape Romanzof to Kuzilvak Mountain, and then to Mountain Village, and west of, but not including, the Andreafsky River drainage—1 antlered bull.	Sept. 5–Sept. 25.
Unit 18—Goodnews River and Kanektok River drainages	No open season.

Harvest limits	Open season
Unit 18—Kuskokwim River drainage—1 antlered bull. A 10-day hunt (1 bull, evidence of sex required) will be opened by announcement sometime between Dec. 1 and Feb. 28.	Aug. 25–Sept. 25. Winter season to be announced.
Remainder of Unit 18—1 antlered bull. A 10-day hunt (1 bull, evidence of sex required) will be opened by announcement sometime between Dec. 1 and Feb. 28.	Sept. 1–Sept. 30. Winter season to be announced.
Public lands in Unit 18 are closed to the hunting of moose, except by rural Alaska residents of Unit 18 and Upper Kalskag during seasons identified above.	
Coyote:	
2 coyotes	Sept. 1–Apr. 30
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Mar. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–May 30.
Trapping:	
Beaver:	
No limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Lynx:	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Mar. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Mar. 31.

(19) Unit 19. (i) Unit 19 consists of the Kuskokwim River drainage upstream from Lower Kalskag:

(A) Unit 19(A) consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19(B);

(B) Unit 19(B) consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19(C) consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(D) Unit 19(D) consists of the remainder of Unit 19;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980, are closed to subsistence uses. Subsistence uses as authorized by § _____.25(k)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) The Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19(D) upstream from the mouth of Big River including the drainages of the Big River, Middle Fork, South Fork, East Fork, and Tonzona River, and bounded by a line following the west bank of the Swift Fork (McKinley Fork) of the Kuskokwim River to 152°50′ W. long., then north to the boundary of Denali National Preserve, then following

the western boundary of Denali National Preserve north to its intersection with the Minchumina-Telida winter trail, then west to the crest of Telida Mountain, then north along the crest of Munsatli Ridge to elevation 1,610, then northwest to Dyckman Mountain and following the crest of the divide between the Kuskokwim River and the Nowitna drainage, and the divide between the Kuskokwim River and the Nixon Fork River to Loaf bench mark on Halfway Mountain, then south to the west side of Big River drainage, the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area;

(C) The Western Alaska Brown Bear Management Area, which consists of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19(A) and (B) downstream of and including the Aniak River drainage, is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 30.

(B) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 19(A) and (B) that portion which is downstream of and including the Aniak River drainage—1 bear	Sept. 1–May 31.
Remainder of Unit 19(A), (B), and (D)—1 bear every four regulatory years	Sept. 10–May 25.
Caribou:	
Unit 19(A) north of Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 19(A) south of the Kuskokwim River, and Unit 19(B) (excluding rural Alaska residents of Lime Village)—5 caribou	Aug. 1–Apr. 15.
Unit 19(C)—1 caribou	Aug. 10–Oct. 10.
Unit 19(D) south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Jan. 31.
Remainder of Unit 19(D)—1 caribou	Aug. 10–Sept. 30.
Unit 19—Rural Alaska residents domiciled in Lime Village only; no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep:	
1 ram with 7/8 curl	Aug. 10–Sept. 20.
Moose:	
Unit 19—Rural Alaska residents of Lime Village only—No individual harvest limit, but a village harvest quota of 40 moose (including those taken under the State Tier II system); either sex. Reporting will be by a community reporting system.	July 1–June 30.
Unit 19(A)—that portion north of the Kuskokwim River upstream from, but not including the Kolmakof River drainage and south of the Kuskokwim River upstream from, but not including the Holokuk River drainage—1 moose; however, antlerless moose may be taken only during the Feb. 1–Feb. 10 season.	Sept. 1–Sept. 20. Nov. 20–Nov. 30. Jan. 1–Jan. 10. Feb. 1–Feb. 10.
Remainder of Unit 19(A)—1 bull	Sept. 1–Sept. 20. Nov. 20–Nov. 30. Jan. 1–Jan. 10. Feb. 1–Feb. 10.
Unit 19(B)—1 antlered bull	Sept. 1–Sept. 30.
Unit 19(C)—1 antlered bull	Sept. 1–Oct. 10.
Unit 19(D)—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sept. 1–Sept. 30.
Unit 19(D)—remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Remainder of Unit 19(D)—1 antlered bull	Sept. 1–Sept. 30. Dec. 1–Dec. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):.	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	

Harvest limits	Open season
Beaver:	
No limit	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Mar. 31.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(20) Unit 20. (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River;

(A) Unit 20(A) consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(B) Unit 20(B) consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(C) Unit 20(C) consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(D) Unit 20(D) consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding the Banner Creek drainage;

(E) Unit 20(E) consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(F) Unit 20(F) consists of the remainder of Unit 20;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980, are closed to subsistence uses. Subsistence uses as authorized by § _____.25(k)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) Use of motorized vehicles or pack animals for hunting is prohibited from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as provided below. The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(D) The Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20(E) bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway, is closed to the use of any motorized vehicle for hunting from August 5–September 20; however, this

does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport;

(E) The Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning, is open to moose hunting by permit only;

(F) The Fairbanks Management Area, which consists of the Goldstream subdivision 0SE ¼ SE ¼, Section 28 and Section 33, Township 2 North, Range 1 West, Fairbanks Meridian) and that portion of Unit 20(B) bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to the divide between Rosie Creek and Cripple Creek, then down Cripple Creek to its confluence with Ester Creek, then up Ester Creek to its confluence with Ready Bullion Creek, then up Ready Bullion Creek to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its intersection with the Trans-Alaska Pipeline, then southerly along the pipeline right-of-way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning, is open to moose hunting by bow and arrow only;

(G) The Ferry Trail Management Area, which consists of that portion of Unit 20(A) bounded on the north by the Rex Trail; on the west by the east bank of the Nenana River from its intersection with the Rex Trail south to the divide forming the north boundary of the Lignite Creek drainage; on the south by that divide easterly and southerly to the headwaters of Sanderson Creek at Usibelli Peak, then along a southwesterly line to the confluence of Healy Creek and Coal Creek, then upstream easterly along the south bank of Healy Creek to the north fork of Healy Creek, then along the north fork of Healy Creek to its headwaters; on the east by a straight line from the headwaters of Healy Creek to the headwaters of Dexter Creek, then along Dexter Creek to the Totatlanika River, then down the east bank of the Totatlanika River to the Rex Trail is open to caribou hunting by permit only.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) Trapping of wolves in Unit 20(E) during April and October with a steel trap, or with a snare using cable smaller than 3/32 inch diameter, is prohibited;

(C) The taking of up to three moose per regulatory year by the residents of Unit 20 and 21 is allowed for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 20—except Unit 20(E)—1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 20(E)—1 bull by Federal registration permit only; the season will close when a harvest quota of 150 for the Fortymile herd has been reached.	Aug. 10–Sept. 30. Nov. 15–Feb. 28.
Unit 20(F)—Tozitna River drainage—1 caribou; however, only bull caribou may be taken Aug. 10–Sept. 30	Aug. 10–Sept. 30. Nov. 26–Dec. 10. Mar. 1–Mar. 15.
Unit 20(F)—south of the Yukon River	No open season.
Remainder of Unit 20(F)—1 bull	Aug. 10–Sept. 30.
Moose:	
Unit 20(A)—the Ferry Trail Management Area—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side.	Sept. 1–Sept. 20.
Remainder of Unit 20(A)—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(B)—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–Sept. 20. Jan. 10–Feb. 28.
Unit 20(B)—the drainage of the Middle Fork of the Chena River and that portion of the Salcha River Drainage upstream from and including Goose Creek—1 antlered bull.	Sept. 1–Sept. 20.
Remainder of Unit 20(B)—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(C)—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30. Nov. 15–Dec. 15.
Remainder of Unit 20(C)—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30.
Unit 20(E)—that portion drained by the Ladue, Sixty-mile, and Forty-mile Rivers (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 antlered bull.	Sept. 1–Sept. 15.
Remainder of Unit 20(E)—that portion draining into the Yukon River upstream from and including the Charley River drainage to and including the Boundary Creek drainages and the Taylor Highway from mile 145 to Eagle—1 antlered bull.	Sept. 5–Sept. 30.
Unit 20(F)—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sept. 1–Sept. 25.
Remainder of Unit 20(F)—1 antlered bull	Sept. 1–Sept. 25.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
Unit 20(E)—2 lynx	Nov. 1–Jan. 31.
Remainder of Unit 20—2 lynx	Dec. 1–Jan. 31.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):.	
Unit 20(D)—that portion south of the Tanana River and west of the Johnson River—15 per day, 30 in possession, provided that not more than 5 per day and 10 in possession are sharp-tailed grouse.	Aug. 25–Mar. 31.
Unit 20—Remainder—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 20—those portions within five miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20—Remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 20(A), 20(B), Unit 20(C), Unit 20(E), and 20(D)—that portion draining into the north bank of the Tanana River, including the islands in the Tanana River—25 beaver.	Nov. 1–Apr. 15.
Remainder of Unit 20(D)—15 beaver	Feb. 1–Apr. 15.
Unit 20(F)—50 beaver	Nov. 1–Apr. 15.
Coyote:	
Unit 20(E)—No limit	Nov. 1–Feb. 28.
Remainder Unit 20—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
Unit 20(E)—No limit	Sept. 20–June 10.
Remainder of Unit 20—No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
Unit 20(E)—No limit	Oct. 1–Apr. 30
Remainder of Unit 20—No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(21) Unit 21. (i) Unit 21 consists of drainages into the Yukon River upstream from Paimiut to, but not including the Tozitna River drainage on the north bank, and to, but not including the Tanana River drainage on the south bank; and excluding the Koyukuk River upstream and including from the Dulbi River drainage:

(A) Unit 21(A) consists of the Innoko River drainage upstream from and including the Iditarod River drainage, and the Nowitna River drainage upstream from the Little Mud River;

(B) Unit 21(B) consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Nowitna River drainage upstream from the Little Mud River, and excluding the Melozitna River drainage upstream from Grayling Creek;

(C) Unit 21(C) consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(D) Unit 21(D) consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(E) Unit 21(E) consists of the Yukon River drainage from Paimiut upstream to, but not including the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41′ W. long.), then easterly to the south end of Solsmunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochtla Mountain, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock,

then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 30.

(B) A firearm may be used to take beaver with a trapping license in Unit 21(E) from Apr. 1–June 1.

(C) The taking of up to three moose per regulatory year by the residents of Units 20 and 21 is allowed for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State.

(D) The taking of up to three moose per regulatory year by the residents of Unit 21 is allowed for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 21(A), (B), (C), and (E)—1 caribou	Aug. 10–Sept. 30.
Unit 21(D)—North of the Yukon River and east of the Koyukuk River—1 caribou; however, 2 additional caribou may be taken during a winter season to be announced.	Aug. 10–Sept. 30. Winter season to be announced.
Unit 21(D)—Remainder (Western Arctic Caribou herd)—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 21(A)—1 bull	Aug. 20–Sept. 25. Nov. 1–Nov. 30.
Unit 21(B) and (C)—1 antlered bull	Sept. 5–Sept. 25.
Unit 21(D)—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Feb. 1–Feb. 5; moose may not be taken within one-half mile of the Yukon River during the February season.	Sept. 5–Sept. 25. Feb. 1–Feb. 5.
Unit 21(E)—1 moose; however, only bulls may be taken from Aug. 20–Sept. 25; moose may not be taken within one-half mile of the Innoko or Yukon River during the February season.	Aug. 20–Sept. 25. Feb. 1–Feb. 10.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 21(E)—No Limit	Nov. 1–June 1.
Remainder of Unit 21—No Limit	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	

Harvest limits	Open season
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(22) Unit 22. (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22(A) consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(B) Unit 22(B) consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(C) Unit 22(C) consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(D) Unit 22(D) consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York, and St. Lawrence Island;

(E) Unit 22(E) consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) Unit-specific regulations;

(A) A firearm may be used to take beaver with a trapping license in Unit 22 during the established seasons.

(B) Snowmachines may be used to take caribou and moose in Unit 22 during established seasons; however, shooting from a snowmachine in motion is prohibited.

(C) Coyote, incidentally taken with a trap or snare intended for red fox or wolf, may be used for subsistence purposes.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 22(C)—1 bear every four regulatory years	Sept. 1–Oct. 31. May 10–May 25.
Remainder of Unit 22—1 bear every four regulatory years	Sept. 1–Oct. 31. Apr. 15–May 25.
Caribou:	
Unit 22(A) and (B)—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 22(A)—1 antlered bull; however the period of Oct. 1–Oct. 10 is restricted to residents of Unit 22(A) only	Aug. 1–Oct. 10. Dec. 1–Jan. 31.
Unit 22(B)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(C)—1 antlered bull	Sept. 1–Sept. 14.
Unit 22(D)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(E)—1 moose; no person may take a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 22(D) and (E)—1 bull by Federal registration permit only. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users.	Sept. 1–Jan. 31.
Remainder of Unit 22	No open season.
Coyote:	
Federal public lands are closed to the taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox Red (including Cross, Black and Silver Phases):	
10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	Sept. 1–Apr. 15.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
Wolverine:	

Harvest limits	Open season
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 22(A) and 22(B) east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22 Remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 22(A) and (B)—50 beaver	Nov. 1–June 10.
Unit 22(C), (D), and (E)—50 beaver	Nov. 1–Apr. 15.
Coyote:	
Federal public lands are closed to the taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(23) Unit 23. (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Noatak Controlled Use Area, which consists of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek, is closed for the period August 25–September 15 to the use of aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species. This does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service;

(B) The Northwest Alaska Brown Bear Management Area, which consists of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A) is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting; aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations;

(A) Motor-driven boats or snowmachines may be used to take caribou; however, shooting from a snowmachine in motion is prohibited.

(B) Swimming caribou may be taken with a firearm using rimfire cartridges;

(C) A firearm may be used to take beaver with a trapping license in all of Unit 23 from Nov. 1–Jun. 10.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 23—except the Baldwin Peninsula north of the Arctic Circle—1 bear	Sept. 1–May 31.
Remainder of Unit 23—1 bear every four regulatory years	Sept. 1–Oct. 10. Apr. 15–May 25.
Caribou:	
15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 23—that portion west of Howard Pass and the Aniuk, Cutler and Redstone Rivers	No open season.
Remainder of Unit 23—1 ram with 7/8 curl horn or larger.	Aug. 10–Sept. 20.
Remainder of Unit 23—1 sheep.	Oct. 1–Apr. 30.

Harvest limits	Open season
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose; no person may take a cow accompanied by a calf.	July 1–Mar. 31.
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1–Mar. 31; no person may take a cow accompanied by a calf.	Aug. 1–Sept. 15. Oct. 1–Mar. 31.
Remainder of Unit 23—1 moose; no person may take a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 23 South of Kotzebue Sound and west of and including the Buckland River drainage—1 bull by Federal registration permit only. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users.	Sept. 1–Jan. 31.
Remainder of Unit 23	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare: (Snowshoe and Tundra)	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 1–Jan. 15.
Wolf:	
5 wolves	Nov. 10–Mar. 31.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	Nov. 1–June 10.
Remainder of Unit 23—30 beaver	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Apr. 15
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
3 lynx	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(24) Unit 24. (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as follows: The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(B) The Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a

publicly owned airport within the area and points outside the area;

(C) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57' N. lat., 156° 41′ W. long.), then easterly to the south end of Solsmunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochtla Mountain, then southwest to the mouth of Cottonwood Creek, then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(D) The Northwest Alaska Brown Bear Management Area, which consists of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A), is open to brown bear hunting by State registration permit in lieu of a resident tag. No resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 30.

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 24—that portion west of the Dalton Highway Corridor Management Area—1 bear	Sept. 1–May 31.
Remainder of Unit 24—1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 24—the Kanuti River drainage upstream from Kanuti, Chalatna Creek, the Fish Creek drainage (including Bonanza Creek)—1 bull.	Aug. 10–Sept. 30.
Remainder of Unit 24—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 24—that portion within the Gates of the Arctic National Park—3 sheep	Aug. 1–Apr. 30.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Remainder of Unit 24—1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 24—that portion within the Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during the periods of Sept. 21–Sept. 25, Dec. 1–Dec. 10, and Mar. 1–Mar. 10.	Sept. 5–Sept. 25. Dec. 1–Dec. 10. Mar. 1–Mar. 10.
Unit 24—that portion that includes the John River drainage within the Gates of the Arctic National Park—1 moose	Aug. 1–Dec. 31.
Unit 24—all drainages to the north of the Koyukuk River upstream from and including the Alatna River to and including the North Fork of the Koyukuk River, except that portion of the John River within the Gates of the Arctic National Park—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 10.	Aug. 25–Sept. 25. Mar. 1–Mar. 10.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 antlered bull by Federal registration permit only.	Aug. 25–Sept. 25.
Remainder of Unit 24—1 antlered bull. Public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by eligible rural Alaska residents during seasons identified above.	Aug. 25–Sept. 25.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
No limit	Nov. 1–Apr. 15.

Harvest limits	Open season
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(25) Unit 25. (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25(A) consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage;

(B) Unit 25(B) consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(C) Unit 25(C) consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20(E) boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(D) Unit 25(D) consists of the remainder of Unit 25;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as follows: The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(B) The Arctic Village Sheep Management Area; that portion of Unit 25(A) north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into two roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the head waters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River. Sheep hunting in this area is restricted to residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkytsik.

(iii) Unit-specific regulations;

(A) Bait may be used to hunt black bear between April 15 and June 30.

(B) Motor-driven boats or snowmachines may be used to take caribou and moose; however, shooting from a snowmachine in motion is prohibited.

Harvest limits	Open season
Hunting:	
Black bear:	
3 bears	July 1–June 30.
Caribou:	
Unit 25(A), (B), and the remainder of Unit 25(D)—10 caribou; however, no more than 5 caribou may be transported from these units per regulatory year.	July 1–Apr. 30.
Unit 25(C)—that portion south and east of the Steese Highway—1 bull by Federal registration permit only; the season will close when a harvest quota for the Fortymile herd has been reached. The harvest quota will be determined by the Board after consultation with ADF&G and announced before the season opening.	Aug. 10–Sept. 30. Dec. 1–Feb. 28.

Harvest limits	Open season
25(C)—that portion north and west of the Steese Highway—1 caribou; however, only bull caribou may be taken during the Aug. 10–Sept. 20 season. During the winter season, caribou may be taken only with a Federal registration permit.	Aug. 10–Sept. 20. Feb. 15–Mar. 15.
Unit 25(D)—that portion of Unit 25(D) drained by the west fork of the Dall River west of 150° W. long.—1 bull	Aug. 10–Sept. 30.
Sheep:	
Unit 25(A)—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25(A)—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkytsik during seasons identified above.	Aug. 10–Apr. 30.
Remainder of Unit 25(A)—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Moose:	
Unit 25(A)—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 10.
Unit 25(B)—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sept. 30. Dec. 1–Dec. 10.
Unit 25(B)—that portion draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sept. 5–Sept. 30. Dec. 1–Dec. 15.
Remainder of Unit 25(B)—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 15.
Unit 25(C)—1 antlered bull	Sept. 1–Sept. 15.
Unit 25(D) (West)—that portion lying west of a line extending from the Unit 25(D) boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzik River, then upstream along the west bank of the Hadweenzik River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25(D) boundary—1 bull by a Federal registration permit. Alternate permits allowing for designated hunters are available to qualified applicants who reside in Beaver, Birch Creek, or Stevens Village. Moose hunting on public land in this portion of Unit 25(D) (West) is closed at all times except for residents of Beaver, Birch Creek and Stevens Village during seasons identified above. The moose season will be closed when 30 antlered moose have been harvested in the entirety of Unit 25(D) (West).	Aug. 25–Feb. 28.
Remainder of Unit 25(D)—1 antlered moose	Aug. 25–Sept. 25. Dec. 1–Dec. 20.
Beaver:	
Unit 25, excluding Unit 25(C)—1 beaver per day; 1 in possession	Apr. 16–Oct. 31.
Unit 25(C)	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
Unit 25(C)—2 lynx	Dec. 1–Jan. 31.
Remainder of Unit 25—2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 25(A)—No limit	Aug. 10–Apr. 30.
Remainder of Unit 25—10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
Unit 25(C)—15 per day, 30 in possession	Aug. 10–Mar. 31.
Remainder of Unit 25—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 25(C)—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Remainder of Unit 25—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 25(C)—25 beaver	Nov. 1–Apr. 15.
Remainder of Unit 25—50 beaver	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 25(C)—No limit	Dec. 1–Jan. 15.
Remainder of Unit 25—No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.

Harvest limits	Open season
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
Unit 25(C)—No limit	Nov. 1–Feb. 28.
Remainder of Unit 25—No limit	Nov. 1–Mar. 31.

(26) Unit 26. (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border including the Firth River drainage within Alaska:

(A) Unit 26(A) consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26(B) consists of that portion of Unit 26 east of Unit 26(A), west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26(C) consists of the remainder of Unit 26;

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Unit 26(A) Controlled Use Area, which consists of Unit 26(A), is closed to the use of aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose from Aug. 1–Aug. 31 and from Jan. 1–Mar. 31. No hunter may take or transport a moose, or part of a moose in Unit 26(A) after having been transported by aircraft into the unit. However, this does not apply to transportation of moose hunters or moose parts by regularly scheduled flights to and between villages by carriers that normally provide scheduled service to this area, nor does it apply to transportation by aircraft to or between publicly owned airports;

(B) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as follows: The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(C) The Northwest Alaska Brown Bear Management Area, which consists of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A), is open to brown bear hunting by State registration permit in lieu of a resident tag. No resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations;

(A) Motor-driven boats and snowmachines may be used to take caribou; however, shooting from a snowmachine in motion is prohibited.

(B) Swimming caribou may be taken with a firearm using rimfire cartridges;

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 26(A)—1 bear by Federal registration permit only	May 1–Oct. 31.
Unit 26(B)—1 bear	May 1–Oct. 31.
Unit 26(B)—1 bear	Sept. 1–May 31.
Caribou:	
Unit 26(A)—10 caribou per day; however, cow caribou may not be taken May 16–June 30. Federal lands south of the Colville River and east of the Killik River are closed to the taking of caribou by non-Federally qualified subsistence users from Aug. 1–Sept. 30.	July 1–June 30.
Unit 26(B)—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30. Federal lands within the Gates of the Arctic National Preserve and the Dalton Highway Corridor are closed to the taking of caribou by non-Federally qualified subsistence users from Aug. 1–Sept. 30.	July 1–June 30.
Unit 26(C)—10 caribou per day	July 1–Apr. 30.
Not more than 5 caribou per regulatory year may be transported from Unit 26 except to the community of Anaktuvuk Pass.	
Sheep:	
Unit 26(A)—those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26(A)—that portion west of Howard Pass and the Etivluk River	No open season.
Unit 26(B)—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Remainder of Unit 26(A) and (B)—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl horn or larger.	Aug. 10–Sept. 20.

Harvest limits	Open season
Unit 26(C)—3 sheep per regulatory year; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8 curl horn or larger. A Federal registration permit is required for the Oct. 1–Apr. 30 season. Kaktovik residents may harvest sheep in accordance with a Federal community harvest strategy for Unit 26(C) which provides for take of up to two harvest limits of 3 sheep by designated hunter.	Aug. 10–Sept. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26(A)—that portion of the Colville River drainage upstream from and including the Chandler River drainage—1 moose; however, no person may take a cow accompanied by a calf.	Aug. 1–Mar. 31.
Remainder of Unit 26(A)—1 moose; however, no person may take a cow accompanied by a calf	Aug. 1–Dec. 31.
Unit 26(B)—that portion within two miles of the Dalton Highway	No open season.
Unit 26(B) Remainder and (C)—1 moose	Aug. 1–Dec. 31.
Musk Oxen:	
Unit 26(C)—1 bull by Federal registration permit only; up to 10 permits may be issued to rural Alaska residents of the village of Kaktovik only. Public lands are closed to the taking of musk oxen, except by rural Alaska residents of the village of Kaktovik during seasons identified above.	Oct. 1–Nov. 15. Mar. 1–Mar. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 26(A) and (B)—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Unit 26(C)—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
15 wolves	Aug. 10–Apr. 30.
Wolverine:	
5 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

4. In Subpart D of 36 CFR 36 part 242 and 50 CFR part 100, §§ _____.26 and _____.27 are revised to read as follows:

§ _____.26 Subsistence taking of fish.

(a) *Applicability.* (1) Regulations in § _____.26 apply to the taking of finfish, excluding halibut, or their parts for subsistence uses.

(2) Finfish, excluding halibut, may be taken for subsistence uses at any time by any method unless restricted by the subsistence fishing regulations found in § _____.26.

(b) *Definitions.* The following definitions shall apply to all regulations contained in § _____.26 and § _____.27.

Abalone Iron means a flat device which is used for taking abalone and which is more than one inch (24 mm) in width and less than 24 inches (610 mm) in length, with all prying edges rounded and smooth.

ADF&G means the Alaska Department of Fish and Game.

Anchor means a device used to hold a salmon fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor, or being secured to another vessel or net that is anchored.

Bag Limit means the maximum legal take per person or designated group, per specified time period, even if part or all of the fish are preserved.

Beach seine means a floating net which is designed to surround fish and is set from and hauled to the beach.

Char means the following species: Arctic char (*Salvelinus alpinis*); lake trout (*Salvelinus namaycush*); and Dolly Varden (*Salvelinus malma*).

Crab means the following species: red king crab (*Paralithodes camshatica*); blue king crab (*Paralithodes platypus*); brown king crab (*Lithodes aequispina*); *Lithodes couesi*; all species of tanner or snow crab (*Chionoecetes* spp.); and Dungeness crab (*Cancer magister*).

Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving Gear means any type of hard hat or skin diving equipment, including SCUBA equipment.

Drainage means all of the waters comprising a watershed including tributary rivers, streams, sloughs, ponds and lakes which contribute to the supply of the watershed.

Drift gill net means a drifting gill net that has not been intentionally staked, anchored or otherwise fixed.

Federal lands means lands and waters and interests therein the title to which is in the United States.

Fishwheel means a fixed, rotating device for catching fish which is driven by river current or other means of power.

Freshwater of streams and rivers means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide.

Fyke net means a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gill net means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing which hangs between cork line and lead line, and which is fished from the surface of the water.

Grappling hook means a hooked device with flukes or claws, which is attached to a line and operated by hand.

Groundfish—bottomfish means any marine finfish except halibut, osmerids, herring and salmonids.

Hand purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

Herring pound means an enclosure used primarily to contain live herring over extended periods of time.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Jigging gear means a line or lines with lures or baited hooks, drawn through the water by hand, and which are operated during periods of ice cover from holes cut in the ice.

Lead means either a length of net employed for guiding fish into a seine, set gill net, or other length of net, or a length of fencing employed for guiding fish into a fishwheel, fyke net or dip net.

Long line means either a stationary, buoyed, or anchored line, or a floating, free-drifting line with lures or baited hooks attached.

Possession limit means the maximum number of fish a person or designated group may have in possession if the fish have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15 day period.

Pot means a portable structure designed and constructed to capture and retain live fish and shellfish in the water.

Public lands or *public land* means lands situated in the State of Alaska which are Federal lands, except—

(i) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(ii) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(iii) Lands referred to in Section 19(b) of the Alaska Native Claims Settlement Act.

Purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ring net means a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that free movement of fish or shellfish across the top of the net is not prohibited when the net is employed.

Rockfish means all species of the genus *Sebastes*.

Rod and reel means either a device upon which a line is stored on a fixed or revolving spool and is deployed through guides mounted on a flexible pole, or a line that is attached to a pole.

Salmon means the following species: pink salmon (*Oncorhynchus gorbusha*); sockeye salmon (*Oncorhynchus nerka*); chinook salmon (*Oncorhynchus tshawytscha*); coho salmon (*Oncorhynchus kisutch*); and chum salmon (*Oncorhynchus keta*).

Salmon stream means any stream used by salmon for spawning or for travelling to a spawning area.

Salmon stream terminus means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water.

Set gill net means a gill net that has been intentionally set, staked, anchored, or otherwise fixed.

Shovel means a hand-operated implement for digging clams or cockles.

Spear means a shaft with a sharp point or fork-like implement attached to one end which is used to thrust through the water to impale or retrieve fish and which is operated by hand.

Take or *Taking* means to pursue, hunt, shoot, trap, net capture, collect, kill, harm, or attempt to engage in any such conduct.

To operate fishing gear means any of the following: the deployment of gear in the waters of Alaska; the removal of gear from the waters of Alaska; the removal of fish or shellfish from the gear during an open season or period; or the possession of a gill net containing fish during an open fishing period, except that a gill net which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

Trawl means a bag-shaped net towed through the water to capture fish or shellfish.

Trout means the following species: cutthroat trout (*Oncorhynchus clarki*) and rainbow trout or steelhead trout (*Oncorhynchus mykiss*).

(c) *Methods, means, and general restrictions.* (1) No person may buy or sell fish, their parts, or their eggs which have been taken for subsistence uses, unless, prior to the sale, the prospective buyer or seller obtains a determination from the Federal Subsistence Board that the sale constitutes customary trade.

(2) No person may take fish for subsistence uses within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(3) No person may use explosives or chemicals to take fish for subsistence uses.

(4) Each person shall plainly and legibly inscribe his or her first initial, last name, and address on any fish wheel, keg, buoy, stakes attached to gill nets, and on any other unattended fishing gear which the person has employed to take fish for subsistence uses.

(5) All pots used to take fish must contain an opening on the webbing of a sidewall of the pot which has been laced, sewn, or secured together by untreated cotton twine or other natural fiber no larger than 120 thread which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter.

(6) Persons licensed by the State of Alaska to engage in a fisheries business may not receive for commercial purposes or barter or solicit to barter for subsistence taken salmon or their parts.

(7) Except as provided elsewhere in this subpart, the taking of rainbow trout and steelhead trout is prohibited.

(8) Fish taken for subsistence use or under subsistence regulations may not be subsequently used as bait for commercial or sport fishing purposes.

(9) The use of live non-indigenous fish as bait is prohibited.

(10) Any fishing gear used to take fish for subsistence uses may not obstruct more than one-half the width of any stream. A stationary fishing device may obstruct not more than one-half the width of any stream.

(11) Kegs or buoys attached to any permitted gear may be any color but red.

(12) Bag limits authorized in § _____.26 or § _____.27 may not be accumulated with bag limits authorized in State seasons.

(13) Unless specified otherwise in § _____.26, use of a rod and reel to take fish is permitted without a subsistence fishing permit. Bag limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

(i) Where a subsistence fishing permit issued by the ADF&G is required by § _____.26, that permit is not required to take fish for subsistence uses with rod and reel. The bag and possessions limits for taking fish for subsistence uses with a rod and reel in those areas are the same as indicated on the ADF&G permit issued for subsistence fishing with other gear types;

(ii) Where a subsistence fishing permit is not required by § _____.26, the bag and possession limits for taking fish for subsistence uses with a rod and reel is the same as for taking fish under State of Alaska sport fishing regulations in those same areas.

(14) Unless restricted in § _____.26, or unless restricted under the terms of a required subsistence fishing permit, gear specified in definitions in § _____.26(b) are legal types of gear for subsistence fishing.

(15) Unless restricted in § _____.26, or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time.

(16) Gill nets used for subsistence fishing for salmon may not exceed 50 fathoms in length, unless otherwise specified by regulations for particular areas set forth in § _____.26.

(17) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river.

(18) *Unlawful possession of subsistence finfish*. Fish or their parts taken in violation of Federal or State regulations may not be possessed, transported, given, received or bartered.

(d) *Fishery Management Area restrictions*. For detailed descriptions of Fishery Management Areas, see State of Alaska Fishing Regulations.

(1) Kotzebue-Northern Area. (i) Salmon may be taken only by gill nets, beach seines, or a rod and reel;

(ii) Fish may be taken for subsistence purposes without a subsistence fishing permit.

(2) Norton Sound-Port Clarence Area. (i) Salmon may be taken only by gill nets, beach seines, fishwheel, or a rod and reel;

(ii) Except as provided in § _____.26(e)(2), fish may be taken for subsistence purposes without a subsistence fishing permit. A subsistence fishing permit issued by ADF&G is required, except for use of rod and reel, as follows:

(A) Pilgrim River drainage including Salmon Lake;

(B) For net fishing in all waters from Cape Douglas to Rocky Point;

(iii) Only one subsistence fishing permit will be issued to each household per year.

(3) Yukon Area. (i) Salmon may be taken only by set gill nets, beach seines, fishwheels, or rod and reel;

(ii) Except as provided in § _____.26(e)(3), fish may be taken for subsistence purposes without a subsistence fishing permit;

(iii) A subsistence fishing permit issued by the ADF&G is required, except for the use of rod and reel, as follows:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from the ADF&G regulatory markers placed near the upstream mouth of 22 Mile Slough upstream to the United States—Canada border;

(C) For the Tanana River drainage above the mouth of the Wood River;

(D) For whitefish and suckers in the waters listed;

(E) For the taking of pike in waters of the Tolovana River drainage upstream of its confluence with the Tanana River;

(F) For the taking of salmon in Subdistricts 6–A and 6–B;

(iv) Except as otherwise provided, and except as may be provided by the terms of a subsistence fishing permit issued by the ADF&G, there is no closed season on fish other than salmon;

(v) Only one subsistence fishing permit will be issued to each household per year;

(vi) Birch Creek of the upper Yukon drainage, and waters within 500 feet of its mouth, is closed to subsistence fishing June 10 through September 10, except that whitefish and suckers may be taken by rod and reel or under the authority of a subsistence fishing permit issued by the ADF&G;

(vii) The following drainages located north of the main Yukon River are closed to subsistence fishing:

(A) Kanuti River, upstream from a point five miles downstream of the State highway crossing;

(B) Fish Creek, upstream from the mouth of Bonanza Creek;

(C) Bonanza Creek;

(D) Jim River, including Prospect Creek and Douglas Creek;

(E) South Fork of the Koyukuk River system upstream from the mouth of Jim River;

(F) Middle Fork of the Koyukuk River system upstream from the mouth of the North Fork;

(G) North Fork of the Chandalar River system upstream from the mouth of Quartz Creek;

(viii) The main Tanana River and its adjoining sloughs are closed to subsistence fishing between the mouth of the Salcha River and the mouth of the Gerstle River, except that salmon may be taken in the area upstream of the Richardson Highway bridge to the mouth of Clearwater Creek after November 20;

(ix) Waters of the Tanana River drainage are closed to the subsistence taking of pike between the mouth of the Kantishna River and Delta River at Black Rapids on the Richardson Highway and Cathedral Rapids on the Alaska Highway, except that pike may be taken for subsistence purposes in the Tolovana River drainage upstream from its confluence with the Tanana River;

(x) The Delta River is closed to subsistence fishing, except that salmon may be taken after November 20;

(xi) The following locations are closed to subsistence fishing:

(A) The following rivers and creeks and within 500 feet of their mouths: Delta Clearwater River (Clearwater Creek at 64° 06′ N. lat., 145° 34′ W. long), Richardson Clearwater Creek (Clear Creek at 64° 14′ N. lat., 146° 16′ W. long), Goodpaster River, Chena River, Little Chena River, Little Salcha River, Blue Creek, Big Salt River, Shaw Creek, Bear Creek, McDonald Creek, Moose Creek, Hess Creek, and Beaver Creek;

(B) Ray River and Salcha River upstream of a line between the ADF&G regulatory markers located at the mouth of the rivers;

(C) Deadman, Jan, Boleo, Birch, Lost, Harding, Craig, Fielding, Two-Mile, Quartz, and Little Harding lakes;

(D) Piledriver and Badger (Chena) sloughs;

(xii) The following waters are closed to the taking of chum salmon from August 15–December 31:

(A) Toklat River;

(B) Kantishna River from the mouth of the Toklat River to its confluence with the Tanana River;

(xiii) Salmon may be taken only by set gill nets in those locations described below after July 19:

(A) Waters of the Black River including waters within one nautical mile of its terminus;

(B) Waters of Kwikluak Pass downstream of Agmulegut and the waters of Kwemeluk Pass;

(C) Waters of Alakanuk Pass downstream from the mouth of Kuiukpak Slough;

(D) Waters of Kwiguk Pass downstream to the mouth of Kawokhawik Slough;

(E) Waters of Kawanak Pass downstream from Sea Gull Point;

(F) Waters of Apoon Pass downstream from the mouth of the Kotlik River and waters of Okwega Pass downstream from its confluence with Apoon Pass;

(G) Waters within one nautical mile seaward from any grassland bank in District 1;

(xiv) Pike may not be taken with gill nets in the waters of the Tolovana River drainage from October 15–April 14;

(xv) A commercial salmon fisherman who is registered for Districts 1, 2, or 3 may not take salmon for subsistence purposes in any other district located downstream from Old Paradise Village;

(xvi) In District 4, commercial fishermen may not take salmon for subsistence purposes during the commercial salmon fishing season by gill nets larger than 6-inch mesh after a date specified by emergency order issued between July 10–July 31;

(xvii) In Subdistricts 5–A, 5–B, 5–C, and that portion of Subdistrict 5–D downstream from Long Point, no person may possess salmon taken for subsistence purposes during a commercial fishing period, unless the dorsal fin has been immediately removed from the salmon; a person may not sell or purchase salmon from which the dorsal fin has been removed;

(xviii) Subsistence fishermen taking salmon in Subdistrict 6–C shall report their salmon catches at designated ADF&G check stations by the end of each weekly fishing period; immediately after salmon have been taken, catches must be recorded on a harvest form provided by the ADF&G;

(xix) The annual possession limit for the holder of a Subdistrict 6–C subsistence salmon fishing permit is 10 king salmon and 75 chum salmon for periods through August 15, and 75 chum and coho salmon for periods after August 15;

(xx) Subsistence salmon harvest limits in Subdistrict 6–C are 750 king salmon and 5,000 chum salmon taken through August 15 and 5,200 chum and coho salmon combined taken after August 15; when either the king or chum salmon harvest limit for periods before August 16 has been taken, the subsistence salmon fishing season in Subdistrict 6–C will close; a later season will open after August 15 to allow the taking of the harvest limit for periods after August 15; if the chum salmon harvest limit has not been obtained through August 15, the remaining harvest will not be added to the chum salmon harvest level for periods after August 15;

(xxi) The annual harvest limit for the holder of a Subdistrict 6–A or 6–B subsistence salmon fishing permit is 60 chinook salmon and 500 chum salmon for the period through August 15 of a year, and 2,000 chum and coho salmon combined for the period after August 15; upon request, permits for additional salmon may be issued by the ADF&G;

(xxii) In the Kantishna River drainage, the open subsistence salmon fishing periods are seven days per week.

(4) Kuskokwim Area. (i) Salmon may only be taken by gill net, beach seine, fishwheel, or by a rod and reel, subject to the restrictions set forth in this § _____.26(e)(4), except that salmon may also be taken by spear in the Holitna River drainage;

(ii) Fish may be taken for subsistence purposes without a subsistence fishing permit;

(iii) Each subsistence gill net operated in tributaries of the Kuskokwim River must be attached to the bank, fished substantially perpendicular to the bank and in a substantially straight line;

(iv) The aggregate length of set gill nets or drift gill nets in use by any individual for taking salmon may not exceed 50 fathoms;

(v) Rainbow trout may be taken by residents of Goodnews Bay, Platinum, Quinhagak, Eek, Kwethluk, Akiachak, and Akiak from those non-navigable drainages tributary to the Kuskokwim River downstream from the confluence of the Kuskokwim and Holitna Rivers and from those non-navigable drainages to Kuskokwim Bay north of the community of Platinum, subject to the following restrictions:

(A) Rainbow trout may be taken only by the use of gill nets, rod and reel, or jigging through the ice;

(B) The use of gill nets for taking rainbow trout is prohibited from March 15–June 15.

(5) Bristol Bay Area. (i) Salmon and char may only be taken by rod and reel or under authority of a subsistence fishing permit issued by the ADF&G;

(ii) Only one subsistence fishing permit may be issued to each household per year;

(iii) Each gill net must be staked and buoyed;

(iv) No person may operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear;

(v) Salmon, herring, and capelin may only be taken by set gill nets and by a rod and reel, except that salmon may also be taken by spear in the Togiak River including its tributaries;

(vi) Subsistence fishing is not permitted within the boundaries of Katmai National Park;

(vii) Except for the western shore of the Newhalen River, waters used by salmon are closed to the subsistence taking of fish within 300 feet of a stream mouth;

(viii) Subsistence salmon fishing permits for the Naknek River drainage will be issued only through the ADF&G King Salmon office;

(ix) Subsistence fishing with nets is prohibited in the following waters and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14: Lower Talarik Creek, Roadhouse Creek, Nick G. Creek, Middle Talarik Creek, Alexi Creek, Copper River, Upper Talarik Creek, Tazimina River, Kakhonak River, Pete Andrew Creek, Young's Creek, Gibralter River, Zacker Creek, Chekok Creek, Dennis Creek, Newhalen River, Tomokok Creek, Belinda Creek;

(x) Gill nets are prohibited in that portion of the Naknek River upstream from Sovonaski;

(xi) After August 20, no person may possess coho salmon for subsistence purposes in the Togiak River Section and the Togiak River drainage unless the head has been immediately removed from the salmon. It is unlawful to purchase or sell coho salmon from which the head has been removed.

(6) Aleutian Islands Area.

(i) Salmon may be taken by seine and gill net, with gear specified on a subsistence fishing permit issued by the ADF&G, or by a rod and reel;

(ii) The Adak District is closed to the taking of salmon;

(iii) Salmon and char may be taken only by rod and reel or under the terms of a subsistence fishing permit issued by the ADF&G, except that a permit is not required in the Akutan, Umnak and Adak Districts; not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit; a record of subsistence-caught fish must be kept on the reverse side of the permit; the record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the ADF&G no later than October 31.

(7) Alaska Peninsula Area. (i) Salmon may be taken by seine, gill net, gear specified on a permit issued by the ADF&G, or rod and reel;

(ii) The following waters are closed to subsistence fishing for salmon:

(A) Russell Creek and Nurse Lagoon;

(B) Trout Creek;

(C) Humbolt Creek;

(iii) Salmon and char may only be taken by rod and reel or under the authority of a subsistence fishing permit issued by the ADF&G; a record of subsistence-caught fish must be kept on the reverse side of the permit; the record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the ADF&G no later than October 31.

(8) Chignik Area. (i) Salmon may be taken by seines and gill nets, or with gear specified on a subsistence fishing permit issued by the ADF&G, or by a rod and reel, except that in Chignik Lake, salmon may not be taken with purse seines;

(ii) Salmon may not be taken in the Chignik River, upstream from the ADF&G weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes;

(iii) Salmon and char may only be taken by rod and reel or under the authority of a subsistence fishing permit issued by the ADF&G. A record of subsistence-caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the ADF&G no later than October 31;

(iv) From June 10–September 30, commercial fishing license holders may not subsistence fish for salmon.

(9) Kodiak Area. (i) Salmon may be taken 24 hours a day from January 1 through December 31 except as provided below:

(A) From June 1–September 15, salmon seine vessels may not be used to take subsistence salmon for 24 hours before, during, and for 24 hours after any open commercial salmon fishing period;

(B) From June 1–September 15, purse seine vessels may be used to take salmon only with gill nets and no other type of salmon gear may be on board the vessel;

(C) Salmon may be taken only by gill net, seine, or by a rod and reel;

(D) Subsistence fishermen must be physically present at the net at all times the net is being fished;

(ii) The following locations are closed to the subsistence taking of salmon:

(A) All waters of Mill Bay and all those waters bounded by a line from Spruce Cape to the northernmost point of Woody Island, then to the northernmost point of Holiday Island, then to a point on Near Island opposite the Kodiak small boat harbor entrance and then to the small boat harbor entrance;

(B) All freshwater systems of Little Afognak River and Portage Creek drainage in Discoverer Bay;

(C) All water closed to commercial salmon fishing in the Barbara Cove, Chiniak Bay, Saltery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay, and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Las Point to the tip of River Mouth Point of Afognak Bay;

(D) All waters 300 yards seaward of the terminus of Monks Creek;

(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;

(F) All freshwater systems of Afognak Island;

(G) All waters of Ouzinkie Harbor north of a line from 57°55′10″ N. lat., 152°36′ W. long. to 57°55′03″ N. lat., 152°29′20″ W. long.;

(iii) A subsistence fishing permit issued by the ADF&G is required for taking salmon, trout and char, except by rod and reel, for subsistence purposes; a subsistence fishing permit issued by the ADF&G is required for taking herring and bottomfish for subsistence purposes during the commercial herring sac roe season from May 1–June 30; all subsistence fishermen shall keep a record of the number of subsistence fish taken each year; the number of subsistence fish shall be recorded on the reverse side of the permit. The record must be completed immediately upon landing subsistence caught fish and must be returned to the local representative of the ADF&G by February 1 of the year following the year the permit was issued.

(10) Cook Inlet Area.

(i) Salmon may be taken only by rod and reel, or under the authority of a subsistence fishing permit issued by the ADF&G; only one permit may be issued to a household each year; a subsistence fishing permit holder shall record daily salmon catches on forms provided by the ADF&G;

(ii) Trout, grayling, char, and burbot may not be taken in fresh water;

(iii) All public waters on the Kenai Peninsula are closed to subsistence fishing;

(iv) Smelt may be taken only with gill nets and dip nets. Gill nets used to take smelt may not exceed 50 feet in length and two inches in mesh size;

(v) Gill nets may not be used.

(11) Prince William Sound Area. (i) Salmon and freshwater fish species may be taken only by rod and reel or under the authority of a subsistence fishing permit issued by the ADF&G;

(ii) Only one subsistence fishing permit will be issued to each household per year;

(iii) Use of fishwheels:

(A) Fishwheels used for subsistence fishing may not be rented, leased, or otherwise used for personal gain;

(B) Subsistence fishwheels must be removed from the water at the end of the permit period;

(C) Each permittee may operate only one fishwheel at any one time;

(D) No person may set or operate a fishwheel within 75 feet of another fishwheel;

(E) No fishwheel may have more than two baskets;

(F) The permit holder must personally operate the fishwheel or dip net. A subsistence fishwheel or dip net permit may not be loaned or transferred except;

(G) A wood or metal plate at least 12 inches high by 12 inches wide, bearing the permit holder's name and address in letters and numerals at least one inch high, must be attached to each fishwheel so that the name and address are plainly visible;

(iv) Salmon may not be taken in any area closed to commercial salmon fishing unless otherwise permitted;

(v) In locations open to commercial salmon fishing and in conformance with commercial salmon fishing regulations, the annual subsistence salmon limit is as follows:

(A) 15 salmon for a household of one person;

(B) 30 salmon for a household of two persons;

(C) 10 salmon for each additional person in a household over two;

(D) No more than five king salmon may be taken per permit;

(vi) All tributaries of the Copper River and waters of the Copper River are closed to the taking of salmon;

(vii) Crosswind Lake is closed to all subsistence fishing;

(viii) Salmon may be taken for subsistence purposes in the waters of the Southwestern District only as follows:

(A) Only pink salmon may be taken;

(B) Pink salmon may be taken by dipnets or by a rod and reel;

(C) Pink salmon may be taken only from May 15–September 30;

(D) Fishing periods are from May 15 until two days before the commercial opening of the Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(E) There are no bag and possession limits for this fishery;

(F) ADF&G permits may be issued only at Chenega Bay village;

(ix) Salmon may be taken for subsistence purposes in the waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point, only as follows:

(A) Only pink salmon may be taken;

(B) Pink salmon may be taken by dipnets or by a rod and reel;

(C) Pink salmon may be taken only from May 15–September 30;

(D) Fishing periods are from May 15 until two days before the commercial opening of the Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(E) Reserved.

(F) There are no bag and possession limits for this fishery;

(G) ADF&G permits may be issued only at Tatitlek village;

(12) Yakutat Area. (i) Salmon, trout, and char may be taken only by rod and reel or under authority of a subsistence fishing permit issued by the ADF&G;

(ii) Salmon, trout, or char taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes; the holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar;

(iii) Subsistence fishermen must remove the dorsal fin from subsistence-caught salmon when taken.

(13) Southeastern Alaska Area. (i) Salmon, trout, char and herring spawn on kelp may be taken only by rod and reel or under authority of a subsistence fishing permit issued by the ADF&G;

(ii) No person may possess subsistence-taken and sport-taken salmon on the same day;

(iii) Salmon, trout or char taken incidentally by gear operated under the terms of an ADF&G subsistence permit for salmon are legally taken and possessed for subsistence purposes; the holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar;

(iv) Subsistence fishermen shall immediately remove the dorsal fin of all salmon when taken.

§ _____.27 Subsistence taking of shellfish.

(a) Regulations in § _____.27 apply to subsistence taking of dungeness crab, king crab, tanner crab, shrimp, clams, abalone, and other shellfish or their parts.

(b) Shellfish may be taken for subsistence uses at any time in any area of the public lands by any method unless restricted by the subsistence fishing regulations of § _____.26 or § _____.27.

(c) *Methods, means, and general restrictions.* (1) The bag limit specified in this section for a subsistence season for a species and the State bag limit set for a State season for the same species are not cumulative. This means that a person or designated group who has taken the bag limit for a particular species under a subsistence season specified in this section may not after that, take any additional shellfish of that species under any other bag limit specified for a State season.

(2) Unless otherwise provided in § _____.27, gear as specified in the definitions of § _____.26 is legal for subsistence taking of shellfish.

(3) It is prohibited to buy or sell subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified.

(4) The use of explosives and chemicals is prohibited, except that chemical baits or lures may be used to attract shellfish.

(5) Each subsistence fisherman shall plainly and legibly inscribe their first initial, last name and address on a keg or buoy attached to unattended subsistence fishing gear. Subsistence fishing gear may not display a permanent ADF&G vessel license number. The keg or buoy may be any color except red.

(6) A side wall of all subsistence shellfish pots must contain an opening with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter. The opening must be laced, sewn, or secured together by untreated cotton twine or other natural fiber no larger than 120 thread. Dungeness crab and shrimp pots may have the pot lid tiedown straps secured to the pot at one end by untreated cotton twine no larger than 120 thread, as a substitute for the above requirement.

(7) No person may mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions until the crab has been processed or prepared for consumption.

(8) In addition to the marking requirements in § _____.27(c)(5), kegs or buoys attached to subsistence crab pots must also be inscribed with the name or U.S. Coast Guard number of the vessel used to operate the pots.

(9) No more than five pots per person and 10 pots per vessel may be used to take crab, except as specified in § _____.27(f).

(10) In the subsistence taking of shrimp in the Glacier Bay National Preserve, no person may use more than 10 pots, and no more than 20 pots may be operated from a vessel. In the subsistence taking of shellfish other than shrimp in the Glacier Bay National Preserve, no person may operate more than five pots of any type, and no more than 10 pots of any type may be operated from a vessel.

(d) *Subsistence take by commercial vessels.* No fishing vessel which is commercially licensed and registered for shrimp pot, shrimp trawl, king crab, tanner crab, or dungeness crab fishing may be used for subsistence take during the period starting 14 days before an opening until 14 days after the closure of a respective open season in the area or areas for which the vessel is registered.

(e) *Unlawful possession of subsistence shellfish.* Shellfish or their parts taken in violation of Federal or State regulations may not be possessed, transported, given, received or bartered.

(f) *Subsistence shellfish areas and pertinent restrictions.*

(1) Southeastern Alaska-Yakutat Area. Shellfish may be taken for subsistence purposes in the Glacier Bay National Preserve only under the authority of a subsistence shellfish fishing permit.

(2) Cook Inlet Area. All waters within the boundaries of the Kenai National Wildlife Refuge are closed to the taking of shellfish for subsistence purposes.

(3) Kodiak Area. (i) Shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit issued by the ADF&G;

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G before subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel;

(iii) The daily bag and possession limit is 12 male dungeness crab per person;

(iv) In the subsistence taking of king crab:

(A) The daily bag and possession limit is six male crab per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) No more than five crab pots may be used to take king crab; each pot can be no more than 75 cubic feet in capacity;

(D) King crab may be taken only from June 1–January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after open commercial fishing seasons for red king crab, blue king crab, or tanner crab in the location;

(E) The waters of the Pacific Ocean enclosed by the boundaries of Womans Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of king crab except by Federally-qualified subsistence users;

(v) In the subsistence taking of tanner crab:

(A) No more than five crab pots may be used to take tanner crab;

(B) From July 15–February 10, the subsistence taking of tanner crab is prohibited in waters 25 fathoms or greater in depth, unless the commercial tanner crab fishing season is open in the location;

(C) The daily bag and possession limit is 12 male crab per person.

(4) Alaska Peninsula-Aleutian Islands Area. (i) Shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit issued by the ADF&G;

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit shall specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel;

(iii) The daily bag and possession limit is 12 male dungeness crab per person;

(iv) In the subsistence taking of king crab:

(A) The daily bag and possession limit is six male crab per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) Crab may be taken only from June 1–January 31;

(v) The daily bag and possession limit is 12 male tanner crab per person.

(5) Bering Sea Area. (i) In waters South of 60° North latitude, shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit issued by the ADF&G;

(ii) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots and ring net;

(iii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection; the permit shall specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel;

(iv) In waters south of 60° N. lat., the daily bag and possession limit is 12 male dungeness crab per person;

(v) In the subsistence taking of king crab:

(A) In waters south of 60° N. lat., the daily bag and possession limit is six male crab per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) In waters south of 60° N. lat., crab may be taken only from June 1–January 31;

(vi) In waters south of 60° N. lat., the daily bag and possession limit is 12 male tanner crab.

Dated: May 22, 1995.

Mitch Demientieff,

Chair, Federal Subsistence Board.

Dated: May 23, 1995.

Fred O. Walk,

Acting Regional Forester, USDA-Forest Service.

[FR Doc. 95–14328 Filed 6–14–95; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

Federal Register

Thursday
June 15, 1995

Part III

Department of Education

Office of Elementary and Secondary Education; Preliminary Consolidated State Plans Under Section 14302 of the Elementary and Secondary Education Act; Notice

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Preliminary Consolidated State Plans Under Section 14302 of the Elementary and Secondary Education Act

AGENCY: Department of Education.

ACTION: Responses to public comments on proposed guidance for preliminary consolidated State plans.

SUMMARY: The Department of Education provides responses to public comments submitted on proposed guidance for the submission of optional preliminary consolidated State plans under section 14302 of the Elementary and Secondary Education Act.

FOR FURTHER INFORMATION CONTACT: William Wooten, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Ave, SW., Washington, DC 20202–6100. Telephone (202) 260-1922. The Internet address is consolidated—plan@ed.gov. The fax number is 202–205–0303. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 14302 of the ESEA, as reauthorized by the Improving America's Schools Act, provides for the establishment of criteria under which any SEA may obtain Federal funds under certain programs through a single consolidated plan rather than through separate funding applications or plans. As explained in section 14301 of the ESEA, this consolidated plan option is intended to enhance cross-program coordination, planning and service delivery, as well as the integration of Federal program services with services offered by States and localities as keys to increased student achievement.

On January 13, 1995, the Department published proposed guidance and criteria for optional consolidated State plans under section 14302 (60 FR 3306). After considering public comment on these criteria, the Department issued forms and instructions, together with a supplementary guidance document, to State educational agencies (SEAs) on April 20, 1995. Appendix A to this notice contains the relevant portions of this guidance document. Except as provided in the guidance document, the instructions that SEAs received reflect the criteria published in the January 13 notice. The Department is treating these criteria as nonbinding. Appendix B to this notice contains the Department's response to substantive comment received on its proposals for submission of consolidated State plans.

Dated: June 9, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

Appendix A—Consolidated State Plans Supplementary Information

April 20,1995.

On January 13, 1995, the Department published in the **Federal Register** proposed criteria to govern submission of consolidated State plans under section 14302 of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA). The Department received comments from State educational agencies (SEAs), nonprofit private organizations, and other interested persons. These constructive and thoughtful comments were part of a process of collaboration with the public about the content of consolidated State plans that began with the Department's distribution of preliminary guidance at the December, 1994 IASA conference in Baltimore, Maryland.

These comments are addressed throughout this package [. . ..]

I. Preliminary Consolidated Plans

1. *Overall Approach.* The January 13 notice continues to provide the basic framework for the submission of both preliminary consolidated State plans in May of this year, and final consolidated plans in the spring of 1996. Except for the need to address equitable participation in State-level programs, as is now required by section 427 of the General Education Provisions Act, instructions for the preliminary consolidated plan contain only relatively minor adjustments to those proposed in the January 13 **Federal Register** notice. As suggested in comments on the proposal, these changes include the need for States to include pupil services personnel among the key individuals who will participate in development of the final consolidated State plan.

A few SEAs have indicated a desire to submit consolidated State plans in one stage rather than two. Those SEAs should review the information on final consolidated State plans contained in the January 13 notice and Part II of this guidance, which provides a framework for submission of their plans. However, because collaboration with the public on the criteria for the final plan is still continuing and the final criteria may differ from the criteria provided in this guidance, an SEA submitting a final plan in the next few months could be asked to provide additional information that the Department decides is needed in final plans.

2. *Inclusion of Additional Programs.* Section 14302 authorizes the Secretary to designate programs in addition to those specified in the statute as programs that a State may include in its consolidated plan. In the January 13 notice, the Secretary specified several such additional programs. Commenters on the January 13 notice suggested that the Secretary should designate a number of other programs (not listed in the January 13 notice) for possible inclusion in consolidated State plans. Among the programs suggested for designation were the Individuals with Disabilities Education Act (IDEA), the Adult Education Act (AEA), and the Bilingual Education Act.

The Department has determined that none of these programs should be designated at this time for inclusion in consolidated plans. Both the IDEA and the AEA will be subject to reauthorization during the coming year. (While the Perkins Act is also subject to reauthorization, Congress, in section 14302, specifically designated the Part A Perkins Act program for optional inclusion in a consolidated State plan.) A State's funding level under the State-level Bilingual Education program authorized in section 7134 of the ESEA is dependent upon the receipt of competitive grant awards by LEAs in the State. The Emergency Immigrant Education Program has a distinctive relationship to other Federal initiatives for addressing immigrant-related issues. Therefore, these programs are not appropriate for inclusion.

Accordingly, at this time an SEA may choose to include in a consolidated State plan the thirteen programs proposed in the January 13 notice for purposes of obtaining FY 1995 funds.

The Secretary's designation of programs affects only a State's ability to receive program funding on the basis of a consolidated plan. However, the scope of a State's consolidated planning is in no way limited to those included programs. States are encouraged to focus their consolidated plans on how funds provided under *all* Federal programs can be used in conjunction with State and local resources to enhance the academic achievement of all students.

3. *Coverage of the Carl D. Perkins Vocational and Applied Technology Education Act.* A State may include the following Perkins Act programs in a preliminary consolidated State plan: programs under Title II, Parts A–C and Title III, Parts A, B, and E. For funds that become available on July 1, 1995, the current State plans under the Perkins Act are in effect. Accordingly, to receive these funds under that Act, a State need not submit additional plan descriptions or information unless program changes warrant the submission of amendments pursuant to section 113(c) of the Perkins Act.

Nevertheless, a State may wish to include one or more of the Perkins Act programs in its consolidated State plan for the period beginning July 1, 1995, in order to encourage and facilitate coordination of these programs with ESEA and other programs included in the plan. In this case, a State is encouraged to include in its description of the processes for developing the final plan the involvement of the State agency designated as the State board of vocational education under section 111(a)(1) of the Perkins Act, even though the SEA submits the preliminary consolidated plan.

The Secretary has transmitted the Administration's legislative proposal for restructuring the Perkins Act for the grant

cycle beginning on July 1, 1996, and subsequent fiscal years. This proposal contemplates close coordination between the Perkins Act and other Federal assistance programs. Inclusion of Perkins Act programs in a preliminary consolidated State plan can constitute a significant first step toward these goals. See Part II, Final Consolidated Plans.

4. *Certifications.* Commenters requested the consolidation of the standard certifications regarding matters such as construction, Drug-Free Workplace Act, and lobbying. In response, the forms and instructions for the preliminary consolidated State plan include a consolidated certification format.

5. *The General Assurances that Accompany a Consolidated Plan.* Consistent with section 14303 of the ESEA, the application for consolidated plans will include an assurance that the State agrees to ''the assurances contained in section 14303(a) of the [ESEA].'' Under section 14303(a)(1), these assurances include the SEA's agreement that ''each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.''

While submission of a satisfactory consolidated plan permits the Secretary to award funds under programs that the plan covers, requirements governing the operation of programs are not affected. Absent a waiver, the assurance contained in section 14303(a)(1) does not eliminate any of a program's underlying operational requirements, including those that the program statute may express as application or plan descriptions or assurances (although it does eliminate a requirement to prepare a program application or plan). The January 13 **Federal Register** notice gives several examples of the effect of the general assurance on requirements expressed as program plan or application requirements. Therefore, for each program that a State includes in its preliminary consolidated plan, the requirements underlying statutory application or plan provisions mentioned in the following sections of the authorizing statute continue to apply to the State's use of program funds:

(1) Title I, Part A, of the ESEA (Improving Basic Programs Operated by Local Educational Agencies).

—Section 1111(b) and (c) of the ESEA.

(2) Title I, Part B, of the ESEA (Even Start).

—None; no statutory application or plan requirements.

(3) Title I, Part C, of the ESEA (Migrant Education).

—Sections 1304(b) and (c); 1306(a).

(4) Title I, Part D, of the ESEA (Neglected, Delinquent or At-Risk Children).

—Section 1414(a) of the ESEA.

(5) Title II of the ESEA (State and Local Programs) (Professional Development).

—Section 2205 of the ESEA.

(6) Title IV, Part A, Subpart l (other than the Governor's Programs in section 4114), of the ESEA (Safe and Drug-Free Schools and Communities).

—Section 4112(a) and (b) of the ESEA.

(7) Title VI of the ESEA (Innovative Education Program Strategies).

—Section 6202(a) of the ESEA.

(8) Title VII, Subtitle B of the Stewart B. McKinney Homeless Assistance Act (the Education for Homeless Children and Youth program) enacted in Title III, Part B of the IASA.

—Section 722(g) of the McKinney Act.

While the Goals 2000, School-to-Work, and the Title III, ESEA Technology programs may be included in the preliminary consolidated plan, submission of a consolidated State plan, in either preliminary or final form, does not alter planning or application requirements under these programs. As indicated above, many Perkins Act programs also may be included in the consolidated plan, but a State's grant from funds that become available on July 1, 1995, already is authorized under its previously approved plan. States review the content of the approved plans that have been submitted under these programs in determining their obligations under the general assurance in section 14303(a)(1).

6. *Public Participation; Peer Review.* Section 14303(a)(7) of the ESEA provides that, before a consolidated State plan is submitted to the Secretary, the State must afford a reasonable opportunity for public comment on the plan and consider the comment. Commenters on the January 13 notice requested guidance on the manner in which this requirement could be satisfied.

States have wide latitude in determining how best to involve the public in a meaningful process of commenting on the proposed content of a preliminary (or final) consolidated State plan. Among the procedures that SEAs might use are (1) public comment sessions in regional workshops; (2) regional hearings; (3) dissemination of proposals through Statewide publications or similar widely-disseminated documents; and (4) any methods that, under State procedures, must be used to obtain comment on comparable State actions. In selecting the most appropriate methods, States may want to consider both the expected public interest in how the consolidated plan will be prepared, and any expected public reaction to development of a consolidated plan rather than individual program plans and applications.

The Department interprets section 14303(a)(7) as permitting an SEA to request and consider comment on the substance, rather than the precise text, of a consolidated State plan.

Furthermore, if an SEA believes that it has insufficient time to meet the public participation requirement before the due date for submission of preliminary consolidated plans, it may submit to the Department a draft preliminary consolidated plan before completing the public comment process. In this case, prior to the Secretary's approval of the plan, and the issuance of a grant award, the SEA would be expected to submit any revisions to the draft plan that are needed in view of public comment.

As proposed in the January 13 notice, the Department will approve preliminary consolidated State plans without peer review.

II. Final Consolidated Plans

1. *Inclusion of Information on Standards and Assessments Under Section 1111(b) of the ESEA.* The January 13 **Federal Register** notice proposed criteria for inclusion in a consolidated State plan of information regarding standards and assessment under Title I of the ESEA. Some clarification regarding these criteria may be helpful. The Department intends to ask SEAs to include information regarding (l) content and performance standards, (2) assessments, and (3) adequate yearly progress, called for in section 1111(b) of the ESEA, that the SEA would submit if it prepared an individual State plan under Title I, Part A.

Section 1111(b) of the ESEA requires that a State plan under the Title I, Part A program must include certain specified information on developing State content and performance standards, assessments, ways of measuring adequate yearly progress and other matters.

Under the Department's approach, if a State is participating in Title III of the Goals 2000: Educate America Act, and has an approved State Goals 2000 plan, which adequately addresses the elements contained in section 1111(b) of the ESEA, a State's final consolidated plan would not need to contain any supplemental information relating to this section. On the other hand, if the State is not participating in Goals 2000, its Goals 2000 plan has not been approved, or its Goals 2000 plan does not address these elements sufficiently, the Department would request further information relevant to section 1111(b). These information requests would, of course, take into account the process of transition to standards, assessments and other section 1111(b) factors that States are undertaking.

2. *Perkins Act.* The authorization for the Perkins Act programs expires on September 30, 1996. As indicated above, the Secretary has transmitted a reauthorization proposal, the Career Preparation Education Reform Act of 1995. The information or descriptions that a State would be asked to include in a final consolidated plan with respect to the Perkins programs will depend upon the content of the reauthorized legislation.

4. *Peer Review.* Some commenters expressed concern that the Department's proposed use of peer review to evaluate a State's final consolidated plan could unnecessarily burden the approval process with activities that duplicate the peer review process under Goals 2000.

For final consolidated plans, the Department is developing procedures for peer review in collaboration with SEAs and others. However, if an SEA has had its Goals 2000 State improvement plan approved through peer review, and the Goals 2000 plan encompasses the content needed for final consolidated State plans, the Department does not believe that a further peer review process should be necessary. If Goals 2000 is included in the consolidated plan, a single peer review should be conducted.

5. *Other Considerations.* As with the preliminary consolidated State plans, final plans will need to address efforts to promote

equitable participation in State-level programs, as required by section 427 of the General Education Provisions Act. In addition, as with the preliminary plans, the final plans will need to be developed through a public participation process that comports with section 14303(a)(7) of the ESEA.

In all other respects, the criteria proposed in the January 13 notice continue to reflect the framework and content that the Department is considering for final consolidated State plans.

III. Other Issues

1. *Consolidated Local Plans.* Commenters on the Department's January 13 proposal requested further information on submission of consolidated local plans under section 14305 of the ESEA. The Department issued and distributed such guidance under a March 24, 1995 letter from the Assistant Secretary [* * *.]

2. *Consolidation of State Administrative Funds.* Commenters requested clarification on the consolidation of State administrative funds under section 14201 of the ESEA. Under this provision, an SEA may consolidate funds available under certain programs for State administration without regard to whether the State submits a consolidated State plan under section 14302. To take advantage of this flexibility, the SEA must be able to demonstrate that a majority of its resources comes from non-Federal sources.

3. *Participation by Private School Children.* SEAs that submit consolidated State plans are encouraged to review the requirements in the ESEA regarding participation of children in private schools, including those contained in sections 1120 and 14503 of the ESEA. An SEA that submits a preliminary or final consolidated State plan is subject to these requirements for the programs covered in the plan to the same extent that it would be if it were submitting separate State plans or applications.

4. *Goals 2000; School-to-Work.* A State that includes the Goals 2000 or School-to-Work programs in its final consolidated plan may be asked to describe how activities conducted as part of planning, developing, and implementing these programs may be integrated into or coordinated with other activities conducted under the consolidated State plan.

5. *Duration.* Subject to any change in the law, the Department intends that approval of a State's final consolidated plan would be the basis for providing a grant to the State for all remaining years of each program authority under which the State requests funding in its plan.

Appendix B—Response to Public Comment on Proposed Guidance

This appendix contains the Department's response to major substantive comments on the proposed guidance published on January 13, 1995, on the submission of consolidated State plans under section 14302 of the ESEA, as amended by the IASA.

1. *General.* Comments from State educational agencies were generally strongly favorable to the Secretary's proposed criteria for consolidated State plans. These commenters affirmed that the flexibility afforded SEAs was consistent with the intent of section 14302, and constituted an important and appropriate means of encouraging SEAs to carry out cross-program coordination and integration. A number of SEAs further indicated that the overall approach reflected in the proposed guidance would result in improved program administration and a greater focus on higher student achievement.

For example, one State superintendent observed: ''Your proposal to provide a two-stage approach for states to follow in their planning is 'right on target' with the approach our workgroup has been following. We have found the proposed criteria quite workable and easy to follow* * *. [T]he criteria proposed will facilitate the linkages and coordination needed between IASA and [Goals 2000 and School-to-Work.]'' Another State superintendent commented: ''[W]e believe consolidated planning will serve as a catalyst for closer linkages between federal and state educational programs.'' On behalf of another SEA, a commenter observed: ''[The SEA] is very supportive of the concept of a consolidated state plan as it will facilitate the delivery of programs and services designed to improve student achievement. A consolidated plan offers new opportunities for state and local educators to develop and implement a vision of seamless service delivery.'' Yet another SEA representative commented, with respect to the guidance, ''We do not believe that flexibility is granted at the expense of accountability, but rather refocuses the accountability on school districts to produce students that are capable of succeeding at future endeavors.''

The Department agrees with these comments. The guidance for the submission of preliminary consolidated State plans retains the thrust, flexibility, and basic content of the criteria proposed in the January 13 notice. In response to various requests to clarify limited aspects of the proposed criteria, the Department has made relatively minor changes in the guidance to ensure accountability and adherence to core provisions in the ESEA. These changes include an SEA's inclusion of pupil services personnel among the key individuals with whom it will consult on the State's final consolidated plan, and identification of programs under the Perkins Vocational and Applied Technology Act that may be included in a consolidated State plan.

2. *Scope of plan; reduction of descriptions.* One commenter observed that, in failing to require all substantive descriptions contained in program-specific plans or applications under individual program statutes, proposed criteria for the consolidated State plan were not consistent with, or supported by, section 14302. The commenter stated that the approach taken in the proposed criteria would impair program accountability. The commenter urged that the criteria retain the specific content of individual program plans and applications, while eliminating unnecessary duplication among common plan and application elements.

The Department believes that the guidance for submission of preliminary consolidated State plans is consistent with section 14302 and carries out its intent. Section 14302(a) provides the Secretary with broad authority to tailor the criteria and procedures to govern a consolidated State plan so as to reduce burden and to encourage the meaningful cross-program coordination, integration of services, and overall focus on increased student achievement that section 14301 anticipates. Indeed, section 14302(b)(3) specifically provides that ''[t]he Secretary shall require only *descriptions*, information, assurances, and other materials that are *absolutely necessary* for the consideration of the consolidated State plan * * *'' (emphasis added).

The Department has observed this direction in providing guidance regarding criteria for the optional, preliminary consolidated State plan. These criteria acknowledge that States would have insufficient time to submit well-considered final consolidated plans this year, and so focus on the most essential elements that the Department believes should guide State thinking. The criteria therefore contemplate preparation, during the coming year and with the active involvement of all interested stakeholders, of a final consolidated State plan that will focus all of the resources of Federal programs included in the plan on a thorough, coordinated and integrated effort to provide the intended beneficiaries of those programs with services in ways that will contribute to an increased level of student achievement. Moreover, the Department believes that the results that Congress wanted to encourage by its enactment of sections 14301–07 are more likely to be achieved through the decreased burdens offered by the Department's approach than through continued use of the individual program-specific plan and application provisions that the commenter would prefer.

The Department emphasizes that, absent a waiver, submission of a consolidated State plan neither relieves a State nor any of its grantees of the obligation to comply with all requirements governing the use of funds provided for programs included in the plan. Moreover, these requirements extend to those that the individual program statute include as elements of program-specific plans or applications. Preparation and submission of a consolidated plan merely permits the State, as a condition of receiving funds for the Federal programs that the plan includes, to prepare a plan that addresses cross-program coordination, service integration and student achievement rather than the various elements in the program-specific applications and plans. Rather than use program-specific applications to secure information on how these programs might be implemented, the Department intends to focus on pertinent aspects of program implementation through other means, including integrated program monitoring and State-by-State collaboration.

3. *Section 1111(a).* Some commenters suggested that criteria for the final consolidated State plan include information, particularly with regard to standards and assessments, specified in section 1111(b) of the Title I, ESEA, statute. The commenters urged that this information was a core aspect of the statutory requirements, applicable

across-the-board to all programs, and thus should be an integral part of the process of developing a consolidated State plan. In response, the guidance on final consolidated plans provided to SEAs on April 20, 1995 (Appendix A to this document) clarifies the Department's intent that final consolidated plans contain adequate information, consistent with section 1111(b), about content and performance standards, assessments, and adequate yearly progress. The Department will provide further information on this issue when it provides additional guidance on the content of final consolidated State plans.

4. *Other comments.* The Department's response to other substantive comments or requests for clarification is contained in the April 20 guidance document (Appendix A to this notice).

[FR Doc. 95–14610 Filed 6–14–95; 8:45 am]

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Thursday
June 15, 1995

Part IV

Department of Transportation

Coast Guard

46 CFR Parts 67, 68, and 69

Centralization of Vessel Documentation Offices; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 67, 68, and 69

[CGD 95–014]

RIN 2115–AF05

Centralization of Vessel Documentation Offices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the designation of 14 ports as ports of record for vessel documentation, and reflects that the Coast Guard has moved the performance of all vessel documentation services to the National Vessel Documentation Center. The centralization of vessel documentation services will permit the Coast Guard to provide more efficient and effective service to the public by enhancing uniformity, specialization, and expertise. A centralized vessel documentation office will also enable the Coast Guard to operate within budgetary constraints in concert with efforts to reduce the Federal Budget.

EFFECTIVE DATE: This rule is effective on August 1, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Don M. Wrye, Vessel Documentation and Tonnage Survey Branch, (202) 267–1492.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Lieutenant Commander Don M. Wrye, Project Manager, and Lieutenant R. Goldberg, Project Counsel, Office of Chief Counsel.

Regulatory Information

This rule is being published as a final rule without being preceded by a notice of proposed rulemaking and opportunity for comment. This rule addresses matters of internal Coast Guard organization and pursuant to 5 U.S.C. 553(b) is exempt from the requirement to publish a general notice of proposed rulemaking. Since this rule addresses matters of agency organization, public comment would not be beneficial to the rulemaking process. Notwithstanding the fact that the subject matter of this rule—centralization of vessel documentation services—is a matter of agency organization, the Coast Guard did conduct a series of public meetings in September through November 1994, in which it announced to the public its plans for the consolidation of existing vessel documentation offices. For these reasons, under 5 U.S.C. 553(b)(B) the Coast Guard for good cause finds that notice, and public procedure on the notice, before the effective date of this rule are unnecessary. The effective date of this final rule, August 1, 1995, is the date that the National Vessel Documentation Center will open and the date that the regional vessel documentation offices will close.

Background and Purpose

Documentation of vessels under Federal law acts as a national registration system which, among other things, serves to establish a vessel's nationality and qualification to be employed in a specified trade. A Certificate of Documentation serves as evidence of nationality. One or more endorsements on a vessel's Certificate of Documentation is evidence of that vessel's qualification to engage in a specified trade. The Coast Guard is the agency responsible for issuing Certificates of Documentation to eligible vessels. When a vessel owner applies for documentation, the Coast Guard determines whether the vessel is eligible for documentation generally, and whether it is eligible specifically for the endorsement or endorsements requested. Since July 1982, the Coast Guard's vessel documentation regulations have permitted applications to be submitted by mail. Today, most vessel documentation transactions are conducted in this manner.

The Coast Guard began consolidating its vessel documentation field offices in July 1983. That early effort resulted in the formation of 15 regional vessel documentation offices. One of those regional offices was closed in 1992, leaving the current 14 offices. During September through November 1994, the Coast Guard conducted a series of public meetings held at various locations to announce the further consolidation of its vessel documentation functions. In those meetings, the Coast Guard announced the availability of its implementation plan for centralization and sought input from the public on methods to make a centralized vessel documentation office operate more efficiently.

One of the suggestions which developed from those public meetings was the notion of permitting certain instruments to be submitted by facsimile for filing purposes. That suggestion has been developed into a separate rulemaking project. A notice of proposed rulemaking amending the Coast Guard's vessel documentation regulations to permit various instruments to be submitted by facsimile for filing purposes, and explaining the procedures for facsimile submission, was published in the **Federal Register** on February 6, 1995 (60 FR 12188). After completion of the consolidation effort, the Coast Guard will continue to review its vessel documentation procedures with a view toward further efforts to streamline the process.

Discussion of Regulations

In various locations in 46 CFR parts 67, 68, and 69, references are made to the ''port of documentation,'' to the ''port of record,'' to variations of ''the documentation officer at the port where application for documentation is made,'' and to the ''documentation office nearest where the vessel is located.'' With consolidation of the regional vessel documentation offices into one location, these references are no longer relevant. Therefore, all of these various references, wherever they appear, are being replaced with an appropriate reference to the National Vessel Documentation Center. Those sections requiring submission of materials to Commandant (G–MVI–5) for decision have also been amended to direct submission of the materials to the Manager, National Vessel Documentation Center. While most of the sections affected are being amended with the simple removal and addition of certain words, a few sections required revision to maintain readability. In addition, the definitions of ''Commandant'', ''Port of documentation'', and ''Port of record'' in § 67.3 are removed, and a definition and address for the ''National Vessel Documentation Center'' is added. No substantive changes are made to the regulations.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of

the Department of Transportation (DOT)(44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Currently, most vessel documentation transactions are conducted by mail. Therefore, the primary effect of this rule upon the affected public will be that vessel documentation materials will now be mailed to the National Vessel Documentation Center rather than a regional vessel documentation office. Furthermore, the consolidation will permit the Coast Guard to implement aggressive management measures, including the internal shifting of documentation resources to address potential backlogs, the use of office automation technology, and the expansion of electronic submission of documentation materials, to further minimize any economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Act.

Although this rule is exempt, the Coast Guard has reviewed it for potential impact on small entities. The Coast Guard is mindful that a number of vessel documentation transactions submitted to it are submitted by vessel documentation services that qualify as small business entities. With these entities specifically in mind, the Coast Guard conducted a series of public meetings during September through November 1994. These public meetings were held at various locations around the country, primarily in port cities where a Coast Guard regional vessel documentation office was located, so that attendance would be convenient. The purpose of these meetings was to announce the pending consolidation of vessel documentation functions. In those meetings, the Coast Guard also sought input from the public, particularly lending institutions and small business entity vessel documentation services, on methods to make a centralized vessel documentation office operate more efficiently, with emphasis on the delivery of services. One of the suggestions which developed from those public meetings was the notion of permitting certain instruments to be submitted by facsimile for filing purposes. That suggestion developed into a rulemaking project and will be in place when the National Vessel Documentation Center opens for business. Other suggestions referred to the elimination of delays between the time of submission of documentation materials and the delivery of the related service.

Most of the small business entity vessel documentation services deal largely with recreational vessels. These kinds of vessels tend to be concentrated in certain locations. As a result, some of the regional documentation offices were required to service large recreational vessel fleets, while other offices had a much smaller number of recreational vessels in their fleet of responsibility. In those ports with large recreational vessel fleets, service backlogs developed. Through use of an aggressive backlog management program, these backlogs have been eliminated.

With consolidation will come a number of benefits that will assist the Coast Guard to better manage its work flow. No longer will one port, with limited personnel resources, have to service a recreational vessel fleet that may be many times larger than that serviced by another port. The consolidation of all vessel documentation billets in the Coast Guard will permit documentation materials submitted from all areas of the country to be handled in one workflow process. The economies of scale that will be achieved, the ability to shift internal resources to meet fluctuations in work, the application of office automation technology, and the ability to establish consistent work practices will address the concerns of the small business entity vessel documentation services. As a result, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.lB, as revised (59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. This rule has been determined to be categorically excluded because the changes made to the regulations are administrative in nature and clearly have no environmental impact. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 67

Fees, Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 68

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 67, 68, and 69 as follows:

PART 67—[Amended]

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

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 CFR 1.46.

2. Section 67.3 is amended by removing the note following the definition ''Commandant'', removing the definitions ''Port of documentation'' and ''Port of record'', and adding in alphabetical order the definition ''National Vessel Documentation Center'' to read as follows:

§ 67.3 Definitions.

* * * * *

National Vessel Documentation Center means the organizational unit designated by the Commandant to process vessel documentation transactions and maintain vessel documentation records. The address is:

National Vessel Documentation Center, 2039 Stonewall Jackson Drive, Falling Waters, WV 25419.

* * * * *

§ 67.15 [Amended]

3. In § 67.15, paragraph (b) is amended by removing the words ''documentation officer with whom the application is filed'' and adding in their place the words ''Manager, National Vessel Documentation Center''.

§ 67.63 [Amended]

4. In § 67.63, paragraph (b)(1) is amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 67.89 [Amended]

5. In § 67.89, paragraph (a) is amended by removing the words ''documentation officer at the port where application for documentation, exchange, or redocumentation is made'' and adding in their place the words ''Manager, National Vessel Documentation Center''.

§ 67.101 [Amended]

6. In § 67.101, paragraph (a) is amended by removing the words ''documentation officer at the port where application for documentation is made'' and adding in their place the words ''Manager, National Vessel Documentation Center''.

§ 67.111 [Amended]

7. In § 67.111, paragraph (a) introductory text is amended by removing the words ''documentation officer at the port of record of the vessel assigned in accordance with § 67.115, or the documentation office nearest where the vessel is located,'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (b) is amended by removing the words ''documentation officer at the port where application for documentation is made'' and adding in their place the words ''Manager, National Vessel Documentation Center''.

§ 67.113 [Amended]

8. In § 67.113, paragraph (e) is amended by removing the words ''documentation officer at the port of record of the vessel'' and adding in their place the words ''National Vessel Documentation Center''.

§ 6.117 [Removed]

9. Section 67.115 is removed.

10. In § 67.117, paragraph (a) introductory text is amended by removing the words ''documentation officer at the port of record of the vessel assigned in accordance with § 67.115, or the documentation office nearest where the vessel is located'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (c) is amended by removing the words ''documentation officer at the port where application for name change is made'' and adding in their place the words ''Manager, National Vessel Documentation Center''.

11. In § 67.119, paragraphs (d) and (e) are revised to read as follows:

§ 67.119 Hailing port designation.

* * * * *

(d) The Manager, National Vessel Documentation Center has final authority to settle disputes as to the propriety of the hailing port designated.

(e) Until such time as the vessel owner elects to designate a new hailing port, the provisions of paragraph (c) of this section do not apply to vessels which were issued a Certificate of Documentation before July 1, 1982.

12. Section 67.130 is revised to read as follows:

§ 67.130 Submission of applications.

All applications made under this subpart and all subsequent filings to effect documentation, except as provided in § 67.133(b), must be submitted to the National Vessel Documentation Center.

§ 67.133 [Amended]

13. In § 67.133, the introductory text of paragraph (a) and paragraph (a)(1) are amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''; paragraph (b) is amended by removing the word ''Commandant's determination'' and adding in their place the words ''determination of the Manager, National Vessel Documentation Center''; the note following the section is amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 67.141 [Amended]

14. In § 67.141, paragraph (a) introductory text is amended by removing the words ''documentation officer at the port of record of the vessel assigned in accordance with § 67.115 or at the documentation office nearest where the vessel is located'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.145 [Amended]

15. In § 67.145, paragraph (a) is amended by removing the reference ''67.167(b) (1) through (6)'' and adding in its place the reference ''67.167(b) (1) through (5)''; paragraph (c) is amended by removing the words ''documentation officer at the port where application for exchange is made'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (d) is removed.

§ 67.147 [Amended]

16. Section 67.147 and the note following the section are removed.

§ 67.149 [Amended]

17. In § 67.149, paragraph (b) is amended by removing the words ''port of record of the vessel'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.151 [Amended]

18. In § 67.151, paragraph (a) is amended by removing the words ''Commandant, via the documentation officer at the port of record of the vessel assigned in accordance with § 67.115, or at the documentation office nearest where the vessel is located'' and adding in their place the words ''Manager, National Vessel Documentation Center''; paragraph (b) is amended by removing the words ''Commandant's finding'' and adding in their place the words ''finding of the Manager, National Vessel Documentation Center''.

§ 67.163 [Amended]

19. In § 67.163, paragraph (b) is amended by removing the words ''documentation officer at any port of documentation'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.165 [Amended]

20. In § 67.165, paragraph (a) is amended by removing the words ''documentation officer at the vessel's port of record assigned in accordance with § 67.115'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (b) introductory text is amended by removing the words ''documentation officer at the vessel's port of record'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.167 [Amended]

21. In § 67.167, paragraph (a) is amended by removing the words ''documentation officer at the port of record of the vessel assigned in accordance with § 67.115 or at the documentation office nearest where the vessel is located'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (b)(3) is removed and paragraphs (b)(4) through (b)(7) are redesignated as

paragraphs (b)(3) through (b)(6), respectively.

§ 67.169 [Amended]

22. In § 67.169, paragraph (b) is amended by removing the words ''documentation officer to whom application is made'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.171 [Amended]

23. In § 67.171, paragraph (b) is amended by removing the words ''any documentation officer'' and adding in their place the words ''the National Vessel Documentation Center''; paragraph (d) is amended by removing the words ''vessel's port of record'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.173 [Amended]

24. Section 67.173 is amended by removing the words ''Commandant or a documentation officer'' and adding in their place the words ''Manager, National Vessel Documentation Center'', by removing the words ''to a documentation officer at any port of documentation'' and adding in their place the words ''to the National Vessel Documentation Center'', and by removing the note at the end of the section.

§ 67.175 [Amended]

25. In § 67.175, paragraph (b) introductory text is amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 67.177 [Amended]

26. In § 67.177, paragraph (b) introductory text is amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 67.203 [Amended]

27. In § 67.203, paragraph (a)(2) is amended by removing the words ''at the port where the filing is made'' and adding in their place the words ''to the National Vessel Documentation Center''.

§ 67.211 [Amended]

28. In § 67.211, paragraph (b) is amended by removing the words ''all Coast Guard documentation offices'' and adding in their place the words ''the National Vessel Documentation Center''.

29. Section 67.213 is revised to read as follows:

§ 67.213 Place of filing and recording.

(a) All instruments submitted for filing and recording must be submitted to the National Vessel Documentation Center.

(b) All instruments are recorded at the National Vessel Documentation Center.

§ 67.215 [Amended]

30. In § 67.215, paragraph (a) is amended by removing the words ''documentation officer at the port of documentation where submitted for filing'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (b) is amended by removing the words ''documentation officer at the port of documentation where the original instrument was filed'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.217 [Amended]

31. In § 67.217, paragraph (b) introductory text is amended by removing the words ''documentation officer at the port where the filing was made'' and adding in their place the words ''Manager, National Vessel Documentation Center''.

32. Subpart T is revised to read as follows:

Subpart T—Abstracts of Title and Certificates of Ownership

Sec.
67.301 Issuance of Abstract of Title.
67.303 Issuance of Certificate of Ownership.

§ 67.301 Issuance of Abstract of Title.

Any person may request the National Vessel Documentation Center to issue a General Index or Abstract of Title (form CG–1332) for a vessel.

§ 67.303 Issuance of Certificate of Ownership.

Any person may request the National Vessel Documentation Center to issue a Certificate of Ownership (form CG–1330) for a vessel.

§ 67.313 [Amended]

33. In § 67.313, paragraph (b)(2) is amended by removing the words ''a documentation officer'' and adding in their place the words ''the National Vessel Documentation Center''.

§ 67.315 [Amended]

34. In § 67.315, paragraph (b)(2) is amended by removing the words ''a documentation officer'' and adding in their place the words ''the National Vessel Documentation Center''.

§ 67.319 [Amended]

35. Section 67.319 is amended by removing the words ''a documentation officer at any port of documentation'' and adding in their place the words ''the National Vessel Documentation Center''.

§ 67.32 [Amended]

36. Section 67.321 is amended by removing the words ''documentation officer at the port of record of the vessel'' and adding in their place the words ''National Vessel Documentation Center''.

§ 67.500 [Amended]

37. In § 67.500, paragraph (b) is amended by removing the words ''or renewal is at a port other than the port of record''; paragraph (d) is amended by removing the words ''Commandant (G-MVI)'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 67.515 [Removed]

38. Section 67.515 is removed and reserved.

§ 67.550 [Amended]

39. In § 67.550, Table 67.550 is amended by removing the entry ''Renewal at port other than port of record'' under the category ''Applications:'' in the ''Activity'' column, by removing the corresponding entry ''Subpart L'' in the ''Reference'' column, and by removing the corresponding entry ''15.00'' in the ''Fee'' column.

Appendix A to Part 67 [Amended]

40. Appendix A to Part 67.—Ports of Documentation is removed.

PART 68—[AMENDED]

41. The authority citation for part 68 continues to read as follows:

Authority: 46 U.S.C. 2103; 49 CFR 1.46. Subpart 68.01 also issued under 46 U.S.C. app. 876; subpart 68.05 also issued under 46 U.S.C. 12106(d).

§ 68.01–7 [Amended]

42. In § 68.01–5, paragraphs (a) and (b) are amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 65.01–7 [Amended]

43. In § 68.01–7, paragraphs (a), (b), and (c) are amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

§ 68.01–9 [Amended]

44. In § 68.01–9, paragraphs (a) and (b) are amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

45. Section 68.01–17 is revised to read as follows:

§ 68.01–17 Application by an 883–1 corporation to document a vessel.

(a) An application by an 883–1 corporation to document a vessel must comply with the applicable requirements in subparts A, D, E, F, G, H, I, K, and L of part 67 of this chapter.

(b) An application by an 883–1 corporation to document a vessel must include a copy of the Certificate of Compliance issued under § 68.01–5.

§ 68.05–11 [Amended]

46. In § 68.05–11, paragraphs (a) and (b) are amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''; paragraph (c) is amended by removing the words ''documentation officer where application is made'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (d) is amended by removing the words ''documentation officer where application is made'' and adding in their place the words ''National Vessel Documentation Center''; paragraph (e) is removed.

§ 68.05–13 [Amended]

47. In § 68.05–13, paragraphs (a) and (b) are amended by removing the word ''Commandant'' and adding in its place the words ''Manager, National Vessel Documentation Center''.

PART 69—[AMENDED]

48. The authority citation for part 69 is revised to read as follows:

Authority: 46 U.S.C. 2301, 14103; 49 CFR 1.46.

49. Section 69.9 is amended by adding in alphabetical order the definition ''National Vessel Documentation Center'' to read as follows:

§ 69.9 Definitions.

* * * * *

National Vessel Documentation Center means the organizational unit designated by the Commandant to process vessel documentation transactions and maintain vessel documentation records. The address can be found in § 67.3 of this subchapter.

* * * * *

§ 69.15 [Amended]

50. In § 69.15, paragraph (b) is amended by removing the words ''any Coast Guard documentation office'' and adding in their place the words ''the National Vessel Documentation Center''.

51. In § 69.55, paragraph (b) is revised to read as follows:

§ 69.55 Application for measurement services.

* * * * *

(b) Vessel's name and official number (if assigned).

* * * * *

52. In § 69.105, paragraph (b) is revised to read as follows:

§ 69.105 Application for measurement services.

* * * * *

(b) Vessel's name and official number (if assigned).

* * * * *

53. Section 69.205 is revised to read as follows:

§ 69.205 Application for measurement services.

To apply for measurement under the Simplified Measurement System, the owner of the vessel must complete either an Application for Simplified Measurement (form CG–5397), or a Builder's Certification and First Transfer of Title (form CG–1261) which has the information in Part III ''Dimensions'' completed, and submit it to the National Vessel Documentation Center.

Dated: May 26, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–14553 Filed 6–14–95; 8:45 am]

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Federal Register

Thursday
June 15, 1995

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Flight Rules in the Vicinity of the Grand Canyon National Park; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 25149, Special Federal Aviation Regulation (SFAR) No. 50–2]

RIN 2120–AF60

Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action continues, for an additional 2 years, the effectiveness of SFAR No. 50–2, which contains procedures governing the operation of aircraft in the airspace above Grand Canyon National Park. SFAR No. 50–2, which originally established the flight regulations for a period of 4 years, had previously been extended to allow the National Park Service (NPS) time to complete studies concerning aircraft overflight impacts on the Grand Canyon, and to forward its recommendations to the FAA. The NPS study, completed in September 1994, recommended alternatives, such as use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits. This rule allows the FAA sufficient time to review thoroughly the NPS recommendations as to their impact on the safety of air traffic over the Grand Canyon National Park, and to initiate and complete any appropriate rulemaking action.

DATES: *Effective date.* June 15, 1995. *Expiration date.* SFAR 50–2 expires June 15, 1997.

FOR FURTHER INFORMATION CONTACT: Mrs. Ellen Crum, Air Traffic Rules Branch, ATP–230, Airspace Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1987, the FAA issued SFAR No. 50 (subsequently amended on June 15, 1987; 52 FR 22734) establishing flight regulations in the vicinity of the Grand Canyon. The purpose of the SFAR was to reduce the risk of midair collision, reduce the risk of terrain contact accidents below the rim level, and reduce the impact of aircraft noise on the park environment.

On August 18, 1987, Congress enacted legislation that required a study of aircraft noise impacts at a number of national parks and imposed flight restrictions at three parks: Grand Canyon National Park in Arizona, Yosemite National Park in California, and Haleakala National Park in Hawaii (Pub. L. 100–91).

Section 3 of Pub. L. 100–91 required that the Department of the Interior (DOI) submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations (1) provide for substantial restoration of the natural quiet and experience of the Grand Canyon; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the Canyon; and (3) designate zones that were flight free except for purposes of administration of underlying lands and emergency operations.

Further, Pub. L. 100–91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon. It also required that the plan establish a means to implement the recommendations of the DOI without change unless the FAA determined that executing the recommendations would adversely affect aviation safety. In that event, the FAA was required to revise the DOI recommendations to resolve the safety concerns and to issue regulations implementing the revised recommendations in the plan.

In December 1987, the DOI transmitted to the FAA preliminary recommendations for an aircraft management plan at the Grand Canyon. The recommendations included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR No. 50–2 revising the procedures for operation of aircraft in the airspace above the Grand Canyon (53 FR 20264, June 2, 1988). The rule implemented DOI's preliminary recommendations for an airspace management plan with some modifications that the FAA initiated in the interest of aviation safety.

Pub. L. 100–91 also required the DOI to conduct a study, with DOT technical assistance, to determine the proper minimum altitude to be maintained by aircraft when flying over units of the National Park System. The research was to include an evaluation of the noise levels associated with overflights. It required that, before submission to Congress, the DOI provide a draft report (containing the results of its studies) and recommendations for legislative and regulatory action to the FAA for review. The FAA is to notify the DOI of any adverse effects these recommendations may have on the safety of aircraft operations. Additionally, section 3 of Pub. L. 100–91, required the DOI to submit a Report to Congress regarding the success of the Grand Canyon airspace management plan, and any necessary revisions, within 2 years of the effective date of the plan. The FAA was to report whether any of these recommendations would have an adverse effect on safety. On June 15, 1992, because of a delay in the completion of the DOI study, the FAA promulgated a final rule to extend the expiration date to SFAR No. 50–2 to June 15, 1995 (57FR 26766).

On September 12, 1994, the DOI submitted its final report and recommendations to Congress. The report recommends numerous revisions to the current flight restrictions contained in SFAR 50–2. In addition, the report recommends the use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits for flight in the vicinity of the Grand Canyon.

Upon completing a review of the NPS congressional report, the FAA may amend SFAR 50–2 through the rulemaking process. On April 12, 1995, the FAA published a notice of proposed rulemaking (NPRM) that proposed to extend the provisions of SFAR No. 50–2 for 2 years from the June 15, 1995, expiration date (60 FR 18700). This action extends the effectiveness of the rule, allowing the FAA sufficient time to determine if there is a need to adjust SFAR No. 50–2 in accordance with the NPS recommendations and to make any necessary changes.

Discussion of Comments

The FAA received nine comments in support of, and one comment in opposition to, this action. Commenters included the Aircraft Owners and Pilots Association (AOPA); the Las Vegas Department of Aviation; the National Transportation Safety Board (NTSB); the U.S. Department of Interior, Bureau of Indian Affairs (BIA); environmental associations and air tour operators.

AOPA supports extension of the rule; however, it states that the rule is ''inherently discriminatory'' to many general aviation (GA) aircraft due to their operating characteristics. AOPA contends that this rule restricts many GA overflights to a narrow corridor and strongly opposes any similar overflight restrictions at any other national parks.

The Las Vegas Department of Aviation supports extension of the rule in order to allow the FAA sufficient time to study the NPS report. However, the

commenter is concerned with several recommendations in the report and encourages the Department of Transportation to carefully consider the evidence, believing that there can be a balance among the air tour industry, the NPS, the FAA, and environmental groups.

The NTSB supports extending the SFAR for 2 years. However the NTSB believes that a permanent nationwide policy for air tour operators should be implemented.

The BIA states that, if the FAA extends the SFAR, it should consult with various Indian tribes residing within or having ties to the Grand Canyon area during the 2-year extension period concerning potential impact to their reservation environment.

Several commenters support extension of the current rule; however, they request an adjustment to the tour route known as the Dragon Corridor. The commenters believe that adjustment to this corridor would lessen the noise impact on visitors to the heavily used Hermit's Rest overlook and trail.

One commenter ''strongly opposes'' the SFAR in its present form, given the NPS report. The commenter recommends prohibiting an increase in the number of Grand Canyon tour flights from 1988 levels and requiring tour operators to provide the FAA with sufficient information to monitor the number of tour operations.

The FAA has determined that comments requesting amendments to the current rule are beyond the scope of the NPRM. The NPRM did not recommend any changes to the current SFAR; it merely proposed extending the rule in its existing form. The FAA is currently reviewing and analyzing the NPS report and recommendations as to the impact on the safety of air traffic at the Grand Canyon. The FAA has determined that any substantive change at this point will be inappropriate. Upon completing the review and analysis of the NPS report, the FAA may amend SFAR No. 50–2 through the rulemaking process.

The Rule

This rule amends the expiration date of the current SFAR 50–2 from June 15, 1995, to June 15, 1997. The airspace restrictions and operating procedures for the airspace over the Grand Canyon are not altered by this action. In consideration of the need to avoid confusion on the part of pilots operating in the vicinity of the Grand Canyon, the FAA finds good cause, pursuant to 5 U.S.C. § 553(d), for making this action effective in less than 30 days to promote the safe and efficient operation of aircraft in the airspace above the Grand Canyon.

Environmental Review

As discussed above, Pub. L. 100–91 required the DOI to submit a report to Congress with 2 years of implementation regarding the success of the final airspace management plan for the Grand Canyon, including possible revisions. Now that this report has been forwarded to both Congress and the FAA, the FAA is required to comment on whether any of these revisions would have an adverse effect on aircraft safety.

Pub. L. 100–91 essentially reflects a decision by Congress that a final airspace management plan, currently set forth in SFAR No. 50–2, should continue permanently with any appropriate modifications developed as a result of the follow-on study. The statue and its legislative history show that Congress considered the environmental and economic concerns inherent in regulating the navigable airspace over the Grand Canyon. Since Congress, and not the FAA, determined to make permanent an airspace management plan as delineated in SFAR No. 50–2, this extension of SFAR No. 50–2 does not require compliance with the National Environmental Policy Act of 1969 (NEPA).

Assuming, for the sake of argument, that the FAA has discretion to terminate SFAR No. 50–2, this action to extend its effectiveness for 2 more years is categorically excluded from the requirements of the NEPA. (See FAA Order 1050.1D, Par. 31(a)(4), ''Policies and Procedures for Considering Environmental Impacts.'') A documented categorical exclusion has been placed in the docket.

Alternatively, the analysis in the 1988 Environmental Assessment (EA) and the Finding of No Significant Impact remain valid and support a determination that this extension is not likely to significantly impact the environment. The extension will not cause significant environmental impacts because it will not change the volume of traffic, the altitude of flight routes, or the noise characteristics of the aircraft typically used in canyon flights between now and 1997.

This extension will enable the FAA to consider recommendations that the DOI forwarded in September 1994 to enhance the effectiveness of the SFAR. Based upon its studies, the DOI has concluded that the SFAR has significantly reduced noise impacts in areas of the Grand Canyon. However, the DOI believes the benefits may be lost unless additional restrictions are adopted.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is not a ''significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule will not have a significant impact on a substantial number of small entities and will not constitute a barrier to international trade.

SFAR No. 50–2 was justified based on the DOI's December 1987 benefit-cost analysis. This analysis stated that 40 to 45 operators conducted air tours over the Grand Canyon with an estimated revenue of $30 to $50 million per year. The number of operations over the Grand Canyon was growing, with operations at Grand Canyon National Park Airport increasing 300 percent from 1974 to 1980.

The establishment of large flight-free zones was expected to roughly double the time for Tusayan-based operators to reach the canyon rim. The DOI analysis assumed that these operators could adjust for the increased travel time by increasing the overall tour length and passing on any additional costs to the consumer. While the percent of tour time spent over the canyon would decrease, small price increases or slightly decreased flight time over the canyon was not expected to result in a decreased ridership. In addition, even though Tusayan-based companies would incur costs to modify advertising literature and tour narrations due to route change requirements, the DOI analysis assumed that these costs would likely be part of the normal operating program. The benefits to the park resources (natural quiet, wildlife, archeological features, etc.) and the more than 3,315,000 visitors (about 3 million front-country users and over 90 percent of the 350,000 back-country, below rim users each year) would accrue primarily from the increased quiet resulting from noise reduction. Thus, DOI concluded that this NPRM would be cost-beneficial because cost to air tour operators would be minimal and

the benefits to park resources and visitors would be significant.

For the purpose of this rule, the FAA updated the DOI's December 1987 data as follows: (1) There are still 40 to 45 air tour operators; (2) the estimated revenue generated by the industry is now over $100 million each year; and (3) the number of ground visitors has increased to almost 5 million. The FAA believes that extending the current SFAR No. 50–2 will not alter current industry practices in the Grand Canyon special flight rules area and will not affect growth in air traffic. Additionally, the rule will not cause significant economic impact because it will not change the volume of traffic, the altitude of flight routes, or the noise characteristics of the aircraft typically used in canyon flights between now and 1997. Therefore, the FAA has determined that the extension will not result in additional costs to the air tour operators.

Since the rule was first promulgated in 1987, the number of ground visitors increased by 50 percent. During this period, the estimated number of air tour operators remained unchanged, while the estimated revenue generated by the air tour industry has doubled. Therefore, the FAA has determined that any costs incurred by the air tour operators are not overly burdensome.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have ''a significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are independently owned and operated small businesses and small, not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this direct final rule. The FAA determined that this rule will not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

This action is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. This assessment is based on the fact that part 135 air tour operators potentially impacted by this rule do not compete with similar operators abroad. That is, their competitive environment is confined to the Grand Canyon National Park.

Federalism Implications

This action will not have substantial effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this action will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization Standards and Recommended Practices (SARP) to the maximum extent practicable. For this action, the FAA has reviewed the SARP of Annex 10. The FAA has determined that this amendment will not present any differences.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

Conclusion

For the reasons set forth above, the FAA has determined that this rule is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this action 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. This rule is not considered significant under DOT Regulatory Policies and Procedures.

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Air taxis, Air traffic control, Aviation safety.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending SFAR No. 50–2 (14 CFR parts 91 and 135) as follows:

PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180), 42 U.S.C. 4321 et seq., E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

PART 135—[AMENDED]

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40105, 44113, 44701–44705, 44707–44717, 44722, and 45303.

3. In parts 91 and 135, Special Federal Aviation Regulation No. 50–2, the text of which appears at the beginning of part 91, is amended by revising section 9 to read as follows:

SFAR No. 50–2—Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

* * * * *

Sec. 9. *Termination date.* This Special Federal Aviation Regulation expires on June 15, 1997.

* * * * *

Issued in Washington, D.C. on June 9, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–14649 Filed 6–14–95; 8:45 am]

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Federal Register

Thursday
June 15, 1995

Part VI

Department of Health and Human Services

Administration for Children and Families

45 CFR Part 1310
Head Start Program; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1310

RIN 0970–AB24

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration for Children and Families is issuing this Notice of Proposed Rulemaking to implement the statutory provision for establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs.

DATES: In order to be considered, comments on this proposed rule must be received on or before August 14, 1995.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2217, 330 C Street, SW., Washington, DC. 20201, Monday through Friday, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Bill Wilson, Head Start Bureau, (202) 205–8913.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

The Head Start program is authorized under the Head Start Act (the Act), section 635 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive child development services primarily to low-income children, predominantly age three to the age of compulsory school attendance, and their families. To help enrolled children achieve their full potential, Head Start provides comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of the parents of enrolled children. Parents receive training and education that fosters their understanding of and involvement in the development of their children. They also become involved in the development, conduct, and direction of local programs. Also, the Head Start program provides services to children below the age of three and their families. These services are designed to promote the development of the children and to enable their parents to fulfill their roles as parents and move toward self sufficiency.

In fiscal year 1993, Head Start served 713,903 children through a network of 1,395 grantees and 575 delegate agencies. Delegate agencies have approved written agreements with grantees to operate Head Start programs.

While Head Start is intended to serve primarily children from low-income families, Head Start's regulations permit up to 10 percent of the children to be from families who are not low-income. The Head Start regulations also require that a minimum of 10 percent of enrollment opportunities in each grantee be made available to children with disabilities. Such children are expected to participate in the full range of Head Start activities with their non-disabled peers, and to receive needed special education and related services.

The Head Start Improvement Act of 1992 contains a new provision which authorizes the Head Start Bureau to develop regulations for the safe transportation of Head Start children. In addition, the Final Report of the Advisory Committee on Head Start Quality and Expansion includes in its recommendations the development of ''* * * regulations to assure that safe and effective transportation services are available.'' The development of these ''Performance Standards'' for Head Start transportation support the goal of ensuring that children and families receive high quality Head Start services.

II. Background

The authority of this Notice of Proposed Rulemaking is sections 640(i) and 644 (a) and (c) of the Head Start Act (42 U.S.C. 9801 *et seq.*). Section 640(i) directs the Secretary to issue regulations establishing requirements for the safety features and the safe operation of vehicles used by Head Start agencies to transport children participating in Head Start programs. Section 644 (a) and (c) requires the issuance of regulations setting standards for organization, management, and administration of Head Start programs.

Since the inception of the program, most Head Start agencies have routinely provided transportation for Head Start children to and from the classroom when needed, although there has never been a requirement to do so. To date, information on transportation provided to Head Start programs has been limited to a series of Information Memoranda which provided guidance to programs on issues around transportation safety, but which did not require any action on the part of Head Start agencies. The following is a summary of that information:

- *ACYF–IM–82–01, ''Transportation Safety'', issued on January 19, 1982.* This Information Memorandum provided the first notification to Head Start programs with a Highway Accident Report prepared by the National Transportation Safety Board (NTSB) of an accident involving a Head Start vehicle. As a result of their investigation of this accident, the NTSB recommended that ACYF advise all Head Start programs of the circumstances of the accident in hopes that the report would draw attention to the importance of transportation safety. The Information Memorandum also notified programs of the NTSB's recommendation that ACYF adopt and emphasize the need for adherence to the policies and guidelines provided by the National Highway Traffic Safety Administration's (NHTSA) Pupil Transportation Safety Standards, Highway Safety Program Standard Number 17 (now Guideline 17). A copy of Standard 17 was included and programs were ''urged'' to use the Standard to assess the adequacy of their transportation systems.
- *ACYF–IM–93–10. ''Transportation'', issued on March 18, 1993.* This Information Memorandum replaced ACYF–IM–82–01 and ACYF–IM–83–06, since both the FMVSS and NHTSA's Pupil Transportation Safety Standards had been revised. The Information Memorandum provided Head Start programs with a copy of the new Guideline 17 and again encouraged programs to purchase only vehicles which meet the FMVSS. The Information Memorandum also provided Head Start programs with new information regarding the Federal Highway Administration's (FHWA) Commercial Motor Vehicle Safety Act and the Commercial Driver's License (CDL) program.

As these issuances have been advisory and not legally binding, there have been differing degrees of implementation. Not all Head Start agencies offer transportation services and, among the agencies that do provide transportation, there are varying degrees of quality and safety.

Because of its impact on the quality of services provided to children and families, we strongly believe that the transportation ''component'' of Head Start should be on a par with the other

components of education, health, social services and parent involvement in terms of budgeting, training and overall integration of the transportation services into the day-to-day activities of the program. For example, in a typical rural Head Start program where children are transported over long distances, it is possible for children to spend from ¼ to ⅓ of their day en route to and from the classroom. It is imperative, therefore, that the time children spend on the vehicle is treated with the same level of importance as the time the children spend in the classroom and in other program activities.

We know from experience that significant variation exists among the States in terms of whether or not Head Start vehicles and Head Start drivers are included under the purview of State school bus requirements.

In preparing for this NPRM, a survey was conducted of the States to determine whether and the extent to which, the requirements in the State's pupil transportation safety plan applied to Head Start programs. Of the 48 States that responded to the survey, 14 of them stated that their Head Start programs are covered by the regulations governing pupil transportation, 22 States responded that their Head Start programs are not covered, 10 States gave a conditional response and 1 State did not know. The survey also indicated significant variation among the States themselves in the amount of training required for school bus drivers. Of the 45 States that responded to this question, 39 have some mandated training requirements for school bus drivers, 3 States reported that driver training was handled at the local level, and 3 States reported no mandated training requirements for school bus drivers. More significantly perhaps, only 13 States reported mandated driver training for Head Start bus drivers.

This variation, both in the way Head Start programs are viewed by the States as well as the differing requirements among the States, precluded reliance on the States as the sole source for transportation safety standards for Head Start programs and was one of the primary determinants in our decision to develop minimum standards which would apply to all Head Start programs, regardless of the State in which they operate.

In the development of this proposed rule, we have with only minor variations, adopted the recommendations contained in Guideline 17. As such, this proposed rule was developed through ongoing consultation with the Federal Highway Administration, specifically with NHTSA's Safety Counter Measures Division, on the application of the FMVSS and Guideline 17 to Head Start programs. It should be noted that we do not wish to place Head Start programs in conflict with State requirements. On the contrary, it is our intention to continue to work with the States beyond the implementation of the rule to enhance the relationship between Head Start programs and the State agencies responsible for pupil transportation safety. Toward that end, we have consulted with the National Association of State Directors of Pupil Transportation throughout the development of this proposed rule and we welcome the identification of any actual or potential problems that may be identified during the review of this NPRM.

Where Guideline 17 lacked specificity or was silent on some aspect that was considered important, we have relied on other resources, such as the National Standards for School Bus Operations, in determining, for example, the minimum hours of pre-service and in-service training for drivers, the content requirements for driver training and the rules for trip routing. The NTSB's Special Report 222 provided valuable information regarding the use of seat belts on school buses, other special equipment, such as crossing control arms, the need for strict rules for trip routing, and the need to train children in safe riding practices both on and off the bus.

The NTSB's examination of the use of seat belts on school buses in Special Report 222, along with NHTSA's recommendation in Guideline 17 that passengers in vehicles with a gross vehicle weight rating of under 10,000 pounds (which is the class of vehicle most in use by Head Start programs) use occupant restraints, raises an issue of special importance to the safe transportation of Head Start children. The use of standard Type I and Type II seat belts is inappropriate for children who weigh 50 pounds or less, because of the potential for injury from the seat belt itself. Children weighing 50 pounds or less should be seated in child restraint systems designed in accordance with FMVSS No. 213, ''Child Restraint Systems.'' Since almost all Head Start children fall into this lower weight category, we have included such a requirement in the proposed rule. Our decision to include this requirement is based on consultation with such organizations as the American Academy of Pediatrics, the Children's National Medical Center in Washington, DC and the Riley Hospital for Children, Automotive Safety for Children Program in Indianapolis, Indiana. We are particularly interested in comments addressing age mixes of children with respect to child restraints (infants and toddlers).

III. Summary of the Proposed Regulation

The proposed rule:

- Applies to all Head Start grantees and delegate agencies that provide transportation services to and from the classroom and to special events, such as field trips and other group events, which take place away from the classroom but are an integral part of the scheduled activities for children.
- Requires that Head Start vehicles meet the Federal Motor Vehicle Safety Standards (FMVSS) for school buses and prohibits the use of small vans in the transporting of Head Start children;
- Describes the minimum qualifications for operators of Head Start vehicles;
- Describes the pre-service and in-service training requirements for operators of Head Start vehicles;
- Describes the training requirements for parents and children in vehicle and pedestrian safety;
- Describes the requirements for transportation of children with disabilities; and
- Defines the role of Head Start agencies in local efforts to plan and implement coordinated transportation systems in order to achieve greater cost effectiveness in the overall cost of providing transportation.

The contents of this proposed rule are adopted from the following sources of information:

- 23 CFR, part 1204—Highway Safety Program Guideline No. 17, ''Pupil Transportation Safety,'' referred to in this text as Guideline 17;
- 49 CFR, part 383—Commercial Driver's License Standards: Requirements and Penalties;
- 49 CFR, part 391—Qualifications of Drivers;
- 1990 National Standards for School Buses and School Bus Operations, National Safety Council; and
- Special Report 222, ''Improving School Bus Safety,'' Transportation Research Board, National Research Council, 1989.

IV. Section-by-Section Discussion of the NPRM

Subpart A—General

Section 1310.1—Purpose

This section describes the purpose of the regulation and references the section of the Head Start Act upon which the regulation is based.

Section 1310.2—Applicability

This section states that the new rule applies to all Head Start grantees and delegate agencies that provide transportation services. It also includes a phase in period of three years from the effective date of the rule with certain exceptions. This phase-in period should not become a disincentive to agencies to implement requirements as early as possible but rather be a means by which agencies can carry out their implementation responsibilities with time for careful planning. We considered allowing waivers but decided against this approach given the many waiver requests this provision would have precipitated and the fact that we envision all affected Head Start agencies fully meeting all of the requirements no later than 3 years from its effective date. We welcome comments on whether the phase-in period provides enough time (or gives too much time) for a Head Start agency to fully comply with part 1310. Also we welcome comments on whether we should provide for waivers on certain requirements which are believed to be too difficult for all affected agencies to meet in the three year period and which do not compromise the safety of Head Start children.

Section 1310.3—Definitions

This section provides the definition of terms used throughout the proposed rule. Key words and phrases defined include ''transportation'' (which is defined as the regular transporting of children to and from the classroom, on field trips or other events which are an integral part of the daily activities for children), ''vehicle'' (which is a ''school bus'' as defined in the National Highway Traffic Safety Administration's (NHTSA) Guideline 17), ''trip routing'' (which means the process for determining the fixed routes to be traveled on a daily basis), ''child restraint system'' (which means a device designed to restrain children weighing 50 pounds or less); certain school bus equipment, including ''stop signal arm'' (which is a traffic control device) and ''crossing control arm'' (which is a device to keep children within the line of sight of the driver when crossing in front of the bus), and such terms as ''training,'' ''driver qualifications,'' ''Transportation Supervisor'' and ''Bus Monitor,'' which define the staffing requirements for the transportation component.

Subpart B—Transportation Requirements

Section 1310.10—General

This section contains the general requirements for the provision of transportation services for Head Start families.

Paragraph (a) of this section requires that all Head Start agencies that provide transportation services either directly, through agency owned or leased vehicles, or through contract with a public or private provider must meet the requirements of this part. (Please note that the definition of ''transportation'' deliberately excludes the transporting of small groups of children to and from medical appointments or other program services, and other ''incidental'' transportation, such as transporting a sick child home, which are outside of the scope of this regulation.)

Paragraph (b) requires Head Start agencies to document their decision not to provide transportation to all or a portion of their enrollment. It also requires that such a decision must be reviewed and updated annually. This documentation is needed in order to have on file evidence of compliance. We expect that the regular oversight of the Policy Council in matters relating to the proper functioning of a Head Start program will serve as a review of the agency's decision not to provide transportation. Since the work of the Policy Council is already a part of the operation of each Head Start Program, we did not reference the Policy Council in this rule.

We realize the difficulties some programs, especially rural programs, will face in making the decision of whether or not to provide transportation. There are cases where a single child needs transportation for a long distance or where several children's homes are widely scattered. These cases raise issues both about the cost of providing transportation and about the desire not to keep a Head Start eligible child out of the program for lack of transportation. We are particularly interested in comments on these problems and potential solutions. For example, should there be a ''reasonableness exception clause'' for individual cases such as the single child a living long distance from the center? And if there is a reasonableness clause, what transportation requirements should be in effect (e.g., age-appropriate restraints and placement in the vehicle)?

Paragraph (c) requires Head Start agencies which do not offer transportation to offer assistance in arranging for transportation services to Head Start families.

Paragraph (d) requires each Head Start program to have a Transportation Supervisor. In most Head Start programs, this responsibility is currently with the Head Start Director who, in some cases, lacks the expertise and the time to deal with the many facets of transportation. Therefore, we believe it is essential to have a staff person assigned specifically to this function so that funds are set aside in each program's budget for hiring such a person, if necessary.

Paragraph (e) requires that every Head Start vehicle have a bus monitor (more, if necessary for disabled children), either a paid staff member or a volunteer, on the vehicle at all times when children are on board. A bus monitor is essential to assuring the safe transport of this age group of children and will assist with the seating and unseating of children in the child restraint systems, managing the behavior of the children while the bus is in motion and for assisting the driver in case of emergency. In some instances it may be necessary to have more than one monitor. While we did not specifically regulate in this area, we invite comment on the appropriate ratio of monitor to child.

Paragraph (f) requires Head Start agencies to report all accidents involving Head Start vehicles with or without children on board in accordance with State procedures. Accident reporting is a critical part of improving school bus safety, both in terms of vehicle safety and vehicle operations.

Paragraph (g) requires that Head Start vehicles be equipped with communications equipment, such as a citizen band radio, to call for assistance in case of an emergency.

Paragraph (h) requires that Head Start vehicles which operate in areas with extreme heat or cold be equipped with air conditioning, ''winter packs'' or other specialized equipment as appropriate to ensure the safety and comfort of the passengers.

Paragraph (i) provides the requirements for release of the children at the end of the day, either from the classroom or at the vehicle stop, to a duly authorized adult. Since the Head Start program is responsible for the care and safety of the children from the time they first enter the custody of the Head Start staff until they are returned to the custody of the parent or guardian, this provision is included to ensure that children are released only to duly authorized persons. This provision is extended to the non-transported child because it does not appear anywhere else in the Head Start regulations.

Section 1310.11—Vehicles

This section specifies the minimum requirements for all Head Start vehicles used to transport groups of children to and from the classroom, to home-based socializations, to group health screening and on field trips or other group activities scheduled by the Head Start staff.

The requirements in this provision come from three sources. The Federal Motor Vehicle Safety Standards (FMVSS) (49 CFR part 571), set performance standards applicable to motor vehicles as defined in 49 U.S.C. 30102(a)(6) and include standards specifically applicable to school buses. These regulations are binding on Head Start grantees operating transportation programs by virtue of their issuance by the National Highway Traffic Safety Administration (NHTSA).

Head Start vehicles seating more than 10 persons are considered school buses by NHTSA for purposes of compliance with the FMVSS. It is a violation of 49 U.S.C. 30112 for a vendor to sell a vehicle which does not comply with the FMVSS. Another source is Highway Safety Guideline 17 (23 CFR Part 1204) issued by NHTSA and the Federal Highway Administration (FHWA). This document is a set of recommendations to States concerning their policies on the operation of school buses. The proposed regulations would make these recommendations binding on Head Start grantees, except for certain requirements which are only binding ''to the extent allowable under State law.'' Finally, there are also requirements in the regulations on the design and operation of vehicles which are imposed by ACF and are in addition to the requirements in Highway Safety Guideline 17 and the FMVSS.

Paragraph (a) requires that all Head Start vehicles comply with recommendations regarding ''school buses,'' as contained in Guideline 17, except as provided otherwise in this regulation. The National Highway Traffic Safety Administration (NHTSA) has implemented the statutory definition of ''school bus'' which reads in part ''a passenger motor vehicle which is designed to carry more than 10 passengers * * *'' (Motor Vehicle and Schoolbus Safety Amendments of 1974, Pub. L. 93–492, 88 Stat. 1470).

We have included this requirement for two reasons. First, experts agree that school bus transportation is one of the safest forms of transportation of school-age children. According to the National Safety Council's ''Accident Facts (1991), in 1989, fatality rates per hundred million passenger miles were 1.12 for passenger cars and 0.04 for school buses. Also in 1989, passenger cars were involved in 72.3 percent of all traffic crashes and 61.2 percent of all fatal crashes; whereas school buses were involved in only .2 percent of all traffic crashes and in .2 percent of all fatal crashes. Therefore, in addition to the requirement regarding the use of school buses, we have explicitly prohibited the use of small vans and the use of passenger cars in transporting Head Start children.

Secondly, NHTSA, in its interpretation of Guideline 17, has consistently maintained, from the inception of the FMVSS's for school buses, that Head Start programs are ''schools'' under the National Traffic and Motor Vehicle Safety Act and that Head Start children should only be transported on school buses that meet the FMVSS.

Paragraph (b) reiterates the requirement under 49 CFR part 571 as interpreted by NHTSA that Head Start vehicles seating more than 10 persons be constructed in compliance with the Federal Motor Vehicle Safety Standards (FMVSS) applicable to school buses. It also establishes minimum requirements for equipment on these vehicles, including emergency equipment and supplies, and requirements on the arrangement of exterior mirrors and specialized equipment including equipment for persons with disabilities as necessary. The latter requirements are imposed by ACF and are in addition to the recommendations in Highway Safety Guideline 17 and requirements in the FMVSS.

Paragraph (c) contains additional requirements for vehicle marking (such as color and lettering) and equipment (such as a stop signal arm and signal lamps) which were taken from Guideline 17 and are applicable, if permissible within State law. It is our intent to have every Head Start vehicle qualify to operate as a school bus, which means being marked and equipped as a school bus and having all the rights and privileges of a school bus on the streets and highways, including stopping traffic to load and unload children. However, we are aware that some States do not permit Head Start programs to operate school bus-like buses since they are not ''schools'' by State definition. This potential for variation among the States is, therefore, taken into account in the separate requirements contained in paragraphs (a) and (b). To assist Head Start programs in this regard, the Head Start Bureau has written to each of the State Directors of Pupil Transportation requesting information about their State pupil transportation requirements, and this information is being analyzed to determine where barriers to this goal exist and to develop plans, State by State, for overcoming these barriers.

Paragraph (d) contains a process for grantees to follow to assure that manufacturers and vendors of vehicles comply with the FMVSS, including a clear statement of the intended use of the vehicle in the bid announcement and a prescribed procedure for examining the vehicle at the time of delivery. Therefore, it is a violation of Federal law for a vendor to knowingly sell a vehicle seating more than 10 persons to a Head Start program that does not meet the FMVSS when the intended use of that vehicle is made clear at the beginning of the transaction. (49 U.S.C. 30112)

Paragraph (e) specifies that vehicles in use which do not comply with the FMVSS must be replaced as soon as possible. We believe this can be accomplished within the three year phase-in period (§ 1310.2) now that, in accordance with 42 U.S.C. 9839(g)(2)(C), Head Start funds may be used for capital expenditures (including paying the cost of amortizing the principal and paying interest on loans) to purchase vehicles used for programs at Head Start facilities. This new authorization makes it possible for Head Start programs to plan more effectively and spread out their expenses over several funding periods. It also substantially reduces the amount of funds necessary to be allocated to transportation in the fiscal year in which these regulations become a Final Rule.

Paragraphs (f) through (j) prescribe specific passenger safety requirements while the vehicle is in motion. They require that all persons be seated while the vehicle is in motion, that baggage and other transported items be properly stored, and prohibit the use of auxiliary seating of any kind. Most importantly, paragraph (h) requires the use of seat belts by drivers and bus attendants and paragraph (i) requires the use of child restraints for all children. These requirements are being imposed by ACF.

The Highway Safety Program Guideline No. 17 recommends that ''Passengers in school buses and school-chartered buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less should be required to wear occupant restraints (where provided) while the vehicle is in motion.'' (Citation: Guideline 17, Section C.2.e.(5)) We believe that properly installed and properly used child restraints provide the maximum safety for Head Start children. It is our understanding that the bus

manufacturers have recently begun to test new designs specifically for transporting pre-school children. Therefore, going beyond the recommendations of Guideline 17, we are requiring the use of child restraint systems on all Head Start vehicles and that they meet the performance standards in the FMVSS, 49 CFR 571.213.

Paragraph (k) contains the requirements for safety inspection and routine maintenance of vehicles. They require the establishment of procedures for routine preventive maintenance, daily pre-trip inspections by the driver, and third party inspections at least once a year. These requirements are adapted from the recommendations in the National Standards for School Buses and School Bus Operations.

Section 1310.12—Driver Qualifications

Paragraph (a) of this section prescribes the minimum qualifications for drivers of Head Start vehicles, which include a minimum age of 21, a Commercial Driver's License (CDL), and all other screening requirements (e.g. physical, mental, moral, drug and alcohol abuse, etc.) established by their respective State. All drivers who operate a vehicle designed to carry 16 or more passengers were required by the Federal Highway Administration's (FHWA) Commercial Driver License Standards to have a valid commercial driver license by April 1962, and most Head Start drivers fall into this category. However, it is possible that some Head Start programs may operate vehicles that carry less than 16 passengers, since the definition of a bus includes smaller vehicles that carry 10 or more passengers. We believe that the screening procedures and the knowledge and skills tests required for obtaining a CDL are an important step in assuring that only the most qualified people are employed as Head Start drivers. Therefore, we are including the CDL as a requirement here in order to extend the requirement to all Head Start drivers, regardless of the size of the vehicle.

Paragraph (b) requires programs to establish their own applicant screening procedures. Paragraph (c) (1)–(4) provides a list of the elements which should be included in each agency's screening process, such as an application with educational background, employment history and personal references, an interview procedure, a check of the applicant's driving record through the National Driver Registry and the State Department of Motor Vehicles, a physical examination, and a test of visual acuity.

Under the CDL program, drivers of vehicles involved in purely intrastate commerce (as is the case for almost all Head Start drivers): (1) Are only required to pass the knowledge and skills test for the particular vehicle they will be operating; and (2) are exempt from the age and physical qualifications requirements contained in 49 CFR part 391, ''Qualifications of Drivers.'' This means that drivers of Head Start vehicles need only comply with their respective State standards in these two areas, which vary considerably from State to State. In some States the minimum age to drive a school bus is 16. We have chosen to adopt the minimum age requirement (21) contained in 49 CFR part 391 as the minimum age for drivers of Head Start vehicles. Some States have minimal or no physical qualifications standards for school bus drivers. Therefore, we are proposing to require that a physical examination, performed by a licensed doctor of medicine or osteopathy, be included in the screening procedures. We believe this is necessary to assure that Head Start vehicles are operated by mature and physically able individuals.

Section 1310.13—Driver Training

This section contains the pre-service and in-service training requirements for Head Start drivers.

The number of hours of training are the same as those recommended in the National Standards for School Buses and School Bus Operations. It specifies that Head Start drivers must have a minimum of 40 hours of skills training (a combination of classroom and behind-the-wheel instruction) prior to transporting children. The content areas include safe operation of the vehicle, how to run a fixed route, first aid, handling emergencies, operating special equipment, conducting routine maintenance and keeping accurate records. In addition to the skills training requirements, drivers must receive an orientation to the goals and objectives of Head Start, instruction on the role of the Head Start driver as part of the Head Start team, and specific instruction on the Head Start Performance Standards for Children with Disabilities as they relate to the provision of transportation services.

The proposed rule also requires a minimum of 8 hours of in-service training annually to maintain driver skills, enhance the driver's ability to perform daily tasks, and assist the transportation staff in staying abreast of information and/or developments in transportation technology.

The proposed rule requires Head Start agencies to be knowledgeable of driver training requirements in their respective State and to take whatever steps are necessary for their drivers to qualify to operate Head Start vehicles as school buses. The requirement in this section, along with § 1310.11 (b) and (c), reflect our belief that the ability to operate Head Start vehicles as school buses, from the standpoint of the driver as well as the vehicle, adds significantly to the level of safety.

As with the driver qualifications requirements discussed in the previous section, we know that there is significant variation among the States in their driver training requirements. Some States, in fact, have no training requirements, while other States have comprehensive training programs which reflect the recommendations in Guideline 17 and the National Standards for School Bus Operations. Paragraph (e) of this section, therefore, requires Head Start agencies, in the absence of an appropriate State or local training program, to obtain the necessary training from other sources or develop their own training programs using the National Standards for School Bus Operations and/or the NHSTA driver training curriculum as a guide. We are aware of the difficulties this may present for some programs in the short term and believe the phase in period will be helpful. We are also aware of the need to assist Head Start programs in this area, and will be providing technical assistance, as needed, and further guidance in the future.

The remaining paragraphs of this section require current drivers of Head Start vehicles to meet the same training requirements as new drivers within three months of the effective date of this rule, require drivers to be evaluated annually by the Transportation Supervisor, and require bus monitors to receive the same classroom training as drivers.

Subpart C—Special Requirements

Section 1310.20—Trip Routing

This section prescribes the minimum requirements for determining and traveling the fixed routes to be used on a daily basis to transport children to and from the classroom. In its Special Report 222, ''Improving School Bus Safety,'' the Transportation Research Board, National Research Council stated: ''The principles of school bus routing are well known. They should be consciously applied and should not be sacrificed for operational efficiency, student convenience, or political expediency.'' Paragraph (a) of this proposed section

requires that the primary consideration in the determination of the fixed routes be the safety of the children. The basic principles included in paragraph (a)(2)–(6) are adopted from the National Standards for School Bus Operations and Special Report 222. They include such requirements as locating stops to minimize traffic disruptions and to minimize the need for children to cross in front of the bus. Where children are required to cross the street to board or exit the bus, there are strict procedures for escorting children across the street or highway. Loading of vehicles beyond their capacity is prohibited, as is arrangement of routes such that vehicles would be required to back up or negotiate ''U'' turns.

Finally, paragraph (a)(1) of this section limits the amount of time children may be in transit to and from the classroom to one hour in each direction. Anything beyond one hour is considered in terms of ''best practice'' to be detrimental to the quality of the pre-school experience for the children.

Section 1310.21—Safety Education

According to Special Report 222, most child deaths in school bus-related accidents occur off the bus in school bus loading zones, resulting in the need for safety education programs that specifically address appropriate behavior in school bus loading zones. Likewise, Guideline 17 includes the recommendation that ''All children should be instructed in safe transportation practices for walking to and from school.''

This section prescribes the safety training to be provided to children and their parents in both pedestrian safety and safe riding practices. It requires that the initial transportation and pedestrian safety training for children and parents occur within the first five days of the program year. It requires Head Start agencies to teach the parents what is being taught to the children so that safe pedestrian behavior can be reinforced in the home and during non-school hours.

This section also requires Head Start agencies to instruct children in safe riding practices (including the use of the child restraint system), safety procedures for boarding and leaving the bus and in crossing the street in front of the bus, and in recognizing the danger zones around the bus. Children must be instructed in emergency evacuation procedures and participate in at least three emergency evacuation drills over the course of the year.

Finally, this section requires classroom teachers to develop activities to remind children of the safety procedures prior to departing the classroom at the end of the day.

Section 1310.22—Children With Disabilities

This section cross-references the proposed rules for transportation with the Head Start Program Performance Standards on Services for Children with Disabilities. It places joint responsibility for compliance on the Disabilities Coordinator and the Transportation Supervisor and requires that any special transportation requirements for children with disabilities, such as special pick-up and drop-off locations, special seating requirements, special equipment, etc., be specified in the Individual Education Plan for the child.

Section 1310.23—Coordinated Transportation

The Administration for Children and Families is a participant in the Joint Department of Health and Human Services/Department of Transportation Coordinating Council on Human Services Transportation, which was formed in October 1986 through a Memorandum of Understanding between the Department of Health and Human Services and the Department of Transportation. One of the goals of the Council is to achieve the most cost effective use of Federal, State and local resources for specialized and human services transportation. The requirements in this section are designed to promote this goal.

This section requires Head Start agencies, whenever possible and to the extent feasible, to coordinate transportation resources with other human services transportation agencies in the community in order to control costs and to maximize the quality and extent of transportation services provided to Head Start families.

This section also requires Head Start agencies to determine the true cost of providing transportation services in their locality so that they can make knowledgeable choices between transportation options. Additionally, it requires Head Start agencies to be proactive in serving on local transportation councils, or in forming a local council where none exists, in order to promote the concept of coordinated transportation.

We acknowledge that the degree and manner to which Head Start programs participate in coordinated systems may, to some extent, depend upon whether or not the services provided by the coordinated system comply with these standards. As drafted, this proposed rule requires that if a Head Start agency is using a coordinated system, they have to be sure that the system is operating the way the rule proposes. We want to continue to support coordination as much as possible without undermining concerns for the safety of Head Start children. However, we are concerned that there are now children, especially geographically isolated children, being served through coordinated systems which may not meet the safety standards contained in this proposed rule. Therefore, we are especially interested in soliciting comments on this issue. For example, should there be a ''reasonableness exception clause'' for individual cases in which a child might otherwise remain unserved by Head Start? If so, what rules should apply?

V. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in this Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This Notice of Proposed Rulemaking implements the statutory authority to promulgate regulations for the safe transportation of Head Start children. Congress made no additional appropriation to fund this new authority, however, and so any money spent toward the purchase of vehicles, additional personnel, training or other purposes related to this regulation is money that would have been spent otherwise by the program or other programs from the same appropriation amount. We believe that we have focused these proposed rules in ways that encourage maximum cost-effectiveness in transportation spending decisions. We request comments on possible improvements.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a ''significant economic impact on a substantial number of small entities'' an analysis must be prepared describing the rule's impact on small entities.

Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. These regulations would affect small entities. However, it should be noted that many grantees already provide transportation services in accordance with State and local requirements. We believe meeting these

proposed requirements would not be burdensome to them because we are providing a three year phase-in period for compliance with one exception pertaining to training for current Head Start drivers, for which we propose a 90 day compliance period. The financial burden on grantees who acquire vehicles that meet the standards in these proposed regulations will be eased by a new provision in the Head Start Act which authorizes the Secretary to allow Head Start grantees to use grant funds to pay the cost of amortizing the principal and the interest on loans to finance the purchase of vehicles (42 U.S.C 9839(g)(2)(C)). We also believe that as grantees become more familiar with these requirements, there will be no ongoing burden. For these reasons, the Secretary certifies that these rules will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule. This NPRM contains new information collection requirements at § 1310.10(b). We will submit this section to OMB for review and approval.

Organizations and individuals desiring to submit comments on this NPRM's compliance with the Paperwork Reduction Act should direct them to the agency official designated for this purpose, whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3002), Washington, DC. 20503, Attention: Desk Officer for the Administration for Children and Families, HHS.

List of Subjects in 45 CFR Part 1310

Driver qualifications, Driver training, Head Start, Safety education, Transportation, Vehicles.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: June 9, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, a new part 1310 is proposed to be added to 45 CFR chapter XIII to read as follows:

PART 1310—HEAD START TRANSPORTATION

Subpart A—General

Sec.
1310.1 Purpose.
1310.2 Applicability.
1310.3 Definitions.

Subpart B—Transportation Requirements

1310.10 General
1310.11 Vehicles.
1310.12 Driver qualifications.
1310.13 Driver training.

Subpart C—Special Requirements

1310.20 Trip routing.
1310.21 Safety education.
1310.22 Children with disabilities.
1310.23 Coordinated transportation.

Authority: 42 U.S.C. 9801 *et seq.*

Subpart A—General

§ 1310.1 Purpose.

This part prescribes regulations implementing section 640(i) of the Head Start Act (42 U.S.C. 9801 *et seq.*) as it applies to grantees and delegate agencies operating Head Start programs under the Act. It prescribes new requirements for the transportation of Head Start children to and from the classroom and to special events, such as field trips and other group events, which take place away from the classroom but are an integral part of the scheduled activities for children. It describes the safety standards for vehicles used in the regular transportation of Head Start children, as well as the qualifications and training requirements for operators of those vehicles. It includes general training requirements for drivers in their overall responsibilities regarding children and parents in the daily operation of the program. It also defines the role of Head Start agencies in achieving greater cost effectiveness in the overall cost of providing transportation through participation in local efforts to develop coordinated transportation systems under the authority provided by section 644 (a) and (c).

§ 1310.2 Applicability.

(a) This rule applies to all Head Start grantees and delegate agencies that provide transportation services to enrolled children.

(b) Except for § 1310.13(f) which becomes effective 90 days from final publication, Head Start grantees and delegate agencies have up to three years from the effective date of this part to comply with all of the requirements of this part.

§ 1310.3 Definitions.

Crossing control arm means a device installed in the right side of the front bumper of the bus such that, when the door of the bus is opened to admit or discharge passengers, the control arm swings out for a distance of several feet and becomes an obstacle that children must walk around in crossing in front of the bus.

Stop signal arm means a device installed in the left side of the bus, octagonal in shape with white letters and border and a red background, and with a flashing lamp which is connected to the alternately flashing signal lamp circuits.

Reverse beeper means a device which automatically sounds an intermittent alarm whenever the bus is engaged in reverse.

Type I seat belt means a lap belt for pelvic restraint.

Type II seat belt means a combination of belts for pelvic and upper torso restraint.

Driver means a person authorized by the responsible Head Start program official to operate a school bus, including a paid employee, a volunteer or a substitute for the person regularly assigned to operate the vehicle.

Guideline 17 means the National Highway Traffic Safety Administration (NHTSA)/Federal Highway Administration (FHWA) Highway Safety Program Guideline 17, ''Pupil Transportation Safety'' (23 CFR Part 1204).

Commercial Driver's License (CDL) means a license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, to an individual which authorized the individual to operate a class of a commercial motor vehicle.

Bus monitor means a person with specific responsibilities for assisting the driver in insuring the safety of the children on and off the bus and for assisting the driver during emergencies.

National Standards for School Buses and School Bus Operations means the recommendations resulting from the Eleventh National Conference on School Transportation, May 1990, published by the National Safety Council, Chicago, Illinois. The conference reconvenes every five years to update the standards.

Winter packs are devices that are available from vehicle manufacturers as extra equipment on vehicles that operate in areas of extreme cold temperatures. These devices help maintain the ambient temperature of the engine compartment in order to protect the engine oil and coolant from the effects of extreme cold and to facilitate starting of the vehicle.

Driver qualifications means the minimum health, education, code of conduct and other similar requirements that must be demonstrated in order to be eligible for employment as a Head Start driver.

National Driver Register, also called the Problem Driver Pointer System, means the National Highway Traffic Safety Administration's automated system for assisting State driver license officials in obtaining information regarding the driving records of certain individuals. Participation by the States is voluntary.

Fixed route means the established routes to be traveled on a daily basis by Head Start vehicles to transport children to and from the Head Start classroom, and which include specifically designated stops for loading and unloading children.

Trip routing means the determination of the fixed routes to be traveled on a daily basis for the purpose of transporting children to and from the classroom.

Federal Motor Vehicle Safety Standards (FMVSS) means the National Highway and Traffic Safety Administration's standards for motor vehicles and motor vehicle equipment established under section 103 of the Motor Vehicle Safety Act of 1966 (49 CFR Part 571) as they apply to school buses.

Transportation Supervisor means a staff person who has overall responsibility for the safe and efficient operation of the transportation component as outlined in these requirements.

Child restraint system means any device except Type I and Type II seat belts designed to restrain, seat, or position children who weigh 50 pounds or less as described in the FMVSS, 49 CFR 571.213.

Training means a prescribed course of instruction for drivers of vehicles provided by persons certified to provide such instruction and which includes a combination of classroom instruction and behind-the-wheel instruction on a vehicle of the same type and same size the driver will be operating. It also means instruction by qualified professionals in the areas of vehicle maintenance, first aid and emergency procedures.

Transportation means the transporting of children to and from the classroom and to home-based socialization where children are picked up and discharged at pre-arranged locations and at regularly scheduled times. It also means the transporting of children on field trips, health screening, or other activities scheduled by the Head Start staff. Incidental transportation, such as might be required to transport small groups of children to and from services or to transport a sick child home before the end of the day, is excluded from these regulations.

Coordinated transportation means the consolidation of transportation resources within a community in order to eliminate duplication, while providing the same, or increasing, the level of transportation services or reducing unnecessary spending on transportation services.

Vehicle means a school bus as defined in Guideline 17.

School bus loading zone means the designated pick and drop off location at the Head Start center and any stop along the fixed route.

Subpart B—Transportation Requirements

§ 1310.10 General.

(a) All Head Start grantees and delegate agencies that provide transportation services regardless of whether such transportation is provided directly on agency owned or leased vehicles or through contract with a private or public provider must meet the requirements of this part.

(b) Head Start agencies that do not provide transportation services, or that provide such services to only a portion of their enrolled children, must document the reasons why they have decided not to provide transportation, or to provide transportation to some children and not to others. In addition agencies must review and update this documentation annually.

(c) When the Head Start agency has decided not to provide transportation services, either for all or part of the children, the Head Start agency must provide whatever assistance is reasonable to help families arrange transportation for their children to and from the classroom. The specific types of assistance being offered must be made clear to all prospective families in the program's recruitment announcements.

(d) Each Head Start program must have either a full-time or part-time Transportation Supervisor, or a staff person (with the time and expertise to devote to this area) designated as the Transportation Supervisor who is responsible for ensuring compliance with regulations in this part.

(e) In addition to the vehicle's driver, each Head Start vehicle must have a Bus Monitor on board at all times when transporting Head Start children on a regular basis. Additional Bus Monitors also must be provided as necessary to accommodate the needs of children with disabilities.

(f) All accidents involving Head Start vehicles, with or without children on board, must be reported in accordance with the State procedures for reporting school bus accidents.

(g) Head Start vehicles must be equipped with a citizen band radio or similar communication system to call for assistance in case of an emergency.

(h) Head Start vehicles that operate in areas of extreme climatic conditions should include such equipment as is necessary, such as air conditioning, winter packs, or other specialized equipment as appropriate to ensure the safe operation of the vehicle and the safety and comfort of the passengers.

(i) At the end of the day, either at the classroom or at the vehicle stop, children may only be released to the parent or legal guardian, or other individual identified in writing by the parent or legal guardian. Head Start programs should advise parents accordingly at the time of enrollment, and maintain the names of authorized persons, including alternates in case of emergency, in the case record for the family. Child rosters must be maintained at all times to ensure that no child is left behind, either at the classroom or on the bus at the end of the route.

§ 1310.11 Vehicles.

(a) All vehicles used for the purpose of transporting Head Start children (as defined in § 1310.3 of this part) must comply with recommendations regarding ''school buses,'' as contained in Guideline 17, except where provided otherwise in this regulation. (23 CFR part 1204, Highway Safety Guideline 17.) The use of small vans designed to carry ten or fewer persons, including the driver, and the use of passenger cars for the purpose of transporting children are prohibited by this regulation.

(b) At a minimum, all vehicles used to transport Head Start children to and from the classroom, to home-based socialization, to group health screening, and on field trips or other activities scheduled by the Head Start staff must:

(1) Comply with the Federal Motor Vehicle Safety Standards (FMVSS) applicable to school buses;

(2) Be equipped with safety equipment for use in an emergency, including a charged fire extinguisher that is properly mounted near the driver's seat, and a first aid kit with signs indicating the location of such equipment;

(3) Have a system of mirrors that conforms to the school bus requirements

of FMVSS No. 111 (49 CFR 571.111) and provides the seated driver with a view to the rear along both sides of the bus and a view of the front bumper and the area in front of the bus;

(4) Be equipped with a lower step panel at the primary point of access to enable small children to step on and off the bus safely and unassisted;

(5) Be equipped with reverse beepers; and

(6) Have specialized equipment, such as wheel chair lifts or other assistance devices as necessary to guarantee equal access to disabled children.

(c) To the extent allowable within State requirements, vehicles owned, leased, or operated by Head Start must comply with the following additional recommendations for identification and equipment of a school bus contained in Guideline 17, as follows:

(1) Be identified with the words ''School Bus'' printed in letters not less than eight inches high, located between the warning signal lamps as high as possible without impairing visibility of the lettering from both front and rear, and have no other lettering on the front or rear of the vehicle except as required by Federal Motor Vehicle Safety Standards (FMVSS), 49 CFR part 571;

(2) Be painted National School Bus Glossy Yellow, in accordance with the colorimetric specification of National Institute of Standards and Technology (NIST) Federal Standard No. 595a, Color 13432, except that the hood should be either that color or lusterless black, matching NIST Federal Standard No. 595a, Color 37038;

(3) Have bumpers of glossy black, matching NIST Federal Standard No. 595a., Color 17038, unless, for increased visibility, they are covered with a reflective material;

(4) Be equipped with a stop signal arm as specified in FMVSS No. 131(49 CFR 571.131) and a crossing control arm; and

(5) Be equipped with a system of signal lamps that conforms to the performance requirements of FMVSS No. 108 (49 CFR 571.108).

(d) In order to insure that the manufacturers of Head Start vehicles comply with the applicable FMVSS standards, Head Start agencies must:

(1) Assure that bid announcements contain the correct specifications for the vehicle(s) to be purchased, including a clear statement of the intended use of the vehicle; and

(2) Have a prescribed procedure for examining new vehicles at the time of delivery to assure that they are equipped in accordance with the bid specifications and that the manufacturer's certification of compliance with the FMVSS is in place.

(e) Head Start vehicles in use which do not comply with the FMVSS and the minimum capacity requirement must be replaced or retired within the three year period authorized by this regulation. (In accordance with 42 U.S.C. 9839(g)(2)(C), with the permission of the Secretary, Head Start funds may be used for capital expenditures (including paying the cost of amortizing the principal and paying interest on loans) to purchase vehicles used for programs conducted at Head Start facilities.)

(f) All passengers on a Head Start vehicle must be seated while the vehicle is in motion.

(g) Auxiliary seating, such as temporary or folding jump seats, is prohibited.

(h) Drivers of Head Start vehicles, Bus Monitors, and other passengers must wear seat belts while the vehicle is in motion.

(i) While the vehicle is in motion, all children must be seated in a child restraint system appropriate to the height and weight of the child as set forth in the performance requirements in FMVSS (49 CFR 571.213).

(j) Baggage and other items transported in the passenger compartment must be properly stored and secured so that the aisles remain clear and the doors and emergency exits remain unobstructed at all times.

(k) Head Start vehicles must be maintained in safe operating condition at all times. Procedures must be established for:

(l) A thorough safety inspection of each vehicle on at least an annual basis through an inspection program licensed or operated by the State;

(2) Performing systematic preventive maintenance on Head Start vehicles; and

(3) Daily pre-trip inspection of the vehicle by the Head Start driver.

§ 1310.12 Driver qualifications.

(a) In order to qualify to drive a Head Start vehicle, a person must, at a minimum:

(1) Be at least 21 years old;

(2) Have a Commercial Driver's License (CDL) as granted by a State pursuant to FHWA's Commercial Driver's License Standards (49 CFR part 383); and

(3) Meet all the physical, mental, moral and other requirements established by Federal and State regulations, including requirements regarding drug and/or alcohol misuse or abuse.

(b) Each Head Start program must establish its own applicant screening procedure. Applicants must be advised of the specific background checks required at the time application is made, and Head Start agencies must have established criteria for the rejection of unacceptable applicants.

(c) At a minimum, applicant screening procedures must include:

(1) An application which provides employment history, educational background and personal references;

(2) An interview and screening procedure which, among other things, is designed to determine that the person is of good moral character, does not use intoxicating beverages to excess and does not use narcotic and other illegal drugs;

(3) A check of the applicant's driving record through the State Department of Motor Vehicles, including a check of the applicant's record through the National Driver Register, if available in the State; and

(4) A physical examination, performed by a licensed doctor of medicine or osteopathy, to determine that the person possesses the physical ability to operate a school bus based on the requirements in their respective State.

§ 1310.13 Driver training.

(a) Driver training plans must include both pre-service and annual in-service training programs.

(b) Pre-service training.

(1) All Head Start drivers must receive a minimum of 40 hours of skills training prior to transporting children. Skills training should encompass a combination of classroom instruction and behind-the-wheel instruction sufficient to enable the driver to:

(i) Operate the vehicle in a safe and efficient manner;

(ii) Safely run a fixed route, including loading and unloading children, stopping at railroad crossings and other specialized driving requirements;

(iii) Administer basic first aid in case of injury;

(iv) Handle emergency situations, including school bus evacuation procedures;

(v) Operate any special equipment, such as wheel chair lifts, assistance devices or special occupant restraints;

(vi) Conduct routine maintenance and safety checks of the vehicle; and

(vii) Maintain accurate records.

(2) In addition to the skills training, pre-service training should include:

(i) An orientation to the goals and objectives of Head Start with an emphasis on the educational and developmental needs of children;

(ii) The role of the Head Start Driver in providing a supportive social and

emotional climate for children and in supporting the role of parents in the Head Start program; and

(iii) An overview of the Head Start Program Performance Standards for Children with Disabilities as they relate to the provision of transportation services for disabled children.

(c) In-service training.

(1) Head Start drivers should receive a minimum of 8 hours of in-service training per year.

(2) In-service training plans should be designed to maintain driver skills, enhance the driver's ability to perform day-to-day duties and, generally, assist the transportation staff in keeping abreast of new information and/or new developments in transportation technology.

(d) Head Start programs must be knowledgeable about the driver training requirements in their respective State and must take whatever steps are necessary in order for Head Start drivers to qualify to operate Head Start vehicles as school buses on the streets and highways in their respective State.

(e) In those States with driver training requirements that do not meet the minimum requirement set forth in § 1310.13 (b) and (c) of this part, Head Start programs must obtain the additional training from other sources or establish their own training programs. In such cases, it is recommended that the National Standards for School Buses and School Bus Operations be used as a guide in the selection and/or development of driver training programs.

(f) Drivers of Head Start vehicles who are employed at the effective date of this regulation are required to meet the same pre-service training requirements as new drivers, within three months of the effective date of this regulation.

(g) Head Start drivers must be evaluated on an annual basis by the Transportation Supervisor, including an on-board observation of road performance.

(h) Bus Monitors should receive the same pre-service and in-service training as bus drivers, with the exception of the behind the wheel instruction.

Subpart C—Special Requirements

§ 1310.20 Trip routing.

(a) In planning routes for the transporting of children to and from the classroom, maximum safety of the children must be the primary consideration. Safety principles may not be sacrificed for operational efficiency.

(b) At a minimum, the following basic principles of trip routing must be adhered to at all times:

(1) The time a child is in transit to and from the Head Start classroom may not exceed one hour each way, unless specifically approved in writing by the respective Regional Office.

(2) The number of children to be picked up or discharged on a given route may not exceed the capacity of the vehicle. Vehicles may not be loaded beyond their capacity at any time.

(3) Vehicles should not be required to back up on their routes or to negotiate ''U'' turns.

(4) Stops should be located to minimize traffic disruptions and to afford the driver a good field of view in front of and behind the vehicle.

(5) Stops should be located to minimize the need for children to cross the street or highway to board or leave the vehicle.

(6) If children must cross the street or highway to board the bus or after exiting the vehicle, they must be escorted across the street by the driver, bus monitor or another adult. Before escorting children across the street, the driver must turn on the flashing lights, set the emergency brake, turn the engine off, and remove the key from the ignition. Under no circumstances may bus stops be located such that children must cross the street or highway unless the vehicle is properly equipped to stop traffic as described in § 1310.11(c)(1)–(5) of this Part.

(7) Specific procedures must be established for use of alternate routes in the case of hazardous weather conditions or other situations which may arise that could effect the safety of the children en route.

§ 1310.21 Safety education.

(a) In walk-in areas, the parent or other designated individual is ultimately responsible for the safety of their own child en route to and from the classroom. However, Head Start programs must provide training for parents and children in pedestrian safety. All Head Start children should be taught, by explanation and by example, the proper procedure for street crossing and the use of traffic and pedestrian signal lights, except that, under no circumstances, should such training encourage pre-school children to cross the street alone.

(b) Each child transported from home to the classroom in a school bus must receive instruction in:

(1) Safe riding practices;

(2) Safety procedures for boarding and leaving the bus;

(3) Safety procedures in crossing the street to and from the bus at bus stops;

(4) Recognizing the danger zones around the bus; and

(5) Emergency evacuation procedures, including an emergency evacuation drill conducted on the bus the child will be riding.

(c) Training for parents must emphasize the importance of escorting their child(ren) to the bus stop and the importance of reinforcing the training provided to children regarding school bus safety.

(d) The training provided to parents must compliment the training provided to children so that safety practices can be reinforced both in the classroom and at home by the parent.

(e) Initial transportation and pedestrian safety education for both children and parents must occur within the first five days of the program year.

(f) At least two additional bus evacuation drills must be conducted during the program year.

(g) Activities should be developed by the classroom teachers to remind children of the safety procedures prior to departing the classroom at the end of each day.

§ 1310.22 Children with disabilities.

(a) The Transportation Supervisor, in conjunction with the Disabilities Coordinator, must ensure compliance with the Head Start Program Performance Standards on Services for Children with Disabilities (45 CFR part 1308) as they relate to transportation services.

(b) Any special transportation requirements for children with disabilities must be specified in the Individual Education Plan (IEP), including:

(1) Special pick-up and drop-off requirements;

(2) Special seating requirements;

(3) Special equipment needs;

(4) Any special assistance that may be required; and

(5) Any special training for bus drivers and monitors.

§ 1310.23 Coordinated transportation.

(a) Whenever possible and to the extent feasible, Head Start agencies and their delegates must coordinate transportation resources with other human services agencies in the community in order to control costs and to maximize the quality and extent of the transportation services provided to Head Start families. At a minimum, Head Start agencies must coordinate transportation services as follows:

(1) Identify the true costs of providing transportation in order to knowledgeably compare the costs of providing transportation directly versus contracting for the service;

(2) Where a coordinated public or private transportation system(s) exists in

the community, serve on the local transportation council or committee and fully explore coordination as a viable transportation option;

(3) Where no coordinated public or private non-profit transportation system exists in the community, make every effort to identify other human services agencies also providing transportation services and, where feasible, to provide the impetus for establishing a local transportation coordinating council; and

(4) Maintain such records as are necessary to document compliance with the coordination requirements and efforts to address transportation needs in the community.

(b) [Reserved]

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