5–29–97
Vol. 62 No. 103
Pages 28975–29284

federal register

Thursday
May 29, 1997

Briefings on how to use the Federal Register
For information on a briefing in Washington, DC, see the announcement on the inside cover of this issue.

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register* on *GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

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

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the **Federal Register** on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su_docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov; by faxing to (202) 512–1262; or by calling toll free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche **202–512–1800**
Assistance with public subscriptions **512–1806**
General online information 202–512–1530; 1–888–293–6498
Single copies/back copies:
Paper or fiche **512–1800**
Assistance with public single copies **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche **523–5243**
Assistance with Federal agency subscriptions **523–5243**

For other telephone numbers, see the Reader Aids section at the end of this issue.

NOW AVAILABLE ONLINE

The January 1997 Office of the Federal Register Document Drafting Handbook

Free, easy, online access to the newly revised January 1997 Office of the Federal Register Document Drafting Handbook (DDH) is now available at:

http://www.nara.gov/nara/fedreg/ddh/ddhout.html

This handbook helps Federal agencies to prepare documents for publication in the **Federal Register**.

For additional information on access, contact the Office of the Federal Register's Technical Support Staff.

Phone: 202–523–3447

E-mail: info@fedreg.nara.gov

FEDERAL REGISTER WORKSHOP

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

FOR: Any person who uses the Federal Register and Code of Federal Regulations.
WHO: Sponsored by the Office of the Federal Register.
WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: June 17, 1997 at 9:00 am
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 62, No. 103

Thursday, May 29, 1997

Agricultural Marketing Service
RULES
Fruits, vegetables, and other products, fresh:
Apples; grade standards, 28979–28982
NOTICES
Meetings:
Flue-Cured Tobacco Advisory Committee, 29101

Agricultural Research Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
AgriTech Electronics, L.C., 29101

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Farm Service Agency
See Forest Service
See Rural Business-Cooperative Service
See Rural Housing Service
See Rural Utilities Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 29100–29101

Air Force Department
NOTICES
Environmental statements; availability, etc.:
Pease Air Force Base, NH; disposal and reuse, 29118

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Organization, functions, and authority delegations:
Office of Communication, 29142–29143

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Family violence prevention and services program—
Discretionary funds, 29244–29269

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Florida, 29102

Coast Guard
RULES
Ports and waterways safety:
Elizabeth River, VA; security zone, 29015–29016

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 29102

Commodity Futures Trading Commission
NOTICES
Meetings:
CFTC and Chicago Board of Trade; corn and soybean futures, 29107–29108
Privacy Act:
Systems of records, 29108–29113

Defense Department
See Air Force Department
See Navy Department
NOTICES
Arms sales notification; transmittal letter, etc., 29113–29117

Defense Nuclear Facilities Safety Board
NOTICES
Recommendations:
Continuation of criticality safety; DOE complex, 29118–29120

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 29120
Grants and cooperative agreements; availability, etc.:
Federal Pell Grant, et al.—
Revision of need analysis methodology for 1998-1999 award year, 29272–29275
Postsecondary education—
School-to-work opportunities initiatives; State and territory implementation, 29120–29125

Employment and Training Administration
NOTICES
Adjustment assistance:
Allied Signal, Inc., 29151
Avesta Sheffield, Inc., 29152
Smith & Wesson, 29152
SPX Corp., 29152
Technotrim, Inc., 29152
Vision Ease et al., 29152–29153
Agency information collection activities:
Proposed collection; comment request, 29153–29154
Grants and cooperative agreements; availability, etc.:
Postsecondary education—
School-to-work opportunities initiatives; State and territory implementation, 29120–29125
Job Training Partnership Act:
Annual Service Delivery Area Report, 29154–29155
Targeted jobs tax credit program—
Lower living standard income level; economically disadvantaged, definition; correction, 29155–29156
NAFTA transitional adjustment assistance:
Renee Jabbour Manufacturing Inc., 29157
Square D Co., 29157
Sunbeam Corp. et al., 29157

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission

NOTICES
Grants and cooperative agreements; availability, etc.:
Marshall Islands; special medical care to specific group of citizens, 29125–29131
Meetings:
Environmental Management Site Specific Advisory Board—
Rocky Flats, 29131–29132

Energy Efficiency and Renewable Energy Office
RULES
Consumer products; energy conservation program:
Fluorescent and incandescent lamp test procedures, 29222–29241

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Louisiana, 29072–29078

Executive Office of the President
See Presidential Documents

Farm Service Agency
RULES
Program regulations:
Rural rental housing assistance; public hearing, 28982

Federal Aviation Administration
RULES
Airworthiness directives:
Aerospace Technologies of Australia Pty Ltd., 28997–28999, 29001–29002
AlliedSignal Inc., 28994–28995
Fairchild Aircraft, 28999–29001
Puritan Bennett Aero Systems Co., 28996–28997
Class D and E airspace, 29002–29003
Standard instrument approach procedures, 29003–29006
PROPOSED RULES
Airworthiness directives:
Boeing, 29081–29086
Raytheon, 29086–29088
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 29181
Airport noise compatibility program:
DeKalb-Peachtree Airport, 29181–29182
Passenger facility charges; applications, etc.:
Dubois-Jefferson County Airport, PA, 29182–29183
Erie Municipal Airport, PA, 29183

Federal Communications Commission
RULES
Radio stations; table of assignments:
Arkansas, 29079
Idaho, 29078–29080
PROPOSED RULES
Radio stations; table of assignments:
Minnesota et al., 29090
Missouri, 29090–29091

Federal Deposit Insurance Corporation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29140–29141
Submission for OMB review; comment request, 29141

Federal Emergency Management Agency
NOTICES
Hotel and Motel Fire Safety Act:
National master list, 29278–29280

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Virginia Electric & Power Co. et al., 29135–29137
Wisconsin Electric Power Co., et al., 29137–29140
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 29132
Great Lakes Gas Transmission Limited Partnership, 29132
GTXL, Inc., 29132–29133
Koch Gateway Pipeline Co., 29133
Northwest Pipeline Corp., 29133
Portland Natural Gas Transmission System, 29133–29134
Texas Gas Transmission Corp., 29134
Upper Peninsula Power Co., 29134
UtiliSys Corp., 29134–29135
Washington Water Power Co., 29135
Williams Natural Gas Co., 29135

Federal Highway Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29183–29184

Federal Housing Finance Board
RULES
Federal home loan bank system:
Community support requirements, 28983–28993

Federal Maritime Commission
NOTICES
Agreements filed, etc., 29141–29142

Federal Trade Commission
RULES
Trade regulation rules:
Textile wearing apparel and piece goods; care labeling—
Care symbols use; conditional exemption, 29006–29009
PROPOSED RULES
Trade regulation rules:
Ophthalmic practice rules, 29088–29089

Fish and Wildlife Service
RULES
Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority)
Fish and wildlife taking, 29016–29072
PROPOSED RULES
Habitat conservation planning and incidental take permitting process; handbook availability; no surprises policy, 29091–29098
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Humboldt County, CA; northern spotted owl, 29146–29147

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Gentamicin sulfate, 29011–29012
Gentamicin sulfate soluble powder, 29012–29013
New drug applications—
Halothane, 29013–29014

Orbifloxacin tablet, 29012
Salinomycin etc., 29014–29015
Sponsor name and address changes—
Koffolk, Inc., 29010–29011
Trenbolone acetate, 29013
Food additives:
Adjuvants, production aids, and sanitizers—
3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5] undecane, 29009–29010
NOTICES
Animal drugs, feeds, and related products:
Patent extension; regulatory review period determinations—
PATANOL, 29143–29144
Medical devices; premarket approval:
Optiguide fiber optic diffuser etc., 29144
Reporting and recordkeeping requirements, 29145

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Michigan
MascoTech, Inc., forged steel automotive products plant, 29102–29103
Missouri
Kawasaki Motors Manufacturing Corp., U.S.A.; internal combustion engines plant, 29103

Forest Service
RULES
Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority)
Fish and wildlife taking, 29016–29072
NOTICES
Meetings:
Willamette Provincial Interagency Executive Committee Advisory Committee, 29101–29102

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Public Health Service

Housing and Urban Development Department
RULES
Federal National Mortgage Association (Fannie Mae) and Federal Home Mortgage Corporation (Freddie Mac):
Book-entry procedures; securities issuance, recordation, and transfer, 28975–28978
NOTICES
Grants and cooperative agreements; availability, etc.:
Housing opportunities for persons with AIDS program; correction, 29146

Indian Affairs Bureau
NOTICES
Indian tribes, acknowledgement of existence determinations, etc.:
Coastal Gabrieleno/Diegueno Band of Mission Indians, 29147

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29186–29187
Organization, functions, and authority delegations:
Director; Employee Plans Division, 29187–29188
Securities dealers; mark-to-market valuation software; comment request, 29188–29189

International Trade Administration
NOTICES
Export trade certificates of review, 29104
Applications, hearings, determinations, etc.:
Florida State University, 29103
University of—
New Orleans, et al., 29103–29104

International Trade Commission
NOTICES
Harmonized Tariff Schedule:
Possible modifications, 29150–29151

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration

Maritime Administration
NOTICES
Applications, hearings, determinations, etc.:
Seabulk Transmarine Partnership, Ltd., 29184–29185

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Combined Arts Advisory Panel, 29157–29158

National Highway Traffic Safety Administration
NOTICES
Meetings:
Research and Development Programs, 29185–29186

National Institutes of Health
NOTICES
Meetings:
National Institute of Environmental Health Sciences, 29145

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic bluefish fishery, etc., 29098–29099
Habitat conservation planning and incidental take permitting process; handbook availability; no surprises policy, 29091–29098
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29104–29105
Committees; establishment, renewal, termination, etc.:
National Academy of Sciences—
Individual fishing quota study advisory panels et al., 29105–29106
Meetings:
Gulf of Mexico Fishery Management Council, 29106
Pacific Fishery Management Council, 29106–29107
Pacific Offshore Cetacean Take Reduction Team, 29107

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
Hopewell Culture National Historical Park, 29147
Concession guidelines:
Proposed amendments and clarifications; comment request, 29147–29148
Meetings:
Acadia National Park Advisory Commission, 29148–29149
Maine Acadian Culture Preservation Commission, 29149

Navy Department
NOTICES
Meetings:
Naval Postgraduate School, 29118

Nuclear Regulatory Commission
RULES
Fee schedules revision; 100% fee recovery (1997 FY), 29194–29220
NOTICES
Meetings:
American Society for Quality Control and NRC; quality assurance principles, 29163
Reactor Safeguards Advisory Committee, 29163
Operating licenses, amendments; no significant hazards considerations; biweekly notices; correction, 29163
Petitions; Director's decisions:
Oyster Creek Nuclear Generating Station, 29163–29164
Reports; availability, etc.:
Performance assessment methodology for low-level radioactive waste disposal facilities; draft branch technical position, 29164–29165
Applications, hearings, determinations, etc.:
Public Service Electric and Gas Co., 29158–29160
University of Illinois at Urbana-Champaign, 29160
Washington Public Power Supply System, 29160–29163

Occupational Safety and Health Administration
PROPOSED RULES
Safety and health standards:
Control of hazardous energy sources (lockout/tagout); meeting on review, 29089–29090

Panama Canal Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29165

Personnel Management Office
RULES
Prevailing rate systems, 28978

Presidential Documents
ADMINISTRATIVE ORDERS
Yugoslavia, Federal Republic of (Serbia and Mentenegro) and Bosnia Serbs; continuation of emergency (Notice of May 28, 1997), 29283–29284

Public Debt Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29189–29192

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
NOTICES
National toxicology program:
Biennial Report on Carcinogens; nominations for listing or delisting, 29145–29146

Reclamation Bureau
NOTICES
Meetings:
Bay-Delta Advisory Council Ecosystem Roundtable, 29149–29150

Rural Business-Cooperative Service
RULES
Program regulations:
Rural rental housing assistance; public hearing, 28982

Rural Housing Service
RULES
Program regulations:
Rural rental housing assistance; public hearing, 28982

Rural Utilities Service
RULES
Program regulations:
Rural rental housing assistance; public hearing, 28982

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc., 29170–29177
Pacific Stock Exchange, Inc., 29177
Applications, hearings, determinations, etc.:
Latin American Discovery Fund, Inc., et al., 29165–29170

Small Business Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 29177
Submission for OMB review; comment request, 29177–29178
License surrenders:
Erie Small Business Investment Co., 29178

Social Security Administration
NOTICES
Privacy Act:
Computer matching programs, 29178–29179

State Department
NOTICES
Meetings:
International Communications and Information Policy Advisory Committee, 29180
Shipping Coordinating Committee, 29180

Thrift Supervision Office
RULES
Federal savings associations:
De novo charter applications
Correction, 28982–28983

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Maritime Administration
See National Highway Traffic Safety Administration

NOTICES
Meetings:
Assistance to Families in Aviation Disasters Task Force, 29180–29181

Treasury Department
See Internal Revenue Service
See Public Debt Bureau
See Thrift Supervision Office

Separate Parts In This Issue

Part II
Nuclear Regulatory Commission, 29194–29220

Part III
Department of Energy, Energy Efficiency and Renewable Energy Office, 29222–29241

Part IV
Department of Health and Human Services, Children and Families Administration, 29244–29269

Part V
Department of Education, 29272–29275

Part VI
Federal Emergency Management Agency, 29278–29280

Part VII
The President, 29283–29284

Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

1 CFR
462.....28975

3 CFR

Administrative Orders:
Notice of May 28, 1997 29283

5 CFR
532.....28978

7 CFR
51.....28979
1930.....28982
1944.....28982
1951.....28982
1965.....28982

10 CFR
170.....29194
171.....29194
430.....29222

12 CFR
543.....28982
936.....28983

14 CFR
39 (5 documents) 28994, 28996, 28997, 28999, 29001
71.....29002
97 (2 documents) 29003, 29004

Proposed Rules:
39 (2 documents) 29081, 29086

16 CFR
423.....29006

Proposed Rules:
456.....29088

21 CFR
178.....29009
510.....29010
520 (3 documents) 29011, 29012
522.....29013
529.....29013
558 (2 documents) 29010, 29014

24 CFR
81.....28975

29 CFR

Proposed Rules:
1910.....29089

33 CFR
165.....29015

36 CFR
242.....29016

40 CFR
52.....29072

47 CFR
73 (4 documents) 29078, 29079

Proposed Rules:
73 (2 documents) 29090

50 CFR
100.....29016

Proposed Rules:
17.....29091
222.....29091
648.....29098

Rules and Regulations

Federal Register
Vol. 62, No. 103
Thursday, May 29, 1997

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

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1 CFR Part 462

24 CFR Part 81

[Docket No. FR–4095–F–02]

RIN 2501–AC35

The Secretary of HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac): Book-Entry Procedures

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes final procedures that govern the issuance, recordation, and transfer of Federal National Mortgage Association (''Fannie Mae'') and Federal Home Loan Mortgage Corporation (''Freddie Mac'') (collectively ''Government-Sponsored Enterprises'' or ''GSEs'') securities in the Book-entry System. The rule makes final, with only minor changes, the interim rule published in the **Federal Register** on December 2, 1996 (61 FR 63944).

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Tasker, Director, Office of Government-Sponsored Enterprises, Room 6154, telephone (202) 708–2224; or, for legal questions, Kenneth A. Markison, Assistant General Counsel for Government Sponsored Enterprises/ RESPA, Office of the General Counsel, Room 9262, telephone (202) 708–3137. The address for both of these persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. A telecommunications device for deaf persons (''TTY'') is available at (202) 708–9300. (The telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Both Fannie Mae and Freddie Mac use the Book-entry System of the Federal Reserve Banks to issue, record, and transfer ownership of certain of their respective securities. Although the Book-entry System was originally designed for Treasury securities, both GSEs have used this system under separate sets of regulations dating back to the late 1970s. Treasury regulations govern the Book-entry System, known as the commercial book-entry system, when it is used to issue, record, transfer and maintain Treasury securities. Recently, Treasury substantially modified its regulations governing Treasury securities held in this system to reflect contemporary legal development of the Uniform Commercial Code (''UCC''). Treasury's regulation was published on August 23, 1996 (61 FR 43626).

On December 2, 1996, pursuant to its general regulatory authority respecting the GSEs, HUD published in the **Federal Register** (61 FR 63944) an interim rule to revise the regulations governing the book-entry of GSE securities. As explained in the preamble to the interim rule, except as was necessary because of differences between the GSEs and their securities and Treasury and Treasury securities, HUD's revisions to its GSE book-entry regulations followed the revisions Treasury made to its book-entry regulations. The preamble to HUD's interim rule provided background information explaining HUD's process in developing the interim rule, HUD's analysis of revisions to the book-entry procedures, and a section-by-section comparison of the interim rule with Treasury's model. Since the discussion in the preamble to the interim rule remains applicable, HUD is not republishing the discussion contained in the preamble to the proposed rule.

II. Changes Contained in Today's Final Rule

HUD received only two public comments on the interim rule. Both of those comments came from Fannie Mae. Fannie Mae suggested several changes, all of which have been incorporated, in one form or another, into the final rule.

1. Fannie Mae suggested inserting a definition of ''participant'' to clarify that a participant can include a GSE, rather than using the definition of ''participant'' in Treasury's TRADES regulation. Using the TRADES definition of participant would effectively exclude a GSE from being a participant within the meaning in HUD's GSE book-entry rule, since to be a participant under the TRADES definition, the entity must be a ''person'' and under HUD's GSE book-entry rule a ''person'' does not include a GSE. The GSEs frequently hold GSE securities directly through Federal Reserve Banks and act as participants. HUD has added a definition of ''participant'' to section 81.2 which includes the GSEs to clarify this point.

2. Fannie Mae suggested inserting a definition of ''entitlement holder'' to clarify that an entitlement holder can include a GSE, rather than using the definition of ''entitlement holder'' in Treasury's TRADES regulation. Using the TRADES definition of entitlement holder would effectively exclude a GSE from being an entitlement holder within the meaning in HUD's GSE book-entry rule, since to be an entitlement holder under the TRADES definition, the entity must be a ''person'' and under HUD's GSE book-entry rule a ''person'' does not include a GSE. While the interim rule defined ''entitlement holder'' in § 81.2, that definition did effectively exclude a GSE. Since Fannie Mae and Freddie Mac frequently hold GSE securities directly or indirectly through Federal Reserve Banks, they could be entitlement holders just as they could be participants. HUD agrees that the interim rule should be modified. HUD has revised the definition of ''entitlement holder'' in § 81.2 to include the GSEs to clarify this point.

3. Fannie Mae suggested adding a sentence to the end of the definition of ''Book-entry GSE Security'' to clarify that a book-entry GSE Security also includes the separate interest and principal components of a Book-entry GSE Security if such security has been designated by the GSE as eligible for division into such components and the components are maintained separately on the books of one or more Federal Reserve Banks.

Fannie Mae requested that this language be inserted to ensure that interest or principal ''strips'' relating to Fannie Mae securities are accorded the same treatment as Fannie Mae securities if they are also maintained on the books

of a Federal Reserve Bank. Fannie Mae noted that the final rule published by the Thrift Depositor Protection Oversight Board governing book-entry Resolution Funding Corporation (''RFC'') securities included similar language. *See* Thrift Depositor Protection Oversight Board regulation governing book-entry RFC securities, Final rule, §§ 1511.1 (definition of ''Book-entry Funding Corporation Security'') (61 FR 66874, December 19, 1996).

HUD agrees that such a clarification is appropriate and has inserted language into the definition of ''Book-entry GSE Security'' addressing this point. HUD notes that the language in the final rule departs from the language in the regulation governing book-entry RFC securities because while the Securities Documentation for book-entry RFC securities specifically addresses whether the division of the separate interest and principal components is authorized, the Securities Documentation for Book-entry GSE Securities does not address this matter.

4. Fannie Mae suggested clarifying in § 81.92(a) that any choice of law provision in the Securities Documentation would be given effect only to the extent it is not inconsistent with HUD's regulation. HUD agrees with the comment. To the extent that the choice of law provisions in the Securities Documentation conflict with HUD's book-entry regulations, HUD's book-entry regulations would take precedence. Thus, the parenthetical in § 81.92(a) has been revised. This revision makes this provision in HUD's regulation more similar to the comparable provision in Treasury regulations applicable to Student Loan Marketing Association (''Sallie Mae'') securities. *See* the Bureau of the Public Debt, Fiscal Service, Treasury regulation governing book-entry Sallie Mae securities, Final rule, §§ 354.2(a) (62 FR 621, 623, January 6, 1997).

5. Fannie Mae also suggested several editorial changes, all which have been incorporated into the final rule. These changes included clarifying the definition of ''Eligible Book-entry GSE Security'' in a manner consistent with the definition used by the Farm Credit Administration in its book-entry rule. *See* Farm Credit Administration regulation governing book-entry Farm Credit securities, Interim rule, § 615.5450 (definition of ''Eligible book-entry security'') (61 FR 67188, 67192, December 20, 1996).

In addition to these comments from Fannie Mae, during the comment period, HUD continued to consult with Treasury on the development of a final rule. Treasury suggested one change to the rule which HUD has incorporated into this final rule.

The change suggested by Treasury is to delete the reference to ''the United States'' in the following four occurrences in the interim rule:

1. Section 81.92(a)(1), which specified that the rights and obligations of the United States with respect to a Book-entry GSE Security or Security Entitlement and the operation of the Book-entry System as it applies to GSE Securities are governed by the Book-entry regulations contained in this subpart H, the Securities Documentation (but not including any choice of law provisions in such documentation), and Federal Reserve Bank Operating Circulars.

2. Section 81.92(a)(2), which specified that the rights of the United States with respect to a Book-entry GSE Security or Security Entitlement and the operation of the Book-entry System applicable to GSE Securities are governed by the Book-entry regulations contained in this subpart H, the Securities Documentation (but not including any choice of law provisions in such documentation), and Federal Reserve Bank Operating Circulars.

3. Section 81.93(c)(1), which specified that the United states has no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve bank on whose books the interest of the Participant is recorded.

4. Section 81.94(a), which specified that the United States is not liable to a Person asserting or having an adverse claim to a Security Entitlement or to a Book-entry GSE Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry GSE Security by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

The reason for eliminating the references to the United States in these four provisions is to avoid any unintended suggestion that there is an express or implied United States guarantee of GSE securities. Notwithstanding that the GSEs enjoy the financial market's assumption that the Federal Government and, ultimately, the American taxpayer would stand behind the obligations of the GSEs, the GSEs' obligations explicitly are not guaranteed by the United States. *See, e.g.*, section 1302(4), 1381(f) and 1382(n) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Title XIII of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992, and codified, generally, at 12 U.S.C. 4501–4641) (requiring each GSE to state in its obligations and securities that such obligations and securities ''are not guaranteed by the United States.'')).

This change to these four provisions conforms HUD's rule to the book-entry rules published by other agencies with oversight of other Government Sponsored Enterprises. *See* Federal Housing Finance Board regulation governing book-entry Federal Home Loan Bank securities, Interim rule, §§ 912.2(a), 912.4(c)(1), 912.5(a) (61 FR 64021–64027, December 3, 1996); Thrift Depositor Protection Oversight Board regulation governing book-entry RFC securities, Final rule, §§ 1511.2(a)(1), 1511.2(a)(2), 1511.4(c)(1), 1511.5(a) (61 FR 66875–66878, December 19, 1996); Bureau of the Public Debt, Fiscal Service, Treasury regulation governing book-entry Sallie Mae securities, Final rule, §§ 354.2(a)(1), 354.2(a)(2), 354.4(c)(1), 354.5(a) (62 FR 621–625, January 6, 1997); and Tennessee Valley Authority (''TVA'') regulation governing book-entry TVA Power securities, Final rule, §§ 1314.4(a)(1), 1314.4(a)(2), 1314.5(c), 1314.6(a) (62 FR 920–923, January 7, 1997).

Findings and Certifications

Public Reporting Burden

This rule contains no new information collection requirements that would require review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (42 U.S.C. 3501–3520).

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects the operation of two entities, Fannie Mae and Freddie Mac, neither of which is a small entity.

Environmental Impact

This rule is exempt from the requirement for an environmental assessment under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), in accordance with HUD regulations at 24 CFR 50.19(c)(1), as revised by a final rule on September 27, 1996 (61 FR 50919). In

accordance with 24 CFR 50.19(a), other Federal environmental laws, as described in 24 CFR 50.4, are not applicable to this rule.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule's preemption of State law to the extent that it applies the newly revised Article 8 of the Uniform Commercial Code has sufficient effect on States to require consideration of the impact of the rule under the Order. The General Counsel has assessed this preemption in light of the principles, criteria, and requirements of the Executive Order and determined that it is not inconsistent with them. The policy does not impose additional costs or burdens on the States and it does not affect the States' ability to discharge traditional State governmental functions.

This rule makes explicit the preemption applicable to the rights and obligations of the Federal Reserve Banks and the GSEs that was implicit under the prior rule. The rule continues to accommodate State law, to the maximum extent possible, given market methodologies. Ultimately, as States proceed to adopt the revised Article 8, the rule will provide no greater preemption of State law than under the prior rule.

The rule is justified, despite the preemption it effects, by the fact that the preemption is no greater than necessary to accommodate the nationwide application of the rule and the nationwide market for the GSE Securities, as was the preemption under the book-entry rules this rule replaces. It should be noted that section 304(d) of the Fannie Mae Charter Act (12 U.S.C. 1719(d)) and section 306(g) of the Freddie Mac Act (12 U.S.C. 1455(f)) specifically provide for the exemption of GSE securities from State securities registration requirements (as well as the registration requirements of the Securities and Exchange Commission). *See also* 15 U.S.C. 77r–1.

Unfunded Mandates Reform Act

The Secretary, in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, has reviewed this rule before publication and by approving it certifies that this rule does not impose a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Catalog

There is no Catalog of Federal Domestic Assistance number for the program affected by this rule.

List of Subjects

1 CFR Part 462

Accounting, Banks, Banking, Securities.

24 CFR Part 81

Accounting, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

Accordingly, for the reasons set out in the preamble, under the authority of 42 U.S.C. 3535(d), the amendments to part 462 of title 1 of the Code of Federal Regulations and part 81 of title 24 of the Code of Federal Regulations published in the interim rule on December 2, 1996 are adopted as final with the following additional amendments:

TITLE 24—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 81—THE SECRETARY OF HUD'S REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FANNIE MAE) AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION (FREDDIE MAC)

1. The authority citation for Part 81 continues to read as follows:

Authority: 12 U.S.C. 1451 *et seq.*, 1716–1723h, and 4501–4641; 42 U.S.C. 3535(d) and 3601–3619.

2. In § 81.2(b), the definitions of ''Book-entry GSE Security'', ''Eligible Book-entry GSE Security'', ''Entitlement Holder'', and ''Securities documentation'' are revised and a new definition of ''Participant'' is added, in appropriate alphabetical order location, to read as follows:

§ 81.2 Definitions.

* * * * *

Book-entry GSE Security means a GSE Security issued or maintained in the Book-entry System. Book-entry GSE Security also means the separate interest and principal components of a Book-entry GSE Security if such security has been designated by the GSE as eligible for division into such components and the components are maintained separately on the books of one or more Federal Reserve Banks.

* * * * *

Eligible Book-entry GSE Security means a Book-entry GSE Security issued or maintained in the Book-entry System which by the terms of its Security Documentation is eligible to be converted from book-entry form into definitive form.

Entitlement Holder means a Person or a GSE to whose account an interest in a Book-entry GSE Security is credited on the records of a Securities Intermediary.

* * * * *

Participant means a Person or GSE that maintains a Participant's Securities Account with a Federal Reserve Bank.

* * * * *

Securities Documentation means the applicable statement of terms, trust indenture, securities agreement or other documents establishing the terms of a Book-entry GSE Security.

* * * * *

3. In § 81.92, paragraph (a) is revised to read as follows:

§ 81.92 Law governing rights and obligations of Federal Reserve Banks and GSEs; rights of any Person against Federal Reserve Banks and GSEs; Law governing other interests.

(a) Except as provided in paragraph (b) of this section, the following rights and obligations are governed solely by the book-entry regulations contained in this subpart H, the Securities Documentation, and Federal Reserve Bank Operating Circulars (but not including any choice of law provisions in the Security Documentation to the extent such provisions conflict with the Book-entry regulations contained in this subpart H):

(1) The rights and obligations of a GSE and the Federal Reserve Banks with respect to:

(i) A Book-entry GSE Security or Security Entitlement; and

(ii) The operation of the Book-entry System as it applies to GSE Securities; and

(2) The rights of any Person, including a Participant, against a GSE and the Federal Reserve Banks with respect to:

(i) A Book-entry GSE Security or Security Entitlement; and

(ii) The operation of the Book-entry System as it applies to GSE Securities;

* * * * *

§ 81.93 [Amended]

4. In § 81.93, paragraph (c)(1) is amended by removing the phrase '', the United States,''.

§ 81.94 [Amended]

5. In § 81.94, paragraph (a) is amended by removing the phrase '', the United States,''; and paragraph (b)(2) is amended by removing the words ''principal and interest'' and by adding the words ''redemption proceeds'' in their place.

§ 81.96 [Amended]

6. In § 81.96, paragraph (d) is amended by removing the words ''offering circular'' and by adding in their place the words ''Securities Documentation''.

Dated: May 20, 1997.

Andrew Cuomo,

Secretary.

[FR Doc. 97–14028 Filed 5–28–97; 8:45 am]

BILLING CODE 4210–32–P

Office of Personnel Management

5 CFR Part 532

RIN 3206–AH88

Prevailing Rate Systems; Abolishment of Lubbock, TX, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim rule to abolish the Lubbock, Texas, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and to establish a new Curry, New Mexico, NAF wage area. The Lubbock NAF wage area is presently composed of one survey area county (Lubbock, TX) and two area of application counties (Curry, NM, and Potter, TX). The new Curry NAF wage area will be composed of one survey area county (Curry, NM) and two area of application counties (Lubbock, TX, and Potter, TX).

DATES: This interim rule becomes effective on June 2, 1997. Comments must be received by June 30, 1997. Employees currently paid rates from the Lubbock, TX, NAF wage schedule will continue to be paid from that schedule until their conversion to the Curry NAF wage schedule on the effective date of the first wage schedule for the Curry NAF wage area.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Frank Derby, (202) 606–2848.

SUPPLEMENTARY INFORMATION: Because the pending closure of the Lubbock, TX, nonappropriated fund (NAF) wage area host activity, Reese Air Force Base, has left Lubbock County without an activity having the capability to conduct an NAF wage survey, the Department of Defense (DOD) recommended that the Office of Personnel Management (OPM) abolish the Lubbock, TX, NAF wage area and establish a new Curry, NM, NAF wage area. The Lubbock wage area is presently composed of one survey area county (Lubbock, TX) and two area of application counties (Curry, NM, and Potter, TX). The new Curry wage area will be composed of one survey area county (Curry, NM) and two area of application counties (Lubbock, TX, and Potter, TX).

Curry County meets the minimum regulatory requirements in section 532.219 of title 5, Code of Federal Regulations, to be an NAF survey area. Cannon Air Force Base, located in Curry County, has more than the minimum required number of NAF employees paid under the FWS and has the capability to conduct a local wage survey. Also, Curry County has more than the required minimum number of private enterprise employees in establishments within survey specifications.

5 CFR 532.219 lists the following regulatory criteria that OPM considered when redefining the Lubbock wage area:

(1) Proximity of largest activity in each county;

(2) Transportation facilities and commuting patterns; and

(3) Similarities of the counties in:

(i) Overall population;

(ii) Private employment in major industry categories; and

(iii) Kinds and sizes of private industrial establishments.

Another relevant factor that OPM weighed is the continuity of the historical composition of the Lubbock NAF wage area. Also, the willingness of DOD and its wage committee to establish a new wage area and conduct a new survey in this case furthers the concepts of wage rates based on local prevailing rates and of effective partnership in this period of wage area realignments necessitated by downsizing of the NAF workforce.

Full-scale wage surveys will be ordered in the Curry wage area in June of odd numbered fiscal years—e.g., in June 1997. The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by consensus recommended approval.

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because preparations for the 1997 Curry, NM, NAF wage area survey must otherwise begin immediately.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B—[Amended]

2. Appendix B to subpart B of part 532 is amended for the State of Texas by removing the entry for Lubbock and by adding in alphabetical order for the State of New Mexico a new entry for Curry with a beginning month of survey of ''June'' and a fiscal year of full-scale survey of ''Odd.''

3. Appendix D to subpart B is amended by removing the wage area listing of Lubbock, Texas, and by adding in alphabetical order a new entry of Curry, New Mexico, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

New Mexico

* * * * *

Curry

Survey Area:

New Mexico:
Curry

Area of application. Survey area plus:

Texas:
Lubbock
Potter

* * * * * *

[FR Doc. 97–14008 Filed 5–28–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–97–301]

Apples; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule will revise the United States Standard for Grades of Apples and the U.S. Condition Standards for Export. This rule revises the U.S. Extra Fancy and U.S. Fancy grades basic requirements section, the definition of damage by invisible water core, and the U.S. Condition Standards for Export to exempt the Fuji variety of apples from damage by invisible water core. This change will result in a benefit to handlers and producers of Fuji apples, by allowing more fruit to be marketed which would otherwise be graded as defective.

DATES: This rule is effective May 30, 1997. Comments must be received by July 28, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2065 South Building, Washington, D.C. 20090–6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720–2185.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The United States standards issued pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627, and issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have compatibility.

Although it is difficult to obtain an exact number of Fuji apple handlers and producers (primarily due to the fact that an apple producer or handler normally grows, or handles more than just one variety) it is estimated that there are approximately 900 Fuji apple handlers and producers in the United States. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000 and small agricultural producers are defined as those having annual receipts of less than $500,000. A majority of handlers and producers of Fuji apples may be classified as small entities.

Information provided by the United States Apple Association (USAA) indicates that U.S. holdings of Fuji variety apples as of November 1, 1992 (figures are in millions of boxes), were 1.4 million and has steadily increased to approximately 8.7 million as of November 1, 1996. The Fuji variety has become Washington State's third largest variety this year. The USAA also reports that there are storages with Fuji holdings in approximately 19 other States.

This rule will revise the U.S. Standard for Grades of Apples and the U.S. Condition Standards. This rule specifically revises the U.S. Extra Fancy and U.S. Fancy grades basic requirements section, the definition of damage by invisible water core, and the U.S. Condition Standards for Export to exempt the Fuji variety of apples from damage by invisible water core. These revisions will be a benefit to handlers and producers of Fuji apples, regardless of the size, by allowing more fruit to be marketed which would otherwise be graded as defective.

The U.S. Standards for Grades of Apples and the U.S. Condition Standards for Export are both voluntary grade standards. There are no regulatory provisions that require the use of these standards with the exception of the Export Apple and Pear Act (7 U.S.C. 581 *et seq.*) and its regulations (7 CFR Part 33) in regard to the U.S. Standards for Grades of Apples. Under the Export Apple and Pear Act shipments of apples to foreign countries must meet a minimum requirement of the U.S. No. 1 grade (there are exemptions to this Act based on lot size, destination, etc.) However, the grade changes being made in this rule-making only affect the U.S. Extra Fancy and U.S. Fancy grades of the U.S. Standards for Grades of Apples and the U.S. Condition Standards for Export; none of which are contingent upon the Export Apple and Pear Act.

AMS has determined that this action would not impose any additional reporting or recordkeeping requirements on either small or large apple handlers. Accordingly, AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

AMS recently received a request from the Northwest Horticultural Council (NHC) and the USAA, requesting relief from scoring damage by invisible water core in the Fuji variety of apples. The NHC represents the deciduous tree fruit industry in the States of Washington, Oregon, and Idaho on Federal and international trade policy issues and the USAA represents the apple industry on a nation-wide basis. According to the NHC and the USAA, the production of the Fuji variety has steadily been on the increase in the U.S. over the past several years. As previously mentioned, U.S. holdings of the Fuji variety as of November 1, 1992, were (figures are in millions of boxes) 1.4 million and has increased to 8.7 million as of November 1, 1996. The Fuji variety has become the third largest variety this year for Washington State.

In addition, the U.S. Fuji holdings have traditionally experienced a history of heavy export. Of the three million boxes of Fuji's produced in Washington State in 1995, two million were exported. Therefore, two-thirds of Washington State's Fuji crop and almost half of the entire U.S. Fuji crop was exported in 1995.

The Fuji apple is a relatively new variety of apple in the United States. The Fuji variety is a cross between the Red Delicious and Ralls Janet varieties and was bred in Japan over 50 years ago. Although it was named in 1962, the variety was not highly marketed in the U.S. until the mid to late 1980's. According to the NHC and the USAA, Fuji apples are prone to a condition known as ''invisible water core.'' Invisible water core manifests itself as translucent or glassy areas of tissue in the flesh of the apple. The location of

these translucent or glassy areas is not necessarily in the core region as its name would indicate but may be located sometimes around the vascular bundles or scattered in the flesh toward the calyx-end of the fruit. Mild to moderate symptoms may even disappear. Alternatively, if water core is severe, however, it may be followed by an irreversible breakdown of the flesh.

According to one expert of post harvest diseases and disorders of apples, Anna L. Snowden, Ph.D., in all types of water core the characteristic water-soaking results from a leakage of cell sap into the intercellular spaces (which are normally filled with air), following an abnormally rapid conversion of starch to sugar. It is this apparent conversion to sugar that may soon yield to internal breakdown in most apple varieties. Therefore, watercore has traditionally been considered an undesirable or pathological defect.

However, proponents of this interim final rule have suggested that not only do certain consumers find this condition of Fuji apples desirable, but that this variety may store longer and without internal breakdown complications as with other apple varieties. Eugene M. Kupferman, Ph.D., Extension Horticulturalist at the Washington State University Tree Fruit Research and Extension Center in Wenatchee, Washington, stated in a letter to the NHC that, '' 'Fuji' apples have a very sweet flavor and a good sugar/acid balance. One of the attributes of 'Fuji' is their ability to accumulate sugar, called 'watercore' in the flesh of the fruit. 'Fuji' apples with watercore are prized by Asian consumers, and growers perform a number of cultural practices in the orchard to promote watercore * * *. Japanese consumers prefer watercored to non-watercored 'Fuji'. They will reject apples without watercore during the first 3–4 months after harvest.''

Dr. Kupferman further maintains that, '' 'Fuji' apples of the appropriate maturity with moderate levels of watercore, can be stored and marketed for at least 6 months. 'Fuji' with slight watercore can be stored up to 12 months without problems in Controlled Atmosphere.

Furthermore, watercore is far less of a problem with 'Fuji' than with 'Red Delicious' apples, which can be stored for only 3 months with moderate watercore. This appears to be due to differences in the rate of metabolism of the two varieties. Research is underway to study this further. Of course, with either variety, when very heavily watercored fruit are stored excessively long, internal browning can result.''

Presently, scoring invisible water core on apples includes the following: First, water core is separated into two different types, based on whether it may be seen externally or not; Second, if the water core exists as ''invisible water core'' it is only scored against certain grades during certain times of the year; Finally, if the U.S. Condition Standards for Export are requested to be applied, damage by invisible water core is considered a defect at anytime of the year regardless of the ''grade.''

If water core is visible externally, that is, it may be seen without the need for cutting the apple, it is referred to in the U.S. Standards for Grades of Apples as ''visible water core'' by definition (section 51.320 Serious damage, paragraph (f)). Visible water core is scored as serious damage if the apple demonstrates an area which is visible externally, and is greater than the area of a circle one-half inch in diameter. Serious damage by visible water core is scored as a defect against all apple grades, and when applying the U.S. Condition Standards, at any time of the year.

If water core occurs within the flesh of the apple and cannot be seen externally, i.e. the apple must be cut in a plane perpendicular to, and midway between, a straight line from the stem and calyx end, it is scored as ''damage by invisible'' water core if any of three particular conditions are met. These three conditions are: If the invisible water core exists around the core of the apple and extends outward to any vascular bundle(s); if the affected areas surround the vascular bundles (and does not extend into the core) such that three or more vascular bundles meet or coalesce; or if it exists in more than a slight degree outside the circular area formed by the vascular bundles.

However, damage by invisible water core may only be scored against the U.S. Extra Fancy or U.S. Fancy grades, and is not considered as a scoreable defect against the U.S. No. 1 or U.S. Utility grade. Further, damage by invisible water core is scored as a defect under the U.S. Extra Fancy and U.S. Fancy grades, only after January 31, of the year following the year of production.

The U.S. Condition Standards for Export are additional requirements that may be applied to domestic shipments of apples as well as export lots. These extra requirements are not an extension of, or a part of the United States Standards for Grades of Apples or of the U.S. Apple and Pear Export Act. The U.S. Condition Standards for Export, 7 CFR Part 51 Section 51.323 appear in the CFR immediately following the U.S. Standards for Grades of Apples, 7 CFR Part 51 Sections 51.300—51.322.

These standards are provided as an additional set of requirements for application to lots of apples. They were originally designed to be voluntarily used as an additional set of standards which would primarily cover condition defects only for export shipments. At their inception they were simply referred to as the ''Export Standards.'' However, over a period of many years the title given to these regulations is now the ''U.S. Condition Standards for Export'' also known simply as the ''U.S. Condition Standards'' and, due in part to their increased popularity among receivers, are now used when ever two parties involved in shipping and receiving lots of apples so designate. Since these U.S. Condition Standards are not part of the Export Apple and Pear Act, nor are they incorporated in any other regulatory article, they are a voluntary set of standards which provide for additional tolerances primarily in reference to condition defects. When applying the U.S. Condition Standards for Export, regardless of the grade, invisible water core is considered as a defect at anytime of the year. The U.S. Condition Standards allow five percent for apples damaged by invisible water core.

The U.S. Export Apple and Pear Act (7 U.S.C. 581 *et seq.*) and its regulations (7 CFR part 33), requires that apples being exported from the U.S. meet a minimum grade requirement of U.S. No. 1. There are no specific requirements in the Act pertaining to invisible water core. Although the U.S. Condition Standards for Export do have requirements pertaining to invisible water core, the U.S. Condition Standards for Export are a voluntary set of standards separate and apart from the Export Apple and Pear Act and are not incorporated by the Act or the U.S. Standards for Grades of Apples, i.e. there are no requirements on behalf of the U.S. Export Apple and Pear Act or the U.S. Standards for Grades of Apples that state that apples must meet the requirements of the U.S. Condition Standards for Export.

When shippers from the U.S. attempt to ship lots of Fuji apples to foreign markets the receiver generally requests that lots meet a U.S. Extra Fancy or Fancy grade. Presently, apples exported from the U.S. which contain more than 10 percent damage by invisible water core, may attain no higher than the U.S. No. 1 grade (because invisible water core is not considered a defect under the U.S. No. 1 grade but is considered a defect under the U.S. Extra Fancy and U.S. Fancy grades). The Fuji apple

shippers feel that since the presence of invisible water core is usually required for Asian markets, and since the standards presently define invisible water core in the U.S. Extra Fancy and U.S. Fancy grades as a defect, the standards prevent them from providing the buyer with a high quality product.

In addition, the Canadian government maintains Canadian Import Requirements on certain commodities shipped from the U.S. into Canada. One of these commodities is apples. Due to U.S. requirements, apples shipped to Canada must meet the requirements of the U.S. Apple and Pear Export Act. However, in addition, apples shipped to Canada must also meet Canadian Import requirements which in turn require the apples meet the U.S. Condition Standards for Export. According to the NHC, ''As a consequence, our industry's efforts to meet current Canadian demand for Fuji apples are being severely curtailed.'' Furthermore, the USAA has requested ''that you (USDA) make this change immediately since the regulation currently serves as an administrative barrier to trade with Canada, which is the industry's third largest export market behind Taiwan and Mexico.''

Therefore, as a result of a request made by both the NHC and the USAA, the following changes are being made to the U.S. Standards for Grades of Apples and the U.S. Condition Standards for Export. Sections 51.300 and 51.301, U.S. Extra Fancy and U.S. Fancy grades respectively, will be revised by changing the statement for ''free from damage by invisible water core after January 31st of the year following the year of production'' by adding ''except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances.''

Section 51.319, paragraph (f), the definition for damage by invisible water core, shall be revised by adding the following sentence: ''Invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances.''

In addition, section 51.323, paragraph (c) of the U.S. Condition Standards for Export states that ''Not more than 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damage by water core, * * *'' This paragraph will be revised by moving water core to the end of the paragraph and adding a statement to allow an exemption for Fuji variety apples. Thus, paragraph (c) will now read, ''Not more than a total of 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damage by bitter pit, Jonathan spot, water core, except that invisible water core shall not be scored as damage when these standards are applied to the Fuji variety of apples, or other condition factors: Provided, That:''

The Agency will make copies of this rulemaking readily available for any interested person or party upon request. In addition, it is intended that this action will be publicized through various actions and committees of the NHC and the USAA. Also, the Agency will distribute copies of this rulemaking to various apple industry members. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

AMS has considered alternatives to issuing this interim final rule. The Agency has considered conducting no action at all in regard to the request. However, as present reports indicate, the Fuji volume production is increasing on a yearly basis as well as exports of Fuji apples from this country. No action at all by the Agency could result in further lost foreign market sales for Fuji growers, shippers, or handlers.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule 30 days after publication in the **Federal Register** because: (1) This year's holdings as well as projected holdings for the Fuji apple are on the increase. Therefore more apples are available longer; (2) it would not be beneficial for the quality of the fruit to withstand storage for the length of a 30 day effective date as well as a comment period; (3) the changes being made in this interim final rule only affect the Fuji variety of apple and the requests for these changes is being made by two trade associations that represent the majority of the Fuji handlers; (4) this interim final rule provides a 60 day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR Part 51 is amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.300 is revised to read as follows:

§ 51.300 U.S. Extra Fancy.

''U.S. Extra Fancy'' consists of apples of one variety which are mature but not overripe, carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible water core, and broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from injury caused by smooth net-like russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russeting, or stem or calyx cracks, and free from damage by invisible water core after January 31st of the year following the year of production except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. Each apple of this grade has the amount of color specified in § 51.305 for the variety. (See §§ 51.305 and 51.307.)

3. Section 51.301 is revised to read as follows:

§ 51.301 U.S. Fancy.

''U.S. Fancy'' consists of apples of one variety which are mature but not overripe, carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible water core, and broken skins and bruises except those which are incident to proper handling and packing. The apples are also free from damage caused by russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, damage by other means, or invisible water core after January 31st of the year following the year of production, except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. Each apple of this grade has the amount of color specified in § 51.305 for the variety. (See §§ 51.305 and 51.307.)

4. In § 51.319, paragraph (f) is revised to read as follows:

§ 51.319 Damage.

* * * * *

(f) Invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles. Provided, That invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances.

* * * * *

5. In § 51.323 paragraph (c) introductory text is revised to read as follows.

§ 51.323 U.S. Condition Standards for Export.[4]

* * * * *

(c) Not more than a total of 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damage by bitter pit, Jonathan spot, water core except that invisible water core shall not be scored as damage when these condition standards are applied to the Fuji variety of apples, or other condition factors: *Provided,* That:

* * * * *

Dated: May 22, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–13968 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–02–P

[4] These standards may be applied to domestic shipments of apples as well as export lots, and may be referred to as ''U.S. Condition Standards.''

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1930, 1944, 1951, and 1965

Notice of Public Hearing on Rural Rental Housing (RRH) Assistance

AGENCIES: Rural Housing Service (RHS), Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Notice of public hearing on interim final rule.

SUMMARY: This Notice announces a Public Hearing on Congressionally mandated reforms to the Section 515 Rural Rental Housing new construction loan program. The intent of this hearing is to receive public comments on the Interim Final Rule, ''Rural Rental Housing (RRH) Assistance,'' which was published in the Federal Register on May 7, 1997, at page 25062. Interested users of the Section 515 Rural Rental Housing Program are invited.

ADDRESSES: The Hearing will be conducted at the Jamie L. Whitten Federal Building, located at 1400 Independence Avenue, S.W., Washington, DC 20250, room 107–A.

DATES: The Hearing will be conducted on June 11, 1997, from 10:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Persons wishing to attend the Hearing should contact Cynthia L. Reese-Foxworth, Senior Loan Officer, Multi-Family Housing Processing Division, USDA, Stop 0781, Washington, DC 20250, telephone (202) 720–1940 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing Program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans. Rental assistance for the Rural Rental Housing Program is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Discussion of Notice

The Rural Housing Service (RHS), formerly Rural Housing and Community Development Service (RHCDS), a successor Agency to the Farmers Home Administration (FmHA), has amended its regulations for the Rural Rental Housing (RRH) Program to implement legislative reforms mandated by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997, Public Law 104–180, enacted August 6, 1996 (herein referred to as the Act.) The Act included reforms in six areas of the Multi-Family Housing Program. The Act required that one of these reforms, determining the amount of assistance necessary to develop the proposed rental housing, be implemented within 60 days through negotiated rulemaking as a means of assuring that the public was both informed and consulted regarding the Agency's intentions and requirements that would impact them as potential users of the program. Unfortunately, such process takes an estimated 18 months and could not be accomplished within the confines of the Act. In order to meet the spirit of negotiated rulemaking, the Agency sought extensive public input through several informal meetings with developers, major housing groups, and Agency personnel so that the Agency would gain a full measure of public input before developing the regulations. Based on these meetings, regulations were developed and published as an Interim Final Rule in the **Federal Register** on May 7, 1997. The Act further required the Agency to promulgate regulations in accordance with the provisions of 5 U.S.C. 557 if negotiated rulemaking could not be timely accomplished. As part of that process, the Agency is conducting a public hearing to receive feedback and comments from developers, major housing groups, Agency personnel, and other interested parties in a public hearing format to complement the 60-day comment period provided by the Interim Rule. Persons making presentations are requested to leave a written copy of their comments with the hearing official to assure accuracy of the public record.

Dated: May 22, 1997.

Jan E. Shadburn,

Acting Administrator, Rural Housing Service.

[FR Doc. 97–14063 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 543

[No. 97–48]

RIN 1550–AA76

De Novo Applications for a Federal Savings Association Charter; Correction

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing a correction to its final regulation on *de novo* applications for federal savings association charters published on May 19, 1997 to remove a reference to an OTS regulation that will expire on the day the final *de novo* regulation becomes effective.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Gary Masters, Financial Analyst, Corporate Activities Division (202) 906–6729; Edward O'Connell, Project Manager, Thrift Policy (202) 906–5694; Kevin Corcoran, Assistant Chief Counsel, Business Transactions Division, Chief Counsel's Office (202) 906–6962; or Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations and Legislation Division, Chief Counsel's

Office, (202) 906–6439, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On May 19, 1997, the Office of Thrift Supervision (OTS) published its final rule to revise and update its treatment of *de novo* applications for federal savings association charters.[1] Effective July 1, 1997, new § 543.3(c)(1)(v) requires that business plans include a Community Reinvestment Act (CRA) statement pursuant to 12 CFR Part 563e, and plans for meeting the credit needs of the proposed *de novo* association's community.

Section 563e.4 of OTS's CRA regulation outlines the components of a CRA statement. However, § 563e.4 expires on July 1, 1997 and should not have been referenced in new § 543.3(c)(1)(v). OTS is, therefore, removing this reference and retaining the general requirement that business plans contain the proposed *de novo* association's plans for meeting the credit needs of its community.

In rule FR Doc. 97–12956, published on May 19, 1997 (62 FR 27177), make the following correction.

§ 543.3 [Corrected]

On page 27180, in the second column, in § 543.3(c)(1)(v), remove the phrase ''A Community Reinvestment Act statement, pursuant to 12 CFR part 563e, and plans'' and add in lieu thereof the word ''Plans''.

Dated: May 22, 1997.

By the Office of Thrift Supervision.

Mary H. Gottlieb,

Federal Register Liaison Officer.

[FR Doc. 97–14037 Filed 5–28–97; 8:45 am]

BILLING CODE 6720–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 936

[No. 97–39]

RIN 3069–AA35

Community Support Requirement

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation on the community support requirement. The rule replaces the existing review process with uniform community support standards all Federal Home Loan Bank (FHLBank) members must meet in order to maintain access to long-term FHLBank advances, and review criteria the Finance Board must apply when determining a member's compliance with the standards. Consistent with the goals of the Regulatory Reinvention Initiative of the National Performance Review, the rule streamlines the regulatory requirements to reduce the time spent by FHLBank members to prepare and submit, and the Finance Board to review and process, community support submissions.

EFFECTIVE DATE: The final rule will become effective June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Community Support Program, Office of Supervision, 202/408–2574, or, Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901, *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2).

In November 1996, the Finance Board published for notice and comment a proposed rule that would streamline the current regulatory requirements by replacing the existing community support review process with uniform standards and review criteria for determining compliance with section 10(g) of the Bank Act. *See* 61 FR 60229 (Nov. 27, 1996). The 60-day public comment period closed on January 27, 1997. *See id.* The Finance Board received a total of 56 comments in response to the proposed rule, 13 from FHLBanks, 14 from credit unions, 9 from credit union trade associations, 7 from financial institutions other than credit unions, 5 from trade associations representing financial institutions other than credit unions, 3 from insurance companies, 1 from an insurance company trade association, 2 from community groups, and 1 each from a state banking commissioner and an individual. Most of the commenters supported streamlining the community support process by implementing uniform standards members must meet, and review criteria the Finance Board must apply, in order for members to maintain access to long-term advances. Specific comments are discussed in Part II of the *Supplementary Information*.

II. Analysis of Public Comments and the Final Rule

A. Community Support Requirement

1. Selection For Community Support Review

Section 936.2(a) establishes the basic requirement that a FHLBank member selected for community support review must submit a community support statement (statement) to the Finance Board. Two commenters thought the Finance Board should select a member for review only after it has applied for a long-term advance. The Finance Board views the requirement imposed by section 10(g) of the Bank Act, *i.e.*, that members must meet standards of community investment or service established by the Finance Board in order to maintain access to a service of the FHLBanks—long-term advances, as an obligation of FHLBank membership, regardless of whether the member has borrowed or plans to borrow long-term advances.

The rule provides that the Finance Board will select approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter so that it will review each FHLBank member about once every two years. Two commenters suggested decreasing the frequency of community support review. The Finance Board believes a two-year review cycle is appropriate both for administrative convenience and because the streamlined review process has minimized to the fullest extent possible the compliance burden on members. Four commenters supported the statement in the preamble to the proposed rule that the Finance Board will review an institution only after it has been a FHLBank member for one year.

2. Notice Provisions

Section 936.2(b) sets out the notice requirements and the deadline by which members must submit statements to the Finance Board for review. Section 936.2(b)(1)(i) requires the Finance Board to notify each FHLBank of the members within its district that must submit a statement during the calendar quarter. At the same time, the Finance Board must publish a notice in the **Federal Register** that includes the name and address of each member required to

[1] 62 FR 27177 (May 19, 1997).

submit a statement during the calendar quarter, and the deadline for submission of the statement to the Finance Board. To provide sufficient time for the member to prepare the required statement, the deadline for submission to the Finance Board must be no less than 45 calendar days from the date of publication of the **Federal Register** notice. Two commenters suggested extending the deadline for statement submission from 45 to 60 days after the date of publication of the **Federal Register** notice. On the basis of past experience and in light of the significantly reduced documentation requirements, the Finance Board believes that the time period provided in the rule is adequate.

Section 936.2(b)(2)(ii) requires each FHLBank to provide written notice to its members of their selection for community support review and of the requirement to submit a statement to the Finance Board by the deadline stated in the **Federal Register** notice. Two commenters suggested requiring notice to members concurrent with publication of the **Federal Register** notice. Since the time provided for submission of statements is adequate, concurrent notice is not required. Two commenters opposed any FHLBank role in the community support process. The Finance Board believes the FHLBanks' limited role, *i.e.*, notifying members of their selection for community support review, is appropriate because it does not place the FHLBanks in a regulatory or supervisory role, but does provides an opportunity for the FHLBanks to offer information about community lending programs and assistance in preparing statements.

3. Required Documents

Section 936.2(c) requires a member to submit to the Finance Board a statement and any other information the Finance Board may require to determine whether the member meets the community support standards. Three commenters suggested permitting members to submit statements electronically. The Finance Board will permit members to submit statements electronically upon establishment of an Internet address for such submissions. The Finance Board will include the electronic mail address on the Community Support Statement Form (Form) as soon as it is available.

Section 10(g)(2) of the Bank Act requires the Finance Board to take into account a FHLBank member's performance under the CRA. *See* 12 U.S.C. 1430(g)(2); *supra* part I. To streamline the review process, the proposed rule would have required members to submit the portion of the public disclosure section of the most recent CRA evaluation provided by the member's appropriate federal financial supervisory agency that contains its CRA rating and the date of the CRA evaluation. Twelve commenters supported reliance on a member's federal CRA rating. One commenter suggested using also state CRA ratings. The Finance Board has decided to rely only upon federal CRA ratings in order to maintain a uniform standard. To eliminate duplicative documentation and reduce the burden on members and the Finance Board, the final rule will not require a member to submit its federal CRA rating since the Finance Board is able to obtain the rating directly from the member's appropriate federal financial supervisory agency. Two commenters recommended this approach.

Pursuant to section 10(g)(2) of the Bank Act, the rule provides that the Finance Board also shall consider a FHLBank member's record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2); *supra* part I. The proposed rule revised the definition of ''first-time homebuyer'' in § 936.1(l) to make it consistent with the definition of that term in affordable housing statutes.[1] Six commenters supported the revised definition. Three commenters thought the definition was too complex. The Finance Board believes the definition is appropriate as written because it is substantially similar to the definitions used in various other federal statutes that address housing issues.

To minimize the burden on FHLBank members and the Finance Board, § 936.2(c)(2) requires a member to provide a brief description of its record of lending, or of the assistance it provides, to first-time homebuyers on the Form. Five commenters said the requirement for certification of the Form by a member's board of directors would impose an unnecessary administrative burden and delay the process. The Finance Board agrees that the requirement is unnecessarily burdensome and has deleted it from the final rule. Instead, the rule requires an appropriate senior officer of the member to execute the Form. The information required by the Form, which is included at Appendix A, is discussed in detail below.

4. Public Comment Process

Section 936.2(d) permits members of the public to submit comments concerning a member's community support performance to the Finance Board at any time. The Finance Board will consider all public comments it has received concerning a selected member in conducting its community support review of that member. One commenter supported an open-ended comment process. Four commenters thought the public comment process was no longer necessary because it duplicates other available public comment processes. The Finance Board believes providing the opportunity for open-ended public comment is necessary and valuable because it may provide useful information specific to community support review.

Section 936.2(d)(1) requires each FHLBank to notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review. One commenter thought the rule should require a FHLBank to provide notice only to its Advisory Council because the cost of public notice was not justified by the number of comments received and interested parties still received notice via the **Federal Register**. The Finance Board disagrees because the costs imposed are not excessive and the notice encourages the submission of public comments.

B. Community Support Standards

Section 936.3 establishes the community support standards a FHLBank member must meet in order to maintain access to long-term advances, and the review criteria the Finance Board must apply in evaluating a member's community support performance. The Finance Board has included standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. Three commenters agreed that the rule should establish standards only for the factors in section 10(g) of the Bank Act. Twelve commenters argued that section 10(g) of the Bank Act does not require establishment of standards for both or either CRA performance or lending to first-time homebuyers, or only for those factors. Thirteen commenters said the Finance Board should not establish a standard for factors other than those provided in the Bank Act, such as violations of fair housing, equal credit opportunity, or other laws that prohibit discrimination

[1] *See, e.g.*, 42 U.S.C. 12713(b)(2), (3) (standards established by the Cranston-Gonzalez National Affordable Housing Act that must be used to determine eligibility under any federal program to assist first-time homebuyers); 12 U.S.C. 1701x(d)(10)(H), (M) (U.S. Department of Housing and Urban Development's assistance to low-and moderate-income housing program); 42 U.S.C. 1472(h)(12)(B), (C) (U.S. Department of Agriculture's program to provide loans for housing and buildings on adequate farms).

in lending. Four commenters thought the Finance Board should review information concerning illegal credit practices even though a member's primary regulator already reviews and enforces such practices. For instance, under the CRA regulation, a member's appropriate federal financial supervisory agency must consider the member's response to written complaints and the effect of evidence of discriminatory or other illegal credit practices. *See, e.g.*, 12 CFR 25.26(a)(5), 25.28(c) (Office of the Comptroller of the Currency (OCC)). In order to limit the burden imposed on members, the Finance Board has decided to establish standards only for the two factors mentioned in the Bank Act. Accordingly, § 936.3(a) requires the Finance Board to take into account both the CRA performance and record of lending to first-time homebuyers of FHLBank members that are subject to the CRA, and only the record of lending to first-time homebuyers of FHLBank members that are not subject to the CRA.

1. CRA Standard

Section 936.3(b) establishes the CRA performance standard for FHLBank members that are subject to the requirements of the CRA. Twelve commenters supported application of the CRA standard only to members that are subject to the CRA. Ten commenters supported applying the CRA standard or a CRA-like standard to members that are not subject to the CRA. As stated above, the Finance Board has determined not to formulate a new CRA-like factor for members not subject to the CRA; rather, it is adopting only those factors referenced in the Bank Act.

A member subject to the CRA will be deemed to meet the CRA performance standard in the community support regulation if the rating in the member's most recent federal CRA evaluation is ''outstanding'' or ''satisfactory.'' If the rating in a member's most recent federal CRA evaluation is ''needs to improve,'' the Finance Board will place the member on probation. The proposed rule provided for a one-year probationary period. Seven commenters suggested extending the probationary period since the period between CRA evaluations may be longer than one year. The Finance Board agrees with the commenters and the final rule provides that the probationary period will extend until the member's next federal CRA evaluation. During the probationary period, the member will be eligible to receive long-term advances. If the member's federal CRA rating does not improve at the end of the probationary period, the Finance Board will restrict the member's access to long-term advances. One commenter recommended immediate termination of access to long-term advances for a member with a ''needs to improve'' CRA rating instead of probation. The Finance Board believes that a member with a ''needs to improve'' CRA rating should be given the opportunity to improve its performance. The Finance Board also wants to distinguish between members with ''needs to improve'' and ''substantial noncompliance'' CRA ratings.

If the rating in a member's most recent federal CRA evaluation is ''substantial noncompliance,'' the Finance Board will immediately restrict the member's access to long-term advances. Four commenters suggested subjecting a member with a ''substantial noncompliance'' CRA rating to a one-year probationary period rather than immediate termination of access to long-term advances. One commenter said that only members with prior unacceptable CRA ratings should be subject to immediate termination. The Finance Board has considered these arguments, but continues to believe that members with ''substantial noncompliance'' CRA ratings have not met the CRA standard and, at least in that respect, their activities are not advancing the mission of the FHLBanks. In addition, the penalty for a member with a ''substantial noncompliance'' CRA rating should be more severe than that imposed on a member with a ''needs to improve'' CRA rating.

2. First-Time Homebuyer Standard

Section 936.3(c) establishes the first-time homebuyer performance standard for all FHLBank members. This is consistent with the goals of the National Homeownership Strategy and the Finance Board's commitments under its National Partners For Homeownership Partnership Agreement. Twelve commenters thought the proposed standard might be inconsistent with their mission or applicable statutory or regulatory constraints, as discussed more fully below. Seven commenters thought the Finance Board should establish a third standard for members that might not be able to meet the first-time homebuyer standard. To accommodate these concerns, the Finance Board has included additional examples of activities that will satisfy the first-time homebuyer standard in the final rule and on the Form. These additions are discussed in detail below. With the inclusion of additional, flexible criteria, the Finance Board feels that all members should be able to meet the first-time homebuyer standard.

Nine commenters thought the Finance Board should give more weight to the CRA standard than the first-time homebuyer standard because CRA review includes first-time homebuyer lending. Six of those commenters suggested that a member that meets the CRA standard should be deemed to meet the community support requirement, *i.e.*, the member should not also have to meet a separate first-time homebuyer standard. In evaluating CRA compliance, a member's appropriate federal financial supervisory agency must take into account some of the criteria the Finance Board considers when reviewing a member's first-time homebuyer performance, such as innovative or flexible lending practices and home-mortgage loans to low- and moderate-income individuals. *See, e.g.*, 12 CFR 25.22(b)(5), 22.5(b)(3)(i) (OCC). The Finance Board believes these comments have merit and that it can place some reliance on the notion that a member with an ''outstanding'' CRA rating will have performed adequately in meeting the first-time homebuyer standard. Therefore, the final rule provides that in the absence of public comments or other information to the contrary, a member whose most recent federal CRA rating is ''outstanding'' will be presumed to have met the first-time homebuyer standard without a separate showing of compliance. If a public comment or other information that may come to the attention of the Finance Board raises concerns regarding the first-time homebuyer performance of a member with an ''outstanding'' federal CRA rating, the Finance Board may require the member to submit compliance information.

Eight commenters support allowing members to demonstrate compliance with the first-time homebuyer standard in one of several ways. First, a member that demonstrates to the satisfaction of the Finance Board that it has an established record of lending to first-time homebuyers will be deemed to meet the first-time homebuyer standard. In order to demonstrate this aspect of first-time homebuyer performance, part II(A) of the Form asks a member to provide the following information: (1) the number of mortgage loans it has made to first-time homebuyers; (2) the dollar amount of the mortgage loans it has made to first-time homebuyers; (3) loans made to first-time homebuyers as a percentage of all mortgage loans it has made; or (4) dollars loaned to first-time homebuyers as a percentage of all mortgage dollars it has loaned. The

Finance Board specifically requested comments regarding establishment of bright-line numerical thresholds for first-time homebuyer lending. Twenty commenters opposed establishing either a numeric reporting requirement or bright-line numerical thresholds. Fourteen commenters said evaluation of first-time homebuyer performance should be on a case-by-case basis, taking into account the member's market, resources, and applicable statutory and regulatory constraints. Only two commenters supported numerical thresholds. The Finance Board has not established a numeric reporting requirement or bright-line numerical thresholds in the final rule for two reasons. First, it will be difficult for most members to collect accurate data regarding the volume of first-time homebuyer loans. Second, reasonable, uniformly applicable thresholds cannot easily be established due to the great variety of FHLBank members in terms of institution size, location, purpose, and function. For the same reasons the Finance Board did not establish pass/fail criteria for the first-time homebuyer standard, as suggested by four commenters.

A member also may satisfy the first-time homebuyer standard by demonstrating to the satisfaction of the Finance Board that it has a program under which it actively seeks to lend or support lending to first-time homebuyers or to assist or support organizations that assist potential first-time homebuyers to qualify for mortgage loans. In order to demonstrate this alternative, part II(B) of the Form asks a member to indicate whether it offers, participates in, or otherwise supports special loan products, financial services, programs, or activities that benefit, serve, or are targeted to, first-time homebuyers. Twelve commenters suggested including additional examples of activities that will satisfy the first-time homebuyer standard in the final rule and on the Form. The Finance Board has incorporated these suggestions in the following list of activities: (1) providing special credit products with flexible underwriting or qualifying criteria, which includes non-conforming loans; (2) participating in loan consortia for first-time homebuyer loans or loans that serve predominately low- or moderate-income borrowers; (3) participating in federal, state, or local government homeownership or other related programs, like Federal Housing Administration or Veterans Administration mortgage loan programs; (4) participating in programs offered by community or nonprofit groups or national organizations like the Federal National Mortgage Association (also known as Fannie Mae) or the Federal Home Loan Mortgage Corporation (also known as Freddie Mac); (5) providing, participating in, or supporting counseling programs or other homeownership education activities; (6) providing, participating in, or supporting outreach programs; (7) providing technical assistance or financial support to organizations that assist first-time homebuyers; (8) investments or loans that support first-time homebuyer programs; (9) holding mortgage-backed securities that may include a pool of loans to low- and moderate-income homebuyers; (10) participating or investing in service organizations that assist credit unions in providing mortgages; or (11) participating in FHLBank community lending programs. This list is meant to be illustrative, not exclusive.

A member may, but is not required to, attach to the Form a one-page description of other first-time homebuyer programs or activities in which it is involved. In the one-page attachment, a member may also describe factors that may adversely affect its ability to assist first-time homebuyers, like field of membership restrictions for credit unions or business constraints applicable to insurance companies.

A member also may satisfy the first-time homebuyer standard if it demonstrates to the satisfaction of the Finance Board that it meets a combination of the elements discussed above. In response to several comments, the Finance Board has clarified both the rule and the Form to make clear that a member may meet the standard by meeting one, both, or a combination of the factors described above.

If the Finance Board deems the evidence of first-time homebuyer performance provided by the member to be unsatisfactory, the Finance Board will place the member on probation for a one-year period. One commenter suggested lengthening the probationary period. The Finance Board believes that the time provided is sufficient for a member to comply with the first-time homebuyer standard. During the probationary period, the member will be eligible to receive long-term advances. If the member does not satisfy the first-time homebuyer performance standard before the probationary period ends, the Finance Board will restrict the member's access to long-term advances. The Finance Board will immediately restrict a member's access to long-term advances if the member must show compliance with the first-time homebuyer standard but fails to provide any evidence of its record of lending to first-time homebuyers.

C. Decisions on Community Support Statements

Section 936.4 sets forth the procedures for review of statements by the Finance Board. To ensure expeditious action on statements, § 936.4(a) requires the Finance Board to act on a statement within 75 calendar days of the date it deems the statement complete. To make certain that the time period provided for review is not unduly restrictive, the rule deems a statement complete, thus triggering the 75-day time period, only after the Finance Board has obtained all of the information required by this part and any other information it considers necessary to process the statement. The rule also permits the Finance Board to stop the 75-day time period if it determines during the review process and notifies the member in writing that additional information is necessary to process the statement. The Finance Board must restart the 75-day time period where it stopped upon receiving the additional required information. The Finance Board will have an additional 10 calendar days to process a statement if it receives additional information on or after the seventieth day of the 75-day time period.

Section 936.4(b) requires the Finance Board to notify a member and the appropriate FHLBank in writing of its determination regarding the member's statement. The notice will identify specifically the reasons for the Finance Board's determination. One commenter supported the requirement that the Finance Board provide specific reasons for its determination.

D. Restrictions On Access To Long-Term Advances

1. Imposing Restrictions

Section 936.5 sets forth the procedures by which the Finance Board may restrict a FHLBank member's access to long-term advances. One commenter suggested clarifying the meaning of a restriction on access to long-term advances. The Finance Board has added a definition at § 936.1(o). For purposes of this part, ''restriction on access to long-term advances'' means a member may not borrow long-term advances or renew any maturing advance for a term to maturity greater than one year. One commenter thought the definition of the term ''long-term advance,'' which means an advance with a term to maturity greater than one year, should be the same for all purposes under the Bank Act. *See, e.g.,*

12 CFR 935.1 (for purposes of the Finance Board's advances regulation, the term ''long-term advance'' means an advance with a term to maturity greater than five years). The meaning of the term ''long-term advances'' for purposes of community support is the same in the proposed rule as it was under the current community support regulation; the Finance Board did not propose changing, nor has it changed, the definition. The reasons underlying this definition are explained in detail in the preamble to the adoption of the current rule. *See* 56 FR 58639, 58642 (Nov. 21, 1991). The Finance Board continues to believe that it has the legal authority to interpret the same term differently for different purposes in order to fulfill its statutory obligations. *See* 12 U.S.C. 1422b(a)(1).

Under § 936.5(a), the Finance Board will restrict a FHLBank member's access to long-term advances if it determines that the member:

(1) Has not complied with the requirements of part 936;

(2) Has submitted a statement that was not approved by the Finance Board;

(3) Has not received a CRA rating of ''outstanding'' or ''satisfactory'' at the end of the probationary period described in § 936.3(b)(2); or

(4) Has not provided first-time homebuyer evidence satisfactory to the Finance Board before the end of the probationary period described in § 936.3(c)(2).

Under § 936.5(b), the Finance Board promptly must notify a member and the appropriate FHLBank of its determination to restrict the member's access to long-term advances. The proposed rule provided that the Finance Board would send the notice to the member by certified mail, return receipt requested, and to the FHLBank by regular mail. Six commenters said the FHLBanks should receive notice of a restriction before the member so the FHLBank does not inadvertently provide long-term advances to an ineligible borrower. To accommodate this concern, the final rule provides that the Finance Board will notify the FHLBank by facsimile and by regular mail.

Section 936.5(c) of the proposed rule provided that a restriction on access to long-term advances would become effective automatically on the date the decision notices are mailed. One commenter thought there should be a 30-day delay before a restriction takes affect. The Finance Board agrees that a 30-day delay is appropriate. The Finance Board's goal is to encourage compliance with the community support requirement. Past experience indicates that many members will comply with the requirement upon receiving a 30-day notice. The 30-day period will also allow the FHLBanks to take administrative steps that may be necessary in order to restrict a member's access to long-term advances.

2. Removing Restrictions

Section 936.5(d) sets forth the bases for removing restrictions on access to long-term advances imposed by the Finance Board under this part. The Finance Board, in its sole discretion, may remove a restriction on a member's access to long-term advances under two circumstances. First, the Finance Board may remove a restriction if it determines that application of the restriction may adversely affect the safety and soundness of the member. Second, the Finance Board may remove a restriction if it determines that the member subsequently has complied with the requirements of part 936. The Finance Board has eliminated the mandatory 180-day waiting period before reinstatement. Six commenters supported the deletion while one commenter though the waiting period should be at least two years. Since the Finance Board's primary goal is to encourage FHLBank members to comply with the community support regulation, removal of the waiting period is appropriate.

The rule permits a member to submit a detailed written request to the Finance Board to remove a restriction on access to long-term advances. The Finance Board must consider these requests within 30 calendar days of receipt. If a member bases a reinstatement request on safety and soundness concerns, the request must include a statement from the member's primary federal regulator that application of the restriction may adversely affect the safety and soundness of the member.

In order to acknowledge a member's efforts to improve its CRA performance, § 936.5(d)(2) requires the Finance Board to place a member on probation in accordance with § 936.3(b)(2), if: (1) the member's access to long-term advances was restricted on the basis of the member's inadequate performance under the CRA standard, *i.e.*, the rating in the member's most recent federal CRA evaluation was ''substantial noncompliance;'' (2) the rating in the member's subsequent CRA evaluation is ''needs to improve;'' and (3) the member did not receive either a ''substantial noncompliance'' CRA rating or a ''needs to improve'' CRA rating immediately preceding the CRA rating on which the member's inadequate performance under the CRA standard was based.

To ensure that a FHLBank receives notice of the Finance Board's decision to remove a restriction before the member, § 936.5(d)(3) of the final rule provides for notice to the FHLBanks by facsimile and by regular mail. The proposed rule would have required the Finance Board to send the notice to the member by certified mail, return receipt requested, and to the FHLBank by regular mail. The Finance Board's decision to remove a restriction will become effective automatically on the date the decision notices are mailed.

3. Effect of Restrictions on the Affordable Housing and Community Investment Programs

Under § 936.5(e), if the Finance Board has restricted a member's access to long-term advances under this part, the member will not be eligible to participate in either the Affordable Housing Program (AHP) or the Community Investment Program (CIP). Two commenters supported imposing restrictions on access to AHP and CIP advances for members that fail to meet the community support requirement. Six commenters said a restriction should not be imposed because the member otherwise could use the AHP and CIP to improve its community support performance. However, the Finance Board continues to believe that it should not offer a member the opportunity to participate in community lending programs subsidized by the FHLBanks until the member has demonstrated a willingness to use its own resources to meet community lending needs. Accordingly, the final rule limits participation in the AHP and CIP only to members that have met the community support requirement.

Four commenters said the rule should clarify that the restriction applies only to AHP or CIP applications made after the date the restriction is imposed and not to previously approved AHP or CIP funding. The Finance Board has included clarifying language in the final rule.

E. FHLBank Community Support Programs

Under §§ 936.6 (a) and (b), each FHLBank must consult with its Advisory Council to develop and implement initiatives to increase community-oriented mortgage lending and affordable housing finance activities. The rule also requires each FHLBank to establish and maintain a community support program that: (1) provides technical assistance to members; (2) promotes and expands community-oriented mortgage lending and affordable housing finance; (3)

identifies opportunities for members to expand financial and credit services in underserved neighborhoods and communities; and (4) encourages members to increase their community-oriented mortgage lending and affordable housing finance activities through the use of monetary and nonmonetary incentives. Examples of appropriate incentives include discounts or preferred terms on advances to members or awards or technical assistance to nonprofit housing developers or community groups that have outstanding records of participation in community-oriented mortgage lending and affordable housing finance activities. These examples are meant to be illustrative, not exclusive.

To provide motivation for FHLBank members to meet the community support requirements, § 936.5(c) requires each FHLBank to provide a yearly report to its members that identifies AHP, CIP, and other FHLBank activities, and summarizes community-oriented mortgage lending and affordable housing finance activities undertaken by members, nonprofit housing developers, community groups, or other entities in the FHLBank district, that may provide opportunities for a member to meet the community support requirements. Two commenters supported reducing the frequency of required reports from twice to once a year.

F. Reports

Section 10(j)(11) of the Bank Act requires each FHLBank Advisory Council to submit annually a report to the Finance Board analyzing the low-income housing activity of its FHLBank. *See* 12 U.S.C. 1430(j)(11). Since the concept of community support includes initiatives related to affordable housing, the Finance Board believes that the annual report each Advisory Council submits should include an analysis of the community support program and activities of its FHLBank. The Finance Board has included this requirement in § 936.7.

Pursuant to section 10(j)(12) of the Bank Act, the Finance Board annually must prepare and submit to Congress a report on FHLBank support of, and use of advances for, low-income housing and community development. *See* 12 U.S.C. 1430(j)(12)(A). The Finance Board's annual report to Congress must include the annual Advisory Council reports to the Finance Board on the low income housing activity of the FHLBanks. *Id.* 1430(j)(12)(B). The Finance Board intends to include also in its annual report to Congress an analysis of the FHLBanks community support programs and activities.

III. Regulatory Flexibility Act

The final rule implements statutory requirements binding on all FHLBank members, regardless of their size. The Finance Board is not at liberty to make adjustments in those requirements to accommodate small entities. The Finance Board has not imposed any additional regulatory requirements that will have a disproportionate impact on small entities. By streamlining the regulatory requirements, the Finance Board has, to the maximum extent possible, reduced the costs FHLBank members, the FHLBanks, and Finance Board will incur to produce, review, and process the submissions the Finance Board requires to determine whether a FHLBank member has complied with the community support requirement. Thus, in accordance with the provisions of the Regulatory Flexibility Act, the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

IV. Paperwork Reduction Act

As part of the notice of proposed rulemaking, the Finance Board published a request for comments concerning the collection of information contained in §§ 936.2 through 936.7 of the proposed rule. *See* 61 FR 60233. The Finance Board received two comments. Both commenters thought the reporting and recordkeeping burden might be underestimated. The Finance Board continues to believe that the burden estimates are accurate. The Finance Board also submitted an analysis of the information collection to the Office of Management and Budget (OMB) for review in accordance with section 3507(d) of the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3507(d). OMB assigned a control number, 3069–0003, and approved the information collection without conditions with an expiration date of December 31, 1999. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by the OMB. *See id.* 3512(a). Although the final rule does not substantively or materially modify the approved information collection, it reduces the reporting and recordkeeping burden imposed on many respondents by eliminating the requirement that members subject to the CRA submit portions of their CRA evaluation, *see* 12 CFR 936.2(c)(1), and the submission of information about first-time homebuyer activities for members with ''outstanding'' CRA ratings. *See id.* § 936.3(c)(1). The title, description of need and use, and a description of the information collection requirements in the final rule are discussed in parts I and II of the **SUPPLEMENTARY INFORMATION.**

The following table discloses the estimated annual reporting and recordkeeping burden:

a. Number of respondents	3000
b. Total annual responses	3000
Percentage of these responses collected electronically	0%
c. Total annual hours requested	4010
d. Current OMB inventory	20475
e. Difference	16465

The estimated annual reporting and recordkeeping cost burden is:

a. Total annualized capital/startup costs	0
b. Total annual costs (O&M)	0
c. Total annualized cost requested	$155,800.62
d. Current OMB inventory	0
e. Difference	$155,800.62

Any comments concerning the information collection should be submitted to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006, and the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Federal Housing Finance Board, Washington, D.C. 20503.

List of Subjects in 12 CFR Part 936

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Federal Housing Finance Board hereby revises title 12, chapter IX, part 936 of the Code of Federal Regulations to read as follows:

PART 936—COMMUNITY SUPPORT REQUIREMENTS

Sec.

936.1 Definitions.
936.2 Community support requirement.
936.3 Community support standards.
936.4 Decision on community support statements.
936.5 Restrictions on access to long-term advances.
936.6 Bank community support programs.
936.7 Reports.

Authority: 12 U.S.C. 1422a(a)(3)(B), 1422b(a)(1), 1429, and 1430.

§ 936.1 Definitions.

For purposes of this part:

(a) *Act* means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421, *et seq.*).

(b) *Advance* has the same meaning as in § 935.1 of this chapter.

(c) *Advisory Council* means the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Act and part 960 of this chapter.

(d) *Affordable Housing Program* or *AHP* means the program each Bank is required to establish pursuant to section 10(j) of the Act and part 960 of this chapter.

(e) *Appropriate federal financial supervisory agency* means the Office of the Comptroller of the Currency for national banks; the Board of Governors of the Federal Reserve System for state chartered banks that are members of the Federal Reserve System and bank holding companies; the Federal Deposit Insurance Corporation for state chartered banks and savings banks that are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation; and the Office of Thrift Supervision for savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation and savings and loan holding companies.

(f) *Bank* or *Banks* means a Federal Home Loan Bank or the Federal Home Loan Banks.

(g) *Community Investment Program* or *CIP* means the program each Bank is required to establish pursuant to section 10(i) of the Act.

(h) *Community-oriented mortgage lending* has the same meaning as in section 10(i)(2) of the Act.

(i) *CRA* means the Community Reinvestment Act of 1977, as amended (12 U.S.C. 2901, *et seq.*).

(j) *CRA evaluation* means the public disclosure portion of the CRA performance evaluation provided by a member's appropriate federal financial supervisory agency.

(k) *Finance Board* means the agency established as the Federal Housing Finance Board.

(l) *First-time homebuyer* means:

(1) An individual and his or her spouse, if any, who has had no present ownership interest in a principal residence during the three-year period prior to purchase of a principal residence.

(2) A displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (l)(1) of this section. For purposes of this paragraph (l)(2), the term *displaced homemaker* means an adult who has not worked full-time, full-year in the labor force for a number of years and, during that period, worked primarily without remuneration to care for a home and family, and currently is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) A single parent who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (l)(1) of this section. For purposes of this paragraph (l)(3), the term *single parent* means an individual who is unmarried or legally separated from a spouse and has custody or joint custody of one or more minor children or is pregnant.

(m) *Long-term advance* means an advance with a term to maturity greater than one year.

(n) *Member* means an institution admitted to membership and owning capital stock in a Bank.

(o) *Restriction on access to long-term advances* means a member may not borrow long-term advances or renew any maturing advance for a term to maturity greater than one year.

§ 936.2 Community support requirement.

(a) *Selection for community support review.* The Finance Board shall select a member for community support review approximately once every two years.

(b) *Notice*—(1) *By the Finance Board.* The Finance Board concurrently shall:

(i) Notify each Bank of the members within its district that are required to submit community support statements during the calendar quarter; and

(ii) Publish a notice in the **Federal Register** that includes the name and address of each member required to submit a community support statement during the calendar quarter, and the deadline for submission of the community support statement to the Finance Board. The deadline for submission of a community support statement shall be no earlier than 45 calendar days after the date of publication of the notice in the **Federal Register**.

(2) *By the Banks.* Within 15 calendar days of the date of publication in the **Federal Register** of the notice required by paragraph (b)(1)(ii) of this section, a Bank shall provide written notice:

(i) To each member within its district that is named in the **Federal Register** notice, that the member is required to submit a community support statement to the Finance Board by the deadline stated in the **Federal Register** notice; and

(ii) Its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the name and address of each member within its district that is required to submit a community support statement during the calendar quarter.

(c) *Required documents.* Each member selected for community support review shall submit a completed Community Support Statement Form executed by an appropriate senior officer to the Finance Board and any other information the Finance Board may require to determine whether a member meets the community support standards.

(d) *Public comments.* In reviewing a member for compliance with the community support requirement, the Finance Board shall take into consideration any public comments it has received concerning the member.

(The Office of Management and Budget approved the information collection requirements contained in this section and assigned control number 3069–0003 with an expiration date of December 31, 1999.)

§ 936.3 Community support standards.

(a) *In general.* In reviewing a community support statement, the Finance Board shall take into account a member's performance under the CRA if the member is subject to the requirements of the CRA, and the member's record of lending to first-time homebuyers.

(b) *CRA standard*—(1) *Adequate performance.* A member that is subject to the requirements of the CRA shall be deemed to meet the CRA standard if the rating in the member's most recent CRA evaluation is ''outstanding'' or ''satisfactory.''

(2) *Probationary performance.* A member that is subject to the requirements of the CRA shall be subject to a probationary period if the rating in the member's most recent CRA evaluation is ''needs to improve.'' The probationary period shall extend until the member's appropriate federal financial supervisory agency completes its next CRA evaluation and issues a rating. The member will be eligible to receive long-term advances during the probationary period. If the member does not meet the CRA standard at the end of the probationary period, the Finance Board shall restrict the member's access to long-term advances in accordance with § 936.5.

(3) *Inadequate performance.* A member's access to long-term advances shall be restricted in accordance with § 936.5 if the rating in the member's most recent CRA evaluation is ''substantial noncompliance.''

(c) *First-time homebuyer standard*—(1) *Adequate performance.* In the absence of public comments or other information to the contrary, a member shall be presumed to meet the first-time

homebuyer standard if the member is subject to the requirements of the CRA and the rating in the member's most recent CRA evaluation is ''outstanding.'' In determining whether other members meet the first-time homebuyer standard, the Finance Board shall consider a member's description of its efforts to assist first-time or potential first-time homebuyers or its explanation of factors that affect its ability to assist first-time or potential first-time homebuyers. A member shall be deemed to meet the first-time homebuyer standard if the member otherwise demonstrates to the satisfaction of the Finance Board that it:

(i) Has an established record of lending to first-time homebuyers; or

(ii) Has a program whereby it actively seeks to lend or support lending to first-time homebuyers, including, but not limited to, the following:

(A) Providing special credit products with flexible underwriting standards for first-time homebuyers;

(B) Participating in federal, state, or local government, or nationwide homeownership lending programs that benefit, serve, or are targeted to, first-time homebuyers;

(C) Participating in loan consortia for first-time homebuyer loans or loans that serve predominantly low- or moderate-income borrowers; or

(iii) Has a program whereby it actively seeks to assist or support organizations that assist potential first-time homebuyers to qualify for mortgage loans, including, but not limited to, the following:

(A) Providing, participating in, or supporting special counseling programs or other homeownership education activities that benefit, serve, or are targeted to, first-time homebuyers;

(B) Providing or participating in marketing plans and related outreach programs targeted to first-time homebuyers;

(C) Providing technical assistance of financial support to organizations that assist first-time homebuyers;

(D) Participating with or financially supporting community or nonprofit groups that assist first-time homebuyers;

(E) Holding investments or making loans that support first-time homebuyer programs;

(F) Holding mortgage-backed securities that may include a pool of loans to low- and moderate-income homebuyers;

(G) Participating or investing in service organizations that assist credit unions in providing mortgages; or

(H) Participating in Bank community lending programs; or

(iv) Has any combination of the elements described in paragraphs (c)(1)(i), (ii), or (iii) of this section.

(2) *Probationary performance.* If the evidence of first-time homebuyer performance is deemed to be unsatisfactory by the Finance Board, the member shall be subject to a one-year probationary period. The member will be eligible to receive long-term advances during the probationary period. If the member does not demonstrate compliance with the first-time homebuyer standard before the probationary period ends, the Finance Board shall restrict the member's access to long-term advances in accordance with § 936.5.

(3) *Inadequate performance.* A member's access to long-term advances shall be restricted in accordance with § 936.5 if the member provides no evidence of first-time homebuyer performance.

(The Office of Management and Budget approved the information collection requirements contained in this section and assigned control number 3069–0003 with an expiration date of December 31, 1999.)

§ 936.4 Decision on community support statements.

(a) *Action on community support statements.* The Finance Board shall act on each community support statement in accordance with the requirements of § 936.3 within 75 calendar days of the date the Finance Board deems the community support statement to be complete. The Finance Board shall deem a community support statement complete when it has obtained all of the information required by this part and any other information it deems necessary to process the community support statement. If the Finance Board determines during the review process that additional information is necessary to process the community support statement, the Finance Board may deem the community support statement incomplete and stop the 75-day time period by providing written notice to the member. When the Finance Board receives the additional information, it shall again deem the community support statement complete and resume the 75-day time period where it stopped. The Finance Board shall have 10 calendar days in addition to the 75-day time period to act on a community support statement if the Finance Board receives the additional information on or after the seventieth day of the 75-day time period.

(b) *Decision on community support statements.* The Finance Board shall provide written notice to the member and the member's Bank of its determination regarding the community support statement submitted by the member. The notice shall identify the reasons for the Finance Board's determination.

§ 936.5 Restrictions on access to long-term advances.

(a) *Requirement.* The Finance Board shall restrict a member's access to long-term advances if the member:

(1) Failed to comply with the requirements of this part;

(2) Submitted a community support statement that was not approved by the Finance Board;

(3) Did not receive a rating in a CRA evaluation of ''outstanding'' or ''satisfactory'' at the end of the probationary period described in § 936.3(b)(2); or

(4) Failed to provide evidence satisfactory to the Finance Board of its first-time homebuyer performance before the end of the probationary period described in § 936.3(c)(2).

(b) *Notice.* The Finance Board shall provide written notice to a member and the member's Bank of its determination to restrict the member's access to long-term advances, the member by certified mail, return receipt requested, and the member's Bank by facsimile and by regular mail.

(c) *Effective date.* Restrictions on access to long-term advances shall take effect 30 days after the date the notices required under paragraph (b) of this section are mailed unless the member complies with the requirements of this part before the end of the 30-day period.

(d) *Removing restrictions.* (1) The Finance Board may remove restrictions on a member's access to long-term advances imposed under this section:

(i) If the Finance Board determines that application of the restriction may adversely affect the safety and soundness of the member. A member may submit a written request to the Finance Board to remove a restriction on access to long-term advances under this paragraph (d)(1)(i). Such written request submitted shall contain a clear and concise statement of the basis for the request and a statement from the member's appropriate federal financial supervisory agency that application of the restriction may adversely affect the safety and soundness of the member. The Finance Board shall consider each written request within 30 calendar days of receipt.

(ii) If the Finance Board determines that the member subsequently has complied with the requirements of this part. A member may submit a written request to the Finance Board to remove a restriction on access to long-term

advances under this paragraph (d)(1)(ii). Such written request shall state with specificity how the member has complied with the requirements of this part. The Finance Board shall consider each written request within 30 calendar days of receipt.

(2) The Finance Board shall place a member on probation in accordance with § 936.3(b)(2), if:

(i) The member's access to long-term advances was restricted on the basis of the member's inadequate performance under the CRA standard, as described in § 936.3(b)(3);

(ii) The rating in the member's subsequent CRA evaluation is ''needs to improve;'' and

(iii) The member did not receive either a ''substantial noncompliance'' CRA rating or a ''needs to improve'' CRA rating immediately preceding the CRA rating on which the member's inadequate performance under the CRA standard was based.

(3) The Finance Board shall provide written notice to the member and the member's Bank of its determination under this paragraph (d), the member by certified mail, return receipt requested, and the member's Bank by facsimile and by regular mail. The Finance Board's determination shall take effect on the date the notices are mailed.

(e) *AHP and CIP.* A member that is subject to a restriction on access to long-term advances under this part shall not be eligible to participate in the Affordable Housing Program or the Community Investment Program. The restriction in this paragraph (e) shall not apply to AHP or CIP applications or funding approved before the date the restriction is imposed.

(The Office of Management and Budget approved the information collection requirements contained in this section and assigned control number 3069–0003 with an expiration date of December 31, 1999.)

§ 936.6 Bank community support programs.

(a) *Requirement.* Consistent with the safe and sound operation of the Bank, each Bank shall establish and maintain a community support program. A Bank's community support program should:

(1) Provide technical assistance to members;

(2) Promote and expand community-oriented mortgage lending and affordable housing finance;

(3) Identify opportunities for members to expand financial and credit services in underserved neighborhoods and communities; and

(4) Encourage members to increase their community-oriented mortgage lending and affordable housing finance activities by providing incentives such as awards or technical assistance to nonprofit housing developers or community groups with outstanding records of participation in community-oriented lending or affordable housing finance partnerships with members.

(b) *Advisory Councils.* A Bank shall consult with its Advisory Council to develop and implement initiatives to increase community-oriented mortgage lending and affordable housing finance activities in the Bank district.

(c) *Notice.* A Bank shall provide annually to each of its members a written notice:

(1) Identifying AHP, CIP, and other Bank activities that may provide opportunities for a member to meet the community support requirements; and

(2) Summarizing community-oriented mortgage lending and affordable housing finance activities undertaken by members, nonprofit housing developers, community groups, or other entities in the Bank's district, that may provide opportunities for a member to meet the community support requirements.

§ 936.7 Reports.

The annual report Advisory Councils are required to submit to the Finance Board pursuant to section 10(j)(11) of the Act shall include an analysis of the appropriate Bank's community support program and activities.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—Community Support Statement Form

BILLING CODE 6725–01–U

Federal Housing Finance Board
Community Support Statement

(Instructions on reverse)

Name of Institution: _____

Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Docket Number: _____

Contact Person: (Mr./Ms.) _____ **Title:** _____

Phone Number: (___) _____ **Fax Number:** (___) _____

I. CRA Standard

Most recent federal CRA rating: _____ CRA evaluation date: _____

II. First-time Homebuyer Standard *(You may complete either Section A or B, or both sections. Members with "outstanding" federal CRA ratings need not complete this section.)*

A. Complete the following four questions using data for the past year.

1.	Number of mortgage loans made to first-time homebuyers	_____
2.	Dollar amount of loans made to first-time homebuyers	$_____
3.	Loans made to first-time homebuyers as a percentage of all mortgage loans	_____%
4.	Dollars loaned to first-time homebuyers as a percentage of all mortgage dollars loaned	_____%

B. Check as many boxes as appropriate:

1.	In-house first-time homebuyer program *(e.g.* marketing plans and outreach programs)	_____
2.	Other in-house lending products that serve first-time homebuyers or low- and moderate-income homebuyers	_____
3.	Flexible underwriting standards for first-time homebuyers	_____
4.	Participate in nationwide first-time homebuyer programs (Fannie Mae, Freddie Mac, etc.)	_____
5.	Participate in federal government programs that serve first-time homebuyers (FHA, VA, etc.)	_____
6.	Participate in state or local government programs targeted to first-time homebuyers	_____
7.	Financial support or technical assistance to community groups or organizations that assist first-time homebuyers	_____
8.	Participate in loan consortia that make loans to first-time homebuyers	_____
9.	Participate in or support special counseling or homeownership education targeted to first-time homebuyers	_____
10.	Hold investments or make loans that support first-time homebuyer programs	_____
11.	Hold mortgage-backed securities that may include a pool of loans to low- and moderate-income homebuyers	_____
12.	Participate in service organizations that provide mortgages	_____
13.	Participate in FHLBank community lending programs	_____
14.	Other (see instructions for Part II)	_____

III. Certify that information in this Community Support Statement and the attachments is correct to the best of your knowledge by filling out the information below.

Signed _____ Title _____

Print Name _____ Date _____ *(over)*

Community Support Statement Instructions

Purpose: To maintain continued access to long-term advances, section 10(g) of the Federal Home Loan Bank Act [12 U.S.C. § 1430(g)] requires the Federal Housing Finance Board (Finance Board) to take into account a Federal Home Loan Bank member's performance under the Community Reinvestment Act of 1977 [12 U.S.C. §2901, et seq.] (CRA) and its record of lending to first-time homebuyers. For purposes of community support review, the term "long-term advances" means advances with a term to maturity greater than one year.

Part I (CRA Standard): Members subject to CRA may complete this section. Indicate your institution's most recent federal CRA evaluation rating and date. [If your institution is not subject to CRA, indicate this in the CRA evaluation field on this form.]

If your institution's most recent federal CRA rating is "needs to improve," the Finance Board will place your institution on probation until it receives the rating from its next CRA examination. During the probationary period, your institution will retain access to long-term advances. If your institution does not receive an improved CRA rating at its next federal CRA evaluation, its access to long-term advances will be restricted.

If your institution's most recent federal CRA rating is "substantial noncompliance," the Finance Board immediately will take action to restrict its access to long term advances. The restriction will remain in effect until your institution's rating improves.

Part II (First-time Homebuyer Standard): All members, except those with "outstanding" federal CRA ratings, must complete this section. Your institution may demonstrate assistance to first-time homebuyers in many ways, but the Finance Board is particularly interested in actual loans, products, and services to first-time homebuyers. Although completion of both Section A and Section B is requested, your institution may satisfy the first-time homebuyer standard by demonstrating adequate lending performance (Section A), by demonstrating participation in programs that assist first-time homebuyers (Section B), or by a combination of both factors. If the information requested in Part II is inadequate to reflect your institution's compliance with the first-time homebuyer standard, your institution may attach a one-page description of its efforts to assist first-time homebuyers and/or an explanation of factors affecting its ability to assist first-time homebuyers. No other information beyond this one-page description will be considered.

If your institution does not submit evidence of assistance to first-time homebuyers, the Finance Board immediately will take action to restrict its access to long term advances. The restriction will remain in effect until your institution submits information satisfactory to the Finance Board.

Part III (Certification): All members must complete this section. An appropriate senior officer must certify that the information in this Community Support Statement and the attachments is correct to the best of his/her knowledge.

Assistance: Your Federal Home Loan Bank has a Community Support Program that can assist you in preparing your Community Support Statement.

Once you have completed this form, please submit it, along with any attachments, to the Federal Housing Finance Board, Office of Supervision, 1777 F Street, N.W., Washington, D.C. 20006.

[FR Doc. 97–13690 Filed 5–28–97; 8:45 am]
BILLING CODE 6725–01–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–ANE–26; Amendment 39–10034; AD 97–11–05]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. ALF502 and LF507 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal Inc. (formerly Textron Lycoming) ALF502 and LF507 series turbofan engines, that requires initial and repetitive on-wing eddy current or in-shop fluorescent penetrant inspections of fuel manifold assemblies for cracks, and replacement, if necessary, with serviceable parts. In addition, this AD presents an optional terminating action to the repetitive inspections by replacing the fuel manifold assembly with an assembly of a new, improved design. This amendment is prompted by reports of cracking of the fuel manifold assembly at the No. 5 scallop location. The actions specified by this AD are intended to prevent cracking of the fuel manifold assembly, which could result in an engine fire.

DATES: Effective July 28, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 28, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Aerospace, Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. This information may be examined at the Federal Aviation Administration (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: Raymond Vakili, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5262; fax (310) 627–5210.

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 AlliedSignal Inc. (formerly Textron Lycoming) ALF502 and LF507 series turbofan engines was published in the **Federal Register** on November 6, 1996 (61 FR 57342). That action proposed to require initial and repetitive on-wing eddy current inspection (ECI) and in-shop fluorescent penetrant inspection (FPI) of fuel manifold assemblies for cracks, and replacement, if necessary, with serviceable parts. In addition, that action proposed an optional terminating action to the repetitive inspections by replacing the fuel manifold assembly with an assembly of a new, improved design, Part Number (P/N) 2–163–620–37 or –38.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received from a single commenter (the manufacturer).

The commenter states that inspection records reveal that cracks have been detected in fuel manifold assembly No. 5 scallop location only, and not, additionally, in No. 6, as stated in the NPRM. The FAA concurs and has deleted reference to the No. 6 location in this final rule.

The commenter states that the applicability section listing of aircraft installations should be revised to more accurately describe the population of affected engines. The FAA concurs and has revised this final rule by including in the applicability section a reference to the list of affected fuel manifold P/Ns found in the manufacturer's service bulletin (SB).

The commenter states that there should be separate inspection intervals for the ALF502R and LF507 series engines versus the ALF502L series, in order to better match the maintenance intervals stated in the FAA-approved Airworthiness Limitations Section. In addition, the commenter states that low-time engines need not be inspected until reaching 4,500 cycles since new (CSN). The FAA concurs. Accordingly, the FAA has revised the compliance section of this final rule by splitting the compliance requirements into two sub-paragraphs, one for ALF502L engines, and one for ALF502R and LF507 engines. In addition, the FAA has determined, based on a new risk analysis, that engines with less than 3,250 CSN on the effective date of the AD could now be inspected prior to reaching 4,500 CSN for ALF502R and LF507 engines, and 5,250 CSN for ALF502L engines. ALF502R and LF507 engines must still be inspected at intervals not to exceed 1,250 cycles in service (CIS) following the initial inspection, and ALF502L engines need repetitive inspections every hot section inspection (HSI) not to exceed 2,000 CIS. These changes allow the compliance intervals to better match the maintenance intervals stated in the FAA-approved Airworthiness Limitations Section.

The commenter states that all the applicable fuel assembly P/Ns should be listed in the AD. The FAA does not concur. The P/Ns for fuel manifold assemblies affected by this AD are listed in the manufacturer's SB, which is incorporated by reference in the AD.

The commenter states that a cracked fuel manifold assembly should be replaced with a serviceable assembly instead of only the new fuel manifold assembly, P/N 2–163–620–37 or –38, as stated in the NPRM. The manufacturer expressed concern regarding a shortage of spare parts should replacement of the defective manifold assemblies with the new fuel manifold assemblies, P/N 2–163–620–37 or –38, become mandatory. The manufacturer stated that the new fuel manifold assemblies, P/N 2–163–620–37 or –38, are currently available for installation on production LF507 engines only. The FAA concurs. With the repetitive inspection procedures in place, an operator may continue replacing the cracked fuel manifold assemblies with serviceable fuel manifold assemblies. However, only replacement of a fuel manifold assembly with a newly improved fuel manifold assembly, P/N 2–163–620–37 or –38, will provide terminating action for the repetitive inspection requirements of this AD. This final rule has been changed accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,500 engines of the affected design in the worldwide fleet. The FAA estimates that 270 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per engine per inspection to accomplish the ECI, 4 work hours per engine per inspection to accomplish the FPI, and that the average labor rate is $60 per work hour. Based on these figures, annual total cost impact of AD on U.S. operators is estimated to be $97,200 at

the estimated rate of one inspection per year.

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

97–11–05 AlliedSignal Inc.: Amendment 39–10034. Docket 96–ANE–26.

Applicability: AlliedSignal Inc. (formerly Textron Lycoming) ALF502 and LF507 series turbofan engines with fuel manifold assemblies having Part Numbers (P/Ns) listed in paragraph 1(A) of AlliedSignal Service Bulletin (SB) No. ALF/LF 73–1002, dated December 22, 1995, installed on but not limited, British Aerospace Models BAe 146–100A, –200A, and –300A series; Avro International Models 146–RJ70A, –RJ85A, and –RJ100A series; and Canadair Model CL–600–1A11 series aircraft.

Note 1: 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 request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the fuel manifold assembly, which could result in an engine fire, accomplish the following:

(a) Perform initial and repetitive on-wing eddy current inspection (ECI) or in-shop fluorescent penetrant inspection (FPI) of fuel manifold assemblies having P/Ns listed in the paragraph 1.A of AlliedSignal Aerospace SB No. ALF/LF 73–1002, dated December 22, 1995, for cracks, and replace, if necessary, with serviceable parts, in accordance with accomplishment instructions of this SB as follows:

(1) For ALF502L series engines:

(i) For fuel manifold assemblies with 3,250 or more cycles since new (CSN), or unknown CSN, on the effective date of this AD, inspect at the next hot section inspection (HSI), or 2,000 cycles in service (CIS) after the effective date of this AD, whichever occurs first.

(ii) For fuel manifold assemblies with less than 3,250 CSN on the effective date of this AD, inspect at the next HSI, or prior to accumulating 5,250 CSN, whichever occurs first.

(iii) Thereafter, inspect at HSI intervals not to exceed 2,000 CIS since last inspection.

(iv) If a fuel manifold assembly is found cracked, prior to further flight, replace with a serviceable assembly.

(2) For ALF502R and LF507 series engines:

(i) For fuel manifold assemblies with 3,250 or more CSN, or unknown CSN, on the effective date of this AD, inspect within 1,250 CIS after the effective date of this AD.

(ii) For fuel manifold assemblies with less than 3,250 CSN on the effective date of this AD, inspect prior to accumulating 4,500 CSN.

(iii) Thereafter, inspect at intervals not to exceed 1,250 CIS since last inspection.

(iv) If a fuel manifold assembly is found cracked, prior to further flight, replace with a serviceable assembly.

(b) Installation of a new, improved design fuel manifold assembly, P/N 2–163–620–37 or –38, constitutes terminating action to the inspection requirements of paragraph (a) 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, Los Angeles Aircraft Certification Office. Operators shall forward their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(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 aircraft to a location where the requirements of this AD can be accomplished.

(e) The actions required by this AD shall be done in accordance with the following AlliedSignal Aerospace SB:

Document No.	Pages	Revision	Date
ALF/LF 73–1002 ..... Total Pages: 8.	1–8	Original	Dec. 22, 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 AlliedSignal Aerospace, Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. 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.

(f) This amendment becomes effective on July 28, 1997.

Issued in Burlington, Massachusetts, on May 15, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–13590 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–31–AD; Amendment 39–10039; AD 97–11–10]

RIN 2120–AA64

Airworthiness Directives; Puritan Bennett Aero Systems Company Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Puritan Bennett Aero Systems Company (Puritan Bennett) Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54, that are utilized on aircraft. This action requires replacing any Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54, that have a manufacturing date between September 1992 to August 1996 with an FAA-approved mask that incorporates a part number not covered by this AD. These masks have a connector with an orifice that could restrict more than half of the oxygen flow to the passenger. This oxygen mask is mainly used for emergency medical action or emergency decompression procedures during flight. The actions specified by this AD are intended to prevent restricted oxygen flow, which, if not corrected, could cause serious injury to a passenger in need of emergency or first aid oxygen during flight.

DATES: Effective June 23, 1997.

Comments for inclusion in the Rules Docket must be received on or before July 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 97–CE–31–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that is related to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 97–CE–31–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Michael Imbler, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4147; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA recently received notice from the Puritan Bennett Aero Systems Company of a design error incorporated during a drawing revision to an orifice in the connector of Puritan Bennett passenger oxygen masks (174290 series). When manufactured according to this drawing revision, the airflow of these masks could be restricted to 1.7 liters per minute (less than half of the oxygen flow needed) when the orifice is connected to the Puritan Bennett Model 176960 airline portable oxygen cylinder assembly. The oxygen masks are not the drop-down style used by all passengers during emergency airplane operations. These masks are connected to oxygen bottles and used by passengers requiring emergency oxygen for immediate medical attention or for an unexpected decompression of the airplane during flight. The drawing revision error was utilized during manufacture between September 1992 to August 1996.

Relevant Service Information

Puritan Bennett has issued Nellcor Puritan Bennett Immediate Service Bulletin No. 174290–35–1, date of Original Issue: March 1997, which references the information presented in this AD.

The FAA's Determination

Because the drawing revision was utilized from September 1992 to August 1996, the FAA has determined that all Puritan Bennett Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54, manufactured between these dates should be replaced with an FAA-approved oxygen mask that incorporates a part number not covered by this AD.

After examining the circumstances and reviewing all available information related to the information described above, the FAA has determined that AD action should be taken to prevent restricted oxygen flow, which, if not corrected, could cause serious injury to a passenger in need of emergency or first aid oxygen during flight.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Puritan Bennett passenger oxygen masks of the same type design that are utilized on aircraft, this AD requires replacing any Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54, that have a manufacturing date between September 1992 to August 1996 with an FAA-approved mask that incorporates a part number not covered by this AD.

Compliance Time

The compliance time of this AD is presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time compliance is the most desirable method because the unsafe condition attributed to these oxygen masks exists regardless of whether the aircraft on which they are used. Therefore, to ensure that the above-referenced condition is corrected within a reasonable period of time, a compliance schedule based upon calendar time instead of hours TIS is utilized.

Determination of the Effective Date of the AD

Since a situation exists (serious injury to a passenger in need of emergency or first aid oxygen during flight) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior 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 immediate passenger safety and, thus, was not preceded by notice and opportunity to 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 above. 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 rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–31–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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 (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–11–10. Puritan Bennett Aero Systems Company: Amendment 39–10039; Docket No. 97–CE–31–AD.

Applicability: Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54, that have a manufacturing date between September 1992 to August 1996; utilized in aircraft that are certificated in any category.

Note 1. The part number and date of manufacture of these masks are located on the oxygen mask gas bag. These oxygen masks are the portable type as opposed to the drop-down design.

Note 2. This AD applies to aircraft equipped with an oxygen mask that is identified in the preceding applicability provision, regardless of whether a mask has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft utilizing the oxygen masks that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 7 days after the effective date of this AD, unless already accomplished.

To prevent restricted oxygen flow, which, if not corrected, could cause serious injury to a passenger in need of emergency or first aid oxygen during flight, accomplish the following:

(a) Remove any passenger oxygen mask with the applicable part number and manufacturing date and replace with an FAA-approved oxygen mask that incorporates a part number not covered by this AD.

Note 3. Nellcor Puritan Bennett Immediate Service Bulletin No. 174290–35–1, Original Issue: March 1997, contains information relating to this subject.

(b) After the effective date of this AD, no person may equip an aircraft with any Puritan Bennett Series 174290 Constant Flow Airline Portable Oxygen Masks, Part Numbers 174290–14, 174290–24, 174290–34, 174290–44, and 174290–54, that have a manufacturing date between September 1992 to August 1996.

(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, Wichita Aircraft Certification Office, 1801 Airport Road, Rm. 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from Wichita Aircraft Certification Office.

(d) Information related to this AD may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–10039) becomes effective on June 23, 1997.

Issued in Kansas City, Missouri, on May 21, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–13963 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–98–AD; Amendment 39–10041; AD 97–11–12]

RIN 2120–AA64

Airworthiness Directives; Aerospace Technologies of Australia Pty Ltd. (Formerly Government Aircraft Factory) Models N22B, N22S, and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Aerospace Technologies of Australia Pty Ltd. (ASTA) Models N22B, N22S, and N24A airplanes. This action requires repetitively inspecting the stub wing upper front spar cap flanges for cracks, and repairing any cracked part. This AD results from fatigue tests that show that the stub wing upper front spar cap flanges could fail over time because of fatigue. The actions specified by this AD are intended to prevent structural failure of the front spar caused by cracks in the stub wing upper front spar cap flanges, which could result in loss of control of the airplane.

DATES: Effective July 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Aerospace Technologies of Australia Pty Ltd., ASTA DEFENCE, Private Bag No.

4, Beach Road Lara 3212, Victoria, Australia. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–98–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; facsimile (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to ASTA Models N22B, N22S, and N24A airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 10, 1996 (61 FR 65002). The NPRM proposed to require repetitively inspecting the stub wing upper front spar cap flanges for cracks, and repairing any cracked part. Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Nomad Service Bulletin NMD–53–6, dated October 21, 1986. Accomplishment of any proposed repair (if necessary) as specified in the NPRM would be in accordance with a scheme obtained from the FAA, Los Angeles Aircraft Certification Office.

The NPRM resulted from fatigue tests that show that the stub wing upper front spar cap flanges could fail over time because of fatigue.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed AD or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 15 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,400 or $360 per airplane. This figure does not take into account the cost of repetitive inspections or the cost to repair any cracked stub wing upper front spar cap flanges. The FAA has no way of determining the number of repetitive inspections each operator will incur over the life of each affected airplane or the number of stub wing upper front spar cap flanges that may be found cracked and need to be repaired.

Regulatory Impact

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 copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–11–12 Aerospace Technologies of Australia PTY LTD: Amendment 39–10041; Docket No. 95–CE–98–AD.

Applicability: Models N22B, N22S, and N24A airplanes (all serial numbers), certified 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 request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alternation, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural failure of the front spar caused by cracks in the stub wing upper front spar cap flanges, which would result in loss of control of the airplane, accomplish the following:

(a) Prior to accumulating 1,700 hours time-in-service (TIS) or within the next 300 hours TIS after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 2,650 hours TIS, inspect, using both visual and eddy current methods, the stub wing front spar cap flanges in the area of Buttock Line (BL) 47.6 for fatigue cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Nomad Service Bulletin NMD–53–6, dated October 21, 1986.

(b) If any crack is found during any inspection required by this AD, prior to further flight, obtain a repair scheme from the manufacturer through the Los Angeles Aircraft Certification Office (ACO) at the address specified in paragraph (d) of this AD, and incorporate this repair scheme. This repair does not eliminate the repetitive inspection requirement of this AD.

(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 airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood,

California 90172. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) The inspections required by this AD shall be done in accordance with Nomad Service Bulletin NMD–53–6, dated October 21, 1986. 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 Aerospace Technologies of Australia Pty Ltd., ASTA DEFENCE, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–10041) becomes effective on July 11, 1997.

Issued in Kansas City, Missouri, on May 22, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–14077 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–34–AD; Amendment 39–10042; AD 97–11–13]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Fairchild Aircraft SA226 and SA227 series airplanes. This AD requires modifying the electrical power generation system. The AD results from reports of both generators going off-line during flight on three of the affected airplanes. The actions specified by this AD are intended to prevent failure of both generators during critical phases of flight (such as night operation or while in icing conditions), which could result in loss of control of the airplane.

DATES: Effective July 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Field Support Engineering, Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421; facsimile (210) 820–8609. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–34–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid D. Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5190; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes was published in the Federal Register as a notice of proposed rulemaking (NPRM) on November 4, 1996 (61 FR 56642). The NPRM proposed to require modifying the electrical power generation system. Accomplishment of the proposed modifications as specified in the NPRM would be in accordance with the following service bulletins, as applicable:

—Fairchild Service Bulletin (SB) 226–24–027, Issued: May 19, 1988, Revised: February 22, 1989;
—Fairchild SB 227–24–008, Issued: March 18, 1988, Revised: February 22, 1989;
—Fairchild SB 226–24–023, Issued: October 25, 1985, Revised: January 23, 1989;
—Fairchild SB 227–24–005, Issued: October 25, 1985, Revised: January 23, 1989;
—Fairchild SB 226–24–026, Issued: May 27, 1987;
—Fairchild SB 24–018, Issued: October 22, 1980, Revised: January 7, 1981;
—Fairchild SB 226–24–031, dated July 27, 1989;
—Fairchild SB 227–24–012, Issued: May 4, 1989, Revised: July 27, 1989.

The NPRM resulted from reports of both generators going off-line during flight on three of the affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this AD. One comment was received in support of the proposed AD and no comments were received regarding the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 34 SA226 series airplanes and 206 SA227 series airplanes in the U.S. registry will be affected by this AD, that it will take approximately 80 workhours per SA226 series airplane and 50 workhours per SA227 series airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $12,400 for SA226 series airplanes and $6,000 for SA227 series airplanes. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $584,800 for SA226 series airplane operators (or $17,200 per airplane) and $1,854,000 for SA227 series airplane operators (or $9,000 per airplane). This figure is based on the presumption that no owner/operator of the affected airplanes has accomplished the required modifications. Fairchild Aircraft has informed the FAA that no parts have been distributed to any affected airplane owner/operator.

This AD allows 2,000 hours time-in-service (TIS) after the effective date of the AD before mandatory accomplishment of the design modifications. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation will have to accomplish the required modification within 24 to 48 calendar months after the effective date of the AD. For private owners, who typically operate between 100 to 200 hours TIS per year, this allows 24 to 48 years before the required modification will be mandatory.

Regulatory Flexibility Determination and Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to

ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules could have a ''significant economic impact on a substantial number of small entities,'' and, in cases where they could, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A ''substantial number'' is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a proposed rule, or any number of small entities judged to be substantial by the rulemaking official. A ''significant economic impact'' is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at nine aircraft owned and the annualized cost thresholds at $69,000 for scheduled operators and $5,000 for unscheduled operators.

The FAA has determined that, for four entities (two nonscheduled air carriers and two scheduled air carriers), the compliance costs of this AD will impose a significant economic impact. Because at least 11 small entities are not affected, this AD does not affect a ''substantial number of small entities'' as defined in Order 2100.14A.

A copy of the full Cost Analysis and Regulatory Flexibility Determination for the required action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–34–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

Regulatory Impact

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 copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–11–13 Fairchild Aircraft: Amendment 39–10042; Docket No. 95–CE–34–AD.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
SA226–T	T201 through T275 and T277 through T291.
SA226–T(B)	T(B)276 and T(B)292 through T(B)417.
SA226–AT ...	AT001 through AT074.
SA226–TC ...	TC201 through TC419.
SA227–TT ...	TT421 through TT541.
SA227–AT ...	AT423 through AT631.
SA227–AC ...	AC406, AC415, AC416, AC420 through AC705, and AC707 through AC733.

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 request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 2,000 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of both generators during critical phases of flight (such as night operation or while in icing conditions), which could result in loss of control of the airplane, accomplish the following:

(a) For the model and serial number airplanes presented below, replace the existing generator fault transformer wiring with new dual conductor shielded wire in accordance with Fairchild Service Bulletin (SB) 226–24–027, Issued: May 19, 1988, Revised: February 22, 1989, or Fairchild SB 227–24–008, Issued: October 25, 1985, Revised: January 23, 1989, as applicable.

(1) Model SA226–T airplanes, serial numbers T201 through T275 and T277 through T291; Model SA226–T(B) airplanes, serial numbers T(B)276 and T(B)292 through T(B)417; Model SA226–AT airplanes, serial numbers AT001 through AT074; and Model SA226–TC airplanes, serial numbers TC201 through TC419.

(2) Model SA227–TT airplanes, serial numbers TT421 through TT541; Model SA227–AT airplanes, serial numbers AT423 through AT631; and Model SA227–AC airplanes, serial numbers AC406, AC415, AC416, and AC420 through AC683.

(b) For the model and serial number airplanes presented below, rewire the electrical power generation system to reduce the possibility of 325-amp current limiter failure in accordance with Fairchild SB 226–24–023, Issued: October 25, 1985, Revised: January 23, 1989, or Fairchild SB 227–24–005, Issued: October 25, 1985, Revised: January 23, 1989, as applicable.

(1) Model SA226–T airplanes, serial numbers T249 through T275 and T277 through T291; Model SA226–T(B) airplanes, serial numbers T(B)276 and T(B)292 through T(B)417; Model SA226–AT airplanes, serial numbers AT025 through AT074; and Model SA226–TC airplanes, serial numbers TC209 through TC419.

(2) Model SA227–TT airplanes, serial numbers TT421 through TT541; Models SA227–AT airplanes, serial numbers AT423 through AT591; and SA227–AC airplanes, serial numbers AC420 through AC594.

(c) For Model SA226–T airplanes, serial numbers T249 through T275 and T277 through T291; Model SA226–T(B) airplanes, serial numbers T(B)276 and T(B)292 through T(B)417; Model SA226–AT airplanes, serial numbers AT025 through AT074; and Model SA226–TC airplanes, serial numbers TC209 through TC419, modify the voltage regulator access panel and install a connector in the wire bundle in accordance with Fairchild SB 226–24–026, Issued: May 27, 1987.

(d) For Model SA226–T airplanes, serial numbers T201 through T275 and T277 through T291; Model SA226–T(B) airplanes, serial numbers T(B)276 and T(B)292 through T(B)347; Model SA226–AT airplanes, serial numbers AT001 through AT074; and Model SA226–TC airplanes, serial numbers TC201

through TC348, install new voltage regulators, reroute certain wires, and replace the entire voltage regulator panel assembly in accordance with Fairchild SB 24–018, Issued: October 22, 1980, Revised: January 7, 1981.

(e) For the model and serial number airplanes presented below, modify the direct current (DC) generator control system so that it will operate off its respective generator output in accordance with Fairchild SB 226–24–031, dated July 27, 1989, or Fairchild SB 227–24–012, Issued: May 4, 1989; Revised: July 27, 1989, as applicable. This includes removing field current and reset resistors, removing the reset and generator relays and associated diodes, installing a 10-amp generator control circuit breaker to the left-hand and right-hand essential bus panels, and replacing the 10-amp generator control circuit breakers in the left-hand and right-hand wheelwells with 15-amp circuit breakers that are wired in series with the generator control circuit breakers.

(1) Model SA226–T airplanes, serial numbers T249 through T275 and T277 through T291; Model SA226–T(B) airplanes, serial numbers T(B)276 and T(B)292 through T(B)417; Model SA226–AT airplanes, serial numbers AT025 through AT074; and Model SA226–TC airplanes, serial numbers TC209 through TC419.

(2) Model SA227–TT airplanes, serial numbers TT421 through TT541; Model SA227–AT airplanes, serial numbers AT423 through AT695; and Model SA227–AC airplanes, serial numbers AC406, AC415, AC416, AC420 through AC556, AC558 through AC705, and AC707 through AC733.

(f) 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.

(g) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Fort Worth 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.

(h) The modifications required by this AD shall be done in accordance with the following service bulletins, as applicable:

—Fairchild Service Bulletin 226–24–027, Issued: May 19, 1988, Revised: February 22, 1989;

—Fairchild Service Bulletin 227–24–008, Issued: March 18, 1988, Revised: February 22, 1989;

—Fairchild Service Bulletin 226–24–023, Issued: October 25, 1985, Revised: January 23, 1989;

—Fairchild Service Bulletin 227–24–005, Issued: October 25, 1985, Revised: January 23, 1989;

—Fairchild Service Bulletin 226–24–026, Issued: May 27, 1987;

—Fairchild Service Bulletin 24–018, Issued: October 22, 1980, Revised: January 7, 1981;

—Fairchild Service Bulletin 226–24–031, dated July 27, 1989; and

—Fairchild Service Bulletin 227–24–012, Issued: May 4, 1989, Revised: July 27, 1989.

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 Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment (39–10042) becomes effective on July 11, 1997.

Issued in Kansas City, Missouri, on May 22, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–14076 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–57–AD; Amendment 39–10040; AD 97–11–11]

RIN 2120–AA64

Airworthiness Directives; Aerospace Technologies of Australia Pty Ltd. (Formerly Government Aircraft Factory) Models N22B, N22S, and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Aerospace Technologies of Australia Pty Ltd. (ASTA) Models N22B, N22S, and N24A airplanes. This action requires repetitively inspecting the horizontal stabilizer upper and lower skin, intercostal angles, and the horizontal stabilizer trailing edge channel for cracks; and repairing any crack or replacing any cracked parts, as applicable. This AD results from numerous reports of cracking in these horizontal stabilizer areas on the affected airplanes. The actions specified by this AD are intended to prevent structural failure of the horizontal stabilizer caused by fatigue cracks, which could result in loss of control of the airplane.

DATES: Effective July 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Aerospace Technologies of Australia Pty Ltd., ASTA DEFENCE, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–57–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; facsimile (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to ASTA Models N22B, N22S, and N24A airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 10, 1996 (61 FR 65004). The NPRM proposed to require repetitively inspecting the horizontal stabilizer upper and lower skin, intercostal angles, and the horizontal stabilizer trailing edge channel for cracks; and repairing any crack or replacing any cracked parts, as applicable. Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Nomad Service Bulletin NMD–55–34, dated April 22, 1996. Accomplishment of any proposed repair or replacement (as necessary and as applicable) as specified in the NPRM would be in accordance with the Nomad Structural Repair Manual, Chapter 55–10–11.

The NPRM resulted from numerous reports of cracking in these horizontal stabilizer areas on the affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of

the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 15 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,800 or $120 per airplane. This figure does not take into account the cost of repetitive inspections or the cost to repair or replace any horizontal stabilizer upper and lower skin, intercostal angles, or horizontal stabilizer trailing edge channel. The FAA has no way of determining the number of repetitive inspections each operator will incur over the life of each affected airplane or the number of horizontal stabilizer upper and lower skins, intercostal angles, or horizontal stabilizer trailing edge channels that may be found cracked during the inspections required by this action.

Regulatory Impact

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 copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–11–11 Aerospace Technologies of Australia PTY LTD: Amendment 39–10040; Docket No. 96–CE–57–AD.

Applicability: Models N22B, N22S, and N24A airplanes (all serial numbers), 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 request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural failure of the horizontal stabilizer caused by fatigue cracks, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of the AD, and thereafter at intervals not to exceed 100 hours TIS, inspect the horizontal stabilizer upper and lower skin, intercostal angles, and the horizontal stabilizer trailing edge channel for cracks in accordance with the Accomplishment instructions section of Nomad Service Bulletin (SB) NMD–55–34, dated April 22, 1996.

(b) If any crack is found during any inspection required by this AD, prior to further flight, repair or replace the cracked part or area, as applicable, in accordance with the Nomad Structural Repair Manual, Chapter 55–10–11. Those cracked areas that can be repaired and those cracked areas that must be replaced are defined in Nomad SB NMD–55–34, dated April 22, 1996, and the Nomad Structural Repair Manual, Chapter 55–10–11. Repairing a crack or replacing a cracked part does not eliminate the repetitive inspection requirement of this AD.

(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 airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) The inspections required by this AD shall be done in accordance with Nomad Service Bulletin NMD–55-34, dated April 22, 1996. 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 Aerospace Technologies of Australia Pty Ltd., ASTA Defence, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–10040) becomes effective on July 11, 1997.

Issued in Kansas City, Missouri, on May 22, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–14075 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–AWP–13]

Revision of Class D and E Airspace; Sacramento, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of a direct final rule which changed several airspace legal descriptions to reflect the name change of the Sacramento International Airport. The 1996 name change of the Sacramento Metropolitan Airport to

Sacramento International Airport has made this action necessary. The intended effect of the direct final rule is to replace all references to Sacramento Metropolitan Airport with Sacramento International Airport.

EFFECTIVE DATE: The direct final rule is effective 0901 U.T.C., July 17, 1997.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 26, 1997 (62 FR 14290). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective 0901 U.T.C., July 17, 1997. No adverse comments were received, and thus this document confirms that the direct final rule will become effective on that date.

Issued in Los Angeles, California, on May 15, 1997.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–13951 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28915; Amdt. No. 1800]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination: 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase: Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 16, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

**** Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
05/01/97	IA	Ames	Ames Muni	7/2494	VOR RWY 31, AMDT 9...
05/01/97	IA	Ames	Ames Muni	7/2495	NDB, or GPS RWY 1, AMDT 1...
05/01/97	IA	Ames	Ames Muni	7/2496	GPS RWY 31, AMDT 1...
05/01/97	IA	Ames	Ames Muni	7/2497	NDB RWY 31, AMDT 10...
05/01/97	IA	Ames	Ames Muni	7.2598	NDB or GPS RWY 13, AMDT 4...
05/01/97	NH	Nashua	Boire Field	7/2511	VOR/DME RNAV RWY 32, AMDT 6...
05/02/97	IL	Chicago/Aurora	Aurora Muni	7/2553	VOR or GPS RWY 36, AMDT 1...
05/02/97	MI	Detroit	Willio Run	7/2541	ILS RWY 23L AMDT 7A...
05/05/97	TX	Dumas	Moore County	7/2593	NDB or GPS RWY 1, AMDT 3...
05/05/97	TX	Dumas	Moore County	7/2594	VOR/DME RNAV RWY 19, AMDT 3A...
05/05/97	WI	Kenosha	Kenosha Regional	7/2595	VOR or GPS RWY 14 ORIG–A...
05/06/97	OR	Newport	Newport Muni	7/2610	ILS RWY 16, ORIG...
05/07/97	AK	Anchorage	Anchorage Intl	7/2627	NDB RWY 6R AMDT 6A...
05/08/97	IL	Chicago	Chicago Midway	7/2645	ILS RWY 31C, AMDT 5B...
05/08/97	IL	Chicago	Chicago Midway	7/2646	NDB or GPS RWY 31C, AMDT 14...
05/12/97	IA	Keokuk	Keokuk Muni	7/2705	NDB or GPS RWY 14, AMDT 11B...
05/12/97	IA	Keokuk	Keokuk Muni	7/2706	NDB or GPS RWY 26, ORIG–B...
05/12/97	KS	Topeka	Forbes Field	7/2704	NDB or GPS RWY 31, AMDT 7A...
05/13/97	KS	Topeka	Forbes Field	7/2725	ILS RWY 31, AMDT 8A...

FR. Doc. 97–14093 filed 5–28–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28914; Amdt. No. 1799]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporated by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination: 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The flight Inspection Area Office which originated the SIAP.

For Purchase: Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Material incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 16, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 U.T.C. on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 [Amended]

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs; identified as follows:

** * * Effective June 19, 1997*

Deadhorse, AK, Deadhorse, VOR/DME or TACAN or GPS RWY 4, Amdt 3, Cancelled
Gustavus, AK, Gustavus, VOR/DME or GPS–B, Amdt 3B, Cancelled
Crossett, AR, Z M Jack Stell Field, NDB RWY 23, Amdt 6
Mosby, MO, Clay County Regional, NDB, RWY 18, Orig

** * * Effective July 17, 1997*

Tampa, FL, Vandenberg, GPS RWY 18, Orig
Elberton, GA, Elbert County-Patz Field, GPS RWY 28, Orig
Macon, GA, Middle Georgia Regional, RADAR–1, Amdt 14
Macon, GA, Middle Georgia Regional, GPS RWY 5, Orig
Storm Lake, IA, Storm Lake Muni, GPS, RWY 35, Orig
Sullivan, IN, Sullivan County, GPS, RWY 36, Orig
Belleville, KS, Belleville Muni, VOR/DME–A, Amdt 3
Covington, KY, Cincinnati/Northern Kentucky Intl, NDB OR GPS RWY 18R, Amdt 16, Cancelled
Bar Harbor, ME, Hancock County-Bar Harbor, ILS RWY 22, Amdt 4
Grayling, MI, Grayling AAF, VOR RWY 14, Amdt 1
Grayling, MI, Grayling AAF, NDB RWY 14, Amdt 7
Troy, MI, Oakland/Troy, GPS RWY 9, Orig
Nebraska City, NE, Nebraska City Muni, GPS RWY 33, Orig
Valentine, NE, Miller Field, NDB RWY 32, Amdt 7
Valentine, NE, Miller Field, GPS RWY 32, Orig
Raton, NM, Raton Municipal/Crews Field, VOR/DME RWY 2, Amdt 6
Raton, NM, Raton Municipal/Crews Field, NDB RWY 2, Amdt 4
Raton, NM, Raton Municipal/Crews Field, GPS RWY 2, Orig
Hornell, NY, Hornell Muni, VOR/DME–A, Amdt 4
Hornell, NY, Hornell Muni, GPS RWY 36, Orig
Olean, NY, Cattaraugus County-Olean, LOC RWY 22, Amdt 5
Olean, NY, Cattaraugus County-Olean, GPS RWY 4, Orig
Olean, NY, Cattaraugus County-Olean, GPS RWY 22, Orig
Olean, NY, Cattaraugus County-Olean, RNAV OR GPS RWY 22, Amdt 4A, Cancelled

Schenectady, NY, Schenectady County, NDB RWY 22, Amdt 15
Schenectady, NY, Schenectady County, NDB RWY 28, Amdt 10
Schenectady, NY, Schenectady County, GPS RWY 22, Orig
Schenectady, NY, Schenectady County, GPS RWY 28, Orig
Delaware, OH, Delaware Muni, GPS RWY 10, Orig
Delaware, OH, Delaware Muni, GPS RWY 28, Orig
Duncan, OK, Halliburton Field, GPS RWY 35, Orig
San Juan, PR, Luis Monoz Marin Intl, GPS RWY 10, Orig
San Juan, PR, Luis Monoz Marin Intl, RNAV RWY 10, Amdt 7A, Cancelled
Houston, TX, Ellington Field, VOR/DME OR TACAN RWY 4, Amdt 3, Cancelled
Houston, TX, Ellington Field, VOR OR TACAN RWY 22, Amdt 2, Cancelled
Houston, TX, Ellington Field, VOR/DME OR TACAN RWY 17R, Amdt 3, Cancelled
Houston, TX, Ellington Field, VOR/DME OR TACAN RWY 35L, Amdt 3, Cancelled
Everett, WA, Snohomish County (Paine Fld), GPS RWY 16R, Orig
Everett, WA, Snohomish County (Paine Fld), GPS RWY 34L, Orig

Note: The FAA published two Procedures in Docket No. 28907, Amdt. No. 1797 to Part 97 of the Federal Aviation Regulations (62 FR 25113, dated May 8, 1997) under § 97.23 effective 22 May 1997, which are hereby amended as follows:

Change Effective Date to June 19, 1997 for the following procedures:

St. Louis, MO, Arrowhead, VOR OR GPS RWY 2, Amdt 5, Cancelled
St. Louis, MO, Arrowhead, VOR OR GPS–B, Amdt 3, Cancelled

Note: The FAA published the following Permanent FDC Notice to Airmen (NOTAM) in Docket No. 28908, Amdt. No. 1798 to Part 97 of the Federal Aviation Regulations (62 FR 25112, dated Thursday, May 8, 1997) under § 97.23 effective upon publication, which is hereby rescinded:

FDC Notam 7/2247 dated April 21, 1997—Chandler, AZ, Chandler Muni VOR GPS RWY 4L, Amdt 5A

[FR Doc. 97–14092 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 423

Concerning Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods; Conditional Exemption From Terminology Section of the Care Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule, with conditional exemption.

SUMMARY: The Federal Trade Commission (the ''Commission'') has reviewed the public comments on an interim conditional exemption to its Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods (''the Care Labeling Rule'' or ''the Rule'') and has decided to make the conditional exemption final. The conditional exemption will permit the use of the system of care symbols developed by the American Society for Testing and Materials (''ASTM'') and designated as ASTM Standard D5489–96c Guide to Care Symbols for Care Instructions on Consumer Textile Products, in lieu of words on the permanently attached care label, as long as explanatory information is provided to consumers for the first 18-month period after the effective date of the conditional exemption.

DATES: This conditional exemption is effective July 1, 1997. The incorporation by reference of the ASTM standard is approved by the Director of the Federal Register effective July 1, 1997.

ADDRESSES: Copies of this notice can be obtained through the Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580; (202) 326–2222; or through the Commission's homepage on the World Wide Web at http://www.ftc.gov.

FOR FURTHER INFORMATION CONTACT: Constance M. Vecellio or Edwin Rodriguez, Attorneys, Federal Trade Commission, Washington, DC 20580, (202) 326–2966 or (202) 326–3147.

SUPPLEMENTARY INFORMATION:

Introduction

On June 15, 1994, the Commission published a **Federal Register** notice (''FRN'') requesting comment on various aspects of the Care Labeling Rule, including whether the rule should be modified to permit the use of symbols in lieu of words.[1] On November 16, 1995, the Commission published a FRN, 60 FR 57552, announcing that the Commission had tentatively determined to adopt a proposed conditional exemption to the Care Labeling Rule to permit the use of the system of care symbols developed by ASTM and designated as ASTM Standard D5489 Guide to Care Symbols for Care Instructions on Consumer Textile Products, with one exception and addition.[2] The notice sought additional comment on the specifics of the proposal.

In particular, the November 1995 FRN stated that the Commission had tentatively decided to allow the use of certain other modifications to the system that ASTM was considering when the FRN was published. The FRN described these possible changes, noted that they appeared to be useful, and proposed adopting the ASTM system with those changes. These changes were adopted by ASTM, and were reflected in the standard designated ASTM Standard D5489–96a.[3]

Certain additional minor changes to the ASTM symbol system were adopted by ASTM later in 1996 and are embodied in the final standard designated ASTM Standard D5489–96c. In a FRN published on February 6, 1997, 62 FR 5724, the Commission announced that it had decided to adopt the conditional exemption. Because some additional minor changes had been made since the publication of the 1995 FRN, however, the Commission decided to again allow comment on these minor changes.[4] The comment period ended on March 10, 1997.

II. Background

The Care Labeling Rule was promulgated by the Commission on December 16, 1971, 36 FR 23883 (1971), and amended on May 20, 1983, 48 FR 22733 (1983). The Rule makes it an unfair or deceptive act or practice for manufacturers and importers of textile wearing apparel and certain piece goods to sell these items without attaching care labels stating ''what regular care is needed for the ordinary use of the product.'' 16 CFR 423.6 (a) and (b). The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. 16 CFR 423.6(c).

The ''Terminology'' section of the rule, 16 CFR 423.2(b), currently requires that care instructions be stated in ''appropriate terms,'' although it also states that ''any appropriate symbols may be used on care labels or care

[1] 59 FR 30733 (1994). This notice sought comment about the overall costs and benefits of the Rule and its overall regulatory and economic impact as part of the Commission's systematic review of all its current rules and guides. This notice also sought comment on certain other issues. With respect to the other issues, on December 28, 1995, the Commission published a notice, 60 FR 67102, seeking comment on other parts of the Rule and other proposed changes. The issues raised in the December 1995 notice will be addressed in a separate FRN at a later time.

[2] The exception and addition are no longer necessary because ASTM has changed its standard.

[3] The version of ASTM Standard D5489 discussed in the November 1995 FRN was adopted by ASTM in 1993 and officially referred to as ASTM Standard D5489–93. When ASTM changes a standard, the suffix is changed to reflect the year of the revision. Thus, when Standard D5489 was revised in early 1996, it was referred to as ASTM Standard D5489–96a.

[4] The conditional exemption references a specific version of the standard. If ASTM changes the standard, the Commission will determine whether it should seek comment on changing the conditional exemption.

instructions, *in addition to the required appropriate terms* so long as the terms fulfill the requirements of this regulation.'' (Emphasis added.)

The 1994 FRN stated that the North American Free Trade Agreement (''NAFTA'') ''has created industry interest in being permitted to use symbols in lieu of words to provide care instructions, and the Commission seeks comment on the costs and benefits of such a change.'' Based on the comments, the Commission published the 1995 FRN proposing a conditional exemption to the ''Terminology'' section of the rule to allow the use of care symbols without language.

The Commission examined two existing symbol systems—the system of care symbols developed by the International Association for Textile Care Labeling (''Ginetex'') and adopted by the International Organization for Standardization (''ISO'') as International Standard 3758, and the system of care symbols developed by ASTM and designated as ASTM Standard D5489–93—to identify which system conveys all or most of the information required by the rule and meets other important criteria.[5] The Commission concluded that ASTM Standard D5489 provided symbols relating to the information required by the rule and that it best met the needs of consumers and industry. The Commission also concluded that the ASTM system was compatible with the care symbol systems used in Canada and Mexico, and that any differences among the symbol systems used in these countries did not pose insurmountable problems.

The Commission determined that the use of ISO Standard 3758 was not appropriate for the United States for three reasons. First, the ISO/Ginetex system does not provide symbols for some of the basic information required by the Rule and, therefore, cannot convey all the information that the Commission has found to be necessary to prevent the unfair and deceptive practices that the Rule was designed to prevent.[6] Second, the Ginetex system also assumes that washing machines have internal mechanisms for heating water to a precise temperature, and it links symbols for cool-down rinse, reduced spin, and reduced mechanical action to precise temperature settings. In addition, it includes only normal and low temperature ranges for tumble drying. Both of these aspects of the Ginetex system are inconsistent with the technology of laundry equipment used in the United States. Finally, the Commission determined that Ginetex's assertion of trademark rights relating to the ISO/Ginetex symbols weighed against adoption of that system.

III. Analysis of Comments

As noted, the February 1997 FRN sought comment on certain minor changes made to the ASTM system.[7] Four comments were received. None of these commented on the changes that had been made to the ASTM system.

International Harmonization

All four comments focused on the need for international harmonization. The American Apparel Manufacturers Association (''AAMA'') complimented the Commission on moving to symbols and noted that ''we now have a basis to harmonize our system with that of Canada and Mexico'' and to ''work toward an international standard within the International Standards Organization.''[8] Similarly, the American Textile Manufacturers Institute (''ATMI'') supported the amendment and stated that it ''would like to see international harmonization.''[9] FEDERTESSILE, the Italian Federation of Associations of Textile and Clothing Industries, also stressed the need for harmonization with the ISO/Ginetex system, and suggested that ''a joint committee be formed, possibly with the participation of representatives of ISO, ASTM, EURATEX, AAMA, and ATMI, in order to reach a prompt consensus on the harmonization of the international symbol system.''[10] The Association of Home Appliance Manufacturers (''AHAM'') stated that the Commission needs ''to resolve potential trademark infringement issues that arise where U.S.-manufactured products are exported for sale in a Ginetex country.''[11]

The Commission agrees that harmonization of the symbol system adopted in the United States with the system used in Europe is very important. The Commission is aware that representatives of ASTM and Ginetex have been discussing harmonization of the two systems, and a Commission representative has attended ISO and Ginetex meetings. The Commission intends to continue its liaison efforts with Ginetex and ISO to promote harmonization.

Need for Consumer Education

AHAM, while not opposing the conditional exemption, expressed concern that the conditional exemption would have ''an adverse regulatory impact on consumers, appliance manufacturers, and others without an equal corresponding benefit.'' It noted that consumers will have to learn the symbols and appliance manufacturers may have to answer inquiries from consumers about the symbols.[12] AHAM

[5] The ASTM and Ginetex systems use the same five basic symbols: a washtub to indicate washing (with a hand in the washtub to indicate hand washing), a triangle to indicate bleaching, a square to indicate drying (and a circle within a square to indicate machine drying), an iron to indicate ironing, and a circle to indicate dry cleaning. An ''X'' cancelling out the symbol warns against using the designated cleaning technique, *e.g.*, ''do not dry clean.'' The differences in the systems consist in the manner in which refinements to the basic processes are conveyed (or are not conveyed).

[6] The Commission noted that the ISO/Ginetex system has no symbols for natural drying, the use of non-chlorine bleach, or the use of steam in ironing, which are care practices addressed by the Rule. The Commission also noted that the ISO/Ginetex system's symbol for drycleaning does not address all the warnings required by the Rule for dry cleaning. In the Ginetex system, an underlined circle warns professional drycleaners generally about potential harm from ''mechanical action and/or drying temperature and/or water addition in the solvent.'' But the ISO/Ginetex system does not have a method for providing warnings about which specific parts of the dry cleaning process should be avoided as required by Section 423.6(b)(2)(ii) of the Rule.

[7] ASTM changed the ''do not bleach'' symbol from a shaded triangle with an ''X'' through it to a blacked-in triangle with an ''X'' through it to make clear that no bleach, whether chlorine or non-chlorine, should be used. It changed its explanatory chart by deleting the water temperature *word* indicators (''cool,'' ''warm,'' or ''hot'') in the chart because these words have different definitions in different countries. ASTM also changed the definition of ''one dot'' from the definition in the Appendix to the Care Labeling Rule (a *maximum* of 85 Fahrenheit, with no minimum) to a *range* from 65 to 85 degrees Fahrenheit to educate consumers that detergents ''are not effective at lower temperatures.''

Other changes clarified that the symbols used in the Canadian system of care symbols for a washtub and an iron are acceptable although they differ slightly in shape from the ASTM symbols and that instructions for ''permanent press'' or ''gentle cycle'' may be reported in symbols (*i.e.*, underlining the washtub) *or* words on a label with the symbolic instructions for machine wash or machine dry. ASTM also removed the steam markings from the iron symbol, clarified that the iron symbol may mean ''Iron—dry or steam,'' and created a symbol (an iron symbol with steam markings that have been canceled out by an ''X'') that can be used for the warning ''do not steam.'' Finally, ASTM added a statement to the text of the Standard explaining that ''the iron symbol may be used with the drycleaning symbol to report how to restore the item by ironing after wearing.''

ASTM also made changes in the Standard that are not an integral part of the symbol system (*e.g.*, the Table of Additional Words to Use with Care Symbols) or that involve additions to the explanatory text of the Standard or the text appearing under the symbols in the explanatory chart. In addition, one change relates to the order in which the symbols should be used. This change is not relevant to the use of the ASTM system to fulfill the requirements of the Care Labeling Rule because the Rule does not require that instructions appear in any particular order (though of course they must be intelligible).

[8] Comment 2, p.1.

[9] Comment 1, p.1.

[10] Comment 3, p.1.

[11] Comment 4, p.6.

[12] *Id.* at 1.

therefore emphasized the need for an adequate consumer education program, and stated that ''the garment manufacturers, with the aid of other interested parties, must be prepared to *implement* a consumer education plan by July 1, 1997.'' [13] AHAM conditioned its willingness to participate in a consumer education campaign ''on consumer education leadership from the garment manufacturers.'' [14]

The Commission agrees that a comprehensive consumer education campaign is necessary to help consumers make the transition from words to symbols. On January 28, 1997 the Commission launched Project CLEAN (Care Labeling Education & Awareness Network) with a forum that was attended by a large number of garment manufacturers, retailers, and other interested parties, including representatives from AHAM. The Commission is currently coordinating consumer education efforts on the part of those who attended. The Commission is planning a press conference on July 1, 1997 to announce the extensive consumer education efforts that will be occurring.

Finally, AHAM noted that the consumer education campaign for symbols presents a good opportunity to educate consumers about the temperature of water delivered to washing machines in North America. Most washing machines in North America, unlike European machines which have internal water heaters, ''cannot guarantee delivery of specific water temperatures at specified machine settings due to variables such as geographical climate variations, water heater settings, and hot water line loss. The American consumer must be educated to adjust the machine setting where these variables dictate adjustment * * *.'' [15] AHAM suggested including information on this issue in educational materials about care symbols. The Commission agrees that the consumer education campaign for care symbols provides an opportunity to educate consumers about water temperature in washing machines, and has included a statement explaining the various factors that can affect water temperature in the materials it is developing for the campaign.

IV. Summary of Commission's Decision

Section 18(g)(2) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B), provides that ''[i]f . . . the Commission finds that the application of a rule prescribed under subsection (a)(1)(B) to any person or class of persons is not necessary to prevent the unfair or deceptive act or practice to which the rule relates, the Commission may exempt such person or class from all or part of such rule.'' The Commission now finds that the provision presently found in the Terminology section of the Care Labeling Rule, that appropriate care symbols may be used on care labels or care instructions only in addition to the required appropriate terms, is not necessary to prevent the unfair or deceptive act or practice to which the rule relates. Specifically, the Commission exempts manufacturers and importers of textile wearing apparel who use the system of care symbols designated ASTM Standard D5489–96c from the requirement that care instructions in words accompany care instructions in symbols. The Commission has not specified a type size for the symbols, but they must be legible. The exemption is adopted on the condition that, from July 1, 1997 to December 31, 1998, explanatory information regarding the meaning of the care symbols that appear on the label of a garment be provided with any garment offered for sale. To implement this conditional exemption, the Commission revises Sections 423.2 and 423.8, the Terminology and Exemptions sections of the rule, respectively.

The incorporation by reference of ASTM Standard D5489–96c was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM Standard D5489–96c Guide to Care Symbols for Care Instructions on Consumer Textile Products may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, N.W., Washington, DC, or at the Office of the Federal Register, suite 700, 800 North Capitol Street, N.W., Washington, DC.

Pursuant to the requirements of section 18(g) of the Federal Trade Commission Act, 15 U.S.C. 57a(g), and the provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), the Commission published notices requesting comment on the proposed conditional exemption on June 15, 1994 (59 FR 30733) and November 16, 1995 (60 FR 57552). This conditional exemption is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501, because the conditional exemption does not create requirements for information collection; rather, it provides an alternative method of communicating information. The Regulatory Flexibility Act, 44 U.S.C. 601(2), does not apply to this conditional exemption because, pursuant to section 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B), an exemption to a rule under section 18(g) of the Federal Trade Commission Act, 15 U.S.C. 57(a)(g), shall not be treated as an amendment or repeal of a rule. The conditional exemption will become effective on July 1, 1997.

List of Subjects in 16 CFR Part 423

Labeling; Incorporation by reference; Textiles; Trade practices.

Text of Amendments

Accordingly, the Commission amends 16 CFR Part 423 as follows:

PART 423—[AMENDED]

1. The authority citation for part 423 continues to read as follows:

Authority: 38 Stat. 717, as amended; (15 U.S.C. 41, *et seq.*)

2. Section 423.2 is amended by revising paragraph (b) to read as follows:

§ 423.2 Terminology.

* * * * *

(b) Any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms fulfill the requirements of this part. See § 423.8(g) for conditional exemption allowing the use of symbols without terms.

* * * * *

3. Section 423.8 is amended by revising paragraph (g) to read as follows:

§ 423.8 Exemptions.

* * * * *

(g) The symbol system developed by the American Society for Testing and Materials (ASTM) and designated as ASTM Standard D5489–96c Guide to Care Symbols for Care Instructions on Consumer Textile Products may be used on care labels or care instructions in lieu of terms so long as the symbols fulfill the requirements of this part. In addition, symbols from the symbol system designated as ASTM Standard D5489–96c may be combined with terms so long as the symbols and terms used fulfill the requirements of this part. Provided, however, that for the 18-month period beginning on July 1, 1997, such symbols may be used on care labels in lieu of terms only if an explanation of the meaning of the symbols used on the care label in terms is attached to, or provided with, the item of textile wearing apparel. This incorporation by reference was

[13] *Id.* at 2.

[14] *Id.* at 3.

[15] *Id.* at 6.

approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM Standard D5489–96c Guide to Care Symbols for Care Instructions on Consumer Textile Products may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the Office of the Federal Register, suite 700, 800 North Capitol Street, NW., Washington, DC.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–13869 Filed 5–28–97; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 96F–0370]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food. This action is in response to a petition filed by Dover Chemical Corp.

DATES: Effective May 29, 1997; written objections and requests for a hearing by June 30, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 15, 1996 (61 FR 53748), FDA announced that a food additive petition (FAP 6B4521) had been filed by Dover Chemical Corp., 3676 Davis Rd. NW., Dover, OH 44622. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the additive is safe, (2) the food additive will have the intended technical effect, and (3) the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before June 30, 1997, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry for 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * * *
3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane (CAS Reg. No. 154862–43–8).	For use only: 1. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, or 1.3, and items 2.1, 2.2, 2.3, 3.1, or 3.2 (where density of each of these polymers is greater than 0.94 gram per cubic centimeter) and under conditions of use C, D, E, F, and G as described in Table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.06 percent by weight of olefin copolymers complying with § 177.1520(c) of this chapter, item 3.1 or 3.2, having a density less than 0.94 gram per cubic centimeter and under conditions of use C, D, E, F, and G as described in Table 2 of § 176.170(c) of this chapter.
* * *	* * * * *

Dated: May 15, 1997.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–14105 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for five new animal drug applications (NADA's) from Merck Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065 to Koffolk, Inc.

EFFECTIVE DATE: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Merck Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, has informed FDA that it has transferred ownership of, and all rights and interests in, the following NADA's to Koffolk, Inc., One Parker Plaza, Fort Lee, NJ 07024:

NADA No.	Ingredient
9–476	NICARB 25%
98–378	Nicarbazin-Bacitracin Methylene Disalicylate
107–997	Nicarbazin-Roxarsone-Lincomycin Medicated Feed
108–115	Nicarbazin-Roxarsone
108–116	Nicarbazin-Lincomycin

Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) by alphabetically adding a new listing for Koffolk, Inc. The agency is also amending § 558.366 to reflect the transfer of ownership.

List of Subjects

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, animal feeds.

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

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''Koffolk, Inc.,'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''063271'' to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * * *
Koffolk, Inc., One Parker Plaza, Fort Lee, NJ 07024	063271
* * *	* * * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * * *
063271	Koffolk, Inc., One Parker Plaza, Fort Lee, NJ 07024
* * *	* * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.366 [Amended]

4. Section 558.366 *Nicarbazin* is amended in paragraph (a) by removing ''000006, 000986, and 060728'' and adding in its place ''000986, 060728, and 063271'' and in the table in paragraph (c), under the ''Sponsor'' column in the entry for ''113.5 (0.0125 pct)'' by removing the number ''000006'' and numerically adding ''063271'', and in the same column in the items ''Bacitracin methylene disalicylate 30,'' ''Lincomycin 2 (0.00044 pct),'' ''Roxarsone 22.7 (0.0025),'' and ''Roxarsone 22.7 (0.0025) plus lincomycin 2 (0.0004)'' by removing the number ''000006'' and numerically adding ''063271''.

Dated: May 16, 1997.

Robert C. Livingston,

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

[FR Doc. 97–14101 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Gentamicin Sulfate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides use of gentamicin sulfate pig pump oral solution for the control and treatment of colibacillosis in neonatal pigs 1 to 3 days of age.

EFFECTIVE DATE: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, has filed ANADA 200–174, which provides for the control and treatment of colibacillosis in neonatal pigs 1 to 3 days of age caused by strains of *Escherichia coli* sensitive to gentamicin.

The ANADA is approved as a generic copy of Schering-Plough Animal Health's, Garason® Pig Pump (gentamicin sulfate oral solution) NADA 130–464. ANADA 200–174 is approved as of April 10, 1997, and the regulations are amended in 21 CFR 520.1044b to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1044b [Amended]

2. Section 520.1044b *Gentamicin sulfate pig pump oral solution* is amended in paragraph (b) by adding

after ''000061'' the phrase ''and 059130''.

Dated: May 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–14103 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Orbifloxacin Tablet

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering-Plough Animal Health. The NADA provides for use of orbifloxacin for dogs for management of diseases associated with bacteria susceptible to orbifloxacin.

EFFECTIVE DATE: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: John D. Baker, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health, Schering-Plough Corp., P.O. Box 529, Kenilworth, NJ 07033, has filed NADA 141–081 for Orbax™ (orbifloxacin) tablets for dogs for the management of diseases associated with bacteria susceptible to orbifloxacin. The drug is limited to use by or on the order of a licensed veterinarian. The NADA is approved as of April 22, 1997, and the regulations are amended by adding new § 520.1616 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii) a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning April 22, 1997, because no active ingredient including any ester or salt of the active ingredient, has been approved in any other application.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1616 is added to read as follows:

§ 520.1616 Orbifloxacin tablets.

(a) *Specifications.* Each tablet contains 5.7, 22.7, or 68 milligrams of orbifloxacin.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Dogs*—(i) *Amount.* 2.5 to 7.5 milligrams per kilogram body weight.

(ii) *Indications for use.* For management of diseases associated with bacteria susceptible to orbifloxacin.

(iii) *Limitations.* Administer orally 2.5 milligrams per kilogram of body weight once daily for 2 to 3 days beyond cessation of clinical signs for up to a maximum of 30 days. May be increased to 7.5 milligrams per kilogram if needed. For treatment of skin and associated soft tissue infections, administer for 2 to 3 days beyond cessation of clinical signs to a maximum of 30 days. For treatment of urinary tract infections, use for at least 10 consecutive days. If no improvement is seen within 5 days, diagnosis should be reevaluated and a different course of therapy considered. Orbifloxacin is contraindicated in immature dogs during the rapid growth phase. Orbifloxacin and other quinolones have been shown to cause arthropathy in immature animals of most species. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

Dated: May 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–14107 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Gentamicin Sulfate Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Agri-Laboratories, Ltd. The ANADA provides for the use of gentamicin sulfate soluble powder for use in swine drinking water for the control and treatment of colibacillosis in weanling swine and for swine dysentery.

EFFECTIVE DATE: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Agri Laboratories, Ltd., P.O. Box 3103, St. Joseph, MO 64503, filed ANADA 200–185, which provides for the use of Gen-Gard™ (gentamicin sulfate) soluble powder in swine drinking water for the control and treatment of colibacillosis in weanling swine caused by strains of *Escherichia coli* sensitive to gentamicin, and the control and treatment of swine dysentery associated with *Treponema hyodysenteriae*.

ANADA 200–185 is approved as a generic copy of the Schering-Plough Corp.'s Garacin® (gentamicin) soluble powder in NADA 133–836. The ANADA is approved as of April 30, 1997, and the regulations are amended in 21 CFR 520.1044c(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1044c [Amended]

2. Section 520.1044c *Gentamicin sulfate soluble powder* is amended in paragraph (b) by removing ''No. 000061'' and adding in its place ''Nos. 000061 and 057561''.

Dated: May 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–14109 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Inc. The ANADA provides for the use of trenbolone acetate implants for improved feed efficiency in growing-finishing feedlot steers and increased rate of weight gain and improved feed efficiency in growing-finishing feedlot heifers.

EFFECTIVE DATE: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Inc., 8857 Bond St., Overland Park, KS 66214, has filed ANADA 200–224, which provides for the use of trenbolone acetate implants for improved feed efficiency in growing-finishing feedlot steers and increased rate of weight gain and improved feed efficiency in growing-finishing feedlot heifers.

The ANADA is approved as a generic copy of Roussel UCLAF, NADA 138–612;

Finaplix®–S and Finaplix®–H. ANADA 200–224 is approved as of April 30, 1997, and the regulations are amended in 21 CFR 522.2476 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.2476 [Amended]

2. Section 522.2476 *Trenbolone acetate* is amended in paragraph (b) by adding the phrase ''and 021641'' after the number ''012579''.

Dated: May 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–14104 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Halothane

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Halocarbon Laboratories, Division of Halocarbon Products Corp. The ANADA provides for the use of halothane for induction and maintenance of general anesthesia in dogs, cats, and other non-food animals.

EFFECTIVE DATE: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Halocarbon Laboratories, Division of Halocarbon Products Corp., 887 Kinderkamack Rd., P.O. Box 661, River Ridge, NJ 07661, has filed ANADA 200–200, which provides for the use of halothane for induction and maintenance of general anesthesia in dogs, cats, and other non-food animals.

The ANADA is approved as a generic copy of Fort Dodge Laboratories, Inc.'s, NADA 14–170 Halothane. ANADA 200–200 is approved as of April 10, 1997, and the regulations are amended in 21 CFR 529.1115(b) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 529.1115 [Amended]

2. Section 529.1115 *Halothane* is amended in paragraph (b) by adding after ''000856'' the phrase ''and 012164''.

Dated: May 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–14102 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Salinomycin, Roxarsone, Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc. The supplemental NADA provides for using approved single ingredient Type A medicated articles to make Type C medicated broiler feeds containing salinomycin with roxarsone and bacitracin methylene disalicylate.

EFFECTIVE DATE: May 29, 1997

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2604.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110–1199, filed supplemental NADA 135–321 which provides for use of single ingredient Type A medicated articles containing Bio-Cox® (salinomycin as salinomycin sodium) 30 grams-per-pound (g/lb), BMD® (bacitracin methylene disalicylate) 30, 50, 60, or 75 g/lb bacitracin activity, 3-Nitro® (roxarsone) 45.4, 90, or 227 g/lb roxarsone activity, to make Type C broiler chicken feeds containing 40 to 60 g per ton (g/t) salinomycin sodium, 34.1 or 45.4 g/t roxarsone, and 4 to 50 g/t bacitracin methylene disalicylate, for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, including some field strains of *E. tenella* that are more susceptible to roxarsone combined with salinomycin than salinomycin alone; and for increased rate of weight gain. Use of 34.1 or 45.4 g/t roxarsone is indicated to meet the *E. tenella* challenge, which varies with environmental and management conditions. The supplement is approved as of May 29, 1997. The basis of approval is discussed in the freedom of information summary.

Also, 21 CFR 558.550 is amended to redesignate existing paragraph (b) as paragraph (d) and to add new paragraphs (b) and (c) to provide for more uniform regulations and for future expansion. The regulations are amended in newly redesignated paragraph (d) by adding new paragraph (d)(1)(xvii) to reflect the approval.

This approval is for use of three single ingredient Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, roxarsone, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). Under section 512(m) of the act (21 U.S.C. 360b(m)), as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), use of salinomycin, roxarsone, and bacitracin methylene disalicylate Type A medicated articles to make Type C medicated feeds as provided in NADA 135–321 is limited to manufacture in a licensed feed mill.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act, this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning May 29, 1997, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new combination providing for a 34.1 g/t level of roxarsone.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.550 is amended by redesignating paragraph (b) as paragraph (d), by adding and reserving new paragraphs (b) and (c), and by adding new paragraph (d)(1)(xvii) to newly redesignated paragraph (d) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(b) [Reserved]

(c) [Reserved]

(d) * * *

(1) * * *

(xvii) (A) *Amount per ton.* Salinomycin 40 to 60 grams with roxarsone 34.1 or 45.4 grams and bacitracin methylene disalicylate 4 to 50 grams.

(B) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* that are more susceptible to roxarsone combined with salinomycin than to salinomycin alone; for increased rate of weight gain. Use of 34.1 or 45.4 grams per ton roxarsone is indicated to meet the *E. tenella* challenge which varies with environmental and management conditions.

(C) *Limitations.* Feed continuously as sole ration. Use as sole source of organic arsenic. Not approved for use with pellet binders. Do not feed to laying chickens. May be fatal if accidentally fed to adult turkeys or horses. Poultry should have access to drinking water at all times. Overdosage or lack of water may result in leg weakness or paralysis. Withdraw 5 days before slaughter. Salinomycin as provided by No. 000004 in § 510.600(c) of this chapter. Roxarsone and bacitracin as provided by No. 046573 in § 510.600(c) of this chapter.

* * * * *

Dated: May 16, 1997.

Robert C. Livingston,

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

[FR Doc. 97–14106 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–97–032]

RIN 2115–AA97

Security Zone; Elizabeth River, Norfolk, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the Nauticus National Maritime Center Norfolk, VA. This security zone will prohibit access by all unauthorized persons to all waters within a 100 yard radius from position 36–50.9N, 076–17.8W. The security zone is needed to protect U.S. Coast Guard vessels, staff and participants in the U.S. Coast Guard Maintenance and Logistics Command Atlantic Area Change of Command ceremony. Entry into this zone is prohibited unless authorized by the Captain of the Port Hampton Roads.

DATES: This regulation is effective from 8 a.m. to 5 p.m. May 30, 1997, unless sooner terminated by the Captain of The Port Hampton Roads.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Janiece Benjamin, Project Officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441–3299.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rule Making (NPRM) was not published for this rule and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the vessels and participants involved in the U.S. Coast Guard Maintenance and Logistics Command, Atlantic Area Change of Command Ceremony.

Discussion of the Regulation.

This temporary rule is issued to protect U.S. Coast Guard vessels, staff and participants in the U.S. Coast Guard Maintenance and Logistics Command Atlantic Area Change of Command ceremony being held at the Nauticus National Maritime Center, Norfolk, VA. The Coast Guard is establishing a 100 yard radius security zone around the maritime center's piers while the ceremony is conducted. This security zone will prohibit access by all unauthorized persons to all waters within a 100 yard radius from position 36–50.9N, 076–17.8W. Persons or vessels requiring entry into or passage through the security zone must request authorization from the Captain of the Port.

Regulatory Evaluation

This temporary 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 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

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 it 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 section 2.B.2.e(34) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[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. A new temporary § 165.T05–032 is added to read as follows:

§ 165.T05–032 Security Zone: Elizabeth River, Norfolk, Virginia.

(a) *Location:* The following area is a security zone: All waters within a 100 yard radius from position 36–50.9N, 076–17.8W on the Elizabeth River at the Nauticus National Maritime Center, Norfolk, Virginia, during the U.S. Coast Guard Maintenance and Logistics Command Atlantic Area Change of Command Ceremony.

[DATUM NAD 1983]

(b) *Captain of the Port* means the Commanding Officer of the Marine Safety Office Hampton Roads, Norfolk, VA or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) (1) In accordance with the general regulations in §§ 165.33 and 165.501 of this part, entry into this zone is prohibited unless authorized by the

Captain of the Port. The general requirements of §§ 165.33 and 165.501 also apply to this regulation.

(2) Persons or vessels requiring entry into or passage through the security zone must request authorization from the Captain of the Port. The Coast Guard vessels enforcing the security zone can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (757) 484–8192.

(d) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: May 15, 1997.

D.A. Sande,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 97–14099 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AD90

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—1997–1998 Subsistence Taking of Fish and Wildlife Regulations

AGENCY: Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1997–1998 regulatory year. The rulemaking is necessary because 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—1996–1997 Subsistence Taking of Fish and Wildlife Regulations'', which expire on June 30, 1997. This rule also amends the Customary and Traditional Use Determinations of the Federal Subsistence Board (Section ____.24 of Subpart C) and restates and extends Sections ____.26, Subsistence Taking of Fish and ____.27, Subsistence Taking of Shellfish.

EFFECTIVE DATES: Section ____.24 is effective July 1, 1997. Section ____.25 is effective July 1, 1997, through June 30, 1998. Sections ____.26 and ____.27 are effective January 1, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3888. 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 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 rule and agree with its substance. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR Part 242 and 50 CFR Part 100.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR §§ 100.1 to 100.23 and 36 CFR §§ 242.1 to 242.23, remain effective and apply to this rule for §§ ____.23–____.25. Therefore, all definitions located at 50 CFR § 100.4 and 36 CFR § 242.4 apply to regulations found in this subpart.

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 these 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 continuation of the proceedings in the consolidated ''Katie John'' litigation and a petition to the Secretaries of the Interior and Agriculture addressing jurisdiction in navigable waters, no

attempt is being made to alter the fish and shellfish portions of the regulations (Sections ____.26 and ____.27) until final guidance has been received regarding the jurisdictional authority of the Federal government over navigable waters in general, and specifically with respect to the waters at issue in *Native Village of Quinhagak et al.* v. *United States of America et al.*

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 public 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 1997.

Summary of Changes

Section ____.24 (Customary and traditional use determinations) was originally 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 effected 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; 60 FR 10317, published February 24, 1995; and 61 FR 39698, published July 30, 1996.) During its April 7—April 10, 1997, meeting, the Board made additional determinations in addition to 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 1997–1998 seasons and harvest limits, and methods and means were published on August 15, 1996, in the **Federal Register** (61 FR 41060–41108). 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 38 proposals for change to Customary and Traditional Use Determinations or to Subpart D. Because of the large number of proposals submitted or contained in the agency files from previous years, the Regional Councils in 1996 were asked to prioritize proposals for Board action. Thirty-nine of those ''back-logged'' proposals relating to Customary and Traditional Use Determinations were included for consideration. Subsequent to the 60-day review period, the Board prepared a booklet describing 102 proposals (some were segmented for easier analysis) and distributed it to the public. The public 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 July 30, 1996, (61 FR 39698). Fish and shellfish regulations are effective from January 1 through December 31 each year. Due to litigation and petitions to the Secretaries of the Interior and Agriculture, both relating to extended jurisdiction to navigable waters, the fish and shellfish regulations are not revised, but rather, are extended through December 31, 1998.

Analysis of Proposals Rejected by the Board

The Board rejected 29 proposals and parts of 2 others based on recommendations from the respective Regional Council and additional factors. Except in two instances, the Board action to reject the proposals reflect Regional Council recommendations. Twenty of the rejected proposals were rendered moot by adoption of other proposals.

Five proposals requested that seasons for deer or wolves be shortened, the designated hunter option be eliminated, or in one case, public lands be closed to deer hunting by non-Federally qualified users. The Board determined that the biological and harvest data did not support a need to shorten seasons, delete the designated hunter option, or close public lands in order to protect the subsistence user's opportunity to harvest wildlife.

The Board also rejected two proposals requesting that customary and traditional use determinations be revised for black bear or moose in certain areas. In each case, either the cultural resource data did not substantiate the request or the species did not occur in the area.

One proposal requesting same-day airborne hunting of caribou was rejected based on testimony that it was not a customary and traditional method of harvest.

One proposal requesting customary and traditional use based on family ties was rejected because of the requirement in ANILCA that ties the subsistence priority to rural residency, not ties of kinship.

Two proposals requested a special quota for Native Tribal Elders which was rejected because ANILCA is racially neutral in providing a priority for subsistence uses on public lands.

The Board also deferred action on 13 proposals in order to collect additional data, or allow communities or Regional Councils additional time to review the issues and provide additional information.

Analysis of Proposals Adopted by the Board

The Board adopted 51 proposals and parts of 1 other. 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 at least one of the Regional Councils and were based on meeting customary and traditional uses, 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. Some additional changes are a result of Board actions

occurring over the past year. Additional technical clarifications have been made which result in a more readable document.

Southeast Region

Eighteen proposals affecting residents of the Southeast Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Closed a special viewing area to brown bear hunting in Unit 1(B).
- Established a customary and traditional use determination for goat in Unit 1(B).
- Opened a goat season in a previously closed area in Unit 1(C).
- Established a customary and traditional use determination for moose in Unit 1(B).
- Reduced the wolf season and imposed special sealing requirements in Unit 2.
- Established a customary and traditional use determination for moose in a portion of Unit 3.
- Established a customary and traditional use determination for black bear in Unit 5.

Southcentral Region

Thirty-seven proposals affecting residents in the Southcentral Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Closed otter trapping in a portion of Unit 6.
- Revised the lynx trapping season in a number of Units.
- Revised the customary and traditional use determination for moose and opened a season in a portion of Unit 7.
- Revised the customary and traditional use determination for goat, brown bear, caribou, sheep, and moose in Units or parts of Units 11, 12, and 13.
- Established a designated hunter system for caribou and/or moose in Units 11, 12, 13, and 15.
- Revised the customary and traditional use determination for grouse and ptarmigan in Units 11 and 15.
- Opened Federal public lands to hunting and trapping of wolverine and revised the harvest limit in Units 11 and 13.

Kodiak/Aleutians Region

One proposal affecting residents of the Kodiak/Aleutians Region was acted on by the Board during their April meeting and one proposal deferred from May 1996 was acted on resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Opened a brown bear hunt in Unit 8.
- Changed the customary and traditional use determination for elk in Unit 8.

Bristol Bay Region

Fourteen proposals affecting residents of the Bristol Bay Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Established a customary and traditional use determination for beaver and black bear in Units 9 and 17.
- Revised the season, harvest limit, and sealing requirements for black bears in Unit 17.
- Revised the customary and traditional use determination for brown bear in Unit 9(E).
- Revised the season and removed requirements for retaining the skin and front claws of brown bears in Unit 9(B).
- Revised the season for brown bears in Unit 17.
- Opened a season for caribou in a portion of Unit 17 and revised the season and harvest restrictions in Units 9 and 17.
- Revised the season and harvest restrictions for moose in Unit 17.
- Revised the season and harvest limit for various furbearers in Unit 17.

Yukon-Kuskokwim Delta Region

Three proposals affecting residents of the Yukon-Kuskokwim Delta Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Revised the season and harvest restrictions for caribou in a portion of Unit 18.
- Revised the customary and traditional use determinations for moose in Unit 18 and caribou in Unit 22(A).

Western Interior Region

Nine proposals affecting residents of the Western Interior Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Removed a closure of public lands along the Koyukuk River in Unit 21.
- Established a customary and traditional use determination for black bear and caribou in Unit 24.
- Revised the customary and traditional use determinations for brown bear and sheep in Unit 24.

Seward Peninsula Region

Three proposals affecting residents of the Seward Peninsula Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24.

- Established a customary and traditional use determination for black bear and caribou in Unit 22.
- Revised customary and traditional use determinations for caribou and wolf in Unit 22.

Northwest Arctic Region

Three proposals affecting residents of the Northwest Arctic Region was acted on by the Board resulting in the following changes to the regulations found in § ____.24.

- Revised customary and traditional use determinations for caribou and muskox in Unit 23.

Eastern Interior Region

Five proposals affecting residents of the Eastern Interior Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Revised the season dates for moose for Unit 20.
- Revised the customary and traditional use determination for black bear, brown bear, and wolf for Units 20 and 25.

North Slope Region

Two proposals affecting residents of the North Slope Region were acted on by the Board resulting in the following changes to the regulations found in § ____.24 and § ____.25.

- Established a special sheep hunt for the residents of Anaktuvuk Pass in parts of Units 24 and 26.
- Revised and clarified the customary and traditional use determination for sheep in Unit 26.

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) implemented the Federal Subsistence Management Program and included 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 appeared 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 the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below have been approved by OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018–0075.

The collection of information will be achieved through the use of the Federal Subsistence Hunt Permit Application. This collection of information will establish whether the applicant qualifies to participate in a Federal subsistence hunt on public land in Alaska and will provide a report of harvest and location of harvest.

The likely respondents to this collection of information are rural Alaska residents who wish to participate in specific subsistence hunts on Federal land. The collected information is necessary to determine harvest success and harvest location in order to make management decisions relative to the conservation of healthy wildlife populations. The annual burden of reporting and recordkeeping is estimated to average 0.25 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. The estimated number of likely respondents under this rule is less than 5,000, yielding a total annual reporting and recordkeeping burden of 1,250 hours or less.

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 (Subsistence), 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.

Economic Effects

This rule was not subject to OMB review under Executive Order 12866.

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, such as ammunition, snowmachine, and gasoline dealers. 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.

In general, the resources harvested under this rule will be consumed by the local harvester and do not result in a dollar benefit to the economy. However, it is estimated that 2 million pounds of meat are harvested by the local subsistence users annually and, if given a dollar value of $3.00 per pound, would equate to $6 million State wide.

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 potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 et seq., that this rulemaking will not impose a cost of $100 million or more in any given year on local or state governments or private entities.

The Service has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Drafting Information

These regulations were drafted by William Knauer under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Peggy Fox, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, 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 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.

Subpart C—Board Determinations

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. When there is a determination for specific communities or areas of residence in a Unit, all other communities not listed for that species in that Unit have no Federal subsistence for that species in that Unit. If no determination has been made for a species in a Unit, all rural Alaska residents are eligible to harvest fish or wildlife under this part.

(1) Wildlife determinations.

Area	Species	Determination
Unit 1(C)	Black Bear	Rural residents of Unit 1(C) and Haines, Gustavus, Klukwan, and Hoonah.
1(A)	Black Bear	Rural residents of Unit 1(A) except no subsistence for residents of Hyder.
1(B)	Brown Bear	Rural residents of Unit 1(A), Petersburg, and Wrangell, except no subsistence for residents of Hyder.
1(C)	Brown Bear	Rural residents of Unit 1(C), Haines, Hoonah, Klukwan, Skagway, and Wrangell, except no subsistence for residents of Gustavus.
1(D)	Brown Bear	Residents of 1(D).
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 Federal subsistence priority.
1(B)	Goat	Rural residents of Units 1(B) and 3.
1(C)	Goat	Residents of Haines, Klukwan, and Hoonah.
1(B)	Moose	Rural residents of Units 1, 2, 3, and 4.
1(C) Berner's Bay	Moose	No Federal subsistence priority.
1(D)	Moose	Residents of Unit 1(D).
Unit 2	Brown Bear	No Federal subsistence priority.
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.
3, Wrangell and Mitkof Islands	Moose	Rural residents of Units 1(B), 2, and 3.
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, Wrangell, and Yakutat.
4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.
Unit 5	Black Bear	Residents of Unit 5(A).
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 and residents of 6(C) and 6(D), except no subsistence for Whittier.
6, Remainder	Black Bear	Residents of Unit 6(C) and 6(D), except no subsistence for Whittier.
6	Brown Bear	No Federal subsistence priority.
6 (C) and (D)	Goat	Rural residents of Unit 6(C) and (D).
6	Moose	No Federal subsistence priority.
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 Federal subsistence priority.
7	Caribou	No Federal subsistence priority.
7, Brown Mountain hunt area	Goat	Residents of Port Graham and English Bay.
7, that portion draining into Kings Bay	Moose	Residents of Chenega Bay and Tatitlek.
7, Remainder	Moose	No Federal subsistence priority.
7	Sheep	No Federal subsistence priority.
Unit 8	Brown Bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
8	Deer	Residents of Unit 8.
8	Elk	Residents of Unit 8.
8	Goat	No Federal subsistence priority.
Unit 9(D)	Bison	No Federal subsistence priority.
9 (A) and (B)	Black Bear	Residents of Units 9 (A) and (B), and 17(A), (B), and (C).
9 (A), (C) and (D)	Brown Bear	No Federal subsistence priority.
9(B)	Brown Bear	Residents of Unit 9(B).
9(E)	Brown Bear	Residents of Chignik Lake, Egegik, Ivanof Bay, Perryville, and Port Heiden/Meshik.

Area	Species	Determination
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 Federal subsistence priority.
9(B)	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth.
9, remainder	Sheep	No determination.
9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
9 (A), (B), (C), and (E)	Beaver	Residents of Units 9(A), (B), (C), (E), and 17.
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 Federal subsistence priority.
11	Brown Bear	No Federal subsistence priority.
11, north of the Sanford River	Caribou	Residents of Units 11, 12, and 13 (A)–(D) and the residents of Chickaloon and Dot Lake.
11, remainder	Caribou	Residents of Units 11 and 13 (A)–(D) and the residents of Chickaloon.
11	Goat	Residents of Unit 11 and the residents of Chitina, Chistochina, Copper Center, Gakona, Gulkana, Mentasta Lake, Tazlina, Tonsina and Dot Lake.
11, remainder	Moose	Residents of Unit 11 and Unit 13 (A)–(D) and the residents of Chickaloon.
11, north of the Sanford River	Sheep	Residents of Unit 12 and the communities and areas of Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina and Tonsina; Residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milespost 0–62 (McCarthy Road).
11, remainder	Sheep	Residents of the communities and areas of Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina and Tosina; Residents along the Tok Cuttoff—Milepost 79–110 (Mentasta Pass), residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
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 Sharptailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
11	Ptarmigan (Rock, Willow and Whitetailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 12	Brown Bear	Residents of Unit 12 and Dot Lake.
12	Caribou	Residents of Unit 12 and residents of Dot Lake and Mentasta Lake
12, South of a line from Noyes Mountain, southeast of the confluence of Tatchunda Creek to Nabesna River.	Moose	Residents of Unit 11 north of 62nd parallel (excluding North Slana Homestead and South Slana Homestead); and residents of Unit 12, 13 (A)–(D) and the residents of Chickaloon and residents of Dot Lake.
12, East of the Nabesna River and Nabesna Glacier, south of the Winter Trail from Pickerel Lake to the Canadian Border.	Moose	Residents of Unit 12.
12, Remainder	Moose	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
12	Sheep	Residents of Unit 12 and residents of Dot Lake and Mentasta Lake.
12	Wolf	Residents of Unit 12 and residents of Christochina and Mentasta Lake.
Unit 13	Brown Bear	No Federal subsistence priority.
13	Caribou Nelchina Herd	Residents of Units 11, 13 and the residents of Chickaloon, and 12 (along Nabesna Road).
13(E)	Caribou	Residents of McKinley Village, and the area along the Parks Highway between milepost 216 and 239 (except no subsistence for residents of Denali National Park headquarters)
13(D)	Goat	No Federal subsistence priority.
13 (A), (B), and (D)	Moose	Residents of Unit 13 and the residents of Chickaloon.

Area	Species	Determination
13(C)	Moose	Residents of Units 12, 13 and the residents of Chickaloon and Dot Lake.
13(E)	Moose	Residents of McKinley Village, and the area along the Parks Highway between milepost 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13(D)	Sheep	No Federal subsistence priority.
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11—13 and the residents of Chickaloon, 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 Federal subsistence priority.
14	Goat	No Federal subsistence priority.
14	Moose	No Federal subsistence priority.
14 (A) and (C)	Sheep	No Federal subsistence priority.
Unit 15(C)	Black Bear	Residents of Port Graham and Nanwalek only.
15, Remainder	Black Bear	No Federal subsistence priority.
15	Brown Bear	No Federal subsistence priority.
15(C), Port Graham and English Bay hunt areas.	Goat	Residents of Port Graham and Nanwalek.
15(C), Seldovia hunt area	Goat	Residents Seldovia area.
15	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15	Sheep	No Federal subsistence priority.
15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Unit 15.
15	Grouse (Spruce)	Residents of Unit 15.
15	Grouse (Ruffed)	No Federal subsistence priority.
Unit 16	Brown Bear	No Federal subsistence priority.
16(A)	Moose	No Federal subsistence priority.
16(B)	Moose	Residents of Unit 16(B).
16	Sheep	No Federal subsistence priority.
16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11—13 and the residents of Chickaloon, 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	Black Bear	Residents of Units 9(A) and (B), and 17(A), (B), and (C).
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; however, no subsistence for residents of Akiachak, Akiak and Quinhagak.

Area	Species	Determination
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 the residents of Chickaloon, and 16–26.
17	Beaver	Residents of Units 9 (A), (B), (C), (E), and 17.
Unit 18	Black Bear	Residents of Unit 18, residents of Unit 19(A) living downstream of the Holokuk River, and residents of Chuathbaluk, Aniak, Lower Kalskag, Holy Cross, Stebbins, St. Michael, and Togiak.
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, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including the Tuluksak River drainage.	Moose	Residents of Unit 18 and residents of Upper Kalskag, Lower Kalskag, Aniak, and Chuathbaluk.
18, remainder	Moose	Residents of Unit 18 and residents of Upper Kalskag and Lower Kalskag.
18	Muskox	No Federal subsistence priority.
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 Federal subsistence priority.
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 Federal subsistence priority.
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 Federal subsistence priority.
20(F)	Black Bear	Residents of Unit 20(F) and residents of Stevens Village and Manley.
20(E)	Brown Bear	Residents of Unit 12 and Dot Lake.
20(F)	Brown Bear	Residents of Unit 20(F) and residents of Stevens Village and Manley.
20 (A), (C) (Delta, Yanert, and 20(C) herds) and (D).	Caribou	No determination, except no subsistence for residents of 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, McKinley Village, the area along the Parks Highway between mileposts 216 and 239, except no subsistence for residents of 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.

Area	Species	Determination
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, Telida, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239. No subsistence for residents of 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(F)	Wolf	Residents of Unit 20(F) and residents of Stevens Village and Manley.
20, remainder	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 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
20(D)	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 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 23 and 24.
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 the residents of Chickaloon, and 16–26.
Unit 22(A)	Black Bear	Residents of Unit 22(A) and Koyuk.
22(B)	Black Bear	Residents of Unit 22(B).
22 (C), (D), and (E)	Black Bear	No Federal subsistence priority.
22	Brown Bear	Residents of Unit 22
22(A)	Caribou	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22 (except residents of St. Lawrence Island), 23, 24, and residents of Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Mary's, Sheldon Point, and Alakanuk.
22, Remainder	Caribou	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22 (except residents of St. Lawrence Island), 23, 24.
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 23, 22, 21(D) north and west of the Yukon River, and residents of Kotlik.
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	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, residents of Galena, and residents of Units 22, 23, 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26(A).
23	Moose	Residents of Unit 23.
23 South of Kotzebue Sound and west of and including the Buckland River drainage.	Muskox	Residents of Unit 23 South of Kotzebue Sound and west of and including the Buckland River drainage.
23, Remainder	Muskox	Residents of Unit 23 east and north of the Buckland River drainage.
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 the residents of Chickaloon, 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.

Area	Species	Determination
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, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black Bear	Residents of Stevens Village and residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, remainder	Black Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown Bear	Residents of Stevens Village and residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, remainder	Brown Bear	Residents of Unit 24 including Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area
24	Caribou	Residents of Unit 24 including Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area; residents of Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
24	Moose	Residents of Unit 24, and residents of Koyukuk and Galena.
24	Sheep	Residents of Unit 24 residing north of the Arctic Circle and residents of Allakaket, Alatna, Hughes, and Huslia.
24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 25(D)	Black Bear	Residents of Unit 25(D).
25(D)	Brown Bear	Residents of Unit 25(D).
25, remainder	Brown Bear	No Federal subsistence priority.
25(A)	Moose	Residents of Unit 25(A) and 25(D).
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 Federal subsistence priority.
25(D)	Wolf	Residents of Unit 25(D).
25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex) and residents of Anaktuvuk Pass and Point Hope.
26(A)	Caribou	Residents of Unit 26 and the residents of Anaktuvuk Pass and Point Hope.
26(B)	Caribou	Residents of Unit 26 and the residents of Anaktuvuk Pass, Point Hope, and Wiseman.
26(C)	Caribou	Residents of Unit 26 and the residents of Anaktuvuk Pass and Point Hope.
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)	Muskox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
26(C)	Muskox	Residents of Kaktovik.
26(A)	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
26(B)	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
26(C)	Sheep	Residents of Unit 26, Arctic Village, Chalkytsik, Fort Yukon, Point Hope, 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.

Area	Species	Determination
	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 western-most 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 south-side 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.
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.

Area	Species	Determination
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.
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. Hai of Haines, excluding residents in the drainage of Excursion Inlet.

(b) [Reserved]

Subpart D—Subsistence Taking of Fish and Wildlife

3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.25 is added effective July 1, 1997, through June 30, 1998, to read as follows:

§ ____.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 the Federal Subsistence Management Regulations in this part.

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 paragraph (i) of this section.

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 this section 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 in this section or by other Federal statute. Taking wildlife for

subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(1) Except for special provisions found at paragraphs (k) (1) through (26) of this section, 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 land or air vehicle, when that vehicle is in motion or from a motor-driven boat when the boat's progress from the motor's power has not 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) Only 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 paragraphs (k) (1) through (26) of this section. 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 paragraph (b)(1) of this section:

(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 paragraphs (c)(3)(ii) or (c)(4) of this section, 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 take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that Unit.

(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) or as otherwise provided for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(3) Harvest limits.

(i) Harvest limits, including those related to ceremonial uses, authorized by this section and harvest 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, this paragraph (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, this paragraph (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 below, and black bears of all color phases taken in Units 1–7, 11–17, 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 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.

(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.

(1) Any wolf taken in Unit 2 must be sealed on or before the 30th day after the date of taking.

(2) The radius and ulna of the left foreleg must remain naturally attached to the hide of any wolf taken in Units 1–5 until the hide is sealed.

(g) A person who takes a species listed in paragraph (f) of this section 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 paragraph (f) of this section.

(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 this section 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 paragraphs (k) (1) through (26) of this section. Additional Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (k) (1) through (26) of this section.

(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 within one mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a one mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of black bear and brown 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) The taking of wildlife outside the seasons or harvest limits provided in this part for food in traditional religious ceremonies which are part of a funerary or mortuary cycle, including memorial potlatches, is authorized in Units 1–5 provided that:

(*1*) The person organizing the religious ceremony, or designee, contact the appropriate Federal land management agency prior to taking or attempting to take game and provides to the appropriate Federal land managing agency the name of the decedent, the nature of the ceremony, the species and number to be taken, the Unit(s) in which the taking will occur;

(*2*) The taking does not violate recognized principles of fish and wildlife conservation;

(*3*) Each person who takes wildlife under this section must, as soon as

practicable, and not more than 15 days after the harvest, submit a written report to the appropriate Federal land managing agency, specifying the harvester's name and address, the number, sex and species of wildlife taken, the date and locations of the taking, and the name of the decedent for whom the ceremony was held;

(*4*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in that area where the harvesting will occur;

(D) 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 LeConte Bay. 1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1(B)—that portion between LeConte Bay and the North Fork of Bradfield River/Canal. 2 goats; a State registration permit will be required for the taking of the first goat and 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, and all drainages of the Chilkat Range south of the Endicott 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.	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 State registration permit.	Sept. 15–Oct. 15.
Remainder of Unit 1(B)	No open season.
Unit 1(C), that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit.	Sept. 15–Oct. 15.
Remainder of 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.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
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 western most 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) The taking of wildlife outside the seasons or harvest limits provided in this part for food in traditional religious ceremonies which are part of a funerary or mortuary cycle, including memorial potlatches, is authorized in Units 1–5 provided that:

(*1*) The person organizing the religious ceremony, or designee, contact the appropriate Federal land management agency prior to taking or attempting to take game and provides to the appropriate Federal land managing agency the name of the decedent, the nature of the ceremony, the species and number to be taken, the Unit(s) in which the taking will occur;

(*2*) The taking does not violate recognized principles of fish and wildlife conservation;

(*3*) Each person who takes wildlife under this section must, as soon as practicable, and not more than 15 days after the harvest, submit a written report to the appropriate Federal land managing agency, specifying the harvester's name and address, the number, sex and species of wildlife taken, the date and locations of the taking, and the name of the decedent for whom the ceremony was held;

(*4*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in that area where the harvesting will occur;

(D) 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	Dec. 1–Mar. 31.
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.

Harvest limits	Open season
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	Dec. 1–Mar. 31.
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) The taking of wildlife outside the seasons or harvest limits provided in this part for food in traditional religious ceremonies which are part of a funerary or mortuary cycle, including memorial potlatches, is authorized in Units 1–5 provided that:

(*1*) The person organizing the religious ceremony, or designee, contact the appropriate Federal land management agency prior to taking or attempting to take game and provides to the appropriate Federal land managing agency the name of the decedent, the nature of the ceremony, the species and number to be taken, the Unit(s) in which the taking will occur;

(*2*) The taking does not violate recognized principles of fish and wildlife conservation;

(*3*) Each person who takes wildlife under this section must, as soon as practicable, and not more than 15 days after the harvest, submit a written report to the appropriate Federal land managing agency, specifying the harvester's name and address, the number, sex and species of wildlife taken, the date and locations of the taking, and the name of the decedent for whom the ceremony was held;

(*4*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in that area where the harvesting will occur;

(D) 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.	Sept. 15–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.

Harvest limits	Open season
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.
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) The taking of wildlife outside the seasons or harvest limits provided in this part for food in traditional religious ceremonies which are part of a funerary or mortuary cycle, including memorial potlatches, is authorized in Units 1–5 provided that:

(*1*) The person organizing the religious ceremony, or designee, contact the appropriate Federal land management agency prior to taking or attempting to take game and provides to the appropriate Federal land managing agency the name of the decedent, the nature of the ceremony, the species and number to be taken, the Unit(s) in which the taking will occur;

(*2*) The taking does not violate recognized principles of fish and wildlife conservation;

(*3*) Each person who takes wildlife under this section must, as soon as practicable, and not more than 15 days after the harvest, submit a written report to the appropriate Federal land managing agency, specifying the harvester's name and address, the number, sex and species of wildlife taken, the date and locations of the taking, and the name of the decedent for whom the ceremony was held;

(*4*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in that area where the harvesting will occur;

(D) 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):	
1No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
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 of wildlife outside the seasons or harvest limits provided in this part for food in traditional religious ceremonies which are part of a funerary

or mortuary cycle, including memorial potlatches, is authorized in Units 1–5 provided that:

(*1*) The person organizing the religious ceremony, or designee, contact the appropriate Federal land management agency prior to taking or attempting to take game and provides to the appropriate Federal land managing agency the name of the decedent, the nature of the ceremony, the species and number to be taken, the Unit(s) in which the taking will occur;

(*2*) The taking does not violate recognized principles of fish and wildlife conservation;

(*3*) Each person who takes wildlife under this section must, as soon as practicable, and not more than 15 days after the harvest, submit a written report to the appropriate Federal land managing agency, specifying the harvester's name and address, the number, sex and species of wildlife taken, the date and locations of the taking, and the name of the decedent for whom the ceremony was held;

(*4*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in that area where the harvesting will occur;

(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 Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5(A), Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15.
Unit 5(A), except Nunatak Bench—1 antlered bull by Federal 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. 8–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	
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:	

Harvest limits	Open season
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 Oct. 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.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
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.
Lynx:	
No limit	Jan. 1–Jan. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	

Harvest limits	Open season
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
Unit 6(D)—that portion enclosd by a line extending from the Unit 6 boundary at the head of Kings Bay northeast along the center of Kings Bay and Port Nellie Juan, east to Pt. Eleanor, southeast to Little Smith Island, southwest along the center of Icy Bay, and west along Tiger Glacier to the Unit of Unit 6(D) boundary.	No open season.
Unit 6—Remainder—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.
Moose:	
Unit 7, that portion draining into Kings Bay—1 bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler may be taken by the community of Chenega Bay and also by the community of Tatitlek. Public lands are closed to the taking of moose except by eligible rural residents.	Aug. 10–Sept. 20.
Unit 7, Remainder	No open season.
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.
Lynx:	
No limit	Jan. 1–Jan. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
No limit	Nov. 10–Feb. 28.
Wolf:	

Harvest limits	Open season
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	
Brown Bear:	
1 bear by Federal registration permit only. Up to 1 permit may be issued in Akiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 2 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions.	Dec. 1–Dec. 15. Apr. 1–May 15.
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):	
2 foxes	Sept. 1–Feb. 15.
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) In Unit 9(B), Lake Clark National Park and Preserve only, residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth only, may hunt brown bear by Federal registration permit in lieu of a resident tag; ten permits will be available with at least one permit issued in each community but no more than five permits will be issued in a single community; the season will be closed when four females or ten bears have been taken, whichever occurs first;

(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)—Lake Clark National Park and Preserve—Rural residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth only—1 bear by Federal registration permit only.	July 1–June 30.
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 or State harvest tag.	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 bulls may be taken from Oct. 1—Nov. 30	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. 4Dec. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (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.

Harvest limits	Open season
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 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:	

Harvest limits	Open season
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) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou and moose on his or her behalf. 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:	
3 bears	July 1–June 30.
Caribou:	
Unit 11—Mentasta herd—1 bull by Federal registration permit only. Federal public lands are closed to the taking of caribou except to the residents of Chitina, Chistochina, Copper Center, Gakona, Gulkana, Mentasta, and Tazlina. Up to 15 permits may be issued.	Aug. 1–Mar. 31.
Unit 11—Remainder	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	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:	
No limit	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.

(C) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou and moose on his or her behalf. 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:	
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.
Unit 12—that portion lying east of the Nabesna River and Nabesna Glacier, 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; however during the Aug. 20–Aug. 28 season only bulls with spike/fork antlers may be taken. The November season is open by Federal registration permit only.	Aug. 20–Aug. 28. Sept. 1–Sept. 15. Nov. 20–Nov. 30.
Unit 12—that portion lying east of the Nabesna River, east of the Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull; however during the Aug. 20–Aug. 28 season only bulls with spike/fork antlers may be taken.	Aug. 20–Aug. 28. Sept. 1–Sept. 30.
Unit 12—Remainder—1 antlered bull; however during the Aug. 20–Aug. 28 season only bulls with spike/fork antlers may be taken.	Aug. 20–Aug. 28. 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. 15–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.

Harvest limits	Open season
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 this paragraph (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 Canwell 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) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou and moose on his or her behalf. 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:	
3 bears	July 1–June 30.
Caribou:	

Harvest limits	Open season
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:	
Unit 13(E)—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household.	Aug. 1–Sept. 20.
Unit 13—Remainder—1 antlered bull moose by Federal registration permit only.	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.
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.
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:	
No limit	Nov. 10–Jan. 31.

(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 and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservation, are closed to the subsistence taking of wildlife;

(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:	

Harvest limits	Open season
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:	
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.
Lynx:	
No limit	Dec. 15–Jan. 15.
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.

(E) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take moose on his or her behalf. 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:	
Unit 15(C)—3 bears	July 1–June 30.
Unit 15 Remainder	No open season.
Moose:	
Unit 15(A)—excluding the Skilak Loop Wildlife Management Area.—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 18–Sept. 20.
Unit 15(A)—Skilak Loop Wildlife Management Area	No open season.
Unit 15 (B) and (C)—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.
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):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
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.
Lynx:	
Unit 15 (B) and (C)—No limit	Jan. 1–Jan. 31.
Remainder of Unit 15	No open season.
Marten:	
Unit 15(B)—that portion east of the Kenai River, Skilak Lake, Skilak River and Skilak Glacier	No 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 this paragraph (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.
Lynx:	
No limit	Dec. 15–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:	
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:	
2 bears	Aug. 1–May 31.
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) and 17(C)—1 bear every four regulatory years	Sept. 10–Oct. 10 April 15–May 25.
Caribou:	
Unit 17 (A)—that portion west of the Togiak River, Togiak Lake, Izavieknik River, Upper Togiak Lake, and south to Cape Newenham—2 caribou.	Season to be opened by announcement of the Togiak National Wildlife Refuge Manager between Aug. 1–Mar. 31.
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—2 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.	Aug. 1–Aug. 31. Dec. 1–Mar. 31.
Unit 17(B) and (C)—that portion of 17(C) east of the Wood River and Wood River Lakes—5 caribou; however, no more than 2 bulls may be taken from Oct. 1–Nov. 30.	Aug. 1–Apr. 15.
Unit 17(A), remainder and 17(C), remainder—selected drainages; a harvest limit of up to 5 caribou will be determined at the time the season is announced.	Season, harvest limit, and hunt area to be announced by the Togiak National wildife Refuge Manager between Aug. 1–Mar. 31.
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 during the period Aug. 20–Aug. 31. During the period Sept. 1–Sept. 10 only 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. 10.
Remainder of Unit 17(B)—1 bull by State registration permit only during the periods Aug. 20–Aug. 31 and Dec. 15–Dec. 31. During the period Sept. 1–Sept. 10 only 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. 10. Dec. 15–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 during the period Aug. 20–Aug. 31. During the period Sept. 1–Sept. 10 only 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. 10.
Remainder of Unit 17(C)—1 bull by State registration permit only during the periods Aug. 20–Aug. 31 and Dec. 15–Dec. 31. During the period Sept. 1–Sept. 10 only 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. 10. Dec. 15–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):	
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.

Harvest limits	Open season
Trapping	
Beaver:	
Unit 17—40 beaver per season	Nov. 10–Feb. 28.
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–Mar. 31.
Muskrat:	
No limit	Nov. 10–Feb. 28.
Otter:	
No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Mar. 31.

(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) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou south of the Yukon River on his or her behalf. 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:	
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, Napaskiak, Napakiak, Kasigluk, Atmauthluak, Nunapitchuk, Tuntutuliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills, only. A harvest limit of up to 5 caribou will be determined at the time the season is announced and will be based on the management objectives in the ''Qavilnguut (Kilbuck) Caribou Herd Cooperative Management Plan.'' The season will be closed when the total harvest reaches guidelines as described in the approved ''Qavilnguut (Kilbuck) Caribou Herd Cooperative Management Plan''.	Season to be announced by the Yukon Delta National Wildlife Refuge Manager between Aug. 25 and Mar. 31.
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 a straight line drawn between Lower Kalskag and Piamiut:

(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 this paragraph (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):	

Harvest limits	Open season
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
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 this paragraph (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 (SE 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.

(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 combined State/Federal 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—1 caribou	Dec. 1–Dec. 31.
Remainder of Unit 20(F)—1 bull	Aug. 10–Sept. 30.
Moose:	
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 9 1/2 to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 antlered bull; however during the period Aug. 20—Aug. 28 only a bull with Spike/fork antlers may be taken.	Aug. 20–Aug. 28. 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; however during the period Aug. 20—Aug. 28 only a bull with Spike/fork antlers may be taken.	Aug. 20–Aug. 28. Sept. 1–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.
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.

Harvest limits	Open season
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:	
Unit 20(A), (B), (D), (E), and (C) east of the Teklanika River—No limit	Dec. 15–Jan. 15.
Unit 20(F) and the remainder of 20(C)—No limit	Dec. 1–Jan. 31.
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 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;

(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; moose may not be taken within one-half mile of the Yukon River during the February season. During the Sept. 1–Sept. 25 season a State registration permit is required.	Sept. 1–Sept. 25. Feb. 1–Feb. 10.
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) 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(A)—1 bear by residents of Unit 22(A) only	Sept. 1–Oct. 31. Apr. 15–May 25.
Unit 22(B)—1 bear by residents of Unit 22(B) only	Sept. 1–Oct. 31. Apr. 15–May 25.
Unit 22(C)	No open season.
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 Dec. 1—Jan. 31 is restricted to residents of Unit 22(A) only	Aug. 1–Sept. 30. 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. The harvest will not exceed 3 percent of the subunit population. In Unit 22(D) one-half of the harvest may be taken from National Park Service lands and one-half from Bureau of Land Management lands.	Sept. 1–Jan. 31.
Remainder of Unit 22	No open season.
Beaver:	
Unit 22 (A) and (B)—50 beaver	Nov. 1–June 10.
Unit 22(D)—50 beaver	Nov. 1–Apr. 15.
Unit 22 Remainder	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.

Harvest limits	Open season
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.
Marten:	
Unit 22(A) 22(B)—No limit	Nov. 1–Apr. 15.
Unit 22 Remainder	No open season.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
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):	
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, 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) Caribou may be taken from a boat under power in Unit 23;

(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 by State registration permit	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.
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. The harvest will not exceed 3 percent of the area population.	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, 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—1 bear by State registration permit	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 Gates of the Arctic National Park—Anaktuvuk Pass residents only—commnity harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person no more than 1 of which may be a ewe.	July 15–Dec. 31.
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—the Alatna River drainage 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–Dec. 31. Mar. 1–Mar. 10.
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 those portions of the John River and the Alatna River drainages 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.

Harvest limits	Open season
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.
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.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) Caribou and moose may be taken from a boat under power in Unit 25.

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. Nov. 15–Feb. 28.
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. Dec. 1–Dec. 31.
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 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.

Harvest limits	Open season
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. 31.
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.
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, 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) Caribou may be taken from a boat under power in Unit 26;

(B) Swimming caribou may be taken with a firearm using rimfire cartridges.

(C) In Kaktovik, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep 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:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 26(A)—1 bear by State registration permit	Sept. 1–May 31.
Unit 26 (B) and (C)—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 the Killik River are closed to the 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	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) and (B)—that portion within the Gates of the Arctic National Park—Anaktuvuk Pass residents only—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person no more than 1 of which may be a ewe.	July 15–Dec. 31.
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.
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.	Aug. 10–Sept. 20 Oct. 1–Apr. 30.
Moose:	
Unit 26(A)—that portion of the Colville River drainage downstream from the mouth of the Anaktuvuk River—1 bull. Federal public lands are closed to the taking of moose by non-Federally qualified subsistence users.	Aug. 1–31.
Remainder of Unit 26	No open season.
Muskox:	
Unit 26(C)—1 bull by Federal registration permit only; up to 15 permits may be issued to rural Alaska residents of the village of Kaktovik only. Public lands are closed to the taking of muskox, except by rural Alaska residents of the village of Kaktovik during seasons identified above.	Sept. 15–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:	

Harvest limits	Open season
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

4. In Subpart D of 36 CFR part 242 and 50 CFR part 100, §§ ____.26 and ____.27 are added effective January 1, 1998, through December 31, 1998, to read as follows:

§ ____.26 Subsistence taking of fish.

(a) *Applicability.* (1) Regulations in this section 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 this section.

(b) *Definitions.* The following definitions shall apply to all regulations contained in this section 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—

(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.

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) Harvest limits authorized in this section or § ____.27 may not be accumulated with bag limits authorized in State seasons.

(13) Unless specified otherwise in this section, use of a rod and reel to take fish is permitted without a subsistence fishing permit. Harvest 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 this section, that permit is not required to take fish for subsistence uses with rod and reel. The harvest 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 this section, the harvest 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 this section, or unless restricted under the terms of a required subsistence fishing permit, gear specified in definitions in paragraph (b) of this section are legal types of gear for subsistence fishing.

(15) Unless restricted in this section, 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 this section.

(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 this paragraph (d)(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 this paragraph (d)(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 in 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 the 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 paragraph (d)(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 in this paragraph:

(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 as permitted by this Part;

(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 harvest 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) There are no harvest and possession limits for this fishery;

(F) 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 this section 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 this section.

(c) Methods, means, and general restrictions. (1) The harvest limit specified herein 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 harvest limit for a particular species under a subsistence season specified herein 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 this section, 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 paragraph (c)(5) of this section, 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 paragraph (f) of this section.

(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 harvest and possession limit is 12 male dungeness crab per person;

(iv) In the subsistence taking of king crab:

(A) The daily harvest 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 harvest 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 harvest and possession limit is 12 male dungeness crab per person;

(iv) In the subsistence taking of king crab:

(A) The daily harvest 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 harvest 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 harvest 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 harvest 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 harvest and possession limit is 12 male tanner crab.

Dated: April 30, 1997.

Thomas H. Boyd

Acting Chair, Federal Subsistence Board.

Dated: May 1, 1997.

James A. Caplan,

Acting Regional Forester, USDA—Forest Service.

[FR Doc. 97–13742 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–21–1–7318; FRL–5832–5]

Approval and Promulgation of Section 182(f) Exemption to the Nitrogen Oxides (NO_X) Control Requirements for the Lake Charles Ozone Nonattainment Area; Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is issuing final approval of a petition from the State of Louisiana requesting that the Lake Charles marginal ozone nonattainment area be exempt from applicable nitrogen oxides (NO_X) control requirements of section 182(f) of the Clean Air Act (Act). The section 182(f) NO_X requirement from which the area will be exempt is NO_X new source review (NSR). In addition, approval of the section 182(f) petition would remove the NO_X general conformity provisions and the NO_X build/no build provisions of the transportation conformity rule. This document will also correct the drafting error in the proposed rule in which the Lake Charles area was referred to as the Calcasieu Parish nonattainment area. This correction is merely a nominal change, since the Lake Charles nonattainment area contains only Calcasieu Parish.

EFFECTIVE DATE: This action is effective as of May 27, 1997.

ADDRESSES: Copies of the exemption request, public comments and EPA's responses are available for inspection at the following address:

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Witosky , Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTAL INFORMATION:

I. Background

On October 28, 1994, the State of Louisiana submitted a petition to the EPA requesting that the Lake Charles marginal ozone nonattainment area be exempt from requirements to implement NO_X controls pursuant to section 182(f) of the Act. Hereafter, any reference to ''section'' shall be considered a reference to a portion of the Act. The exemption request was based on modeling that demonstrates additional NO_X emission controls within the nonattainment area will not contribute to attainment of the ozone National Ambient Air Quality Standard (NAAQS) within the area. Subsequent to the original request for a waiver, ambient data became available indicating that area was in attainment of the ozone standard. The EPA is approving the exemption request based on modeling and monitoring data that together demonstrate that additional NO_X reductions would not contribute to attainment. As stated in the summary, the Lake Charles ozone nonattainment area consists only of Calcasieu Parish.

On June 13, 1996, the EPA proposed approval of the NO_X exemption petition for the Lake Charles ozone nonattainment area (61 FR 30024, again, proposed as the Calcasieu Parish nonattainment area). Adverse comments were received from a single commenter. In addition, three environmental groups submitted joint adverse comments on the proposed approvals of NO_X exemptions for the Ohio and Michigan ozone nonattainment areas in August of 1994. These comments addressed the EPA's general policy regarding NO_X exemptions. The commenters requested that these comments be addressed in all EPA rulemakings dealing with section 182(f) exemptions.

II. Public Comments

The following discussion summarizes the comments received regarding the State's petition and/or the EPA's proposed rulemaking and presents the EPA's responses to these comments.

Comment: Commenters argued that NO_X exemptions are provided for in two separate parts of the Act, in sections 182(b)(1) and 182(f). Because the NO_X exemption tests in sections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place ''when (the EPA) approves a plan or plan revision,'' these commenters conclude that all NO_X exemption determinations by the EPA, including exemption actions taken under the petition process established by section 182(f)(3), must occur during consideration of an attainment or maintenance plan, unless the area has been redesignated as attainment.

Response: Section 182(f) contains very few details regarding the administrative procedures for acting on NO_X exemption requests. The absence of specific guidelines by Congress leaves the EPA with discretion to establish reasonable procedures consistent with the requirements of the Administrative Procedures Act (APA).

The EPA disagrees with the commenters regarding the process for considering NO_X exemption requests under section 182(f) and instead, believes that sections 182(f)(1) and 182(f)(3) provide independent procedures by which the EPA may act on NO_X exemption requests. The language in section 182(f)(1), which indicates that the EPA should act on NO_X exemptions in conjunction with action on a plan or a plan revision, does not appear in section 182(f)(3). While section 182(f)(3) references section 182(f)(1), the EPA believes that this reference encompasses only the substantive tests in paragraph (1) (and by extension, paragraph (2)), not the procedural requirement that the EPA act on exemptions only when acting on State Implementation Plans (SIPs). Additionally, section 182(f)(3) provides that ''a person'' (which section 302(e) of the Act defines to include a State) may petition for NO_X exemptions ''at any time,'' and requires the EPA to make its determination within 6 months of the petition's submission. These key differences lead the EPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

With respect to major stationary sources, section 182(f) requires marginal areas to adopt NSR rules, unless exempted. These rules were generally due to be submitted to the EPA by November 15, 1992. Thus, in order to avoid the Act's sanctions, areas seeking

a NO_X exemption would have needed to submit this exemption request for EPA review and rulemaking action several months before November 15, 1992. In contrast, the Act specifies that the attainment demonstrations were not due until November 1993 or 1994 (and the EPA may take up to 12 months to approve or disapprove the demonstrations). For marginal ozone nonattainment areas (subject to NO_X NSR), no attainment demonstrations are called for in the Act. For areas seeking redesignation to attainment of the ozone NAAQS, the Act does not specify a deadline for submittal of maintenance demonstrations (in reality, the EPA would generally consider redesignation requests without accompanying maintenance plans to be unacceptable). Clearly, the Act envisions the submittal of and EPA action on NO_X exemption requests, in some cases, prior to submittal of attainment or maintenance demonstrations.

Comment: Commenters contended that section 182(b)(1) is the appropriate authority for granting interim period transportation conformity NO_X exemptions.

Response: The EPA agreed with the commenters and published an interim final rule that changed the transportation conformity rule to reference section 182(b)(1) as the correct authority under the Act for waiving the NO_X ''build/no-build'' and ''less-than-1990 emissions'' tests for certain areas. *See* 60 FR 44762, (August 29, 1995). A related proposed rule (60 FR 44790), published on the same day, invited public comment on how the Agency plans to implement section 182(b)(1) transportation conformity NO_X exemptions. That proposal has since been finalized. See 60 FR 57179 (November 14, 1995). In that final rule, the EPA noted that section 182(b)(1), by its terms, only applies to moderate and above ozone nonattainment areas. Consequently, the EPA believes that the interim reduction requirements of section 176(c)(3)(A)(iii), and the authority provided in section 182(b)(1) to grant relief from those interim reduction requirements, apply only to those areas subject to section 182(b)(1).

It should be noted that a NO_X waiver under section 182(f) removes the NO_X general conformity requirements entirely and would continue to do so. Since general Federal actions are not subject to section 176(c)(3)(A)(iii), which explicitly references section 182(b)(1), the EPA will continue to offer relief from NO_X general conformity provisions under section 182(f)(3). The EPA intends to provide relief to marginal areas, such as Lake Charles, from transportation conformity provisions through the authority of section 182(f)(3) because marginal areas are not subject to section 182(b)(1). The EPA believes this approach is consistent both with the way NO_X requirements in ozone nonattainment areas are treated under the Act generally, and under section 182(f) in particular. The basic approach of the Act is that NO_X reductions should apply when beneficial to an area's attainment goals, and should not apply when unhelpful or counterproductive. Section 182(f) reflects this approach but also includes specific substantive tests which provide a basis for the EPA to determine when NO_X requirements should not apply. There is no substantive difference between the technical analysis required to make an assessment of NO_X impacts on attainment in a particular area whether undertaken with respect to mobile source or stationary source NO_X emissions. Moreover, where the EPA has determined that NO_X reductions will not benefit attainment or would be counterproductive in an area, the EPA believes it would be unreasonable to insist on NO_X reductions for purposes of meeting reasonable further progress or other milestone requirements. Thus, even concerning the conformity requirements of section 176(c)(1), the EPA believes it is reasonable and appropriate to: (1) Offer relief from the applicable NO_X requirements of the general and transportation conformity rules in areas where such reductions would not be beneficial, and (2) rely in doing so on the exemption tests provided in section 182(f).

In summary, the EPA will continue to process actions not subject to section 182(b)(1) under section 182(f)(3). The Lake Charles ozone nonattainment area is not subject to the requirements of section 182(b)(1). Therefore, a transportation conformity NO_X waiver and general conformity waiver may be granted under section 182(f)(3).

Comment: Commenters argued that waiver of NO_X control requirements is unlawful if such a waiver would impede attainment and maintenance of the ozone standard in downwind areas.

Response: As a result of these comments, the EPA reevaluated its position on this issue and has revised previously issued guidance. See Memorandum, ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria,'' dated February 8, 1995, from John Seitz. As described in this memorandum, the EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that the NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State or in another nonattainment area within the same State. This action would be independent of any action taken by the EPA on a NO_X exemption request under section 182(f). That is, the EPA's action to grant or deny a NO_X exemption request under section 182(f) for any area would not shield that area from the EPA's action to require NO_X emission reductions, if necessary, under section 110(a)(2)(D).

Modeling analyses are underway or will soon be conducted in many areas for the attainment demonstration SIP revisions required pursuant to section 182(c)(2)(A). Recent modeling data suggest that certain ozone nonattainment areas may benefit from reductions in NO_X emissions upwind of the nonattainment areas. For example, the Northeast Corridor States and the Lake Michigan Ozone Study are considering attainment strategies which may rely, in part, on NO_X emission reductions hundreds of kilometers upwind. The EPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. As the studies progress, the EPA will continue to work with the States and other organizations to develop mutually acceptable attainment strategies.

At the same time as the large scale modeling analyses are being conducted, States have requested exemptions from NO_X requirements under section 182(f) for certain nonattainment areas in the modeling domains. Some of these nonattainment areas may impact downwind nonattainment areas. The EPA intends to address the transport issue under section 110(a)(2)(D), based on a regional modeling analysis.

Under section 182(f) of the Act, an exemption from NO_X requirements may be granted for nonattainment areas outside of an ozone transport region if the EPA determines that ''additional reductions of (NO_X) would not contribute to attainment of the national ambient air quality standard for ozone in the area.'' [1] As described in section

[1] There are three NO_X exemption tests specified in section 182(f). Of these, two are applicable for areas outside of an ozone transport region: The ''contribute to attainment'' test described above, and the ''net air quality benefits'' test. EPA must determine, under the latter test, that the net benefits to air quality in an area ''are greater in the absence of NO_X reductions'' from relevant sources. Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for

Continued

4.3 of the December 13, 1993, EPA guidance document, ''Guideline for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f),'' the EPA encourages, but does not require, States/petitioners to consider the impacts on the entire modeling domain since the effects of an attainment strategy may extend beyond a designated nonattainment area. Specifically, the guidance encourages States to consider imposition of the NO_X requirements if needed to avoid adverse impacts in downwind areas, either intra-or interstate. States need to consider such impacts since they are ultimately responsible for achieving attainment in all portions of their State and for ensuring that emissions originating in their State do not contribute significantly to nonattainment in, or interfere with maintenance by, any other State. *See* section 110(a)(2)(D)(i)(I) of the Act.

In contrast, section 4.4 of the December 16, 1993, guidance states that the section 182(f) demonstration would not be approved if there is evidence, such as photochemical grid modeling, showing that the NO_X exemption would interfere with attainment or maintenance in downwind areas. The guidance further explains that section 110(a)(2)(D) (not section 182(f)) prohibits such impacts. Consistent with section 4.3 of the guidance, the EPA believes that the section 110(a)(2)(D) and 182(f) provisions must be considered independently, and hence, has revised section 4.4 of the December 16, 1993, guidance document. Thus, if there is evidence that NO_X emissions in an upwind area would interfere with attainment or maintenance in a downwind area, that problem should be separately addressed by the State(s) or, if necessary, by the EPA in a section 110(a)(2)(D) action. In addition, a section 182(f) exemption request should be independently considered by the EPA.

The State of Louisiana is being included in one of the new modeling analyses referred to above that is being conducted by the EPA, States, and other agencies as part of the Ozone Transport Assessment Group (OTAG). The OTAG process is a consultative process among the eastern States and the EPA. The OTAG assessment process will evaluate regional and national emission control strategies using improved regional modeling analyses. The goal of the OTAG process is to reach consensus on additional regional and national emission reductions that are needed to support efforts to attain the ozone standard in the eastern United States. States have committed to submit plans (SIP revisions) that will show attainment of the ozone standard through local, regional, and national emission controls.

As noted in a prior EPA rulemaking dated November 28, 1994 (59 FR 60709), NO_X waivers are approved on a contingent basis; the waiver applies only so long as air quality analyses, such as from additional ozone modeling, in an exempted area continue to show NO_X reductions are detrimental to reaching attainment or would not contribute to attainment. Additionally, in the notice of proposed rulemaking on the Lake Charles exemption request, 61 FR 30024 (June 13, 1996), the EPA indicated that the NO_X exemption would remain effective for only as long as the area had no ozone violations, or modeling continued to show that NO_X control activities would not contribute to attainment, in the Lake Charles area.

Comment: Comments were received regarding the scope of exemption of areas from the NO_X requirements of the conformity rules. The commenters argued that such exemptions waive only the requirements of section 182(b)(1) to contribute to specific annual reductions, not the requirement that conformity SIPs contain information showing the maximum amount of motor vehicle NO_X emissions allowed under the transportation conformity rules, and similarly, the maximum allowable amounts of any such NO_X emissions under the general conformity rules. The commenters admitted that, in prior guidance, the EPA has acknowledged the need to amend a drafting error in the existing transportation conformity rules to ensure consistency with motor vehicle emissions budgets for NO_X, but want the EPA, in actions on NO_X exemptions, to explicitly affirm this obligation and to also avoid granting waivers until a budget controlling future NO_X increases is in place.

Response: The EPA's transportation conformity rule [2] originally provided a NO_X transportation conformity waiver if an area received a section 182(f) exemption. As indicated in a previous response, the EPA has changed the reference from section 182(f) to section 182(b)(1) in the transportation conformity rule since that section is specifically referenced by the transportation conformity provisions of the Act. *See* 60 FR 44762. The EPA has also consistently held the view that, in order to conform, nonattainment and maintenance areas must demonstrate that the transportation plan and the Transportation Improvement Program are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view was not reflected in the transportation conformity rule. The EPA has amended the rule to correct this error. *See* 60 FR 57179. However, the exemptions that are the subject of this final action are being processed under section 182(f)(3), which does not require the EPA to act under the authority of section 182(b).

Comment: Commenters argued that the Act does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counterproductive.

Response: The EPA does not agree with this comment since it ignores the Congressional intent as evidenced by the plain language of section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. By contrast, in developing and implementing its NO_X exemption policies, the EPA has sought an approach that reasonably accords with that intent. In addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for sources of VOC, section 182(f) also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, the EPA determines that, in certain areas, NO_X reductions would generally not be beneficial towards attainment of the ozone standard. In section 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under section 185B of the Act. Because of the possibility that reducing NO_X in an area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in section 182(f), but throughout Title I of the Act, to avoid requiring NO_X reductions where such would not be beneficial or would be counterproductive. In describing these various ozone provisions, including section 182(f), the House Conference Committee Report states in the pertinent part: ''[T]he Committee included a separate NO_X/VOC [volatile organic compound] study

receiving a full or limited NO_X exemption. Consequently, as stated in section 1.4 of the December 16, 1993, EPA guidance, ''[w]here any one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.''

[2] ''Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act,'' November 24, 1993 (58 FR 62188).

provision in section (185B) to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area.'' *See* H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990).

As noted in the response to an earlier comment, the command in section 182(f)(1) that the EPA ''shall consider'' the section 185B report taken together with the time period the Act provides for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed section 185B report would provide a sufficient basis for the EPA to act on NO_X exemption requests, even in the absence of the additional information that would be included in affected areas' attainment or maintenance demonstrations. While there is no specific requirement in the Act that EPA actions granting NO_X exemption requests must await ''conclusive evidence,'' as the commenters argue, there is also nothing in the Act to prevent the EPA from revisiting an approved NO_X exemption if warranted by additional, current information.

In addition, the EPA believes, as described in the EPA's December 1993 guidance, that section 182(f)(1) of the Act provides that the new NO_X requirements shall not apply (or may be limited to the extent necessary to avoid excess reductions) if the Administrator determines that any one of the following tests is met:

(1) In any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned;

(2) In nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) In nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region. Based on the plain language of section 182(f), the EPA believes that each test provides an independent basis for a full or limited NO_X exemption.

Only the first test listed above is based on a showing that NO_X reductions are ''counterproductive.'' If one of the tests is met (even if another test is failed or not applied), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

Comment: Commenters provided a generic comment on all section 182(f) actions that three years of ''clean'' data fail to demonstrate that NO_X reductions would not contribute to attainment.

Response: The EPA does not agree with this comment. In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by 3 years of adequate monitoring data, without having implemented the section 182(f) NO_X provisions over that 3-year period. In cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data without having implemented the section 182(f) NO_X provisions, the EPA believes that the Section 182(f) test is met since ''additional reductions of (NO_X) would not contribute to attainment'' of the NAAQS in that area. In all cases, EPA's approval of the exemption is granted on a contingent basis (i.e., the exemption would last for only as long as the area's monitoring data continue to demonstrate attainment). In the case of Lake Charles, the EPA is confident that three years of clean data taken together with the modeling performed to support the request for a waiver are sufficient evidence to support the issuance of the waiver.

Comment: Commenters stated that the modeling required by the EPA is insufficient to establish that NO_X reductions would not contribute to attainment since only one level of control, ''substantial'' reductions, is required to be analyzed. As such, the waiver does not provide a complete picture of the effect larger amounts of NO_X reductions will have on ozone levels. They further explained that an area must submit an attainment plan that can be approved before the EPA can know whether NO_X reductions will aid or undermine attainment.

Response: As described in the EPA's December 1993 NO_X exemption guidance, photochemical grid modeling is generally needed to document cases where NO_X reductions are counterproductive to net air quality, do not contribute to attainment, do not show a net ozone benefit, or include excess reductions. The UAM or, in a transport region, the Regional Oxidant Model are acceptable models for these purposes.

The EPA guidance also states that application of UAM should be consistent with techniques specified in the EPA ''Guideline on Air Quality Models (Revised)'' (December 1993). Further, application of UAM should also be consistent with procedures contained in the EPA ''Guideline for Regulatory Application of the Urban Airshed Model'' (July 1991). Thus, episode selection for the section 182(f) demonstration should be consistent with the UAM guidance for SIP attainment demonstrations.

The EPA believes these analyses are appropriate to determine, in a directional manner, whether or not NO_X reductions are expected to be beneficial to the air quality in the area/region. These analyses described in the EPA's December 1993 guidance may be less precise than an attainment demonstration required under section 182(c). As discussed in the proposed rule, the EPA believes that the State's UAM demonstration together with the ambient air quality data showing that the area is attaining the ozone standard support the granting of an exemption from the NO_X requirements of section 182(f) of the Act.

Although many ozone nonattainment areas used photochemical grid modeling, required by the Act for their attainment demonstrations, to apply for a NO_X exemption, the Act did not require marginal areas like Lake Charles to perform such modeling for the purpose of an attainment demonstration. Thus, where such an area can make an adequate showing of the effects of NO_X reductions with respect to attainment through alternative means that are otherwise consistent with relevant guidance, the EPA could approve the area's demonstration.

The Louisiana Department of Environmental Quality (LDEQ) submitted the results of a photochemical grid modeling exercise that was carried out, in conjunction with Lake Charles' attainment efforts, to determine if the area was the object of ozone and precursor transport. The EPA acknowledges that the modeling performed for this exercise does not precisely replicate the procedures EPA guidance suggests be used to support a 182(f) exemption petition. Nonetheless, the EPA believes the modeling analysis that was performed by LDEQ, combined with the area's clean air data, is comprehensive enough to determine that the area merits an exemption.

Comment: Commenters argued that the Act does not authorize delaying implementation of NO_X controls if attainment modeling is not complete.

Response: The EPA believes the modeling analyses submitted are appropriate to determine, in a directional manner, whether NO_X reductions are expected to be beneficial with respect to the air quality in the area/region. Furthermore, subsequent

monitoring data indicate the area has come into attainment, obviating NO_X controls to reach attainment.

Comment: One commenter stated that the EPA must rely on the recent National Academy of Sciences (NAS) report in its review of NO_X waivers. The commenter pointed out that the NAS report found that to reduce transported ozone NO_X reductions are needed.

Response: The NAS report and the EPA's companion report both support the conclusion that, as a general matter for ozone nonattainment areas across the country, NO_X reductions in addition to VOC reductions will be needed to achieve attainment. This general conclusion, however, must be assessed in the context of the more detailed analysis provided in those same reports. For example, the NAS report notes that NO_X reductions can have either a beneficial or detrimental effect on ozone concentrations, depending on the locations and emission rates of VOC and NO_X sources in a region. The effect of NO_X reductions depends on the local VOC/NO_X ratio and a variety of other factors. In its report issued pursuant to section 185B of the Act, the EPA stated that ''[a]pplication of gridded photochemical models on a case by case basis is required to determine the efficacy of NO_X controls, because the ozone response to precursor reductions is area specific.''

The analyses performed in the Lake Charles area demonstrate no reduction in ozone concentrations as a result of NO_X control in the modeling domain. Based on these modeling results, the area meets the test under section 182(f)(1)(A) of the Act required to support a waiver from the NO_X requirements of section 182(f). The effect that NO_X controls in the Lake Charles area may have on ozone levels in the eastern U.S. will be addressed in the OTAG process. Again, the EPA notes that the modeling and subsequent ambient data support the conclusion that NO_X controls are not necessary for attainment.

Comment: The commenter stated that NO_X emission reductions will not only reduce transported ozone, but will also improve visibility, especially in downwind Class I areas.

Response: The NO_X exemption test Louisiana is relying on (pursuant to section 182(f)(1)(A)) requires an assessment of only the contribution of NO_X emissions reductions toward ozone attainment.

Comment: One commenter argued that the EPA Administrator has an obligation, under section 110(a)(2)(D), to prohibit any activity in a State which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State. To this end, a ''superregional'' NO_X strategy should be adopted before the Administrator grants any section 182(f) NO_X exemption or, at the very least, NO_X exemptions should be restricted to expire if the OTAG and the EPA are unsuccessful in completing the requirements outlined in the EPA's March 2, 1995, attainment guidance document.

Response: As discussed earlier in the response concerning transport to downwind areas, the EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that the NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State or in another nonattainment area within the same State. This action would be independent of any action taken by EPA on a NO_X exemption request under section 182(f). In reference to the latter part of the comment, the EPA has granted all NO_X waivers on a contingent basis.

Comment: One commenter contended that the monitors which observed the highest ozone concentrations in Calcasieu Parish ceased operating in 1992, leaving an ozone monitoring network which does not appear to monitor the area of the highest concentration.

Response: As the commenter points out, the Lake Charles monitoring network underwent changes in 1992, when the State was obligated to move two monitors. When the Westlake monitor was originally established over 10 years ago, the site required improvement in order to marginally meet the siting criteria (see 40 CFR part 58, Appendix E titled Probe Siting Criteria for Ambient Air Quality Monitoring—Ozone). After reviewing the Westlake monitoring site in 1991 and reconsidering site conditions, LDEQ and the EPA agreed that this monitoring site should be relocated. The Westlake monitoring site was subsequently relocated in September 1992 to its present location on John Stine Road. The Vinton monitor was moved in 1992 because an adequate land lease could not be obtained. This monitor was relocated to its present location on Paul Bellow Road. Both sites meet the criteria for establishment of monitoring sites. The current monitoring network meets EPA-specified regulatory requirements, and adequately reflects air quality in the nonattainment area.

Comment: A commenter stated that the EPA did not consider the effects of the prolonged regional economic recession particularly affecting the Lake Charles, Louisiana area. The commenter alleged that reduced economic activity in Lake Charles from 1993 to 1995 likely resulted in temporary reductions in ozone and ozone precursor emissions from sources in Calcasieu Parish. They further asserted that as the regional economic conditions improve, there will likely be a return of ozone exceedances and violations similar to those observed in 1990–1992.

Response: The EPA does not agree with the comment that states seeking waivers of NO_X provisions are required to estimate and model what emissions might have been had economic conditions been more favorable. The State followed established procedures and EPA policy regarding the development of an emissions inventory for modeling purposes. The EPA approved the Lake Charles emissions inventory at 60 FR 13908 on March 15, 1995. As stated in the proposed rule, if the EPA later determines through subsequent analysis, such as through photochemical grid analysis that NO_X reductions would be beneficial in Lake Charles, the area would be removed from exempt status and would be required to adopt the NO_X provisions of the NSR and conformity rules except to the extent that NO_X reductions are shown to be ''excess reductions.''

Comment: The commenter contended that the EPA omits any comment on NO_X emissions in proximity to the oxygen depleted ''dead zone'' in the Gulf of Mexico. Further, the commenter asked why the EPA is permitting atmospheric nitrogen deposition from NO_X emissions. The commenter alleged that NO_X emissions from Calcasieu Parish will need to be reduced to mitigate nitrogen deposition damage in other areas, including Class I areas.

Response: The EPA does not agree with this comment. No Class I areas are known to be affected by NO_X emissions in Lake Charles. In addition, the requirements imposed by section 182 of the Act are to bring about attainment of the ozone standard in ozone nonattainment areas, and are independent of other requirements and controls under the Act, and any other applicable statutes that may address nitrogen deposition damage. The EPA's NO_X waiver policy was developed to prevent the imposition of requirements of section 182 that do not contribute to that attainment. The other beneficial affects those requirements might have on visibility are not grounds to maintain or waive section 182 requirements.

The EPA notes that the Breton National Wildlife refuge, the nearest Class I area to the Lake Charles nonattainment area, is approximately 394 kilometers from the nonattainment area and over 300 kilometers from the modeling domain used to develop the NO_X waiver. Since Lake Charles is not now considered a transport area for ozone or ozone precursors, the State is not required to evaluate the effect of a NO_X waiver on regional haze, adverse impact on visibility (unless part of an established integral vista), or ozone attainment, in the Refuge.

To address the substance of the comment, the EPA consulted the Department of Interior's (DOI) officials in charge of air quality and visibility in Breton National Wildlife Refuge. The DOI has no evidence that NO_X sources in Calcasieu Parish are upwind of or are affecting air quality in this Class I protected area. The EPA believes there is a very small probability that sources in the Parish could be affecting this Class I area. The meteorological and air quality modeling provided in the petition indicate no potential for transport from the Lake Charles area to the Refuge. As evidence, air flow patterns from the model indicate that typical wind directions are northeasterly and southeasterly, clearly not in the direction of the protected area. The DOI concurred with this assessment. It should be noted that if this Class I area were within 100 kilometers of the Calcasieu nonattainment area, new pollution sources within the nonattainment area would be subject to different requirements under the nonattainment new source review program or the prevention of significant deterioration program, to prevent deterioration of air quality in the protected area.

Finally, at 61 FR 29719 on June 12, 1996, the EPA published an Advance Notice of Proposed Rulemaking, in which the EPA informed the public that the EPA was combining the timing for its decision to retain or revise the current standards for particulate matter and ozone. The document also announced the EPA's intention to develop an integrated strategy for implementation of potential new ozone and particulate matter standards, and the regional haze program. The EPA will be accepting comments on the integration of control requirements for ozone precursors and gaseous emissions that contribute to the formation of fine particulate. The EPA invites the commenter to provide their comments to the EPA pursuant to the proposal of these new standards in November of 1996.

III. Effective Date

The EPA has opted to make this regulation effective May 27, 1997 to minimize delay by the EPA. As noted above, section 182(f)(3) provides for EPA action on NO_X exemption requests within six months of receipt, and the State originally requested the waiver over two years ago. Under the APA, 5 U.S.C. 553(d)(1), the EPA is authorized to establish an effective date for a substantive rule that is less than thirty days after publication if the rule ''relieves a restriction.'' The approval of the section 182(f) exemption for the Lake Charles ozone nonattainment area is a substantive rule that relieves the restrictions associated with the Act's title I requirements to control NO_X emissions. The EPA is also making this action effective as soon as possible to expedite an overdue action. Hence, this action is effective on May 27, 1997.

IV. Final Action

Although adverse comments were received, the EPA does not find these comments of sufficient merit to alter its proposed action on this NO_X exemption request. Therefore, in this action, the EPA approves the 182(f) NO_X exemption petition submitted by the State of Louisiana for the Lake Charles ozone nonattainment area. Approval of the exemption waives the Federal requirements for NO_X NSR, NO_X transportation conformity, and NO_X general conformity applicable to the Lake Charles ozone nonattainment area.

The EPA believes that all section 182(f) exemptions that are approved should be approved only on a contingent basis. As described in the EPA's NO_X Supplement to the General Preamble (57 FR 55628, November 25, 1992), the EPA would rescind a NO_X exemption in cases where NO_X reductions were later found to be beneficial in the area's attainment plan. That is, a modeling based exemption would last for only as long as the area's modeling continued to demonstrate attainment without the additional NO_X reductions required by section 182(f). Similarly, if an area that received an exemption based on clean air quality data which shows that the area is attaining the ozone standard experiences a violation prior to redesignation of the area to attainment, the exemption would no longer be applicable.

If the EPA later determines, because of an ozone violation or based on new photochemical grid modeling, that NO_X reductions would be beneficial in Lake Charles, the area would be removed from exempt status and would be required to adopt the applicable NO_X provisions of the NSR and conformity rules except to the extent that NO_X reductions are shown to be ''excess reductions.'' In the rulemaking action which removes the exempt status, the EPA would provide specific information regarding the reapplication of the NSR rules and the conformity rules.

V. Regulatory Action

The EPA is issuing final approval of the request for a petition from the State of Louisiana requesting that the Lake Charles marginal ozone nonattainment area be exempt from applicable NO_X control requirements. The section 182(f) NO_X requirement from which the area will be exempt is NO_X NSR. In addition, approval of the section 182(f) petition would remove the NO_X general conformity provisions and the NO_X build/no build provisions of the transportation conformity rule.

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 the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VI Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table I action for signature by the Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. *See* 5 U.S.C. 603 and 604. Alternatively, the 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.

The SIP approvals under section 110 and subchapter I, part D of the Act 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

The EPA's final action relieves requirements otherwise imposed under the Act and, hence, does not impose any federal intergovernmental mandates, as defined in section 101 of the Unfunded Mandates Act. This action also will not impose a mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector. Since this action will not significantly impact any small governments, the EPA is not required to establish a plan pursuant to section 203.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 28, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Oxides of nitrogen, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: May 22, 1997.

Carol M. Browner,

Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. Section 52.992 is amended by adding paragraph (d) to read as follows:

§ 52.992 Area-wide nitrogen oxides (NO_X) exemptions.

* * * * *

(d) The LDEQ submitted to the EPA on October 28, 1994, a petition requesting that the Lake Charles marginal ozone nonattainment area be exempted from the NO_X control requirements of the Act. The Lake Charles nonattainment area consists of Calcasieu Parish. The exemption request was based on photochemical grid modeling which shows that reductions in NO_X would not contribute to attainment in the nonattainment area. On May 27, 1997, the EPA approved the State's request for an area-wide exemption from the following requirements: NO_X new source review, NO_X general conformity, and NO_X transportation conformity requirements. The waiver was granted on the basis of modeling, and ambient air quality data demonstrating the area has attained the ozone NAAQS.

[FR Doc. 97–14100 Filed 5–28–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–14; RM–8916]

Radio Broadcasting Services; Idaho Falls, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 296A to Idaho Falls, Idaho, as that community's fifth local FM service in response to a petition filed on behalf of IF Broadcasting of Idaho. *See* 62 FR 3653, January 24, 1997. Coordinates used for Channel 296A at Idaho Falls are 43–27–21 and 112–04–03. With this action, the proceeding is terminated.

DATES: Effective July 7, 1997. The window period for filing applications for Channel 296A at Idaho Falls, Idaho, will open on July 7, 1997, and close on August 7, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 296A at Idaho Falls, Idaho, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–14, adopted May 14, 1997, and released May 23, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Channel 296A at Idaho Falls.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–14026 Filed 5–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–39; RM–8905]

Radio Broadcasting Services; Driggs, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 271A to Driggs, Idaho, as that community's first local aural transmission service in response to a petition filed by Vixon Valley Broadcasting. *See* 62 FR 5789, February 7, 1997. Coordinates used for Channel 271A at Driggs are 43–43–36 and 111–06–18. With this action, the proceeding is terminated.

DATES: Effective July 7, 1997. The window period for filing applications for Channel 271A at Driggs, Idaho, will open on July 7, 1997, and close on August 7, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 271A at Driggs, Idaho, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–39, adopted May 14, 1997, and released May 23, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Driggs, Channel 271A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–14024 Filed 5–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–31; RM–8930]

Radio Broadcasting Services; Des Arc, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 284A to Des Arc, Arkansas, as that community's first local FM transmission service in response to a petition filed on behalf of Whippoorwill Creek Broadcasting. *See* 62 FR 4228, January 29, 1997. Coordinates used for Channel 284A at Des Arc are 34–58–24 and 91–29–54. With this action, the proceeding is terminated.

DATES: Effective July 7, 1997. The window period for filing applications for Channel 284A at Des Arc, Arkansas, will open on July 7, 1997, and close on August 7, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 284A at Des Arc, Arkansas, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–31, adopted May 14, 1997, and released May 23, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Des Arc, Channel 284A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–14023 Filed 5–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–15; RM–8927]

Radio Broadcasting Services; Homedale, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 292C to Homedale, Idaho, as that community's first local aural transmission service in response to a petition filed by Homedale Broadcasting Company. *See* 62 FR 3852, January 27, 1997. Coordinates used for Channel 292C at Homedale are 43–33–13 and 117–22–10. With this action, the proceeding is terminated.

DATES: Effective July 7, 1997. The window period for filing applications for Channel 292C at Homedale, Idaho, will open on July 7, 1997, and close on August 7, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 292C at Homedale, Idaho, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–15, adopted May 14, 1997, and released May 23, 1997. The full text of this

Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Homedale, Channel 292C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–14022 Filed 5–28–97; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 62, No. 103
Thursday, May 29, 1997

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–263–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

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 certain Boeing Model 727 series airplanes, that currently requires that the FAA-approved maintenance inspection program be revised to include inspections that will give no less than the required damage tolerance rating for each Structural Significant Item, and repair of cracked structure. That AD was prompted by a structural re-evaluation by the manufacturer which identified additional structural elements where, if damage were to occur, supplemental inspections may be required for timely detection. This action would require additional and expanded inspections, and repair of cracked structure. This action also would expand the applicability of the existing AD to include additional airplanes. The actions specified by the proposed AD are intended to ensure the continued structural integrity of the entire Boeing Model 727 fleet.

DATES: Comments must be received by July 7, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–263–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Washington; telephone (206) 227–2774; fax (206) 227–1181.

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 shall 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 96–NM–263–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–263–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Determination to Develop the Supplemental Structural Inspection Program

As part of its continuing work to maintain the structural integrity of older transport category airplanes, in the early 1980's, the FAA concluded that the incidence of fatigue cracking may increase as these airplanes reach or exceed their design service objective (DSO). A significant number of these airplanes were approaching or had exceeded the DSO on which the initial type certification approval was predicated. In light of this, and as a result of increased utilization, longer operational lives, and the high levels of safety expected of the currently operated transport category airplanes, the FAA determined that a supplemental structural inspection program (SSIP) was necessary to ensure a high level of structural integrity for all airplanes in the transport fleet.

Issuance of Advisory Circular

As a follow-on from that determination, the FAA issued Advisory Circular (AC No. 91–56), ''Supplemental Structural Inspection Program for Large Transport Category Airplanes,'' dated May 6, 1981. The AC provides guidance material to manufacturers and operators for use in developing a continuing structural integrity program to ensure safe operation of older airplanes throughout their operational lives. This guidance material applies to large transport airplanes that were certified under the fail-safe requirements of Civil Air Regulations 4b or damage tolerance structural requirements of 14 CFR part 25, and that have a maximum gross weight greater than 75,000 pounds. The procedures set forth in this AC are applicable to the large transport category airplanes operated under subpart D of 14 CFR part 91 and parts 121, 123, 125, and 135. The objective of the SSIP was to establish inspection programs to ensure timely detection of fatigue cracking.

Development of the Supplemental Structural Inspection Program

In order to evaluate the effect of increased fatigue cracking with respect to maintaining fail-safe design and damage tolerance of the structure of Boeing Model 727 series airplanes,

Boeing conducted a structural reassessment of those airplanes, using modern damage tolerance evaluation techniques. Boeing accomplished this reassessment using the criteria contained in AC No. 91–56, as well as 14 CFR 25.571; Amdt. 25–45. During the reassessment, members of the airline industry participated with Boeing in working group sessions and developed the SSIP for Model 727 series airplanes. Engineers and maintenance specialists from the FAA also attended these sessions to observe these developments. Subsequently, based on the working group's recommendations, Boeing developed the Supplemental Structural Inspection Document (SSID).

Issuance of AD 84–21–05, Amendment 39–4920

On September 7, 1984, the FAA issued AD 84–21–05, amendment 39–4920 (49 FR 38931, October 2, 1984), which is applicable to certain Boeing Model 727 series airplanes. That AD currently requires that the FAA-approved maintenance inspection program be revised to include inspections that will give no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI), and repair of cracked structure. The AD references Boeing Document No. D6–48040–1, ''Supplemental Structural Inspection Document'' (SSID), Revision E, dated June 21, 1983, as the appropriate source of service information. That action was prompted by a structural re-evaluation that identified additional structural components where fatigue cracking is likely to occur. The requirements of that AD are intended to ensure the continued structural integrity of the entire Boeing Model 727 fleet.

Actions Since Issuance of Previous AD

Since issuance of AD 84–21–05, the FAA has reconsidered the following four aspects of the existing SSID:

1. Classification of Fuselage Skin as ''Damage Obvious'' or ''Malfunction Evident''

AC No. 91–56, Change 2, dated April 15, 1983, recommends that the SSID should contain inspections of all critical parts or components for each airplane to ensure the continued safe operation of the existing fleet. The fuselage skin is an example of a critical component. Cracking in any critical part or component, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Revision E of the SSID excluded the fuselage skin from directed inspections, since it was classified as ''damage obvious'' or ''malfunction evident.'' At the time of this classification, Revision E of the SSID relied on venting or flapping to indicate cracks in the fuselage skin.

Venting is a gradual loss of cabin pressure as a result of cracking in the pressurized area of the fuselage skin. Based on the design philosophy of flapping, these cracks in the fuselage skin would grow only to a specific length and then turn direction because of certain structural components. Because venting and flapping were considered to be readily apparent, Boeing considered that it was unnecessary to provide for additional inspections of the fuselage skin. Reliance also was placed on venting or flapping to allow for the safe operation of an airplane with such cracks. This technique worked well in ground tests and in some in-service incidents, but proved to be unreliable in other cases.

In one such case, a large portion of Section 43 of the fuselage structure separated from a Boeing Model 737 series airplane. Results of a National Transportation Safety Board (NTSB) investigation revealed that this incident occurred as a result of the catastrophic failure of the fuselage skin at a lap joint. The results also revealed that, contrary to the design philosophy, controlled decompression of the structure (i.e., flapping or venting) did not occur due to the presence of widespread fatigue damage. As a result of this failure, the NTSB recommended that the SSID be revised to discontinue classification of the fuselage skin as ''damage obvious'' or ''malfunction evident.''

The FAA concurs with the NTSB's recommendation. Therefore, the FAA has determined that additional inspections are necessary to ensure timely detection of cracks in the fuselage skin structure.

2. Deletions of Modified, Altered, or Repaired Structure From the SSIP

Paragraph 1.4 of Appendix 1, ''Guidelines for Development of Supplemental Inspection Document,'' of AC No. 91–56, Change 2, dated April 15, 1983, states, ''the effect of repairs and modifications approved by the manufacturer should also be taken into account. In addition, it may be necessary to consider the effect of repairs and operator-approved modifications on individual airplanes. The operator has the responsibility for ensuring notification and consideration of any such aspects.''

In addition, the FAA's current policy is that operators of transport category airplanes that are subject to AD's that mandate SSID programs should follow the guidelines of AC No. 91–56 and should continue to inspect any SSI that is modified, altered, or repaired in any way. Any modification that affects the loading spectrum, stress levels, or damage tolerance characteristics of the structure must be reassessed to determine its impact on the inspection program. Such a reassessment may require the development of additional inspection requirements for that modification.

The FAA's policy also states that, ''* * * the [SSID] programs are based on type design crack growth data generated from analysis or structural tests using a realistic and conservative loading spectrum, material properties, part geometry, etc. For this reason, structural modifications that may increase stress levels in load carrying structures, including maximum weight limit increases, cargo door installations, and repairs to load carrying structures, must be reassessed for its impact on the structural inspection program.'' (Reference: Transport Airplane Directorate's Policy Letter, *Information: Policy Regarding Impact of Modifications and Repairs on the Damage Tolerance Characteristics of Transport Category Airplanes,* dated October 27, 1989. This letter will be retained in Rules Docket No. 96–NM–263–AD.)

Section 5.0 of Revision E of the SSID contains provisions that allow for the deletion of modified, altered, or repaired areas from the SSIP because Boeing considers these areas not to be ''representative of the fleet.'' The FAA is aware that there have been a significant number of such deletions. As a result, contrary to the FAA's policy discussed above, operators are not following the guidelines of AC No. 91–56 and not continuing to inspect any SSI that is modified, altered, or repaired in any way.

In addition, for Boeing Model 727 series airplanes that have been converted from a passenger configuration to an all-cargo configuration by the Supplemental Type Certification (STC) process, the FAA finds that Revision E of the SSID does not include procedures for inspection of new SSI's created by this conversion, or unmodified SSI's affected by this conversion. (There are approximately 304 of these airplanes in the worldwide fleet of which several are listed in the effectivity listing of Revision E of the SSID.) These conversions have the effect of removing SSI's from the SSIP and creating a large number of new SSI's that have not been assessed. Consequently, airplanes that have been

converted to an all-cargo configuration do not have a SSID that specifies an inspection method and compliance time for each new SSI. Additionally, an unmodified SSI also could require a new inspection method and compliance time because the modification may increase the loads or change the load distributions in that SSI. These conditions would necessitate that the inspection interval for that affected, unmodified SSI be shorter than required in the Boeing SSID. Hence, the FAA finds that the objectives of the SSIP are not being met for these modified airplanes.

Likewise, a design change (such as an increase in the maximum certified weight or in the center of gravity limits) also may cause an increase in the loads or change the load distributions in the affected, unmodified SSI's. The effect of this increase or change would be similar to the effect that a cargo conversion would have on an unmodified SSI. As a result, the inspection interval for an affected, unmodified SSI may need to be lower than required in the Boeing SSID. Thus, the DTR specified in the SSID for any SSI affected by a design change may no longer be applicable. Therefore, the FAA finds that the objectives of the SSIP are not being met for airplanes with such design changes.

Furthermore, in consideration of AC No. 91–56 and current FAA policy, the FAA has determined that new inspection methods and compliance times are necessary for areas that have been modified, altered, or repaired to ensure timely detection of cracking in those areas. The FAA also has determined that new inspection methods and compliance times are necessary for those areas that were deleted from the SSIP by previously approved alternative methods of compliance, which includes those areas deleted in accordance with the requirements of Section 5.0 of the SSID. Furthermore, the new inspection methods and compliance times should meet the requirements of 14 CFR 25.1529, Amdt. 25–45; 14 CFR 25.571, Amdt. 25–45; 14 CFR 25.571, Amdt. 25–54; 14 CFR 25.571, Amdt. 25–72; or the guidelines of AC 91–56.

3. Candidate Fleet vs. Inspection Threshold Approach

Paragraph 4.4 of AC No. 91–56, Change 2, dated April 15, 1983, states, ''Inspection thresholds for supplemental inspections should be established. These inspections would be supplemental to the normal inspection including the detailed internal inspections.'' Moreover, paragraph 4.4.2 of AC No. 91–56 states, ''* * * this threshold should be such as to include sufficient [high-cycle] airplanes in the inspection to develop added confidence in the integrity of the structure.* * *''

A properly established inspection threshold ensures that: (1) The SSI inspections are accomplished; (2) fatigue cracks in SSI's are detected in a timely manner; (3) airplanes are automatically added to the SSIP; and (4) the SSIP includes a statistically valid number of airplanes.

Among other things, Revision E of the SSID defines a candidate fleet approach to ensure that fatigue cracks in SSI's are detected in a timely manner in the entire fleet. The initial Boeing Model 727 candidate fleet consisted of a number of airplanes that had exceeded 30,000 flight cycles by January 31, 1983. In other words, Boeing considered 30,000 flight cycles to be the threshold for the airplanes in the candidate fleet. These airplanes were the most likely in the fleet to experience initial fatigue damage since they had the highest number of flight cycles. Boeing produced this SSID with the assumption that the airplanes in the candidate fleet would continue to represent the entire fleet and would have the highest number of flight cycles in the fleet.

Under the existing SSIP, Boeing intended to periodically review the airplanes in the candidate fleet for significant changes in fleet distribution, composition, or utilization, and update the candidate fleet, if any significant change was detected. It was intended that the FAA would then mandate any change to the SSID through the rulemaking process.

The FAA finds that the candidate fleet approach is deviating from Boeing's original philosophy in that the candidate fleet has not been updated to reflect changes (such as cargo conversions) in the fleet. This situation could result in a statistically invalid number of airplanes in the SSIP and undetected fatigue cracks in SSI's. The candidate fleet approach also does not automatically account for non-candidate airplanes that eventually accumulate more flight cycles than that of certain candidate airplanes. High-cycle airplanes are more likely to experience initial fatigue damage in the fleet. The confidence in the structural integrity of the fleet of airplanes could be reduced if high-cycle airplanes are excluded from the SSIP.

The FAA has reconsidered the candidate fleet approach described in Revision E of the SSID, since it does not meet the guidelines of AC No. 91–56. The FAA has determined that the Boeing Model 727 SSIP must contain inspection thresholds for all Boeing Model 727 series airplanes to ensure the timely detection of fatigue cracks in the SSI's.

The FAA has reviewed the thresholds derived from Boeing's reliability analysis. The analysis is based on a certain probability that cracks will be detected in the inspected fleet before they initiate on other airplanes that have not been inspected. The FAA has determined that the thresholds recommended in the analysis of past service experience of the Boeing Model 727 fleet are acceptable. Therefore, for Model 727–100C and 727–200F series airplanes, the FAA has determined that a threshold of 46,000 total flight cycles is necessary in order to produce a statistically valid assessment of the service history for these airplanes. For other Model 727 series airplanes, the FAA has determined that a threshold of 55,000 total flight cycles is necessary to produce a valid assessment. The threshold for Model 727–100C and 727–200F series airplanes is lower than that of other Model 727 series airplanes since Model 727–100C and 727–200F series airplanes have a lower utilization rate and fewer airplanes in the fleet. Since the utilization rate is lower for Model 727–100C and 727–200F series airplanes, these airplanes have accumulated fewer flight cycles and have fewer airplanes with higher flight cycles than that of the remaining fleet.

It should be noted that, although the proposed AD requires a threshold, the FAA may approve requests for adjustments to the compliance time [i.e., under paragraph (h)(1) of this proposed AD] provided that no cracking is detected in the airplane structure. The request should include a new inspection threshold and must include data to substantiate that such an adjustment would provide an acceptable level of safety.

Operators should note that the alternative inspection threshold may be based solely on the analysis of the data of the existing fleet. However, the FAA has determined that the analysis that derives the new inspection threshold must include: (1) Data relevant to a sufficient number of high-cycle airplanes, and (2) data that shows accomplishment of the inspections of the SSI's. An adequate statistical sampling size will provide confidence in the structural integrity of the fleet of airplanes. Therefore, additional airplanes may need to be added to the inspected fleet until a sufficient number of airplanes have been inspected with no crack findings.

4. Transferability of Airplanes

Since issuance of the SSID and AD 84–21–05, the FAA has issued several AD's that implement Corrosion Prevention and Control Programs (CPCP) for aging airplanes. While developing the AD's that mandated the CPCP, the FAA recognized that an operator of an airplane that has been transferred from another operator could revise its maintenance program to restart the compliance times for the required corrosion tasks. This situation could lead to corrosion not being detected and corrected in a timely manner, which could reduce the structural integrity of the airplane.

As a result, the CPCP AD's require that operators establish a program for accomplishment of the subject corrosion tasks before any airplane can be added to an air carrier's operations specification. Establishment of this program will ensure that airplanes transferred from operator to operator are inspected and that corrosion is detected in a timely manner.

The FAA's intent in AD 84–21–05 was that operators of candidate fleet airplanes that have been previously operated under an FAA-approved maintenance program accomplish the SSID inspections within the compliance time established by the previous operator. The FAA assumed that, under the existing SSID, these airplanes would be inspected in a manner similar to CPCP requirements. However, the SSID and AD 84–21–05 do not address the transfer of airplanes in the candidate fleet from one operator to another.

AD 84–21–05 currently requires that the revision to the maintenance program be included and be implemented in accordance with the procedures specified in Sections 5.0 and 6.0 of the SSID. However, the FAA finds that these sections do not provide explicit instructions to repetitively inspect airplanes that have been transferred from one operator to another. It also does not specify that new operators must continue the SSID inspections at the same frequency established by the previous operator.

In addition, as AD 84–21–05 is currently worded, the FAA finds that operators that acquire candidate fleet airplanes that have been previously operated under a maintenance inspection program could revise their programs to restart the compliance times. This situation is contrary to standard AD requirements. An AD typically mandates an initial compliance time and a repetitive interval that remains unchanged for all operators of the affected airplanes.

As a result of these omissions, the SSID inspections of a candidate fleet airplane could be deferred until it is required by the maintenance inspection program of the new operator. For airplanes that are transferred frequently, this situation could continue for the life of the airplane. As a result, fewer Boeing Model 727 candidate fleet airplanes are being inspected; thus, the size of the candidate fleet is in effect reduced. Even if airplanes are ultimately inspected under these circumstances, inspections would not be performed frequently enough to maintain the applicable DTR. The FAA has determined that such a reduction does not ensure the continued structural integrity of the entire Boeing Model 727 fleet.

Implementation of procedures in the SSID that are similar to the CPCP will ensure that: (1) Airplanes transferred from operator to operator are inspected; (2) the SSIP includes a statistically valid number of airplanes; and (3) fatigue cracks are detected in a timely manner.

Therefore, the FAA finds that, to ensure the continued structural integrity of the entire Model 727 fleet, the AD 84–21–05 must be revised to include provisions that address the transfer of airplanes. The FAA also finds that a program must be established to accomplish the inspections before any airplane that is subject to this proposal can be added to an air carrier's operations specifications.

FAA's Conclusions

In light of all the factors discussed above, the FAA has determined that AD 84–21–05 does not adequately ensure timely detection of fatigue cracking in SSI's. Fatigue cracking in those items, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Explanation of New Relevant Service Information

The FAA has reviewed and approved Boeing Document No. D6–48040–1, ''Supplemental Structural Inspection Document'' (SSID), Revision H, dated June 29, 1994, which describes procedures for revising the FAA-approved maintenance inspection program for all Boeing Model 727 series airplanes. This revision of the Model 727 SSID incorporates additional and expanded inspections from those that were contained in the previous version and mandated by AD 84–21–05. The fuselage skin structure that was the subject of an NTSB recommendation is included in these inspections. The FAA finds that accomplishment of these inspections will ensure the continuing structural integrity of the total Boeing Model 727 fleet.

Explanation of Requirements of Proposed Rule

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 84–21–05.

Paragraph (a) of the proposed AD restates the requirements of AD 84–21–05.

Paragraph (b) of the proposed AD would require incorporation of a revision into the FAA-approved maintenance inspection program that provides no less than the required DTR for each SSI listed in Revision H of the SSID.

Paragraph (c) of the proposed AD would establish specific compliance times for performing the initial inspection of the structure identified in Revision H of the SSID. Once the initial inspection has been performed, operators would be required to perform repetitive inspections at the intervals specified in the Document in order to remain in compliance with their maintenance inspection programs, which would have been revised in accordance with paragraph (b) of this proposed AD.

Paragraph (d) of the proposed AD would require, for airplanes on which any design change or repair has been accomplished prior to the effective date of this proposed AD, a revision to the FAA-approved maintenance inspection program to include an inspection method for any new or affected SSI, and to include the compliance times for this inspection. This paragraph also would require that any new inspection method and the compliance times be approved by the FAA.

Paragraph (e) of the proposed AD would require that the repair of any cracked structure is to be accomplished in accordance with an FAA-approved method.

Paragraph (f) of the proposed AD would require, for airplanes on which any design change or repair has been accomplished after the effective date of this proposed AD, a revision to the FAA-approved maintenance inspection program to include a new inspection method for any new or affected SSI, and to include the compliance times for this inspection. This paragraph also would require that any new inspection method and the compliance times be approved by the FAA.

Before any airplane that is subject to this proposed AD can be added to an air carrier's operations specifications, a program for the accomplishment of the

inspections required by this proposed AD must be established. Paragraph (g) of the proposed AD would require accomplishment of the following:

1. For airplanes that have been inspected in accordance with this proposed AD, the inspection of each SSI must be accomplished by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, whichever would result in the earlier accomplishment date for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

2. For airplanes that have not been inspected in accordance with this proposed AD, the inspection of each SSI must be accomplished either prior to adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the FAA. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule.

Accomplishment of these inspections will ensure that: (1) Operators' newly acquired airplanes comply with its SSIP before being operated; and (2) frequently transferred aircraft are not permitted to operate without accomplishment of the inspections defined in the SSID.

Differences Between SSID and Proposed AD

Operators should note the following differences between the procedures specified in Revision H of the SSID and the proposed requirements of this AD:

1. Paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision H of the SSID permit deletions of modified, altered, or repaired structure from the SIP. As described previously in Item 2 of the ''Actions Since Issuance of Previous AD'' section of this preamble, the FAA has determined that such deletions are unacceptable. Therefore, for airplanes on which the areas specified in the SSID have been modified, altered, or repaired, the proposed AD would require a revision to the operator's existing SSIP to include procedures for accomplishing a new FAA-approved inspection method that provides a new DTR for that SSI.

2. Revision H of the SSID bases the supplemental inspections on specific high-cycle airplanes (i.e., candidate fleet airplanes) and does not include an inspection threshold for those airplanes. It also does not automatically add airplanes to the candidate fleet. Based on the discussion described previously in Item 3 of the ''Actions Since Issuance of Previous AD'' section of this preamble, the FAA has determined that the proposed AD would expand the applicability of this AD action to include all Model 727 series airplanes. In addition, for Model 727–100C and 727–200F series airplanes, the proposed inspection of all SSI's would be required to be accomplished prior to the accumulation of 46,000 total flight cycles, or within 18 months, whichever occurs later. For other Model 727 series airplanes, the proposed inspection of all SSI's would be required to be accomplished prior to the accumulation of 55,000 total flight cycles, or within 18 months, whichever occurs later.

Cost Impact

There are approximately 1,542 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 74 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are proposed in this AD action would take approximately 1,200 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $5,328,000, or $72,000 per airplane, per inspection cycle.

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

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as ''stand alone'' actions. However, in actual practice, these actions for the most part would be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling would be minimal.

Regulatory Impact

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. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–4920 (49 FR 38931, October 2, 1984), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 96–NM–263–AD. Supersedes AD 84–21–05, Amendment 39–4920.

Applicability: All Model 727 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continued structural integrity of the total Boeing Model 727 fleet, accomplish the following:

Note 1. Where there are differences between the AD and the Supplemental Structural Inspection Document, the AD prevails.

(a) For airplanes listed in Section 3.0 of Boeing Document No. D6–48040–1,

''Supplemental Structural Inspection Document'' (SSID), Revision E, dated June 21, 1983: Within 12 months after November 1, 1984 (the effective date of AD 84–21–05, amendment 39–4920), incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in that document. (The required DTR value for each SSI is listed in the document.) The revision to the maintenance program shall include and shall be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID. This revision shall be deleted following accomplishment of the requirements of paragraph (b) of this AD.

Note 2. For the purposes of this AD, an SSI is defined as a principal structural element that could fail and consequently reduce the structural integrity of the airplane.

(b) Within 12 months after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program that provides no less than the required DTR for each SSI listed in Boeing Document No. D6–48040–1, ''Supplemental Structural Inspection Document'' (SSID), Revision H, dated June 29, 1994 (hereinafter referred to as ''Revision H''). (The required DTR value for each SSI is listed in the document.) The revision to the maintenance program shall include and shall be implemented in accordance with the procedures in Section 5.0, ''Damage Tolerance Rating (DTR) System Application'' and Section 6.0, ''SSI Discrepancy Reporting'' of Revision H. Upon incorporation of the revision required by this paragraph, the revision required by paragraph (a) of this AD may be deleted.

(c) Except as provided in paragraph (d) or (f) of this AD, as applicable, perform an inspection to detect cracks in all structure identified in Revision H at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For Model 727–100C and 727–200F series airplanes: Inspect prior to the accumulation of 46,000 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later.

(2) For all airplanes, except for those airplanes identified in paragraph (c)(1) of this AD: Inspect prior to the accumulation of 55,000 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later.

Note 3. Once the initial inspection has been performed, operators are required to perform repetitive inspections at the intervals specified in Revision H in order to remain in compliance with their maintenance inspection programs, as revised in accordance with paragraph (b) of this AD.

(d) For airplanes on which the structure identified in Revision H is affected by any design change or repair that was accomplished prior to the effective date of this AD: Within 18 months after the effective date of this AD, revise the FAA-approved maintenance inspection program to include an inspection method for any new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of this inspection. For purposes of this section, an SSI is ''affected'' if it has been altered or repaired, or if the loads acting on the SSI have been increased or redistributed. Following accomplishment of the revision and within the compliance times established, perform an inspection to detect cracks in the structure affected by any design change or repair, in accordance with the new inspection method. The new inspection method and the compliance times shall be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, fax (206) 227–1181.

Note 4. Notwithstanding the provisions of paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision H, which would permit deletions of modified, altered, or repaired structure from the SIP, the inspection of SSI's that are modified, altered, or repaired shall be done in accordance with a method approved by the Manager, Seattle ACO.

Note 5. For the purposes of this AD, a design change is defined as any modification, alteration, or change to operating limitations.

(e) Cracked structure found during any inspection required by this AD shall be repaired, prior to further flight, in accordance with an FAA-approved method.

(f) For airplanes on which the structure identified in Revision H is affected by any design change or repair that is accomplished after the effective date of this AD: Within 12 months after that modification, alteration, or repair for any new or affected SSI, revise the FAA-approved maintenance inspection program to include an inspection method for any new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of this inspection. For purposes of this section, an SSI is ''affected'' if it has been altered or repaired, or if the loads acting on the SSI have been increased or redistributed. Following accomplishment of the revision and within the compliance times established, perform an inspection to detect cracks in the structure affected by any design change or repair, in accordance with the new inspection method. The new inspection method and the compliance times shall be approved by the Manager, Seattle ACO.

Note 6. Notwithstanding the provisions of paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision H, which would permit deletions of modified, altered, or repaired structure from the SIP, the inspection of SSI's that are modified, altered, or repaired shall be done in accordance with a method approved by the Manager, Seattle ACO.

(g) Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (c) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For airplanes that have been inspected in accordance with this AD, the inspection of each SSI must be accomplished by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, whichever would result in the earlier accomplishment date for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected in accordance with this AD, the inspection of each SSI required by this AD must be accomplished either prior to adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the Manager, Seattle ACO. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule.

(h)(1) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 7. Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 84–21–05, amendment 39–4920, are *not* considered to be approved as alternative methods of compliance with this AD.

(i) 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.

Issued in Renton, Washington, on May 19, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–13962 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–11–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D 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 Raytheon Aircraft Company (Raytheon) Models 1900, 1900C, and 1900D airplanes (formerly referred to as Beech Models 1900, 1900C, and 1900D airplanes). The proposed AD would require fabricating and installing a placard that restricts the use of the forward and aft vent blower assemblies to only the ''OFF'' or ''HIGH'' position. The proposed AD would also require incorporating a modification that would replace the bearings on the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers, as applicable. Incorporating the proposed modification would eliminate the need for the placard. The proposed AD is the result of vent blower assembly bearings seizing and locking the blower motor on several of the affected airplanes. The actions specified by the proposed AD are intended to prevent the vent blower assembly bearings from seizing, which could result in smoke emanating from the insulating material covering the electrical wiring and entering the airplane cabin.

DATES: Comments must be received on or before July 25, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–CE–11–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 the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Nero, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4137; facsimile (316) 946–4407.

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. 97–CE–11–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. 97–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports of vent blower assembly bearings seizing and locking the blower motor on several Raytheon Model 1900D airplanes. Power was not interrupted in each of these incidents, and high current continued to flow through the low speed resistors. This caused smoke to emanate from the insulating material covering the electrical wiring. This condition, if not corrected, could result in smoke emanating from the insulating material covering the electrical wiring and entering the airplane cabin.

The affected vent blower assemblies incorporate Raytheon (Beech) part number (P/N) 114–380028–1 or P/N 114–380028–3.

Relevant Service Information

Raytheon has issued Service Bulletin No. 2721, Issued: January, 1997, which specifies the incorporation of the following modification kits:

—Electromech Technologies Kit No. EM630–201–1 or EM630–201–2 (as appropriate for the blower serial number). When incorporated, these kits would replace the bearings in the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers on the P/N 114–380028–1 vent blower assembly. The procedures for incorporating these kits are included in the Update Procedures for the Electromech Technologies EM630 Blower (Raytheon P/N 114–380028–1 for Installation of Kit P/N's 630–201–1 and 630–201–2), dated December 9, 1996; and

—Advanced Industries Kit No. BC80A905. When incorporated, this kit would provide thermal protection for the vent blowers on the P/N 114–380028–3 vent blower assembly. The procedures for incorporating this kit are included in Advanced Industries, Inc. Installation Procedure for the Resistor Wiring Harness Kit on the BC80A–1 Blower, dated December 19, 1996.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the service information previously referenced, the FAA has determined that AD action should be taken to prevent other vent blower assembly bearings from seizing, which could result in smoke emanating from the insulating material covering the electrical wiring and entering the airplane cabin.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models 1900, 1900C, and 1900D airplanes (formerly referred to as Beech Models 1900, 1900C, and 1900D airplanes) of the same type design that are equipped with either P/N 114–380028–1 vent blower assemblies or P/N 114–380028–3 vent blower assemblies, the FAA is proposing an AD. The proposed AD would require (1) fabricating and installing a placard that restricts the use of the vent blower assemblies; and (2) incorporating a modification that would replace the bearings in the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers, as applicable. Incorporating the proposed modification would eliminate the need for the placard. Accomplishment of the proposed modifications would be required in accordance with the service information previously referenced.

Cost Impact

The FAA estimates that 500 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 7 workhours per airplane to accomplish the proposed modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $500 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $460,000. These figures are based on the presumption that no owner/operator of the affected airplanes has incorporated the proposed modification.

Raytheon has informed the FAA that approximately 700 kits have been shipped from the Raytheon Aircraft Authorized Service Center. This is enough to equip 350 of the affected airplanes (two vent blower assemblies per airplane). Presuming that each of the 350 sets of kits is incorporated on an affected airplane, this would reduce the cost impact of the proposed AD by $322,000 from $460,000 to $138,000.

Regulatory Impact

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 USC 106(g), 40113, 44701.

§39.13 [Amended]

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

Raytheon Aircraft Company: Docket No. 97–CE–11–AD.

Applicability: The following model and serial number airplanes, certificated in any category, that are equipped with either P/N 114–380028–1 vent blower assemblies or P/N 114–380028–3 vent blower assemblies:

Model	Serial numbers
1900	UA–2 and UA–3.
1900C	UB–1 through UB–74, and UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–244.

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 request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the vent blower assembly bearings from seizing, which could result in smoke emanating from the insulating material covering the electrical wiring and entering the airplane cabin, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish the following:

(1) Fabricate a placard, using letters at least 1/8-inch in height, with the words: ''Operate vent blowers in HIGH or OFF position only''.

(2) Install this placard near the vent blower control switch within the pilot's clear view.

(3) This placard requirement may be terminated when the modifications required by paragraph (b) of this AD are incorporated.

(b) Upon accumulating 2,000 total hours TIS or within the next 1,000 hours TIS after the effective date of this AD, whichever occurs later, incorporate one of the following kits, as applicable, in accordance with the referenced kit instructions, as specified in Raytheon Service Bulletin No. 2721. Issued: January, 1997:

(1) For P/N 114–380028–1 vent blower assemblies: Electromech Technologies Kit No. EM630–201–1 or EM630–201–2 (as appropriate for the blower serial number), in accordance with the Update Procedures for the Electromech Technologies EM630 Blower (Raytheon P/N 114–380028–1 for Installation of Kit P/N's 630–201–1 and 630–201–2), dated December 9, 1996. These kits, when incorporated, replace the bearings on the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers; or

(2) For P/N 114–380028–3: Advanced Industries Kit No. BC80A905 in accordance with Advanced Industries, Inc. Installation Procedure for the Resistor Wiring Harness Kit on the BC80A–1 Blower, dated December 19, 1996. This kit, when incorporated, provides thermal protection for the vent blowers.

(c) As of the effective date of this AD, no person may install P/N 114–380028–1 or P/N 114–380028–3 vent blower assemblies without first incorporating the appropriate kit(s), as referenced in paragraphs (b)(1) and (b)(2) of this AD.

(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) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document 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 May 21, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–13973 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 456

Ophthalmic Practice Rules: Extension of Time for Filing Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time for filing public comments.

SUMMARY: The Federal Trade Commission (the ''Commission''), as part of a systematic review of all of its current regulations and guides, requested public comments on April 3, 1997 about its Ophthalmic Practice Rules (''Prescription Release Rule''), 62 FR 15865. The Commission stated that it would accept comments until June 2, 1997. In response to a request from the National Association of Optometrists and Opticians, the Commission grants an extension of the time period to file written comments.

DATES: Written comments will be accepted until September 2, 1997.

ADDRESSES: Copies of this notice can be obtained through the Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580; (202) 326–2222; or through the Commission's homepage on the World Wide Web at http:\\www.ftc.gov.

FOR FURTHER INFORMATION CONTACT: Renee Kinscheck, Federal Trade Commission, Bureau of Consumer Protection, Division of Service Industry Practices, Rm 200, Washington, DC 20580, (202) 326–3283.

List of Subjects in 16 CFR Part 456

Advertising; Medical devices; Ophthalmic goods and services; Trade Practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–14087 Filed 5–28–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–012–B]

Notice of Public Meeting on Review of the Control of Hazardous Energy Sources (Lockout/Tagout) Standard (29 CFR 1910.147)

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Notice of public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is conducting a review of the Control of Hazardous Energy Sources (Lockout/Tagout) standard in order to determine, consistent with Executive Order 12866 on Regulatory Planning and Review and section 610 of the Regulatory Flexibility Act, whether this standard should be maintained without change, rescinded, or modified in order to make it more effective or less burdensome, consistent with the objectives of the Occupational Safety and Health Act. The review will consider the application of Executive Order 12866 and the directive of the Regulatory Flexibility Act to achieve statutory goals with as little economic impact as possible on small employers.

Written public comments on all aspects of compliance with the Lockout/Tagout standard are welcomed. OSHA will also hold a stakeholder's meeting to provide an opportunity for interested parties to comment on whether the Lockout/Tagout standard should be eliminated, modified, or continued without change to obtain the objectives described above.

DATES: The public meeting will be held on Monday, June 30, 1997. The meeting will begin at 1 p.m. and is scheduled to end at 4 p.m. Written comments should be received by August 1, 1997 in the OSHA Docket Office at the address given below.

ADDRESSES: The public meeting will be held in Room N3437 of the Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Requests to Appear and Written Comments: OSHA requests that any person wishing to appear at the public meeting notify OSHA in writing. To assure that time is provided for oral comments, the request should be received by OSHA no later than Monday, June 23, 1997, and should identify the person and/or organization intending to appear, address and phone/fax number, the amount of time requested, and a brief summary of the comments to be presented. Please send written requests to appear to Nancy Dorris at the following address: Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–4690, extension 134, Fax (202) 219–4383. Written comments should be received by August 1, 1997 in the OSHA Docket Office, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–7894. All comments received from interested parties will be included in Docket S–012–B, and will be available for public review in the OSHA Docket Office.

Persons with disabilities who need special accommodations should contact Nancy Dorris, by Monday, June 23, 1997, at the address indicated below.

FOR FURTHER INFORMATION CONTACT: Nancy Dorris, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–4690, extension 134, Fax (202) 219–4383.

SUPPLEMENTARY INFORMATION: In 1989, OSHA promulgated the Control of Hazardous Energy Sources (Lockout/Tagout) Standard (29 CFR 1910.147) (54 FR 36644, Sept. 1, 1989). The standard applies to general industry employment under 29 CFR part 1910, but does not cover maritime, agriculture, or construction employment. The standard addresses practices and procedures that are necessary to disable machinery or equipment and to prevent the release of potentially hazardous energy while maintenance and servicing activities are being performed.

The Lockout/Tagout standard requires that lockout be utilized for equipment which is designed with a lockout capability except when the employer can demonstrate that utilization of tagout provides full employee protection. For equipment which was not designed to be locked out, the employer may use tagout. In addition, the standard also supplements and supports other lockout related provisions contained elsewhere in OSHA's general industry standards by requiring that comprehensive and uniform procedures be used to comply with those provisions. The standard contains definitive criteria for establishing an effective program for locking out or tagging out energy isolating devices and requires training for authorized and affected employees. The standard also requires the employer to implement the specified procedures and to utilize effective control measures based on the workplace hazards that are encountered.

OSHA estimated in the Final Regulatory Impact Analysis for the Lockout/Tagout standard that the rule would prevent 122 fatalities, 28,416 lost-workday injuries, and 31,926 non-lost-workday injuries annually. OSHA also estimated that the standard would have first-year costs of $214.3 million and annual costs of $135.4 million in successive years (54 FR 36644, Sept. 1, 1989).

In its supplemental statement of reasons for the standard (58 FR 16612, March 30, 1993), OSHA explained the statutory criteria that apply to safety standards rulemakings. The Agency must find, *inter alia*, that the standard

eliminates or substantially reduces a significant risk of material harm, that compliance is economically and technologically feasible, that the standard employs the most cost-effective measures that will achieve its regulatory goals, and that the standard is supported by substantial evidence in the record. See *International Union, UAW* v. *OSHA*, 37 F.3d 664 (1994) (upholding criteria).

The purpose of the review is to determine whether the standard should be continued without change, rescinded, or amended to make it more effective or less burdensome, consistent with the objectives of the Occupational Safety and Health Act. The review will consider the application of Executive Order 12866 on Regulatory Planning and Review (58 FR 51735, 51739, Oct. 4, 1993) and the directive of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to achieve statutory goals while imposing as little economic impact as possible on small employers. In the event the Agency determines, based on the results of this review, that the rule should be rescinded or modified, appropriate rulemaking will be initiated.

An important step in the review process involves the gathering and analysis of information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. This notice requests written comments and announces a public meeting to provide an opportunity for interested parties to comment on the continuing need for, adequacy or inadequacy, and potential improvement of this rule, consistent with statutory objectives. Comment concerning the following subjects would assist the Agency in determining whether to retain the standard unchanged or to initiate rulemaking for purposes of revision or rescission:

1. The benefits and utility of the rule in its current form and, if amended, in its amended form;
2. Whether potentially effective and reasonably feasible alternatives to the standard exist;
3. The continued need for the rule;
4. The complexity of the rule;
5. Whether and to what extent the rule overlaps, duplicates, or conflicts with other Federal, State, and local governmental rules;
6. Information on any new developments in technology, economic conditions, or other factors affecting the ability of affected firms to comply with the Lockout/Tagout rule;
7. Alternatives to the rule or portions of the rule that would minimize significant impacts on small businesses while achieving the objectives of the Occupational Safety and Health Act; and
8. The effectiveness of the standard as implemented by small entities.

Persons making timely written requests to speak at the public meeting will be given priority for oral comments, as time permits. Other persons wishing to speak should register at the meeting from 12:30 to 1:00. OSHA will make every effort to accommodate individuals wishing to speak at the public meeting.

Authority: This document was prepared under the direction of Gregory R. Watchman, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of May, 1997.

Gregory R. Watchman,

Acting Assistant Secretary.

[FR Doc. 97–14057 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–26–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–135, RM–9087]

Radio Broadcasting Services; Spring Valley, MN, and Osage, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by KVGO, Inc., proposing the substitution of Channel 282C3 for Channel 282A at Spring Valley, Minnesota, and modification of the license for Station KVGO(FM) to specify operation on Channel 282C3. The coordinates for Channel 282C3 are 43–38–23 and 92–38–30. To accommodate the substitution at Spring Valley we shall also propose the substitution of Channel 254A for Channel 279A at Osage, Iowa, and modification of the license for Station KCZY accordingly. The coordinates for Channel 254A at Osage are 43–19–20 and 92–51–22. We shall propose to modify the license for Station KVGO(FM) in accordance with Section 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before July 14, 1997, and reply comments on or before July 29, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: James A. Koerner, Baraff, Koerner & Olender, P.C., Three Bethesda Metro Center, Suite 640, Bethesda, Maryland 20814–5392.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–135, adopted May 14, 1997, and released May 23, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–14021 Filed 5–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–136, RM–9083]

Radio Broadcasting Services; Ironton and Malden, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by B.B.C. Inc., proposing the substitution of Channel 225C2 for Channel 225C3 at Malden, Missouri, and modification of the license for Station KMAL(FM) to specify operation on Channel 225C2. The coordinates for Channel 225C2 are 36–39–48 and 89–47–39. To accommodate the substitution at Malden, we shall also propose to substitute Channel 224A for Channel 225A at Ironton, Missouri, and modify the license for Station KYLS to specify operation on Channel 224A. The coordinates for Channel 224A are 37–34–23 and 90–41–35. We shall propose to modify the license for Station KMAL(FM) in accordance with Section 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availaility of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before July 14, 1997, and reply comments on or before July 29, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John M. Pelkey, Haley Bader & Potts P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, Virginia 22203–1633.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–136, adopted May 14, 1997, and released May 23, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–14025 Filed 5–28–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

RIN 1018–AE24

No Surprises Policy

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule will codify the substance of the Endangered Species Act (ESA) ''No Surprises'' policy issued by the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) in 1994 and included in the joint FWS and NMFS Endangered Species Habitat Conservation Planning Handbook issued in November 1996 (61 FR 63854). The No Surprises policy provides regulatory assurances to the holder of an incidental take permit issued under section 10(a) of the ESA that no additional land use restrictions or financial compensation will be required of the permit holder with respect to species adequately covered by the permit, even if unforeseen circumstances arise after the permit is issued indicating that additional mitigation is needed for a given species covered by a permit. The proposed rule contains proposed revisions to parts 17 (FWS) and 222 (NMFS) of Title 50 of the Code of Federal Regulations necessary to implement the substance of the No Surprises policy. The proposed rule is published in response to the March 21, 1997, settlement agreement in *Spirit of the Sage* v. *Babbitt,* No. 1:96CV02503 (SS) (D. D.C.).

DATES: Comments on the proposed rule must be received by July 28, 1997.

ADDRESSES: For 50 CFR part 17, send any comments or materials concerning the proposed changes to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 452 ARLSQ, Washington, D.C., 20240 (Telephone 703/358–2171, Facsimile 703/358–1735). You may examine comments and materials received during normal business hours in room 452, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia. For 50 CFR part 222, send any comments to Nancy Chu, Chief, Endangered Species Division, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD, 20910 (Telephone (301/713–1401). You must make an appointment to examine these materials.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species (Telephone (703/358–2171); or Nancy Chu, National Marine Fisheries Service, Chief, Endangered Species Division (Telephone (301) 713–1401).

SUPPLEMENTARY INFORMATION: The Services firmly believe that they have had sufficient authority under the Endangered Species Act (ESA) to issue Habitat Conservation Plan (HCP) permits with No Surprises assurances and continue to believe in the validity of those permits. The Services also believe that the current process and those permits issued in the past with the No Surprises assurances are legally adequate and continue to assert the Services' authority to issue individual HCP permits with the No Surprises assurances. Nevertheless, the Services recognize the benefits of permanently codifying the No Surprises policy as a rule in 50 CFR, as well as the value of soliciting additional comments on the policy itself. Therefore, the Services believed it served their purposes to settle the *Spirit of the Sage Council* v. *Babbitt,* No. 1:96CV02503 (SS) (D. D.C.), lawsuit, which challenged the procedures under which the No Surprises policy was adopted and under which subsequent HCP permits were issued, by agreeing to submit the No Surprises Policy to further public comment and to consider public comment in drafting a final No Surprises rule.

These proposed regulations apply to the FWS and the NMFS (collectively referred to as the Services). The background information regarding the proposed rule is the same for the Services. The proposed rule is, however, presented in two parts because the Services have separate regulations for implementing the section 10 permitting

process. The first part is for the proposed changes in the FWS's regulations found at 50 CFR 17.22 and 17.32, and the second part is for the proposed changes in NMFS's regulations found at 50 CFR 222.

Background

Section 9 of the ESA generally prohibits the ''take'' of species listed under the ESA as endangered. Pursuant to the broad grant of regulatory authority over threatened species in section 4(d) of the ESA, FWS and NMFS regulations generally prohibit take of species listed as threatened. See, e.g., 50 CFR 17.31 and 17.21 (FWS). Section 3(18) of the ESA defines take to mean ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' FWS regulations (50 CFR 17.3) define ''harm'' to include ''significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.''

Section 10 of the ESA as originally enacted contained provisions allowing the issuance of permits authorizing the taking of listed species under very limited circumstances for non-Federal entities. However, both the government and the development community became concerned that these permitting provisions were not sufficiently flexible to address situations in which a property owner's otherwise lawful activities might result in limited incidental take of a listed species even if the person were willing to plan their activities carefully to be consistent with the conservation of the species. As a result, Congress included in the ESA Amendments of 1982 amendments to section 10(a) to allow the FWS and NMFS to issue permits authorizing the incidental take of listed species in the course of otherwise lawful activities, provided activities are conducted according to a conservation plan (or habitat conservation plan or HCP) designed to further the long-term conservation of the species and to avoid jeopardy to the continued existence of the species. In doing so, Congress indicated it was acting to ''address the concerns of private landowners who are faced with having otherwise lawful actions not requiring Federal permits prevented by section 9 prohibitions against taking* * * '' H.R. Rep. No. 835, 97th Cong., 2d Sess. 29 (1982) (hereafter ''Conf. Report''). Congress modeled the 1982 HCP amendments after the conservation plan developed by private landowners and local governments to protect the habitat of two listed butterflies on San Bruno Mountain in San Mateo County, while allowing development activities to proceed.

> Congress recognized in enacting the section 10 HCP amendments that: significant development projects often take many years to complete and permits applicants may need long-term permits. In this situation, and in order to provide sufficient incentives for the private sector to participate in the development of such long-term conservation plans, plans which may involve the expenditure of hundreds of thousands if not millions of dollars, adequate assurances must be made to the financial and development communities that a section 10(a) permit can be made available for the life of the project. Thus, the Secretary should have the discretion to issue section 10(a) permits that run for periods significantly longer than are commonly provided [for other types of permits]. (Conf. Report at 31).

Congress also recognized that long term HCP permits would present unique issues that would have to be addressed if the permits were to function properly to protect the interests of both the species involved and the development community. For instance, Congress realized that ''circumstances and information may change over time and that the original [habitat conservation] plan might need to be revised. To address this situation the Committee expects that any plan approved for a long-term permit will contain a procedure by which the parties will deal with unforeseen circumstances.'' (Conf. Report at 31). More importantly, Congress recognized that non-Federal property owners seeking HCP permits would need to have economic and regulatory certainty regarding the overall cost of species mitigation over the life of the permit. As stated in the Conference Report on the 1982 ESA amendments:

> The Committee intends that the Secretary may utilize this provision to approve conservation plans which provide long-term commitments regarding the conservation of listed as well as unlisted species and long-term assurances to the proponent of the conservation plan that the terms of the plan will be adhered to and that further mitigation requirements will only be imposed in accordance with the terms of the plan. In the event that an unlisted species addressed in the approved conservation plan is subsequently listed pursuant to the Act, no further mitigation requirements should be imposed if the conservation plan addressed the conservation of the species and its habitat as if the species were listed pursuant to the Act. (Conf. Report at 30 and 50 FR 39681–39691 (Sept. 30, 1985)).

Congress thus allowed the Federal government to provide assurances to non-Federal property owners through the section 10 incidental take permit process. Non-Federal property owners would have economic and regulatory certainty regarding the overall cost of species mitigation, provided that the conservation plan adequately provided for the affected species in the first instance, the permittee was complying in good faith with the terms and conditions of the permit and the HCP, and that the HCP was properly functioning.

In the proposed rule to implement the ESA's incidental take permit provisions, the FWS expressly discussed Congress' statement that the section 10 permitting process should be used to address multiple species and unlisted species in exchange for regulatory assurances. (48 FR 31417 (July 8, 1983)). When the final incidental take permit rule was published in 1985, the FWS responded to comments on the consideration of unlisted species in HCPs by referring to the same statement of Congressional intent and by reiterating that HCP permittees have the option of addressing unlisted species in exchange for long-term assurances, and that additional mitigation would only be required in accordance with the terms and conditions of the original HCP (58 FR 39681, 39683 (September 30, 1985)). The No Surprises Policy issued on August 11, 1994, cites and relies upon the same statement of the Congressional intent.

After the No Surprises policy was issued, it was the subject of a public comment process when it was released as a key component of the draft *1994 Habitat Conservation Planning Handbook* (59 FR 65782, December 21, 1994). The No Surprises policy was included in slightly revised form in the final *1996 Habitat Conservation Planning Handbook* (61 FR 63854, December 2, 1996), and currently is being implemented. In addition to this opportunity for public comment on the No Surprises policy in general, the application of the policy and its assurances has been and continues to be subject to an opportunity for public comment on each proposed HCP permit under section 10(c) of the ESA. In addition, because the act of issuing a HCP permit is a Federal authorization subject to section 7(a)(2) of the ESA, the Services must consult under section 7 on each proposed HCP permit.

The regulatory and economic assurances provided to permittees through this proposed rule is limited to the HCP permitting process. Under the proposed rule, these assurances would continue to be incorporated into the section 10 HCP permit the Services issue to a permittee.

The FWS administers a variety of conservation laws that authorize the issuance of certain permits for otherwise prohibited activities. Part 13 of Title 50 of the Code of Federal Regulations consolidates the administration of various FWS permitting programs. Part 13 provides a uniform framework of general administrative conditions and procedures that govern the application, processing, and issuance of all FWS permits. In addition to Part 13, the FWS has added several more specific wildlife regulatory programs to Title 50 of the Code of Federal Regulations. For example, the FWS added Part 18 to implement the Marine Mammal Protection Act and modified and expanded Part 17 to implement the ESA. These parts contained their own specific permitting requirements in addition to the general permitting provisions of Part 13. This proposed rule would permanently codify the No Surprises policy through amendments to 50 CFR Part 17 (for FWS) and 50 CFR Part 222 (for NMFS).

Description/Overview of Proposed No Surprises Rule

The information presented below briefly describes the No Surprises policy and this proposed rule.

To address the problem of maintaining regulatory assurances and providing regulatory certainty in exchange for conservation commitments, the FWS and the NMFS jointly established a ''No Surprises'' policy for HCPs on August 11, 1994. The No Surprises policy set forth a clear commitment by the FWS and the NMFS that, to the extent consistent with the requirements of the ESA and other Federal laws, the government will honor its agreements under a negotiated and approved HCP for which the permittee is in good faith implementing the HCP's terms and conditions. The specific nature of these provisions will vary among HCPs depending upon individual habitat and species needs.

The No Surprises policy and this proposed rule provide certainty for non-Federal property owners in ESA HCP planning through the following assurances:

- In negotiating ''unforeseen circumstances'' provisions for HCPs, the Services will not require the commitment of additional land or financial compensation beyond the level of mitigation which was otherwise adequately provided for a species under the terms of a properly functioning HCP. Moreover, the Services will not seek any other form of additional mitigation from an HCP permittee except under unforeseen circumstances.

This means that if unforeseen circumstances occur during the life of an HCP, the Services will not require additional lands or property interests, additional funds, or additional restrictions on lands or other natural resources released under an HCP for development or use from any permittee who, in good faith, is adequately implementing or has fully implemented their commitments under an approved HCP. Once an HCP permit has been issued and its terms are being complied with, the permittee may remain secure regarding the agreed upon cost of mitigation, because no additional mitigation land or property interests, funding, or land use restrictions will be requested by the issuing Service. The permittee would not be responsible for any other forms of additional mitigation, unrelated to the categories noted in the previous sentence, except where unforeseen circumstances exist.

The legislative history of the 1982 ESA amendments noted above in the ''Background'' section illustrates the two primary goals of the HCP program: (1) adequately minimizing and mitigating for the incidental take of listed species; and (2) providing regulatory assurances to section 10 permittees that the terms of an approved HCP will not change over time, or that necessary changes will be minimized to the maximum extent possible, and will be mutually agreed to by the applicant. How to reconcile these objectives remains one of the central challenges of the HCP program.

''Unforeseen circumstances'' has been broadly defined to include a variety of changing circumstances that may occur over the life of an ongoing HCP. However, it is important to distinguish between ''unforeseen circumstances'' and ''changed circumstances.'' ''Changed circumstances'' are not uncommon during the course of an HCP and can reasonably be anticipated and planned for (e.g., the listing of new species, modifications in the project or activity as described in the original HCP, or modifications in the HCP's monitoring program). ''Unforeseen circumstances,'' however, means changes in circumstances surrounding an HCP that were not, or could not, be anticipated by HCP participants and the Services at the time of the HCP's negotiation and development and that result in a substantial and adverse change in the status of a covered species.

With respect to anticipated and possible changed circumstances, the HCP should discuss measures developed by the applicant and the Services to meet such changes over time, possibly by incorporating adaptive management measures for covered species in the HCP. HCP planners should identify potential problems in advance and identify specific strategies or protocols in the HCP for dealing with them, so that adjustments can be made as necessary without having to amend the HCP.

The ''Unforeseen Circumstances'' section of the HCP should be more limited. This section should discuss how to deal in the future with those changes in the circumstances surrounding the HCP that cannot be anticipated by HCP negotiators. While HCP permittees will not be responsible for additional mitigation measures if unforeseen circumstances arise, other methods of responding to the needs of the affected species, such as governmental action and voluntary conservation measures by the permittee, remain available to assure the requirements of the ESA are satisfied.

Consequently, the No Surprises policy and this proposed rule also provide that:

- If additional mitigation measures are subsequently deemed necessary to provide for the conservation of a species that was otherwise adequately covered under the terms of a properly functioning HCP, the obligation for such measures will not rest with the HCP permittee.

This means that in cases where the status of a species addressed under an HCP unexpectedly worsens, the primary obligation for implementing additional conservation measures would be borne by the Federal government, other government agencies, private conservation organizations, or other private landowners who have not yet developed an HCP.

''Adequately covered'' under an HCP for listed species refers to any species addressed in an HCP that has satisfied the permit issuance criteria under section 10(a)(2)(B) of the ESA. For unlisted species, the term refers to any species that is addressed in an HCP *as if* it were listed pursuant to section 4 of the ESA, and is covered by HCP conditions that would satisfy permit issuance criteria under section 10(a)(2)(B) of the ESA if the species were actually listed. No Surprises assurances apply *only* to species that are ''adequately covered'' in the HCP. Species should not be included in the HCP permit if data gaps or insufficient information makes it impossible to craft conservation/mitigation measures for them. In many cases, however, data gaps can be overcome through the inclusion of adaptive management clauses in the HCP.

• If unforeseen circumstances warrant the requirement of additional mitigation from an HCP permittee who is in compliance with the HCP's obligations, such mitigation will maintain the original terms of the HCP to the maximum extent possible. Further, any such changes will be limited to modifications within Conserved Habitat areas or to the HCP's operating conservation program for the affected species. Additional mitigation requirements will not involve the payment of additional compensation or apply to parcels of land available for development or land management under the original terms of the HCP without the consent of the HCP permittee.

This means that if unforeseen circumstances are found to exist, the Services will consider additional mitigation measures. However, such measures must be as close as possible to the terms of the original HCP and must be limited to modifications within any Conserved Habitat area or to adjustments in lands that are already set aside by the HCP in the HCP's operating conservation program. Any such adjustments or modifications will not include requirements for additional land protection, payment of additional funds, or apply to lands otherwise available for development or use under the HCP, *unless the permittee consents to such additional measures.* ''Modifications within Conserved Habitat areas or to the HCP's operating conservation program'' means changes to plan areas explicitly designated for habitat protection or other conservation uses under the HCP, or changes that redirect or increase the intensity, range, or effectiveness of the HCP's operating program, provided that any such changes do not impose new restrictions or financial compensation on the permittee's activities. Thus, if an HCP conservation program originally included a mixture of predator depredation control and captive breeding, but subsequent research or information demonstrated that one of these was considerably more effective that the other, the Services would be able to request an adjustment in the proportionate use of these tools, provided that such an adjustment did not increase the overall costs to the HCP permittee.

The policy and this proposed rule also set out criteria for determining whether and when unforeseen circumstances arise.

• The Services will have the burden of demonstrating that such unforeseen circumstances exist using the best scientific and commercial data available. Their findings must clearly be documented and based upon reliable technical information regarding the status and habitat requirements of the affected species.

• In deciding whether any unforeseen circumstances exist which might warrant requiring additional mitigation from an HCP permittee, the Services will consider, but not be limited to, the following factors: (a) size of the current range of affected species; (b) percentage of range adversely affected by the HCP; (c) percentage of range conserved by the HCP; (d) ecological significance of that portion of the range affected by the HCP; (e) level of knowledge about the affected species and the degree of specificity of the species' conservation program under the HCP; (f) whether the HCP was originally designed to provide an overall net benefit to the affected species and contained measurable criteria for assessing the biological success of the HCP; and (g) whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

The first of these two criteria, on the burden of proof, is self-explanatory. The second identifies some factors to be considered by the Services in determining whether biologically significant unforeseen circumstances exist. Generally, the inquiry would focus on the level of biological peril to the affected species covered by the HCP and the degree to which the welfare of those species is tied to a particular HCP. For example, if a species is declining rapidly, and the HCP encompasses an ecologically insignificant portion of the species' range, then unforeseen circumstances typically would not exist because the overall effect of the HCP upon the species would be negligible or insignificant. Conversely, if a species is declining rapidly and if the HCP encompasses a majority of the species' range, then unforeseen circumstances probably would exist.

The policy and this proposed rule provide additional assurances where an HCP is designed to provide an overall net benefit to the covered species.

• The Services will not seek additional mitigation for a species from an HCP permittee where the terms of a properly functioning HCP agreement were designed to provide an overall net benefit for the species and contained measurable criteria for the biological success of the HCP which have been or are being met.

This provision means that the Services will not attempt to impose additional mitigation measures *of any type* where the HCP meets these standards. This provision is intended to encourage HCP applicants to develop HCPs that provide an overall net benefit to affected species. However, it does not mean that an HCP must in fact have achieved a net benefit to the affected species in order for the ''no additional mitigation'' provision to apply. Rather, it will be sufficient if the HCP agreement contains a clearly articulated set of criteria for achieving a net benefit and an adequate monitoring program for measuring progress toward the net benefit goal, and the HCP has been and continues to meet the criteria.

For listed species, an overall net benefit is defined as the cumulative results of the management activities identified in an HCP that provide for an increase in a species' population and/or the enhancement, restoration or maintenance of covered species' suitable habitat within the HCP planning area, taking into account the length of the permit and the incidental taking allowed by the permit. In addition, the benefit must be sufficient to contribute to the recovery of the covered species if undertaken by other property owners similarly situated. For unlisted species, overall net benefit is defined as management activities identified in an HCP that would remove the threats to the species and eliminate the need to list the covered species, again, if undertaken on a broader scale by other property owners similarly situated.

A ''properly functioning HCP'' means any HCP whose commitments or provisions have been or are being fully implemented by the permittee and in which the permittee is in full compliance with the terms and conditions of the permit.

• Nothing in this policy/rule will be construed to limit or constrain the Services or any other governmental agency from taking additional actions at its own expense to protect or conserve a species included in an HCP.

This means the Services can intercede on behalf of a species at their own expense at any time and be consistent with the assurances provided the permittee under this policy and the permit. Neither is there anything in the No Surprises policy or this proposed rule that prevents the Services from requesting a permittee to *voluntarily* undertake additional mitigation on behalf of affected species, though of course the permittee is under no obligation to comply.

In fact, FWS and NMFS have a wide array of authorities and resources that can be utilized to provide additional protection for threatened or endangered species included in an HCP. In meeting their commitment under the No Surprises policy and this proposed rule (consistent with their obligations under the ESA), it is extremely unlikely that the Services would have to resort to protective or conservation action requiring new appropriations of funds by Congress. In such an unlikely event, such actions would necessarily be

subject to the requirements of the Anti-Deficiency Act and the availability of funds appropriated by the Congress.

Permit-Shield Provision

In addition to proposing to codify as a rule the substance of the existing No Surprises policy, the Services propose to add a new permit-shield provision. *See* §§ 17.22(b)(6), 17.32(b)(6), and 222.22(h). The purpose of the permit-shield provision is to create a presumption that a holder of an incidental take permit is operating in compliance with sections 9 and 10 of the ESA when complying with a valid incidental take permit, regardless of changes in circumstances and regardless of whether the incidental take permit was approved under either the No Surprises policy or this proposed rule. Although the permit-shield provision and the No Surprises proposed rule (if it did not have a permit-shield component) have the same objective—reliability as an incentive for habitat conservation—they have different emphases and use different methods. No Surprises allows applicants and the Services to reach a binding agreement on the amount of habitat conservation and mitigation that will be required over the life of the permit. The permit-shield provision would act to prevent or discourage subsequent enforcement actions where the permit holder is acting in compliance with the requirements of the permit.

The permit-shield rule would limit the Services' prosecutorial discretion under section 11(e) of the ESA, 16 U.S.C. 1540(e), so as to protect the assurances given in incidental take permits regardless of changed circumstances and regardless of whether the assurances were approved under a formal No Surprises rule or policy.

Required Determinations

A major purpose of this proposed rule is to provide section 10(a)(1)(B) permittees regulatory assurances through the issuance of the permit. From the Federal government's perspective, implementation of this rule would not result in additional expenditures to the permittee that are above and beyond that already required through the section 10(a)(1)(B) permitting process. There are, however, benefits derived from HCPs for both the non-Federal entities and species covered by the HCPs. HCPs are mechanisms that allow non-Federal entities to continue with economic development, while conserving those species covered by the permit. Benefits to the covered species include conserving lands and waters that the species depends on, decreasing habitat fragmentation, removing threats to candidate, proposed, or other unlisted species, and advancing the recovery of some listed species. Non-Federal program participants are then provided regulatory assurances as a result of the applying for an incidental take permit under section 10(a)(1)(B) of the ESA for those species that are adequately covered by the permit, if the HCP is functioning properly. The Services have determined that the proposed rule would not result in significant costs of implementation to non-Federal program participants.

Information Collection/Paperwork Reduction Act

No significant effects are expected on non-Federal cooperators exercising their option to enter into the HCP planning program because there is no additional information required during the HCP development or processing phase to provide these regulatory assurances.

The Services have examined this proposed rule under the Paperwork Reduction Act of 1995 and found it to contain no requests for additional information or increase in the collection requirement associated with incidental take permits other than those already approved under the Paperwork Reduction Act of 1995 for incidental take permits with OMB approval #1018–0022 which expires July 31, 1997. The Service requested renewal of the OMB approval and in accordance with 5 CFR 1320 will not continue to collect the information, if the approval has expired, until OMB approval has been obtained.

Economic Analysis

This proposed rule was not subject to review by the Office of Management and Budget under Executive Order 12866. The Services have determined that there will be no additional costs placed on the non-Federal entity associated with this proposed regulation. The No Surprises Policy was drafted in 1994, went through a public comment period as part of the draft *1994 Habitat Conservation Planning Handbook* (59 FR 65782, December 21, 1994), was included in the final *1996 Habitat Conservation Planning Handbook* (61 FR 63854, December 2, 1996), and currently is being implemented. The assurances provided to permittees through these proposed rules apply to the HCP permitting process, and the Services have determined that there will be no additional information required of non-Federal entities through the HCP permitting process to provide these assurances to the permittee.

The Assistant Secretary for the Department of Interior certified to the Chief Counsel for Advocacy of the Small Business that a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that this rulemaking would not have a significant effect on a substantial number of small entities, which includes businesses, organizations, or governmental jurisdictions. This proposed rule will provide non-Federal program participants regulatory assurances as a result of the applying for an incidental take permit under section 10(a)(1)(B) of the Act. No significant effects are expected on non-Federal cooperators exercising their option to enter into the HCP planning program because there will be no additional information required through the HCP process to provide these regulatory assurances. Therefore, this rule would have a minimal effect on such entities. The National Marine Fisheries Service has also reviewed this rule under the Regulatory Flexibility Act of 1980 and concurs with the above certification.

The implementation of the No Surprises policy does not require any additional data not already required by the HCP process. Regulatory assurances are provided to the permittee if the HCP is functioning properly, and if all the terms and conditions of the HCP, permit, or Implementing Agreement are all being met. The underlying economic basis of comparing the ''with and without'' the proposed rule was used to determine if there existed any potential economic effects from implementing this policy. Since the rule is being implemented with existing data, there are no incremental costs being imposed on non-federal landowners. The benefits generated by this rule are being shared by the Services (i.e., less habitat fragmentation, habitat management, and protection for covered species) and by non-federal landowners (i.e., assurances that approved HCPs will allow for future economic uses of private land without further mitigation).

There are no data to determine if there are any effects on businesses from this rule. If such effects occur they are more likely to be benefits to landowners than costs. Until specific HCPs are approved it is not possible to determine effects on commodity prices, competition or jobs. However, any economic effects are likely to be benefits. There is a positive effect expected on the environment as species habitat is protected. No effect on public health and safety is expected from this rule. Therefore, this rule most likely would not have a significant effect on a substantial number of small entities.

The Services have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et. seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. No additional information will be required from a non-Federal entity though the HCP.

Civil Justice Reform

The Departments have determined that these proposed regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

National Environmental Policy Act

The Department has determined that the issuance of the proposed rule is categorically excluded under the Department of Interior's NEPA procedures in 516 DM 2, Appendix 1.10. NMFS concurs with the Department of Interior's determination that the issuance of the proposed rule qualifies for a categorical exclusion and falls within the categorical exclusion criteria in NOAA 216–3 Administrative Order, Environmental Review Procedure.

Public Comments Solicited

The Services submit this proposed rule for public comment. Particularly, comments are sought on:

(1) The applicability of the No Surprises assurance to the HCP process in general;

(2) Alternative means, if any, for providing the No Surprises assurances to property owners who apply for an HCP permit;

(3) The applicability of the No Surprises assurances to species adequately covered by a section 10(a)(1)(B) permit;

(4) The permit-shield provision; and

(5) The proposed regulatory changes to 50 CFR Parts 17 and 222.

The Services will take into consideration the comments and any additional information received by the Services by July 28, 1997, and such will be considered in the development of a final rule.

List of Subjects

50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 222

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

For the reasons set out in the preamble, the Services propose to amend title 50, chapter I, subchapter B; and to amend title 50, chapter II, subchapter C of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

Subpart C—Endangered Wildlife

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

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

2. New paragraphs (b)(5) and (b)(6) are added to § 17.22 to read as follows:

§ 17.22 Permits for scientific purposes, enhancement of propagation or survival, or for incidental taking.

* * * * *

(b) * * *

(5) *Permit assurances.* (i) Permit assurances will apply to incidental take permits that are issued in accordance with paragraph (b)(2) of this section for those species that are adequately provided for under properly functioning conservation plans. Such assurances will apply to those permittees who in good faith have complied with the required terms and conditions of the permit and the conservation plan.

(ii) In negotiating unforeseen circumstances provisions for conservation plans, the Director will not require the commitment of additional land, property interests, or financial compensation beyond the level of mitigation which was otherwise adequately provided for a species under the terms of a properly functioning conservation plan. Moreover, the Director will not seek any other form of additional mitigation from a permittee except under unforeseen circumstances.

(iii) If additional mitigation measures are subsequently deemed necessary to provide for the conservation of a species that was otherwise adequately covered under the terms of a properly functioning conservation plan, the obligation for such measures will not rest with the permittee.

(iv) If unforeseen circumstances warrant the requirement of additional mitigation from a permittee who is in compliance with the conservation plan's obligations, such mitigation will maintain the original terms of the conservation plan to the maximum extent possible. Further, any such changes will be limited to modifications within Conserved Habitat areas, if any, or to the conservation plan's operating conservation program for the affected species. Additional mitigation requirements will not involve the payment of additional compensation or apply to parcels of land or property interests available for development or land management under the original terms of the conservation plan without the consent of the permittee.

(v) The following criteria must be used for determining whether and when unforeseen circumstances arise, where the government could request review of certain aspects of the conservation plan's program.

(A) The Director will have the burden of demonstrating that such unforeseen circumstances exist, using the best scientific and commercial data available. The Director's findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species.

(B) In deciding whether any unforeseen circumstances exist which might warrant requiring additional mitigation from a permittee, the Director will consider, but not be limited to, the following factors: size of the current range of affected species; percentage of range adversely affected by the conservation plan; percentage of range conserved by the conservation plan; ecological significance of that portion of the range affected by the conservation plan; level of knowledge about the affected species and the degree of specificity of the species' conservation program under the conservation plan; whether the conservation plan was originally designed to provide an overall net benefit to the affected species and contained measurable criteria for assessing the biological success of the conservation plan; and whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

(vi) The Director will not seek additional mitigation for a species from a permittee where the terms of a properly functioning conservation plan agreement were designed to provide an overall net benefit for that species and contained measurable criteria for the biological success of the conservation plan which have been or are being met.

(vii) Nothing in this rule will be construed to limit or constrain the Director or any other governmental agency from taking additional actions at its own expense to protect or conserve a species included in a conservation plan.

(6) *Effect of a permit.* Compliance with the terms of an incidental take permit constitutes compliance with the

requirements of sections 9 and 10 of the ESA with respect to the species covered by the permit regardless of changes in circumstances, policy, and regulation, unless a change in statute or court order specifically requires that assurances given in the original permit be modified or withdrawn.

* * * * *

Subpart D—Threatened Wildlife [Amended]

3. New paragraphs (b)(5) and (b)(6) are added to § 17.32 to read as follows:

§ 17.32 Permits—General.

* * * * *

(b)* * *

(5) *Permit assurances.* (i) Permit assurances will apply to incidental take permits that are issued in accordance with paragraph (b)(2) of this section for those species that are adequately provided for under properly functioning conservation plans. Such assurances will apply to those permittees who in good faith have complied with the required terms and conditions of the permit and the conservation plan.

(ii) In negotiating unforeseen circumstances provisions for conservation plans, the Director will not require the commitment of additional land, or financial compensation beyond the level of mitigation which was otherwise adequately provided for a species under the terms of a properly functioning conservation plan. Moreover, the Director will not seek any other form of additional mitigation from a permittee except under unforeseen circumstances.

(iii) If additional mitigation measures are subsequently deemed necessary to provide for the conservation of a species that was otherwise adequately covered under the terms of a properly functioning conservation plan, the obligation for such measures will not rest with the permittee.

(iv) If unforeseen circumstances warrant the requirement of additional mitigation from a permittee who is in compliance with the conservation plan's obligations, such mitigation will maintain the original terms of the conservation plan to the maximum extent possible. Further, any such changes will be limited to modifications within Conserved Habitat areas, if any, or to the conservation plan's operating conservation program for the affected species. Additional mitigation requirements will not involve the payment of additional compensation or apply to parcels of land, or property interests available for development or land management under the original terms of the conservation plan without the consent of the permittee.

(v) The following criteria must be used for determining whether and when unforeseen circumstances arise, where the government could request review of certain aspects of the conservation plan's program.

(A) The Director will have the burden of demonstrating that such unforeseen circumstances exist, using the best scientific and commercial data available. The Director's findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species.

(B) In deciding whether any unforeseen circumstances exist which might warrant requiring additional mitigation from a permittee, the Director will consider, but not be limited to, the following factors: size of the current range of affected species; percentage of range adversely affected by the conservation plan; percentage of range conserved by the conservation plan; ecological significance of that portion of the range affected by the conservation plan; level of knowledge about the affected species and the degree of specificity of the species' conservation program under the conservation plan; whether the conservation plan was originally designed to provide an overall net benefit to the affected species and contained measurable criteria for assessing the biological success of the conservation plan; and whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

(vi) The Director will not seek additional mitigation for a species from a permittee where the terms of a properly functioning conservation plan agreement were designed to provide an overall net benefit for that species and contained measurable criteria for the biological success of the conservation plan which have been or are being met.

(vii) Nothing in this rule will be construed to limit or constrain the Director or any other governmental agency from taking additional actions at its own expense to protect or conserve a species included in a conservation plan.

(6) *Effect of a permit.* Compliance with the terms of an incidental take permit constitutes compliance with the requirements of sections 9 and 10 of the ESA with respect to the species covered by the permit regardless of changes in circumstances, policy, and regulation, unless a change in statute or court order specifically requires that assurances given in the original permit be modified or withdrawn.

* * * * *

PART 222—[AMENDED]

Subpart C—Endangered Fish or Wildlife Permits

4. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; subpart D also issued under 16 U.S.C. 1361 *et seq.*

5. New paragraphs (g) and (h) are added to § 222.22 to read as follows:

§ 222.22 Permits for the incidental taking of endangered species.

* * * * *

(g) *Permit assurances.* (1) Permit assurances will only apply to permits for Habitat Conservation Plans that are issued in accordance with paragraph (c) of this section for those species that are adequately provided for under properly functioning conservation plans. Such assurances will apply to those permittees who in good faith have complied with the required terms and conditions of the permit and the conservation plan.

(2) In negotiating the unforeseen circumstances provisions for conservation plans, NMFS will not require the commitment of additional land, water, or financial compensation beyond the level of mitigation that was otherwise adequately provided for a species under the terms of a properly functioning conservation plan. Moreover, NMFS will not seek any other form of additional mitigation from a permittee except under extraordinary circumstances.

(3) If additional mitigation measures are subsequently deemed necessary to provide for the conservation of a species that was otherwise adequately covered under the terms of a properly functioning conservation plan, the obligation for such measures will not rest with the permittee.

(4) If extraordinary circumstances warrant the requirement of additional mitigation from a permittee who is in compliance with the conservation plan's obligations, such mitigation will maintain the original terms of the conservation plan to the maximum extent possible. Further, any such changes will be limited to modifications within Conserved Habitat areas or to the conservation plan's operating conservation program for the affected species. Additional mitigation requirements will not involve the payment of additional compensation or apply to parcels of land available for development or land/water management

under the original terms of the conservation plan without the consent of the permittee:

(5) The following criteria must be used for determining whether and when extraordinary circumstances arise, where the government could request review of certain aspects of the conservation plan's program.

(i) NMFS will have the burden of demonstrating that such extraordinary circumstances exist, using the best scientific and commercial data available. Their findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species.

(ii) In deciding whether any extraordinary circumstances exist which might warrant requiring additional mitigation from a permittee, NMFS will consider, but not be limited to, the following factors:

(A) Size of the current range of affected species;

(B) Percentage of range adversely affected by the conservation plan;

(C) Percentage of range conserved by the conservation plan;

(D) Ecological significance of that portion of the range affected by the conservation plan;

(E) Level of knowledge about the affected species and the degree of specificity of the species' conservation program under the conservation plan;

(F) Whether the conservation plan was originally designed to provide an overall net benefit to the affected species and contained measurable criteria for assessing the biological success of the conservation plan; and

(G) Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

(6) NMFS will not seek additional mitigation for a species from a permittee where the terms of a properly functioning conservation plan agreement were designed to provide an overall net benefit for that species and contained measurable criteria for the biological success of the conservation plan which have been or are being met.

(7) Nothing in this rule will be construed to limit or constrain NMFS or any other governmental agency from taking additional actions at its own expense to protect or conserve a species included in a conservation plan.

(h) *Effect of a permit.* Compliance with the terms of an incidental take permit constitutes compliance with the requirements of section 9 and 10 the ESA with respect to the species covered by the permit regardless of changes in circumstances, policy, and regulation, unless a change in statute or court order specifically requires that assurances given in the original permit be modified or withdrawn.

Dated: May 21, 1997.

Donald J. Barry,

Acting Assistant Secretary, Fish, Wildlife, and Parks, Department of the Interior.

Dated: May 22, 1997.

Rolland A. Schmitten,

Acting Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–14082 Filed 5–23–97; 2:23 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 970520121–7121–01; I.D. 050997A]

RIN 0648–XX83

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Control Date

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: NMFS announces that anyone entering the commercial Atlantic bluefish (*Pomatomus saltatrix*) fishery after May 29, 1997 (control date) will not be assured of future access to the bluefish resource in Federal waters if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that limits the number of participants in the fishery. This announcement is intended to promote awareness of potential eligibility criteria for future access to the commercial Atlantic bluefish fishery and to discourage new entries into this fishery based on economic speculation while the Mid-Atlantic Fishery Management Council (Council) contemplates whether and how access to the bluefish fishery in Federal waters should be controlled. The potential eligibility criteria may be based on historical participation, defined as any number of trips having any documented amount of Atlantic bluefish landings. This announcement, therefore, gives the public notice that they should locate and preserve records that substantiate and verify their participation in the commercial bluefish fishery in Federal waters.

DATES: Comments must be submitted by June 30, 1997.

ADDRESSES: Comments should be directed to David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Atlantic Bluefish (FMP) was developed by the Council and the Atlantic States Marine Fisheries Commission to address problems that would occur if the bluefish fishery were to expand significantly or if the bluefish resource were to decline. The FMP (55 FR 18729, May 4, 1990) noted that the stock had declined from peak abundance levels observed in the early 1980s. Relative to the future condition of the stock, the FMP cautioned that ''without production of a strong year class in 1989, the population will likely continue to decline into the 1990s.''

Bluefish was most recently assessed at the 23rd Northeast Regional Stock Assessment Workshop (SAW–23); results were published in January 1997. The stock is at a low level of abundance and is over-exploited. Current annual recreational catches of 12,000 metric tons (mt) are about 20 percent of the level of the early 1980s. Fully-recruited fishing mortality (F) rates for bluefish increased from 0.12 (10 percent exploitation) in 1988 to 0.51 (36 percent exploitation) in 1992. F in 1995 was 0.40 (29 percent exploitation), twice the level of the current overfishing reference point estimated in 1994 (F_{MSY} = 0.20; 16 percent exploitation). Spawning stock biomass (SSB) declined from 293,000 mt in 1986 to 110,000 mt in 1995, a decrease of 63 percent and an historic low. Recruitment at age 0 varied from 68 to 82 million fish during 1982–84, but has since declined substantially with the strongest recent year class recruiting in 1989 (65 million). Recruitment since 1989 has been below average and the 1993 and 1995 year classes (13 and 14 million fish respectively) are the poorest of the time series. SAW–23 advised that if recruitment continues to be poor, the decline in SSB can only be halted by restricting catches to very low levels. SAW–23 advised reducing F to 0.1 or below (≤ 8 percent exploitation) to halt the decline in SSB.

The Council intends to address whether and how to limit entry of commercial vessels or participants into this fishery in a future amendment to

the FMP. The Council's intent in making this announcement is to notify the industry that management regimes to control access into the fishery may be discussed and developed by the Council. The control date will help to distinguish bona fide established fishermen from speculative entrants to the fishery. Although fishermen are notified that entering the fishery after the control date will not assure them of future access to the bluefish resource on the grounds of previous participation, additional and/or other qualifying criteria also may be applied. The Council may choose different and variably weighted methods to qualify fishermen, based on the type and length of participation in the fishery or on the quantity of landings.

This action does not commit the Council to develop any particular management regime or to use any specific criteria for determining entry to the fishery. The Council may choose a different control date, or may choose a management program that does not make use of such a date. The Council may choose also to take no further action to control entry or access to the fishery. Any action by the Council will be taken pursuant to the requirement for FMP development established under the Magnuson- Stevens Act.

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

Dated: May 22, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–14096 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 62, No. 103

Thursday, May 29, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 23, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Department of Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

An agency May not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Potato Diversion Program—7 CFR part 80.

OMB Control Number: 0560–0145.

Summary of Collection: Producers must fill out an application to participate in the potato diversion program.

Need and Use of the Information: The information is needed to implement provisions of the potato diversion program.

Description of Respondents: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 11,000.

Foreign Agricultural Service

Title: Regulations covering CCC's Facility Guarantee Program.

OMB Control Number: 0551–0032.

Summary of Collection: The Commodity Credit Corporation (CCC) requires that application be submitted to participate in the Facility Guarantee Program (FGP). A request to become an eligible participant in the FGP is included in the application. This information ensures CCC that all participants have a business office in the United States. The information contained within the application is used to determine a sale eligibility for FGP coverage.

Need and Use of the Information: The collection of this information is necessary in order to determine eligibility for participation in the Facility Guarantee Program.

Description of Respondents: Business or other for-profit.

Number of Respondents: 25.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 159.

Emergency process of this submission has been requested by May 23, 1997.

Agricultural Research Service

Title: Continuing Survey of Food Intakes by Individuals 1999–2002.

OMB Control Number: 0518-New.

Summary of Collection: This is the fourth in a series of National food consumption surveys conducted by USDA since the mid-1980's to measure level and change in diets over time, under the National Nutrition and Related Research Program.

Need and Use of the Information: The objective of the CSFII 1999–2002 is to meet requirements for information of food consumption and dietary status. The annual survey will signal charges of National concern.

Description of Respondents: Individuals or households.

Number of Respondents: 9,860.

Frequency of Responses: Reporting on occasion.

Total Burden Hours: 5,160.

Farm Service Agency

Title: Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans and Seed—CFR 1421.5551–5559.

OMB Control Number: 0560–0009.

Summary of Collection: The Commodity Credit Corporation (CCC) must maintain a List of Approved Warehouses to store CCC-owned or loan commodities. The use of warehouses on the approved list reduces the loss faced by CCC by using only those facilities which meet the financial physical and managerial requirements of CCC. There commodities are acquired under various mandatory price support programs.

Need and Use of the Information: The information required to establish and maintain the List of Approved Warehouses.

Description of Respondents: Business or other for-profit.

Number of Respondents: 3,130.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 379,647.

Animal and Plant Inspection Service

Title: Marine Mammals.

OMB Control Number: 0579–0115.

Summary of Collection: Records must be kept on the treatment of marine mammals.

Need and Use of the Information: Information is used to ensure exhibitors, research facilities, carriers, etc. are in compliance with the Animal Welfare Act and regulations and standards promulgated under the authority of the Act.

Description of Respondents: Business or other for-profit; Not-for-profit; institutions.

Number of Respondents: 135.

Frequency of Responses: Recordkeeping; Report: On occasion;

Weekly; Semi-annually; One-time survey.

Total Burden Hours: 69.

Food and Consumer Service

Title: Food Stamp Program Regulations, Part 275—Quality Control

OMB Control Number: 0584–0303.

Summary of Collection: The Food Stamp Act of 1997 requires each State agency administering the Food Stamp Program to submit a plan of operation specifying the manner in which the program is conducted. Each State agency is required to provide a systematic means of determining a State agency's payment error rate, enhanced administrative funding, or claim for payment error.

Need and Use of the Information: Data is used to help assure that Quality Control data is reliable.

Description of Respondents: State, Local, or Tribal Government; Federal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 266.

Animal and Plant Health Inspection Service

Title: Animal Welfare Act, Part 3, Subpart A and D, Dogs, Cats, and Primates.

OMB Control Number: 0579–0093.

Summary of Collection: Regulated facilities are provided an opportunity to request a variance from the perimeter fence requirements.

Need and Use of the Information: The information is used to evaluate the respondent's proposed plan to provide for the security and safety of the regulated animals.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 8,200.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly; Semi-annually; Annually.

Total Burden Hours: 44,303.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–14062 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–97–08]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 27, 1997.

Time: 10 a.m.

Place: United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Tobacco Division, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, Room 223, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: The purpose of the meeting is to elect officers, establish submarketing areas, discuss selling schedules and recommend opening dates. The Committee will also update the 1997 policies and procedures and review other related matters for the 1997 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: May 21, 1997.

John P. Duncan III,

Director, Tobacco Division.

[FR Doc. 97–13969 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Forest Service, intends to grant to AgriTech Electronics, L.C., of Chanuts, Kansas, an exclusive license to U.S. Patent 5,408,956, issued April 25, 1995, ''Method and Apparatus for Controlling Animals with Electronic Fencing.'' Notice of Availability was published in the **Federal Register** on September 24, 1993.

DATES: Comments must be received by July 28, 1997.

ADDRESSES: Send comments to: Janet I. Stockhausen, USDA, Forest Service, One Gifford Pinchot Drive, Madison, Wisconsin 53705–2398.

FOR FURTHER INFORMATION CONTACT: Janet I. Stockhausen of the USDA Forest Service at the Madison address given above; telephone: 608–231–9502.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as AgriTech Electronics, L.C., has submitted a complete and sufficient application for a license. The prospective license will be royalty-bearing and will comply with the terms and conditions of U.S.C. 209 and 37 CFR 404.7. The prospective license may be granted unless, within sixty days from the date of this published Notice, the Forest Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 97–13974 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Willamette PIEC Advisory Committee will meet on Thursday, June 19; and on Friday, June 27, 1997. The meetings will be held at the Salem BLM Office; 1717 Fabry Rd SE; Salem, Oregon 97306; phone (503) 375–5642. The meeting on Thursday, June 19 is scheduled to begin at 9:00 a.m., and will conclude at approximately 4:00 p.m. The tentative agenda includes: (1) Report from the Little Sandy Watershed Subcommittee, (2) Public Forum, (3) Advisory Committee discussion on Little Sandy, and (4) Status of Province implementation monitoring for 1997. The public forum is tentatively scheduled to begin at 10:30 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may also be submitted prior to the June 19th meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

The meeting on Friday, June 27, will begin at 9:00 a.m. and will conclude at approximately 12:00 Noon. The tentative agenda includes: (1) Advisory Committee recommendations on Little

Sandy Watershed, (2) Review of meeting schedule and agenda topics for the remainder of 1997, (3) Public Forum. The public forum will begin at approximately 11:00 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged and may be submitted prior to the meeting.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest, 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: May 22, 1997.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 97–14003 Filed 5–28–97; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 5:00 p.m. on Thursday, June 19, 1997, at the Marriott Biscayne Bay Hotel, 1633 N. Bayshore Drive, Miami, Florida 33132. The purpose of the meeting is to: (1) Discuss the status of the Commission; (2) update the Committee on St. Petersburg; (3) discuss progress and/or problems in the State and Nation; and (4) discuss plans to followup on the report, *Racial and Ethnic Tensions in Florida*.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rabbi Solomon Agin, 941–433–0018, or Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 20, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–14085 Filed 5–28–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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: Survey of Housing Starts, Sales, and Completions.

Form Number(s): SOC–QI/SF.1, SOC–QI/MF.1.

Agency Approval Number: 0607–0110.

Type of Request: Revision of a currently approved collection.

Burden: 8,238 hours.

Number of Respondents: 22,800.

Avg. Hours Per Response: 5 minutes.

Needs and Uses: The Survey of Housing Starts, Sales, and Completions, also known as the Survey of Construction (SOC), is conducted by the Bureau of the Census to collect information on construction characteristics from a sample of home builders, real estate agents, and new home owners.

The data gathered are used to publish estimates of the number of new residential housing units started, under construction and completed, and the number of new houses sold and for sale. Statistics from the SOC are used by Government agencies and private companies to monitor and evaluate this sector of the economy. For example, the Board of Governors of the Federal Reserve System uses the data from this survey to evaluate the effect of interest rates in this area of the economy. The Bureau of Economic Analysis uses the data in developing the gross domestic product. The private sector uses the information for estimating the demand for building material and the many products used in new housing and to schedule production, distribution, and sales efforts. The financial community uses the data to estimate demand for short-term (construction loans) and long-term (mortgages) borrowing.

The survey is conducted by mailing out a facsimile questionnaire to respondents. A Census Bureau interviewer calls the respondent a few days later to transcribe the information onto another form. Beginning in July 1997 this transcription will be done using a Computer Assisted Telephone Interview (CATI). This was previously done using a paper form. The Census Bureau has been experimenting with an automated survey collection instrument and has been using CATI on a test basis in the SOC since 1985. The change will be transparent to respondents except that the interviewer will be able to perform interactive editing of the respondents answers during the interview.

Affected Public: Business or other for-profit, Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Section 182.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–14007 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 16–97]

Foreign-Trade Zone 70—Detroit, MI; Application for Subzone Status, MascoTech, Inc., Plant (Forged Steel Automotive Products); Detroit, Michigan; Extension of Public Comment Period

The comment period for the above case, requesting special-purpose subzone status for the automotive parts forging facility of MascoTech, Inc., located in Detroit, Michigan (62 FR 15460, 4/1/97), is extended to July 2, 1997, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include three (3) copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 22, 1997.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 97–14080 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 41–97]

Foreign-Trade Zone 15—Kansas City, MO; Expansion of Manufacturing Authority—Subzone 15E; Kawasaki Motors Manufacturing Corp., U.S.A., Plant; (Internal-Combustion Engines); Maryville, Missouri

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Kansas City Foreign-Trade Zone, Inc., grantee of FTZ 15, requesting on behalf of the Kawasaki Motors Manufacturing Corp., U.S.A. (KMM), operator of FTZ Subzone 15E, KMM plant, Maryville, Missouri, an expansion of the scope of manufacturing authority to include new small, internal-combustion engine manufacturing capacity under FTZ procedures within Subzone 15E. It was formally filed on May 14, 1997.

Subzone 15E was approved by the Board in 1989 with activity granted for the manufacture of small internal-combustion engines and transmissions for motorcycles, personal water craft, all-terrain vehicles, subject to certain conditions (Board Order 454, 54 FR 50257, 12–5–89). The Board authorized KMM's request for removal of the conditions in 1992 (Board Order 560, 57 FR 4862, 2–10–92).

KMM is now constructing additional manufacturing facilities at the Maryville plant (370 employees) and requests that its FTZ manufacturing authority be extended to include the increased capacity. The company plans to approximately double capacity for the manufacture of small internal-combustion engines (up to 1,400 cc's in size), transmissions, and related drive train components for outdoor power equipment, motorcycles, and personal water craft. Most of the finished engines and powertrain components are shipped to KMM's Lincoln, Nebraska, plant to equip vehicles assembled there. The application states that the additional production at the Maryville plant will supplant engine production currently conducted abroad. The plant's manufacturing space will be increased from 359,880 to 607,080 square feet within the 114-acre plant site. The new engine manufacturing activity will involve casting, machining, finishing, and assembly using domestic and foreign materials and components.

The expanded operations will involve a continuation of the current level of foreign-sourced materials and components (up to 81% of the finished engines' ex-plant value). Components that will be sourced from abroad include: spark plugs, belts, electrical components, fuel pumps, housings, fasteners, gaskets, flywheels, rocker arms, pistons, crankshafts, connecting rods, cylinder heads, balancer shafts, manifolds, crankcases, intake/exhaust valves, flanges/spacers/grommets, starter motors, breathers, pulleys, exhaust components, carburetors, turbojets/props/turbines and parts, parts of transmissions, gauges, bearings, hoses, o-rings, articles of plastic/rubber, steel tube/wire/chain/springs (HTSUS Ch. 73) (duty rate range: free—12.5%). The application indicates that the extent of domestic sourcing of materials and components will increase in the future.

FTZ procedures would exempt KMM from Customs duty payments on the foreign components used in export activity (about 13% of shipments). On its domestic sales, the company would be able to elect the duty rate that applies to finished engines (duty free) for the foreign components noted above. No duties would be paid on the foreign components of finished engines and powertrain components shipped in-bond to KMM's plant in Nebraska (Subzone 59A) until the finished ATVs are processed for Customs entry. The application indicates that the savings from FTZ procedures help improve KMM's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 28, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 12, 1997).

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 20, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–14081 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Florida State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 97–030. *Applicant:* Florida State University, Tallahassee, FL 32306–4005. *Instrument:* ICP Mass Spectrometer, Model Element. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 62 FR 17783, April 11, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A magnetic sector mass analyzer, (2) resolution to 7500 and (3) a linear detection range from 0.1 ppt to 100 ppm. These capabilities are pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–14078 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of New Orleans, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign

instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–014. *Applicant:* University of New Orleans, New Orleans, LA 70148. *Instrument:* Mass Spectrometer, Model VG AutoSpec. *Manufacturer:* Micromass, Inc., United Kingdom. *Intended Use:* See notice at 62 FR 13600, March 21, 1997. *Reasons:* The foreign instrument provides a signal-to-noise ratio of 800:1 for the methyl stearate ion at m/z 298 and a continuously variable scan rate of 0.1 to 1000 s/decade. Advice received from: National Institutes of Health, March 19, 1997.

Docket Number: 97–022. *Applicant:* Rutgers University, Piscataway, NJ 08855. *Instrument:* 20/20 SI Mass Spectrometer. *Manufacturer:* Europa Scientific, United Kingdom. *Intended Use:* See notice at 62 FR 15657, April 2, 1997. *Reasons:* The foreign instrument provides: (1) A magnetic sector analyzer with three Faraday collectors, (2) sensitivity of 1100 molecules of CO_2 per mass 44 ion and (3) resolution = 125 (N_2) 10% valley definition. Advice received from: National Institutes of Health, March 19, 1997.

The National Institutes of Health advises in its memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–14079 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 95–A0006.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Water and Wastewater Equipment Manufacturers Association (''WWEMA'') on June 21, 1996. Notice of issuance of the Certificate was published in the **Federal Register** on July 12, 1996 (61 FR 36708).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1997).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 95–00006, was issued to the Water and Wastewater Equipment Manufacturers Association on June 21, 1996 (61 FR 36708, July 12, 1996).

WWEMA's Export Trade Certificate of Review has been amended to:

1. Add the following companies as new ''Members'' of the Certificate within the meaning of Section 325.2(1) of the Regulations (15 C.F .R. 325.2(1)): Ashbrook Corporation, Houston, Texas and The F.B. Leopold Company Inc., Zelienople, Pennsylvania (Parent: Thames Water Products & Services); Jeffrey Chain Corporation, Morristown, Tennessee; and Waterlink, Inc., Canton, Ohio, and its subsidiaries which include Aero-Mod, Incorporated, Manhattan, Kansas; Great Lakes Environmental, Inc., Addison, Illinois; Mass Transfer Systems, Inc., Fall River, Massachusetts; SanTech, Inc. dba Sanborn Technologies, Medway, Massachusetts; Water Equipment Technologies, Inc., West Palm Beach, Florida; and Waterlink Operational Services, Inc. dba Blue Water Services, Manhattan, Kansas.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: May 24, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97–14039 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Northeast Region Permit Family of Forms

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 28, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bonnie Rayl, 1 Blackburn Drive, Gloucester, MA 01930, 508–281–9244.

SUPPLEMENTARY INFORMATION:

I. Abstract

Participants in Federally-controlled fisheries are required to obtain permits. The purpose and use of permits is to: (1) Register fishermen, fishing vessels, fish dealers and processors, (2) list the characteristics of fishing vessels and/or dealer/processor operations, (3) exercise influence over compliance (e.g. withhold issuance pending collection of unpaid penalties), (4) provide a mailing list for the dissemination of important information to the industry, (5) register participants to be considered for limited entry, and (6) provide a universe for data collection samples. Identification of the participants, their gear types, vessels, and expected activity levels is an effective tool in the enforcement of fishery regulations. This information is needed to measure the consequences of management controls as well.

Participants in certain fisheries may also be required to notify NOAA before fishing trips for the purpose of observer placement and to make other reports on fishing activities.

II. Method of Collection

Initial permit applications are made by form. After the initial permit issuance, permit renewal has been made as simple as possible for both the public and the issuing office. The information obtained from current permits is used to prepare a computer-generated pre-printed renewal permit which is sent to the permit holder for updating. If there are no changes to the information required on the permit, renewal requires nothing more than a signature from the applicant.

Amendments to the multispecies and sea scallop FMPs have adopted automated reporting for all vessels fishing under limited access categories. The Vessel Tracking System (VTS) is required for all multispecies vessels issued an Individual DAS or Combination Vessel permit, scallop vessels issued a full-time or part-time limited access scallop permit, scallop vessels fishing under the small dredge program, or vessels issued a limited access multispecies or scallop permit whose owners voluntarily elect to use the VTS. All remaining limited access multispecies and scallop permit holders are required to report via a call-in system. This reporting is required in order to monitor: (1) Usage of days-at-sea allocations, (2) Compliance with vessel layover requirements, and (3) Compliance with ''days out of the fishery'' requirements.

III. Data

OMB Number: 0648–0202.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Small businesses or other for-profit are primarily affected.

Estimated Number of Respondents: 2,500 (gillnet) + 47,678 (all others) = 50,178 total respondents.

Estimated Time Per Response: Preprinted renewals require an estimated 15 minutes to complete, while an initial vessel permit application is estimated at 0.5 hours per response. In order to obtain an Atlantic Bluefish permit an applicant would need to complete a separate permit application, at an estimated response time of 5 minutes per response. Dealer permits take five minutes to complete. The operator permit application is estimated to take an average of 1 hour due to the requirement to submit color photographs.

For each multispecies trip (estimated at 1/month/vessel) or block of time out of the fishery (estimated at four blocks per vessel), vessels must notify NMFS of the start date and end date through the call-in system. The notifications associated with this amount to 32 notifications/vessel, at an estimated 2 minutes per response. Occasional sea scallop vessels must notify NMFS 30 times per year at an estimated 2 minutes per response. The burden of the vessel monitoring is estimated at 2 minutes for submission of proof of VTS installation. The burden of the notification requirement for vessels which must enter Closed Area II is estimated at 2 minutes each. Requests for observer coverage are estimated at 2 minutes each. Operators of tuna purse seine vessels may request an inspection 24 hours before the start of a trip or off-loading of tuna at an estimated 5 minutes per response. In addition, 6 hour pre-notification of tuna off-loading by tuna ''Buy-Boat'' operators is estimated at 5 minutes per response.

Vessels seeking to participate in the small mesh, mid-water trawl, or cultivator shoal exemption programs will be required to notify NMFS as to the beginning and end of the desired interval within the exemption period. These notifications are estimated at 2 minutes per notification. Requests for Atlantic Bluefin Tuna exemption permits require approximately 1 hour per response. Completion of catch reports under the Atlantic Bluefin Tuna exemption permit are estimated to require approximately 1.9 hours per respondent.

Applicants are expected to spend approximately 3 hours gathering and presenting the documentation needed for a limited access lobster or multispecies Hook Gear appeals. Applicants are expected to spend approximately one half hour gathering and presenting the documentation needed for either moratorium scup or black sea bass appeals.

For participants of the gillnet tag program it is estimated to take 2 minutes per initial request for tags. It will take an estimated 1–3 minutes to attach tags and an estimated 2 minutes per respondent to report lost tags, if replacement tags aren't needed, and an estimated 5 minutes per respondent to report lost tags and order replacement tags. It will take an estimated 2 minutes for respondents to call out of the gillnet fishery for the 120 days required. For participants of the cod trip limit exemption program fishing south of 42°00′ N. Latitude, it is estimated to take approximately 2 minutes to request the certificate of enrollment. For respondents that exceed their possession limit North of 42°00′ N. Latitude it will take an estimated 3 minutes to report hail weight through the call-in.

Estimated Total Annual Burden Hours: 1,998.9 (gillnet) + 31,203 (all others) = 33,201.9.

Estimated Total Annual Cost to Public: $28,000 (for gillnet tags) + $2,546,560 = $2,574,560.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 21, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

(FR Doc. 97–14004 Filed 5–28–97; 8:45 am)

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052197A]

Formation of National Marine Fisheries Service Advisory Panels for National Academy of Sciences Study on Individual Fishing Quotas and Formation of National Marine Fisheries Service Advisory Panel for Ecosystem Principles

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

ACTION: Notice.

SUMMARY: Notice is hereby given that NMFS has selected members for an East coast and a West coast advisory panel for an Individual Fishing Quota (IFQ) study to be conducted by the National

Academy of Sciences' National Research Council (NRC). NMFS has also selected members for its Advisory Panel on Ecosystem Principles. All three panels were formed to comply with the Magnuson-Stevens Fishery Conservation and Management Act as amended by the Sustainable Fisheries Act of 1996.

FOR FURTHER INFORMATION CONTACT: IFQ Advisory Panels, contact Amy Gautam, NMFS, Office of Science and Technology. Telephone: (301)713–2328. Ecosystem Principles Advisory Panel, contact Ned Cyr, NMFS, Office of Science and Technology. Telephone: (301)713–2363.

SUPPLEMENTARY INFORMATION: The following individuals have been selected to the East coast Advisory Panel on IFQs: Richard B. Allen, RI; Ted Ames, ME; Lee Anderson, University of Delaware, DE; Harriet A. Didrikson, MA; Walter M. Gordon, Mid-Atlantic Foods, Inc., MD; Tom R. Hill, Atlantic and Pacific Marine Consultants, MA; D. Doug Hopkins, Environmental Defense Fund, NY; Pete Jensen, Maryland Department of Natural Resources, MD; Jim Kendall, New Bedford Seafood Coalition, MA; Miles Mackaness, FL; Howard Nickerson, Offshore Mariner's Association, MA; Kenneth J. Roberts, Louisiana State University, LA; David Wallace, MD; Roy O. Williams, Florida Marine Fisheries Commission, FL; R.F. Zales, II, FL. The following individuals have been selected to the West coast Advisory Panel on IFQs: Linda Behnken, North Pacific Fishery Management Council, AK; Francis Christy, Washington, DC; James Cook, West Pacific Fisheries Management Council, HI; David Fraser, AK; Rodney M. Fujita, Environmental Defense Fund, CA; Ralph G. Hoard, Icicle Seafoods, WA; Jan Jacobs, American Seafoods Company, WA; Linda Kozak, Kodiak Vessel Owners Association, AK; L. John Iani, UniSea Inc, WA; Mark S. Lundsten, WA; Scott C. Matulich, Washington State University, WA; Ben Muse, Alaska Fisheries Entry Commission, AK; C. Jim Ponts, CA; Paul K. Seaton, Alaska Marine Conservation Council, AK; Elizabeth A. Stewart, Aleutians East Borough, AK. The following individuals have been selected to the Advisory Panel on Ecosystem Principles: Pete Aparicio, Texas Shrimpers Association/Gulf of Mexico Fishery Management Council; Chris Blackburn, Alaska Groundfish Data Bank; George Boehlert, NMFS-Pacific Fisheries Environment Group; Felicia Coleman, Gulf of Mexico Fishery Management Council/ Florida State University; Philip Conkling, The Island Institute; Robert Costanza, University of Maryland; Paul Dayton, University of California, San Diego—Scripps Institution of Oceanography; Dave Fluharty, North Pacific Fishery Management Council/ University of Washington; Robert Francis, University of Washington; Doyle Hanan, California Department of Fish and Game; Ken Hinman, National Coalition for Marine Conservation; Ed Houde, University of Maryland; James Kitchell, University of Wisconsin; Rich Langton, Maine Department of Marine Resources; Jane Lubchenco, Oregon State University; Marc Mangel, University of California at Santa Cruz; Russell Nelson, Florida Marine Fisheries Commission/ Gulf of Mexico and South Atlantic Fishery Management Councils; Victoria O'Connell, Alaska Department of Fish and Game; Michael Orbach, Duke University; Michael Sissenwine, NMFS—Northeast Fisheries Science Center.

Dated: May 21, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–13956 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052097D]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Mackerel Advisory Panel (AP).

DATES: The meeting will be held beginning at 1:00 p.m. on June 10, 1997 and will conclude at 5:00 p.m. on June 11, 1997.

ADDRESSES: The meeting will be held at the Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL; 813–281–8900.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Mackerel AP will review options for a limited licensing system, seasonal and areal subdivisions of total allowable catch, reporting requirements, size limits, fishing seasons, and other potential management alternatives for Gulf group king mackerel.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 3, 1997.

Dated: May 22, 1997.

Richard W. Surdi,

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

[FR Doc. 97–13955 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051997A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's Groundfish Management Team will hold a public meeting.

DATES: The meeting will be held on June 2, 1997, beginning at 1:00 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8:00 a.m. to 5:00 p.m. on June 3, June 4, and June 5, 1997.

ADDRESSES: The meeting will be held at the NMFS Alaska Fisheries Science Center Facility, 7600 Sand Point Way NE, Room 2039, Building 4, Seattle, WA; telephone: (206) 526–6150.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The first day of the meeting will be dedicated to a workshop on the use of F35% as the proxy for maximum sustainable yield. Agenda items scheduled also include inseason management projections, an update on at-sea whiting fisheries, fishery management plan amendments

to essential fish habitat, bycatch, overfishing, and other provisions required by the Magnuson-Stevens Fishery Conservation and Management Act. The Groundfish Management Team will also discuss stock assessment and fishery evaluation preparation plans and assignments.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 21, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–13957 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052097B]

Pacific Offshore Cetacean Take Reduction Plan; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces its intent to reconvene the Pacific Offshore Cetacean Take Reduction Team to review and evaluate the efficacy of two marine mammal bycatch reduction strategies implemented voluntarily by the fishery during the 1996/1997 fishing season and to evaluate the need for effort reduction and potential implementation mechanisms.

DATES: The meeting will be held on May 29, 1997, from 10 a.m. until 5:30 p.m, and May 30, 1997, from 9 a.m. until 4:30 p.m.

ADDRESSES: The meeting will be held at 501 West Ocean Boulevard, Long Beach, CA 90802. Requests for additional information should be sent to Irma Lagomarsino, NMFS, Southwest Regional Office, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Irma Lagomarsino, (310) 980–4016, fax (310) 980–4027, or Victoria Cornish, (301) 713–2322, fax (301) 713–0376.

SUPPLEMENTARY INFORMATION: Section 118(f) of the Marine Mammal Protection Act (MMPA) requires NMFS to develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic marine mammal stock(s) which interacts with certain fisheries. The immediate goal of a take reduction plan is to reduce, within 6 months of its implementation, the incidental mortality or serious injury of strategic marine mammal stocks incidentally taken in the course of commercial fishing to levels less than the Potential Biological Removal level, or PBR, established for that stock. The long term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans.

In accordance with section 118(f)(6)(A), NMFS established the Pacific Offshore Cetacean Take Reduction Team for the California/Oregon thresher shark and swordfish drift gillnet fishery on February 12, 1996 (61 FR 5385). This fishery interacts with several strategic marine mammal stocks including: *Mesoplodont sp*. beaked whales, Baird's beaked whale, Cuvier's beaked whale, the sperm whale, the humpback whale, the pygmy sperm whale, and the short-finned pilot whale. These stocks are considered strategic under the MMPA, because they are either listed as an endangered or threatened species under the Endangered Species Act or because the levels of human-caused mortality are greater than their PBR levels.

The team submitted a draft take reduction plan to NMFS on August 12, 1996. NMFS subsequently published a proposed rule implementing the team's draft plan on February 14, 1997 (62 FR 6931). NMFS intends to reconvene the team in accordance with section 118(f)(7)(E) and the recommendation of the team in their draft plan to review and evaluate the efficacy of two marine mammal bycatch reduction strategies implemented voluntarily by the fishery during the 1996/1997 fishing season. These include an acoustic deterrent device (pinger) experiment and setting nets at a minimum of 6 fathoms below the surface of the water. At the meeting, the team will also evaluate the need for effort reduction and potential implementation mechanisms.

All interested parties are encouraged to attend. Background materials may be requested from the NMFS office indicated in the **ADDRESSES** section. The meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Irma Lagomarsino at (310) 980–4016 by May 27, 1997.

Dated: May 22, 1997.

Patricia Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–13954 Filed 5–28–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Futures Contracts in Corn and Soybeans; Notice That Delivery Point Specifications Must Be Amended

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of public meeting.

TIME AND DATE: 2:00–5:00 p.m., Thursday, June 12, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room located at Room 1000.

STATUS: Open.

SUMMARY: Notice is hereby given that the Commodity Futures Trading Commission (''Commission'') will convene a public meeting at which the Chicago Board of Trade (''CBT'') and interested members of the public may appear before it to give oral and written statements relating to the Commission's consideration of amendments proposed by the CBT to the delivery specifications of the CBT corn and soybean futures contracts.

ADDRESSES: Requests to appear and statements of interest should be mailed to the Commodity Futures Trading Commissions, Three Lafayette Centre, 1155 21 Street, N.W., Washington, D.C. 20581, attention Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically to [secretary@cftc.gov]. Reference should be made to ''Delivery Specifications Meeting.''

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION: By letter dated May 8, 1997, the CBT requested an opportunity to appear before the

Commission in connection with the Commission's consideration of amendments to the delivery specifications of the corn and soybean futures contracts proposed by the CBT. The proposed amendments were submitted in response to a notification to the CBT by the Commission finding that those contracts no longer meet the statutory requirements of section 5a(a)(10) of the Commodity Exchange Act. 61 F.R. 67998 (December 26, 1996). The Commission has requested comment from interested members of the public on issues raised by the proposed amendments. The comment period will remain open until June 16, 1997. 62 FR 19992 (April 24, 1997).

The Commission is of the view that, in addition to the receipt of written comments, an opportunity for the CBT and interested members of the public to appear before it will assist it in its consideration of these issues and is in the public interest. Accordingly, the Commission will convene a public meeting on June 12, 1997, for that purpose.

In its request for comment, 62 FR 12156 (March 14, 1997), the Commission described the four alternatives included in the original section 5a(a)(10) notification to the CBT and the CBT's proposed amendments to the contracts' delivery specifications. The Commission also posed a number of questions. 62 FR at 12158. Persons appearing before the Commission are invited specifically to address those questions and to provide relevant factual data.

All individuals or organizations wishing to appear before the Commission should submit to the Commission at the above address, by June 5, 1997, a concise statement of interest and qualifications and a brief summary or abstract of the content of his or her statement. The Commission will invite a representative number of individuals or organizations to appear from those submitting such statements. A transcription of the meeting will be made and entered into the Commission's public comment files, which as noted above, will remain open for the receipt of written comment until June 16, 1997.

Issued in Washington, D.C., this 22nd day of May 1997.

By the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–14038 Filed 5–28–97; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of new systems of records.

SUMMARY: This notice adds five systems to the Commodity Futures Trading Commission's systems of records maintained under the Privacy Act: The Commission's internal and Internet e-mail system, the Internet web and news group browsing system, the Lexis/Westlaw billing system, the Library automated circulation system, and the telephone system. The notice informs the public of the existence and character of these systems and the routine uses which the Commission may make of the information contained in the systems.

DATES: Comments on the establishment of the new system of records must be received no later than June 30, 1997. The new system of records will be effective July 8, 1997, unless the Commission receives comments which would result in a contrary determination.

ADDRESSES: Comments concerning routine uses should be addressed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Comments may also be sent via the Internet via secretary@cftc.gov.

FOR FURTHER INFORMATION CONTACT: Stacy Dean Yochum, Office of the Executive Director, (202) 418–5157, or Glynn Mays, Office of General Counsel, (202) 418–5120, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and the Commission's implementing regulations, 17 CFR part 146, the Commission is publishing a description of five new systems of records. Each is described in detail below.

1. **Telephone System**. The Commission is establishing this system to enhance its ability to assess employee use of the telephone systems provided by the Commission. Since parts of this system may be used to retrieve information about an individual through the telephone number assigned to that individual, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public. The information may be used for telecommunication traffic studies, cost projections or other management studies and to enable the Commission to determine responsibility for placement of specific calls in connection with inquiries into possible employee or contractor misconduct, including misuse of government-provided telephones.

The new system includes records relating to calls made from Commission telephones or charged to CFTC issued calling cards. The Commission keeps a record of the telephone number or calling card number assigned to each employee or on-site contractor. Local telephone services provide a monthly bill which includes a list of local toll call activity. For local toll calls, the bill shows the number from which the call was made, the date and time of the call, the city or service and the number to which the call was made, the length of the call and the charge for the call.

For long distance calls placed through the Federal Telecommunications System, the General Services Administration (GSA) provides the Commission with a monthly report by line number that shows the city and telephone number for each call placed, the date, time and duration of the call and the cost for that call. This system also contains telephone assignment records, records reflecting the location of government telephones and requests for information concerning calls made to or from particular line numbers. OAS also receives reports, listed by calling card number, of employee long-distance calls placed through AT&T, MCI, and Sprint which are charged to an employee's government issued calling card.

2. **Interoffice and Internet E-mail**. The Commission is establishing a system of records for its electronic mail system. The e-mail system allows each employee to send and receive messages and document attachments at his or her personal computer. Because this system allows information on individuals to be retrieved through the address assigned to each employee or on-site contractor, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

The interoffice system allows messages to be sent and received by CFTC employees or on-site contractors. Through gateway software, employees also may use their e-mail system to send and receive external messages and document attachments via the Internet. Each employee has an interoffice mail address based on his or her name, division or office and location. Each employee also has an Internet address

which is based on his or her name (usually the first initial and full last name of the employee) with the appendix ''@cftc.gov'' which is the Commission's registered Internet domain.

Employees have a number of options on how to treat information sent or received through the e-mail system. They may send and delete, send and save, send and move to another file, just save or just move, and print.

The complete content of both interoffice and Internet e-mail which has been saved by the sender or recipient, including sender, recipient, subject, attachments, date and time, and message, is retained on file servers in each CFTC location. The e-mail information remains on the file server until the employee deletes the message sent or received, or some system failure causes a loss of e-mail information. File servers are backed up nightly on magnetic tapes which are rotated every four weeks. The e-mail information is maintained by the agency's network administrators and may be accessed, if necessary to restore mail service in the event of a hardware or software failure. The network administrator has the capability to access the header information of the message (i.e., sender, recipient, subject, date and time sent or received, and the filename of any data attached) in order to maintain the system.

In addition, the network administrator has the capability to change passwords for employees, which employees may request if they have forgotten their password or their password has been compromised. At the time the network administrator assigns a temporary password to an employee, the network administrator has the ability to access the content of the employee's mailbox. The network administrator's authority to change a password without a request from the employee is severely limited. Once an employee enters a new password, which he or she must do to access the e-mail system after the temporary password change, the network administrator no longer has access to the employee's mailbox, except to view the header information.

As part of the gateway software used by the Commission to link the Internet to the interoffice mail system, the network administrator will see the full content of an Internet e-mail message in the event of an error. If the person to whom a CFTC employee sent an Internet e-mail message cannot be reached or if a message sent to a CFTC employee cannot be received, usually due to an error in the address or a malfunction of any hardware in the link, a CFTC ''postmaster,'' who is also a network administrator, receives both the header information and the content of the message. The network administrator then alerts the employee trying to send or receive the message of the error and assists in the resolution of the error, if possible. The purpose of this feature is to provide the postmaster with the information necessary to resolve errors.

3. **Internet Web Site and News Group Browsing**. The Commission is establishing a system of records related to employees' use of the Internet web site and news group browsing capability. The Commission offers the capability to browse Internet web sites and news groups in order to conduct quick and extensive research to enhance productivity and effectiveness. Because information in this system can be retrieved by an Internet protocol address assigned to each computer which is, in turn, assigned (in most cases) to an office and individual, the Privacy Act of 1974 , as amended, requires a general notice of the existence of this system of records to the public.

When an individual accesses Internet web sites or news groups from a CFTC computer, a record , expressed in URL (Uniform Resource Locator) terms, which shows the address of each site visited and the document and graphic images viewed are kept on the individual computer. The information is stored in a ''history file,'' which includes the URL as well as additional data, and in a ''cache directory,'' which stores text and graphic images from sites visited so that the computer can retrieve the information from its own files rather than the Internet if the user wishes to revisit the site. The purpose of the record on the individual computer is to allow the individual to recall particular sites visited more quickly. The record in the history file expands until 100 URLs are entered or until the individual deletes the information. The files in the ''cache directory'' will increase until 1% hard disk capacity is reached or until the individual deletes the information. When capacity is reached in the history file or the cache directory, the information will be overwritten, with the oldest information being replaced first. This information on the individual computer is not protected by a password; any individual using that computer could determine what web sites had been previously visited using that computer. No information in that record identifies the individual who conducted the searches. However, if the computer resides in an office assigned to one individual, that individual is presumably the person using the computer to visit the web sites recorded on that computer.

Records on web site and news group browsing are also kept for a limited time on the Commission's firewall software located in the headquarters computer room. Because the file size for recording web site and news group browsing is limited, the firewall retains the information until the file is full. Currently, the file becomes full in about 3 days, although that time could shorten with increased web site and news group browsing. The records are kept by Internet protocol address, which is assigned to a particular computer in a particular location. Some computers are ''shared access'' computers, but most are assigned to an individual. In addition to the protocol address, the firewall software tracks the web sites and news groups accessed and the date and time of the access, although not the content of the site or search.

The network administrators have access to the firewall information in order to assess the use of the Internet web site and news group browsing capability. The Commission has put a ''URL blocker'' into place to block access to web sites and news groups that are clearly unrelated to the work of the Commission.

4. **Lexis/Westlaw Billing System**. The Commission is establishing a system of records which tracks, by division, by database used, by employee name and by user identification, the date, elapsed time and charge for the use of the Lexis and Westlaw legal research systems. The billing system also tracks the subject name of the search, which is provided by the individual user. Because this system allows retrieval of information about an individual through his or her name, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

In order to enhance Commission employees' ability to conduct efficient legal research, the Commission has entered into a government contract, through the Library of Congress, for access to the Lexis and Westlaw legal research systems. Each employee who wishes to use the system obtains a user identification number and, if necessary, training on the system through the Administrative Officer, Office of Information Resources Management (OIRM).

The cost of the system to the Commission is based on actual usage. Each month, the Commission receives a detailed bill from Lexis/Westlaw providing information by division which includes user name, user identification number, the total charge,

date, type of charge, elapsed time of the search and the database accessed. The Administrative Officer, OIRM, reviews the billing information and forwards the information for each office to the office's administrative officer. The administrative officer certifies that the information is accurate, i.e., that the individuals using the system are, in fact, Commission employees who would, in the performance of their duties, have need of the legal research system, and returns the billing information to the Administrative Officer, OIRM. The Administrative Officer then certifies the bill on behalf of the Commission, and forwards the certification to the CFTC's Office of Financial Management for payment.

The Administrative Officer retains a hard copy of the billing information for a period of two years in a locked drawer of her desk. Information is retrieved only by manual search, and in order to retrieve information about individual usage, the Administrative Officer must look at each month's bill and know the division or office in which the individual works. The Administrative Officer uses the information to conduct an annual analysis, without reference to individual users, of the cost of Lexis/Westlaw use by month and year, and comparing actual expenditures to budget estimates. Lexis/Westlaw also has access to this information, but uses it only for statistical and billing purposes.

In the event that apparently excessive or unusual use of the Lexis/Westlaw databases was evident from the face of the bill, the administrative officer in each division would be responsible for discussing the matter with division employees or management prior to certifying the information as accurate.

5. **Automated Library Circulation System**. The Commission is establishing an automated library circulation system to improve inventory control of the Commission's library resources. Because parts of this system may be used to retrieve information about an individual through his or her library bar code number, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

Before the establishment of the automated system, information on checking out library materials was done by hand, on index cards, by various library employees. As a result, the accuracy of the information was questionable. When an employee left the Commission, the library could not always accurately determine what materials the person needed to return to the library. Similarly, if library materials were missing, their location could not always be accurately traced.

The new automated circulation system's primary feature is a bar code based check-in, check-out system. The library assigns each book a unique bar code number. The library also assigns each library user a unique bar code number, which is kept on a rolodex card at the circulation desk. At the point of check out, the bar codes are entered into the automated system by waving a bar code reader over the user information and the book information. The computer unites the book and the user bar codes, and a loan record is established. When the book is returned or, in the case of lost materials, when reimbursement is made, the loan record is deleted. Individuals may also request that a hold be placed in the system on individual titles to prevent the title from being checked-out or renewed .

When a title has been checked-out, the system places a ''CHECKED OUT'' notice next to the title in the library's automated catalog. The identity of the person who checked-out the material is not available to the catalog user, but is available to library staff.

The circulation system can provide each user, on request, a receipt for his or her most current loan transaction. The receipt will include a list of all materials currently checked-out to the individual. The system does not retain any record of check out once the materials are returned. The system can also produce, if necessary, a series of three computer-generated overdue notices. The third notice informs the recipient that he or she will be responsible for reimbursing the Commission the cost of the materials borrowed unless the materials are returned within a specified period.

These new systems of records, as required by 5 U.S.C. 552a(r) of the Privacy Act, have been submitted to the Committee on Government Oversight and Reform of the U.S. House of Representatives, the Committee on Governmental Affairs of the U.S. Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated July 15, 1994. Accordingly, the Commission is giving notice of the establishment of the following systems of records:

CFTC–34

SYSTEM NAME:

Telephone System.

SYSTEM LOCATION:

Monthly billing records for local toll calls, long distance calls, and calling card calls are located in the Office of Administrative Services, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. The most current record of the phone numbers and calling card numbers assigned to individual employees and contractors is kept by the administrative office in each regional location except Los Angeles. Los Angeles telephone assignment records are kept in the Washington, DC, Office of Administrative Services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (generally Commission employees and on-site contractor personnel) who make telephone calls from Commission telephones or use government issued calling cards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the use of Commission telephones or calling cards to place calls; records indicating assignment of telephone or calling card numbers to employees; and records relating to requests for telephone call detail information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 41 CFR part 101–35.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the Commission's ''General Statement of Routine Uses,'' Nos. 1 and 2, Privacy Act Issuances, 1995. In addition, records and data may be disclosed as necessary (1) to representatives of the General Services Administration or the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906; (2) to a telecommunications company or consultant providing telecommunications support to permit servicing the account.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer printouts.

RETRIEVABILITY:

Records are retrievable by a Commission telephone or calling card number that is assigned to an individual.

SAFEGUARDS:

In addition to general building security, records are maintained in limited access areas at all times.

RETENTION AND DISPOSAL:

In accordance with the general record schedules and the Commission's record management handbook, the records in the system are considered temporary and are destroyed when no longer required, usually every 3 months.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administrative Services, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the system of records or contesting the content of records about themselves should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures,'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures,'' above.

RECORD SOURCE CATEGORIES:

Telephone and calling card assignment records; call detail listings received from local and long distance service providers; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance calls.

CFTC–35

SYSTEM NAME:

Interoffice and Internet E-Mail System.

SYSTEM LOCATION:

File servers in each system location (Washington, DC, Chicago, New York, Kansas City, Minneapolis, and Los Angeles) retain records. Records are backed up nightly onto magnetic tape in all locations except Minneapolis. Records are backed up weekly onto magnetic tape in the Minneapolis office. The most recent two weeks of tapes are kept in locked boxes in the Washington, DC, and Chicago locations. Tapes with information covering the prior two weeks are kept at an off-site storage facility in Washington, DC, and Chicago. Tapes with information covering the most recent four week period are kept on-site, in a secured area, in the New York, Kansas City, Los Angeles, and Minneapolis locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CFTC employees and on-site contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on the use of the interoffice and Internet e-mail system, including address of sender and receiver(s), subject, date sent or received, name of attachment and certification status. On a restricted basis, records may include the contents of an individual's mailbox.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and section 12(b)(3) of the Commodity Exchange Act, 7 U.S.C. 16(b)(3).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by CFTC network administrators who have a need for the records in the performance of their duties. See also the Commission's ''General Statement of Routine Uses,'' Nos. 1, and 2, Privacy Act Issuances, 1995 Comp. In addition, the records and data, other than the content of individual mailboxes, may also be disclosed as necessary to contractors as necessary for assessment, modification, or maintenance of the e-mail system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on the file servers in each CFTC location. Servers are backed up nightly and the information is transferred to magnetic tape. In Washington, DC, and Chicago, the most recent two weeks of magnetic tape are kept in a locked box in the Computer Room. The prior two weeks are kept at an off-site storage facility in Washington, DC, and Chicago. The entire four weeks of magnetic tape information is kept in unlocked boxes in a secured area in the New York, Kansas City, Los Angeles and Minneapolis locations.

RETRIEVABILITY:

The information can be retrieved by assigned interoffice or Internet mail address.

SAFEGUARDS:

Only network administrators have access to the e-mail information. This access is generally limited to the ''header'' information described under ''Categories of Records.'' The tapes are kept in locked storage boxes in Washington, DC, and Chicago, and only network administrators and OIRM management have keys to the locked boxes. In the New York, Kansas City, Los Angeles and Minneapolis locations, tapes are kept in unlocked boxes, either stored in a fireproof safe or vault. Only designated office personnel have access to the safe or vault.

RETENTION AND DISPOSAL:

Records on magnetic tape are retained for four weeks, then destroyed as the tape is written over with new information. Records are retained on the file server until the sender and receiver delete the information from the e-mail system. Internet e-mail information that is received by the postmaster due to an error in delivery is considered temporary and is destroyed after the problem is corrected.

SYSTEM MANAGER(S) AND ADDRESS:

Network Manager, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the system of records, or contesting the content of records about themselves should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

RECORDS ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORDS PROCEDURES:

See ''Notification Procedures'' above.

RECORDS SOURCE CATEGORIES:

Internet e-mail, interoffice e-mail.

CFTC 36

SYSTEM NAME:

Internet Web Site and News Group Browsing System.

SYSTEM LOCATION:

Firewall software, located on PC in the Washington, DC, office's computer room. Information on use of each personal computer is stored on that computer.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CFTC employees and on-site contractors who are users of the Internet Web Site and News Group Browsing capability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on the web sites and news groups visited, as identified by the

Internet protocol address assigned to each computer, as well as information on the date and time of the web site or news group access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and section 12(b)(3) of the Commodity Exchange Act, 7 U.S.C. 16(b)(3).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by CFTC network administrators for maintenance of the firewall system which protects the CFTC from unauthorized access to its data. The network administrators may also use the information to evaluate the level of use of the agency's Internet browsing capability. See also the Commission's ''General Statement of Routine Uses,'' Nos. 1, and 2, Privacy Act Issuances, 1995 Comp. Records may also be disclosed as necessary to the agency's Internet service provider or agency contractor to the extent the information is necessary for maintenance of the agency's Internet access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept on the software maintained on the firewall gateway server in the headquarters computer room. In addition, a record of the Internet browsing done on each computer is maintained on that PC. The length of time of storage on the firewall gateway server is governed by available disk space on the server. At current levels of browsing usage, the information is stored on the server for approximately three days. Information on web sites visited by each PC is also stored in the PC's history file or cache directory. The information is stored on the individual PC until the cache directory consumes 1% of total disk space. Oldest items are then removed until the directory is equal to or less than 1% of the total disk space. History file records are maintained until 100 URLs are entered. (URL stands for ''Uniform Resource Locator'' and is the address of the site visited, for example, http://www.cftc.gov). The oldest URLs are deleted until the total URL count is equal to or less than 100 entries.

RETRIEVABILITY:

The information can be retrieved by Internet protocol address. The network administrators have access to information about the office location and individuals assigned to each computer, as identified by Internet protocol address.

SAFEGUARDS:

Network administrators, through use of a password protection, have access to the Internet web browsing system information that is stored on the firewall gateway server in the headquarters computer room. Access to the computer room is limited to OIRM employees. The Director of OIRM may grant the Commission's Internet service provider access to the Internet web browsing system information for maintenance purposes. However, the provider would not have access to the information that links Internet protocol addresses to particular computers, locations and individuals.

RETENTION AND DISPOSAL:

Records are retained on the Commission's firewall software for approximately three days, then written over.

SYSTEM MANAGER(S) AND ADDRESS:

Network Manager, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the system of records, or contesting the content of records about themselves should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

RECORDS ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORDS PROCEDURES:

See ''Notification Procedures'' above.

RECORDS SOURCE CATEGORIES:

Internet, web site and news group browsing, Web site access.

CFTC 37

SYSTEM NAME:

Lexis/Westlaw Billing Information System.

SYSTEM LOCATION:

Office of Information Resources Management, Three Lafayette Centre, 1155 21st Street NW., Washington, DC, 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CFTC employees and on-site contractors who are users of the Lexis/Westlaw research system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on the name, search subject, database searched, date, elapsed time, type of charge, and total charge for a search in the Lexis/Westlaw automated research system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and section 12(b)(3) of the Commodity Exchange Act, 7 U.S.C. 16(b)(3).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used primarily by the Administrative Officer, OIRM, to monitor expenditures and to ensure the availability of funds. The records containing usage information are distributed monthly to the administrative officers in each office for their confirmation that Lexis/Westlaw use was authorized. See the Commission's ''General Statement of Routine Uses,'' Nos. 1 and 2, Privacy Act Issuances, 1995 Comp. Lexis/Westlaw can also access the information and uses it for statistical analysis and billing purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Billing information is maintained by the Administrative Officer, OIRM, in a locked file drawer.

RETRIEVABILITY:

By division, by month of use, by database accessed, by user name and user identification number. Retrieval is done manually.

SAFEGUARDS:

Billing information is kept in locked desks at all times. Information is provided only to the Administrative Officer, OIRM, and is circulated to the administrative officer for each office.

RETENTION AND DISPOSAL:

Hard copies of monthly billing statements are retained for two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Office of Information Resources Management, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the system of records, or contesting the content of records about themselves should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

RECORDS ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORDS PROCEDURES:

See ''Notification Procedures'' above.

RECORDS SOURCE CATEGORIES:

Lexis/Westlaw billing information.

CFTC 38

SYSTEM NAME:

Automated Library Circulation System.

SYSTEM LOCATION:

Library, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual CFTC employees who check out books and periodicals from the CFTC Library.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records showing the bar code assigned to employees who use the library, title, due date, and hold information on library materials checked-out by individual CFTC employees; records of overdue materials and of employee notification of overdue materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 41 CFR part 101–27.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM , INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Library staff uses the information to track the location of library materials, to provide users on request with a list of materials currently shown as in their possession, and to issue, as necessary, overdue notices for materials. See the Commission's ''General Statement of Routine Uses,'' Nos. 1 and 2, Privacy Act Issuances, 1995 Comp. The records may also be disclosed as necessary to agency contractors in connection with assessment, modification or maintenance of the automated circulation system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on the CFTC local area network file server. Records on the identifying bar codes assigned to individuals are stored in the file server and on rolodex cards.

RETRIEVABILITY:

Records are retrievable by employee name or by the employee's bar code number.

SAFEGUARDS:

Records may be accessed only by authorized CFTC staff members, who are principally staff of the Library or the Office of Information Resources Management. Staff members must use an individual password to gain access to the information stored in the computer.

RETENTION AND DISPOSAL:

Records in the system are considered temporary. The records of library transactions are destroyed when an item on loan is returned or reimbursement is made for replacement of the item.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Librarian, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCDURES:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the system of records, or contesting the content of records about themselves should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

RECORDS ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORDS PROCEDURES:

See ''Notification Procedures'' above.

RECORDS SOURCE CATEGORIES:

Library user bar code identifiers; library materials use; overdue notices.

Issued in Washington, DC on May 20, 1997, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–13773 Filed 5–28–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–13]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–13, with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: May 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

19 MAY 1997

In reply refer to:
I-04310/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-13, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services estimated to cost $400 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 97-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act (U)

(i) Prospective Purchaser: Japan

(ii) Total Estimated Value:

Major Defense Equipment*	$248 million
Other	$152 million
TOTAL	$400 million

(iii) Description of Articles or Services Offered:
The modification and upgrade of 13 E-2C Update Group II Mission Suite retrofit kits including AN/APS-145 Radars (Category XII) for existing E-2C aircraft, spare and repairs parts, support equipment, personnel training and training equipment, publications and technical data, system software development and installation, testing of new system modifications, U.S. Government and contractor engineering and logistics services and other related elements of program support.

(iv) Military Department: Navy (RGH)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 19 MAY 1997

as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan - Modification and Upgrade of E-2C Retrofit Kits

The Government of Japan has requested the modification and upgrade of 13 E-2C Update Group II Mission Suite retrofit kits including AN/APS-145 Radars (Category XII) for existing E-2C aircraft, spare and repairs parts, support equipment, personnel training and training equipment, publications and technical data, system software development and installation, testing of new system modifications, U.S. Government and contractor engineering and logistics services and other related elements of program support. The estimated cost is $400 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Asia.

Japan previously purchased E-2C aircraft and needs this upgrade of the retrofit kits to help maintain the operational readiness of its extended Airborne Early Warning (AEW) system and continue the interoperability with United States and NATO forces. Japan will have no difficulty absorbing this logistics support into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Grumman Aircraft Corporation, Bethpage, New York. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale will require the assignment of approximately five contractor representatives to be required in-country the first year for installation technical assistance. An undetermined number, possibly three, will be required at the main operation base for two years after the completion of the first installation to assist with maintenance. Continued U.S. Government personnel will be required for an additional period to implement the system.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The E-2C contains sensitive state-of-the-art technology. Some of the hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Secret. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through depot level) of the E-2C aircraft and its installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–13972 Filed 5–28–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Department of the Air Force

Supplemental Record of Decision for Disposal and Reuse; Pease Air Force Base (AFB), New Hampshire

On April 14, 1997, the Air Force issued a Supplemental Record of Decision (SROD) for Pease Air Force Base. The SROD, signed by Mr. Rodney A. Coleman, Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations and Environment, completes the disposal and reuse decisions for Pease AFB. The SROD was developed based upon review and consideration of the June 1991 Final Environmental Impact Statement (FEIS) and the August 1995 Final Supplemental Environmental Impact Statement (SEIS). The SEIS was prepared in response to the U.S. District Court's Order in *CLF* v. *Air Force*. The SEIS also includes a sensitivity analysis of the special excepted use of a performing arts center which is based upon data contained in the SEIS. Potential environmental impacts addressed in the FEIS and SEIS were taken into consideration prior to making the decisions put forth in the SROD. The SROD does not change property disposal decisions made in previous Records of Decisions, however, it does change the method of conveyance for some of the parcels. All referenced documents are maintained at Pease Air Force Base and the Air Force Center for Environmental Excellence offices at Brooks Air Force Base, TX for public review.

If you have any questions, please contact Mr. John Corradetti, Program Manager, Division B, Air Force Base Conversion Agency, 1700 N. Moore Street, Suite 2300, Arlington, VA 22209–2809.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–14083 Filed 5–28–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Navy, DoD

Board of Advisors to the Superintendent, Naval Postgraduate School; Open Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California, will meet on July 15–16, 1997, in Hermann Hall (Bldg 220) at the School. All sessions will be open to the public.

The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: CDR Richard Grahlman, Naval Postgraduate School, Monterey, California 93943–5000, Telephone: (408) 656–2512.

Dated: May 20, 1997.

D.E. Koenig, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–14084 Filed 5–28–97; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 97–2]

Continuation of Criticality Safety at Defense Nuclear Facilities in the Department of Energy (DOE) Complex

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a concerning continuation of critically safety at defense nuclear facilities in the Department of Energy (DOE) complex.

DATES: Comments, data, views, or arguments concerning this recommendation are due on or before June 30, 1997.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Andrew L. Thibadeau at the address above or telephone (202) 208–6400.

Dated: May 21, 1997.

John T. Conway,

Chairman.

Continuation of Criticality Safety at Defense Nuclear Facilities in the Department of Energy (DOE) Complex

May 19, 1997.

In the first two or three decades following the Manhattan Project, nearly every laboratory of the Atomic Energy Commission (AEC) had an active program addressing some phase of the physics of neutron chain-reacting systems. Each such study included a balance of experiment and theoretical analysis, as in common in engineering research. Some of the programs supported the design of nuclear weapons, some were directed at the design of nuclear reactors, and some were conducted simply as basic engineering research.

As a result of these programs, expertise in neutron chain-reacting systems was widespread; there was an abundance of individuals skilled in achieving and controlling neutron chain reactions. These individuals usually became expert as well in methods of avoiding a chain reaction when this is not desired. The state of a self-sustaining chain reaction is commonly called ''criticality.'' Guidance by these knowledgeable individuals helped establish an admirable record of criticality safety in the many programs the AEC conducted with fissionable material. While occasional accidental criticality did occur at the peace of AEC activity, it seldom caused injury to workers, and never led to radiation affecting individuals off site. Furthermore, the last such instance of inadvertent criticality in the United States occurred about 20 years ago.

Some criticality research continued to replenish the supply of these experts through the era of the Energy Research and Development Administration (ERDA) and into the period of the Department of Energy (DOE), though at a steadily reduced rate. Today there is almost no theoretical research in criticality being conducted, although university courses continue to instruct students in the theoretical expertise that has already been developed. However, most of the early experts in criticality safety control were drawn from experimental research programs. For a number of years, the DOE complex placed its reliance for criticality safety on the diminishing number of such criticality control experts developed in earlier years. Recently, however, DOE has been forced to supplement that group with engineers trained on the job in the conduct of criticality calculations. The latter group contains few individuals who have conducted critical mass experiments. Thus collectively they have little practical experience

pertinent to avoiding chain reactions in nonreactor environments.

In 1993, the Defense Nuclear Facilities Safety Board (Board) sensed that the source of experimental competence in prevention of inadvertent criticality was in danger of being lost entirely as a result of DOE's impending closure of this last critical mass facility in the country. That closure would have ended the hands-on education of new generations of scientists and engineers in the properties and behavior of critical systems. However, expertise in criticality safety will continue to be needed as long as fissionable material is used and stored. The Board viewed the end of experimental criticality studies as a threat to criticality safety in future DOE activities, and issued Recommendations 93–2, which advised against such action. As stated in that Recommendation,

> The Board believes it is important to maintain a good base of information for criticality control, covering the physical situations that will be encountered in handling and storing fissionable material in the future, and to ensure retaining a community of individuals competent in practicing the control.

The Secretary accepted Recommendations 93–2 on May 12, 1993, noting the importance of (1) improving and maintaining a criticality control information base, especially to support future operations in handling, processing, and storage or disposal of fissionable material; (2) retaining a cadre of individuals competent in practicing criticality control and safety; (3) continuing an experimental program; (4) continuing an education program for criticality safety professionals; (5) coordinating the criticality program among various users; (6) performing a criticality assessment with respect to defense nuclear facilities to determine the scope of current and future requirements for criticality experiments, predictability, and training, and (7) investigating the mission requirements, program funding, and landlord issues.

Since Recommendation 93–2 was issued, DOE has made substantial progress in coordination and implementation of the criticality experiments program. Funding for the program has stabilized, albeit at a low level, and work has been initiated on a prioritized list of experiments. However, a basic set of problems continues to exist throughout the DOE complex with regard to criticality control. Among the problems are the following:

1. In the past, it was found that only a few experienced criticality engineers were needed to guide criticality safety at even the most complex facilities. However, at the majority of DOE facilities where accidental criticality is currently a potential issue, the number of engineers assigned to criticality control is surprisingly large. The Typical criticality safety staff consists mainly of individuals who have no prior first-hand experience in criticality, and who have been trained on the job in analytical aspects of criticality control after being hire. They lack background in neutron physics on a fundamental level, and are not familiar with work on assemblies near the critical state, activities that would foster intuitive approaches to criticality control. Therefore, when faced with the need to determine what must be done to avoid a chain reaction, they most frequently fall back on complex multidimensional Monte Carlo calculations. Their use of simplified methods and their reliance on published data are minimal. The Board points out that complex analysis may be needed for some cases, such as those with difficult geometry, but such analysis is time-consuming and may dramatically slow preparation for the activities being evaluated.

2. Operational practices at some DOE facilities place criticality control in a central position in operations, with the criticality engineer establishing certain aspects of operation for safety reasons. Effectively, the criticality engineer, with all the shortcomings described in 1 above, becomes the critical path for line management. This causes delays in the ability of the line management to develop overall safety requirements.

3. In the past, most of the criticality safety data in guidance documents has been directed to activities involving production of nuclear weapons. The guidance has incorporated data from several experimental programs established to ensure avoidance of unintentional criticality in weapons programs. The experimental data has often been generalized by analysis of the experimental results and by theory benchmarked against experiments. The missions of DOE have changed substantially, however, and guidance for other types of activities is not needed. It is particularly important that guidance be developed to help in analyzing the safety of cleanup operations and the handling, storage, and shipping of miscellaneous containers that include fissionable material mixed with other material.

The above problems have had a significant effect on the productivity of several DOE operations. They have adversely affected safety by extending the period of time required for meeting safety commitments, such as those responding to Board Recommendation 94–1. In so doing, they have absorbed resources potentially needed for other safety-related activities at DOE's defense nuclear facilities. In this light, the Board believes action should be taken to eliminate these problems and to ensure that criticality safety can continue to be achieved efficiently in DOE's future operations.

Therefore the Board recommends that DOE:

1. Restructure the program of experimental research in criticality established under the Implementation Plan for Recommendation 93–2 to emphasize determination of bounding values for criticality of systems most important in the current programs at DOE facilities.

2. Organize the records of calculations and experiments conducted to ensure the criticality safety of DOE's past operations so as to provide guidance for criticality safety in similar situations in the future and avoid repetition of past problems.

3. Establish a program to interpolate and extrapolate such existing calculations and data as a function of physical circumstances that may be encountered in the future, so that useful guidance and bounding curves will result.

4. Collect and issue the experimental and theoretical data from the above in a publications as guidance for future activities.

5. Clarify in guidance that simple, bounding methods of analysis can be used in place of specific theoretical analysis in setting criticality limits for processes, and that limits derived in this manner are even preferable where they serve the purpose. The decreasing order of preference should be experimental data, theory benchmarked against experimental data, and nonbenchmarked criticality analysis with an adequate safety margin.

6. Develop and institute a short but intensive course of instruction in criticality and criticality safety at DOE's criticality experiments facility to serve as the foundation for a program of formal qualification of criticality engineers. This course should instill in students a familiarity with the factors contributing to criticality, the physical behavior of systems at and near criticality, and a theoretical understanding of neutron multiplication processes in critical and subcritical systems. A goal would be for reliance for criticality safety at any DOE facilities to rest in a group of individuals endowed with such experience.

7. Where not already done, assign criticality safety as a staff function

assisting line management, with safety responsibility residing in line management.

8. Identify a core group of criticality experts experienced in the theoretical experimental aspects of neutron chain reactions to advise on the above steps and assist in resolving future technical issues.

9. Organize funding of the criticality research and instruction program to improve its stability and to recognize the cross-cutting importance of this activity.

John T. Conway,

Chairman.

[FR Doc. 97–13977 Filed 5–28–97; 8:45 am]

BILLING CODE 3670–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 30, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. 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 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 22, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Postsecondary Education

Type of Review: Revision.

Title: Free Application for Federal Student Aid (FAFSA).

Frequency: Annually.

Affected Public: Individuals and families.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 9,395,776.

Burden Hours: 7,625,993.

Abstract: The FAFSA collects identifying and financial information about a student and his or her family if the student applies for Title IV, Higher Education Act (HEA) Program funds. This information is used to calculate the student's expected family contribution, which is used to determine a student's financial need. The information is also used to determine the student's eligibility for grants and loans under the Title IV, HEA Programs. It is further used for determining a student's eligibility and need for State and institutional financial aid programs.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Captioned Films/Videos for the Deaf: Application for Loan Service and Response Form.

Frequency: On Occasion.

Affected Public: Individuals or households; Business or other for-profit; Non-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 23,000.

Burden Hours: 5,100.

Abstract: This package provides an application form for prospective users of the Captioned Films and Videos and response cards to evaluate satisfaction with films/videos.

[FR Doc. 97–13990 Filed 5–28–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education School-to-Work Opportunities Act; State and Territory Implementation Grants

AGENCIES: Department of Labor and Department of Education.

ACTION: Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997 for School-to-Work Opportunities State and Territory Implementation Grants (State and Territory Implementation Grants).

SUMMARY: The Departments of Labor and Education jointly invite applications for new awards in FY 1997, as authorized under section 212 of the School-to-Work Opportunities Act of 1994 (the Act). These State Implementation Grants will enable States and Territories to carry out their plans for statewide and jurisdiction-wide School-to-Work Opportunities partnership systems, offering young Americans access to programs designed to prepare them for a first job in high-skill, high-wage careers, and for achievement in further postsecondary education and training.

DATES: In order to ensure review and processing of applications recommended for award prior to the expiration of FY 1997 appropriations, applications must be submitted by May 31, 1998. (FY 1997 appropriations expire in September of 1998.)

SUPPLEMENTARY INFORMATION:

Background

The Departments of Labor and Education are reserving funds appropriated for FY 1997 under the Act (Pub. L. 103–329) for awarding State and Territory Implementation Grants authorized under section 212 of the Act.

This notice contains the selection criteria and describes the review and

technical assistance process that will be used in evaluating applications submitted in response to this year's solicitation.

Invitation for Application for New Awards

Purpose of Program: Funds awarded under this solicitation will serve as ''venture capital'' to allow States and Territories to build comprehensive partnerships. These partnerships, including teachers, parents, students, schools, businesses, and alternative education providers will provide all youth with high-quality education that integrates classroom learning, hands-on work-based learning, and connecting activities, prepares them for success in high-skill, high wage careers, and helps them make the transition to further postsecondary education and training.

Eligible Applicants: All States, including the District of Columbia and Puerto Rico, that did not receive a State Implementation Grant in FY 1994, FY 1995, or FY 1996, are eligible for Implementation Grants under this solicitation. This solicitation also applies to all seven Territories listed in section 212(b) of the Act. In accordance with the School-to-Work Opportunities Act, the Governor must submit the application on behalf of the State or Territory.

Deadline for Transmittal of Applications: May 31, 1998. Further details on the application deadline are included in the application package which will be mailed to each eligible applicant. Telefacsimile (FAX) applications will not be honored.

Availability of Applications: Application packages will be mailed directly to both the State and Territorial Governors and School-to-Work Development Grant contacts in each eligible State and Territory. These applications will be sent by overnight mail within one day of the publication of this notice in the **Federal Register**. Any other party interested in receiving a copy of the application package should contact: The National School-to-Work Office, 400 Virginia Avenue, S.W., Room 210, Washington, D.C. 20024. Telephone: (202) 401–6222. This is not a toll-free number.

Available Funds: Approximately $56 million for States, DC and Puerto Rico; and $2 million for Territories (funding for the first twelve-month period).

Estimated Range of Awards: The Departments expect the minimum award to be approximately $1.5 million and the maximum award to be approximately $10 million for States. For the Territories, the minimum award is anticipated to be approximately $200,000 and the maximum award to be approximately $475,000. The Departments wish to emphasize that, in accordance with sections 212, 213, 214, and 216 of the Act, the actual amount of each award made under this process will depend on such factors as the scope and quality of the plan and application, the number of projected participants in programs operating within each State or Territory School-to-Work Opportunities system, and the total youth population. Therefore, the Departments strongly encourage all applicants to consider these factors, and the estimated average grant award amount, in deciding the amount of funds to request. State applicants are discouraged from requesting significantly more funds than States with similar numbers of school-age youth received last year without a strong programmatic basis for doing so. (Information on previous years' State Implementation award amounts is contained in the application package.) Actual award amounts will be determined during negotiations with the Department of Labor's Grants Office; see note below on compressed four-year funding period for States.

Estimated Average Size of Awards: $3.4 million for State awards, $ 285,000 for Territories.

Estimated Number of Awards: Up to 15 State awards and 7 Territory awards.

Note: The Departments are not bound by any estimates in this notice.

Project Period of Performance: Up to 4 years (4 twelve-month grant periods).

Note: States funded in previous Implementation Grant rounds were funded for up to five years. However, the Departments expect that the last appropriation for the School-to-Work Opportunities Act will be for FY 2000, which would provide for only four years of funding under this solicitation. It is anticipated that, subject to appropriations and grantee progress and expenditures, States funded under this solicitation in 1997 will receive the total amount they would have received through a five-year grant, but will receive it during a compressed, four-year period. Territories will likely receive no more than level funding in each of four years, due to the fact that the Act limits the amount to be used for awards to the Territories to not more than ½ of one percent of each year's total School-to-Work appropriation. Both State and Territory awards are subject to appropriations and the grantee's progress toward its stated objectives.

Applicable Regulations: 29 CFR Parts 33, 93, 95, 96, 97, 98. The selection criteria and definition published in this notice, as well as the instructions contained in the application package and the eligibility and other requirements specified in the Act, apply to this competition.

For Additional Information Contact: Ms. Laura Cesario, U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, 200 Constitution Avenue, N.W., Room S–4203, Washington, D.C. 20210. Telephone: (202) 219–7300, extension 111 (this is not a toll-free number).

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.

[Reference: SGA# DAA—97–015.]

Implementation Grant Competition

Definition

All definitions in the Act apply to School-to-Work Opportunities systems funded under this and future State and Territory Implementation Grant selection processes. Since the Act does not contain a definition of the term ''administrative costs'' as used in section 217 of the Act, the Departments will apply the following definition to this and future selection processes for State and Territory Implementation Grants:

The term ''administrative costs'' means the activities of a State or local partnership that are necessary for the proper and efficient performance of its duties under the School-to-Work Opportunities Act and that are not directly related to the provision of services to participants or otherwise allocable to the system's allowable activities listed in section 215(b)(4) and section 215(c) of the Act. Administrative costs may be either personnel costs or non-personnel costs, and direct or indirect. Costs of administration shall include, but not be limited, to:

(A) Costs of salaries, wages, and related costs of the grantee's staff engaged in:

(1) Overall system management, system coordination, and general administrative functions;

(2) Preparing program plans, budgets, and schedules, as well as applicable amendments;

(3) Monitoring of local initiatives, pilot projects, subrecipients, and related systems and processes;

(4) Procurement activities, including the award of specific subgrants, contracts, and purchase orders;

(5) Developing systems and procedures, including management information systems, for assuring compliance with the requirements under the Act;

(6) Preparing reports and other documents related to the Act; and

(7) Coordinating the resolution of audit findings.

(B) Costs for goods and services required for administration of the system;

(C) Costs of system-wide management functions; and

(D) Travel costs incurred for official business in carrying out grant management or administrative activities.

Note on Administrative Cost Cap: In accordance with section 215(b)(6) of the Act, a local partnership receiving a subgrant from State Implementation Grant funds awarded under this solicitation may use no more than 10 percent of that subgrant for administrative costs associated with carrying out the School-to-Work program activities in one fiscal year. A 10 percent cap on administrative costs applies to both State Implementation grantees and all State-funded local partnerships. This same cap applies to Territory Implementation grantees and their local partnerships.

Review Process and Selection Criteria

Territory Review Process

In reviewing applications from the Territories, the Departments will utilize the selection criteria, point values, scoring system, and time frames described below for States. It is anticipated that the technical assistance and review process will also parallel that outlined for States. However, given such unique factors as the geography, government, demographics, educational systems, and economies of the Territories, and the special considerations that may affect School-to-Work design and implementation plans for these areas, the specific types and frequency of technical assistance offered will be determined by the federal review teams. The Territory review process will be managed by staff of the New York and San Francisco Regional Offices of the Departments of Education and Labor.

State Review Process

The Act anticipates that all States with comprehensive system plans will receive Implementation Grants through this voluntary initiative. However, in the first three rounds, limited resources and the large pool of States eligible to apply made it necessary to use a more competitive process to prioritize funding decisions, identifying those States most ready to begin implementing their systems. To date, 37 States have received implementation awards. The 1997 appropriation will allow the Departments to finance the remaining 15 States, as those States submit applications which address appropriately the provisions of the Act and this Notice, and demonstrate readiness to implement quality school-to-work systems.

Based on the fact that adequate funds are now available to fund all States, the Departments have modified the State Implementation Grant review process. This will enable the Departments to meet the legislative intent that all interested States with comprehensive plans receive funding, and to provide States with adequate time to implement their systems prior to the Act's expiration in 2001. This year's process will be more flexible, while maintaining the rigor of prior rounds, and is designed to help all States make the transition from development to implementation.

As discussed below, the Departments will provide technical assistance prior to and during the review, and will apply the selection criteria given below in evaluating State applications.

- *Ongoing assistance.* The approach for this solicitation will facilitate better communication with potential applicants during the period when applications are being accepted, and in later steps. In this round, each applicant will be assigned a technical assistance/review team, composed of the federal Grant Officer's Technical Representative, staff of the Departments of Education and Labor, and National School-to-Work Office staff. This team is responsible for providing and coordinating technical assistance for the State. Technical assistance efforts will focus on helping the applicants address any outstanding issues and finalize their plans.

This same federal team will continue to work with the State throughout the review. Applicants will be able to discuss proposed application contents and share draft materials with the federal team prior to submitting the application. When the application is formally submitted for review, communications will continue.

A two-phase review process will be used, as in previous rounds. During the first phase of the review, the team will be able to request additional documentation from the State to support sections that were not adequately addressed in the original submission, or travel to the site for strategic planning and problem-solving sessions, if necessary.

After all criteria are met on paper, the review team will conduct a second-phase, on-site review to verify its findings. In the event that the site visit raises new concerns, the team will continue working with the State to address them. However, the Departments anticipate that the level of exchange and assistance available prior to the visit will do much to preempt this possibility. If the site visit confirms that the State is ready to implement, the team will make a funding recommendation to the School-to-Work Steering Committee and the Department of Labor Grants Office for approval. The review team will also participate in final negotiations with the State, led by the Department of Labor's Grants Office.

- *Review process.* The selection criteria, point system and the process used to evaluate State Plans will be the same as previous years. As mentioned above, the first-phase evaluation of written applications will be followed by a second-phase, on-site review to confirm the applicant's readiness to implement. The Departments will base final funding decisions on information obtained during the application review and site visits, and are also interested in such factors as replicability, sustainability, innovation, and geographic balance and diversity of program approaches.
- *Rating system to pinpoint areas needing additional work.*

In order to isolate areas needing improvement before an application can be deemed acceptable, panelists will rate applications using the selection criteria and associated point values, and will then assign a rating of ''satisfactory'' or ''unsatisfactory'' to each major section, such as Comprehensive Statewide System, Participation of All Students, and Management Plan, based on the number of points received. The minimum ''satisfactory'' score will be approximately 70% of the total available points for that section. The State can then submit supporting materials in areas that lacked sufficient detail. After a minimum total score of 70 points has been reached, the State will receive a site visit, with the selection criteria again being applied.

- *Longer period to submit applications.* In previous rounds, States generally had less than two months to submit applications. In this round, States will be able to file an application at any time during a period of approximately twelve months. This will allow for the provision of any necessary technical assistance prior to and during the review, while ensuring that all awards are obligated before the 1997 appropriations expire in September, 1998. A recommendation to approve or disapprove funding will be made to the Secretaries of Education and Labor for every State that submits an application by May 31, 1998, and receives a site visit. If a State submits an application, receives a site visit, and is not initially

approved for funding, the review team will continue to work with the State during the review period to bring the plan to an acceptable level. However, final recommendations for all applications for the FY 1997 funding cycle will be made by August 1, 1998, to ensure that the Department of Labor's Grants Office has adequate time to process awards and obligate funds.

Selection Criterion 1: Comprehensive Statewide or Territory-wide System

Points: 35.

Considerations: In applying this criterion, reviewers will consider—

(a) *20 points*. The extent to which the State or Territory has designed a comprehensive Statewide or Territorywide School-to-Work Opportunities plan that—

(1) Includes effective strategies for integrating school-based and work-based learning, integrating academic and vocational education, and establishing linkages between secondary and postsecondary education;

(2) Is likely to produce systemic change in the way youth are educated and prepared for work and for further education, across all geographic areas of the State or Territory, including urban and rural areas, within a reasonable period of time;

(3) Includes strategic plans for effectively aligning other Statewide or Territorywide priorities, such as education reform, economic development, and workforce development into a comprehensive system that includes the School-to-Work Opportunities system and supports its implementation at all levels—State, regional and local;

(4) Ensures that all students, including school dropouts, will have a range of options, including options for higher education, additional training and employment in high-skill, high-wage jobs; and

(5) Ensures coordination and integration with existing local education and training programs and resources, including those School-to-Work Opportunities systems established through local partnership grants and Urban/Rural Opportunities grants funded under Title III of the School-to-Work Opportunities Act, and related Federal, State, and local programs.

(b) *15 points*. The extent to which the State or Territory plan demonstrates the capability of the State or Territory to achieve the statutory requirements and to effectively put in place the system components in Title I of the School-to-Work Opportunities Act, including—

(1) The work-based learning component that includes the statutory mandatory activities and that contributes to the transformation of workplaces into active learning components of the education system through an array of learning experiences, such as mentoring, job-shadowing, unpaid work experiences, school-sponsored enterprises, supported work experiences, and paid work experiences;

(2) The school-based learning component that will provide students, as well as school dropouts, with high level academic skills consistent with academic standards that the State or Territory establishes for all students, including, where applicable, standards established under the Goals 2000: Educate America Act;

(3) A connecting activities component to provide a functional link between school and work activities and employers and educators for both students and school dropouts; and

(4) A plan for an effective process for assessing students' skills and knowledge required in career majors, and the process for issuing portable skill certificates that are benchmarked to high quality standards such as those the State or Territory establishes under the Goals 2000: Educate America Act, and for periodically assessing and collecting information on youth outcomes, as well as a realistic strategy and timetable for implementing the process.

Selection Criterion 2: Commitment of Employers and Other Interested Parties

Points: 15.

Considerations: In applying this criterion, reviewers will consider the following:

(a) The extent to which the State or Territory has obtained the active involvement of employers and other interested parties listed in section 213(d)(5) of the Act, such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies, as well as State legislators or Territorial representatives.

(b) Whether the State plan demonstrates an effective and convincing strategy for continuing the involvement of employers and other interested parties in the Statewide or Territorywide system, such as the parties listed in section 213(d)(5) of the Act, as well as State legislators or Territorial representatives.

(c) The extent to which the State or Territory plan proposes to include private sector representatives as joint partners with educators in the oversight and governance of the overall School-to-Work Opportunities system.

(d) The extent to which the State or Territory has developed strategies to provide a range of opportunities for employers to participate in the design and implementation of the School-to-Work Opportunities system, including membership on councils and partnerships; assistance in setting standards, designing curricula and determining outcomes; providing worksite experience for teachers; helping to recruit other employers; and providing worksite learning activities for students, such as mentoring, job shadowing, unpaid work experiences, supported work experiences, and paid work experiences.

Selection Criterion 3: Participation of All Students

Points: 15.

Considerations: In applying this criterion, reviewers will refer to the definition of the term ''all students'' in section 4(2) of the Act, and consider the following:

(a) The extent to which the State or Territory will implement effective strategies and systems to—

(1) Provide all students with equal access to the full range of program components specified in sections 102 through 104 of the Act and related activities such as recruitment, enrollment and placement activities; and

(2) Ensure that all youth have meaningful opportunities to participate in School-to-Work Opportunities programs.

(b) Whether the plan identifies potential barriers to the participation of any students or out-of-school youth, and the degree to which the plan proposes effective ways of overcoming these barriers.

(c) The degree to which the State or Territory has developed realistic goals and methods for assisting young women to participate in School-to-Work Opportunities programs leading to employment in high-performance, high-paying jobs, including nontraditional jobs and has developed realistic goals to ensure an environment free from racial and sexual harassment.

(d) The feasibility and effectiveness of the State or Territory's strategy for

serving youth from rural communities with low population densities.

(e) The State or Territory's methods for ensuring safe and healthy work environments for youth, including strategies for encouraging schools and alternative education providers to provide youth with general awareness training in occupational safety and health as part of the school-based learning component, and for encouraging employers to provide risk-specific training as part of the work-based learning component.

Note: Experience with the FY 1994, FY 1995 and FY 1996 School-to-Work Opportunities State Implementation Grant applications has shown that many applicants do not give adequate attention to designing systems that will serve school dropouts and systems that will serve students with disabilities. Therefore, the Departments would like to remind applicants that reviewers will consider whether an application includes strategies to specifically identify the barriers to participation of dropouts and students with disabilities and proposes specific methods for effectively overcoming such barriers and for integrating academic and vocational learning, integrating work-based learning and school-based learning, and linking secondary and postsecondary education for dropouts and students with disabilities. Applicants are reminded that JTPA Title II funds may be used to design and provide services to youth who meet the appropriate JTPA eligibility criteria.

Selection Criterion 4: Stimulating and Supporting Local School-to-Work Opportunities Systems

Points: 15.

Considerations: In applying this criterion, reviewers will consider the following:

(a) The effectiveness of the State or Territory's plan for ensuring that local partnerships include employers, representatives of local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, and students, and others such as those included in section 4(11)(B) of the Act.

(b) The extent to which the State or Territory assists local entities to form and sustain effective local partnerships serving communities in all parts of the State.

(c) Whether the plan includes an effective strategy for addressing the specific labor market needs of localities that will be implementing School-to-Work Opportunities systems.

(d) The effectiveness of the State or Territory's strategy for building the capacity of local partnerships to design and implement local School-to-Work Opportunities systems that meet the requirements of the Act.

(e) The extent to which the State or Territory will provide a variety of assistance to local partnerships, as well as the effectiveness of the strategies proposed for providing this assistance, including such services as: developing model curricula and innovative instructional methodologies, such as creative strategies for meeting the needs of school dropouts; expanding and improving career and academic counseling services; and assisting localities in the use of technology-based instructional techniques.

(f) The effectiveness of the State or Territory's strategy for providing staff development to teachers, employers, mentors, counselors, related services personnel, and others who are critical to successful implementation of School-to-Work Opportunities systems for all youth, such as staff in alternative learning environments.

(g) The ability of the State or Territory to provide constructive assistance to local partnerships in identifying critical and emerging industries and occupational clusters.

Selection Criterion 5: Resources

Points: 10.

Considerations: In applying this criterion, reviewers will consider the following:

(a) The amount and variety of other Federal, State, and local resources the State or Territory will commit to implementing its School-to-Work Opportunities plan, as well as the specific use of these funds, including funds for JTPA Summer and Year-Round Youth programs and Perkins Act programs.

(b) The feasibility and effectiveness of the State or Territory's long-term strategy for using other resources, including private sector resources, to maintain the statewide system or territory-wide system when Federal resources under the School-to-Work Opportunities Act are no longer available.

(c) The extent to which the State or Territory is able to limit administrative costs in order to maximize the funds spent on the delivery of services to youth, as required in section 214(b)(3)(B) of the Act, while ensuring the efficient administration of the School-to-Work Opportunities system.

Criterion 6: Management Plan

Points: 10.

Considerations: In applying this criterion, reviewers will consider the following:

(a) The adequacy of the management structure that the State or Territory proposes for the School-to-Work Opportunities system.

(b) The extent to which the State or Territory's management plan anticipates barriers to implementation and proposes effective methods for addressing barriers as they arise.

(c) Whether the application includes an evaluation plan containing feasible, measurable goals for the School-to-Work-Opportunities system, based on performance measures contained in section 402(a) of the Act.

(d) The extent to which the evaluation plan includes an effective method for collecting information relevant to the State's progress in meeting its goals, and is likely to assist the State or Territory to meet its School-to-Work Opportunities system objectives, to gauge the success of the system in achieving those objectives, to continuously improve the system's effectiveness, and to contribute to the review of results across all States and Territories.

(e) Whether the plan includes a feasible workplan for the School-to-Work Opportunities system that includes major planned objectives over a four-year period.

Additional Priority Points

As required by section 214(a)(1) and (a)(2) of the Act, the Departments will give priority to applications that demonstrate the highest level of concurrence among State or Territorial partners with the State or Territory's plan, and to applications that require paid, high quality work-based learning experiences as an integral part of the School-to-Work Opportunities system by assigning additional points—above the 100 points described in the criteria—as follows:

(a) Highest Levels of Concurrence—5 Points

Up to 5 points will be awarded to applications that can fully demonstrate that each of the State or Territorial partners listed in section 213(b)(4) of the Act concurs with the State or Territory School-to-Work Opportunities plan, and that the State or Territorial partners' concurrence is backed by a commitment of time and resources to implement the plan.

(b) Paid, High-quality Work-based Learning—10 Points

Up to 10 points will be awarded to applications that demonstrate that the State or Territory—

(1) Has developed effective plans for requiring, to the maximum extent feasible, paid, high-quality work experience as an integral part of the State or Territory's School-to-Work Opportunities system, and for offering the paid, high-quality work experiences to the largest number of participating students and school dropouts as is feasible; and

(2) Has established methods for ensuring consistently high quality work-based learning experiences across the State or Territory.

Program Authority: 20 U.S.C. 6101 *et seq.*

Dated: May 20, 1997.

Raymond J. Uhalde,

Acting Assistant Secretary for Employment and Training, Department of Labor.

Patricia W. McNeil,

Assistant Secretary for Vocational and Adult Education, Department of Education.

[FR Doc. 97–13966 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health; Draft Notice of Availability of Funds and Request for Applications for the Department of Energy Medical Program in the Republic of the Marshall Islands

AGENCY: Office of Environment, Safety and Health, Department of Energy.

ACTION: Request for comments on the draft notice of availability of funds and request for applications.

SUMMARY: The Department of Energy (DOE) Office of Environment, Safety and Health (EH) is requesting comments on a draft Notice of Availability of Funds and Request for Applications to provide special medical care to a specific group of citizens of the Republic of the Marshall Islands (RMI). EH is especially interested in receiving comments on program requirements. This draft Notice of Availability of Funds and Request for Applications is a follow on to a more general, annual notice of potential availability of grants and cooperative agreements for epidemiology and other health studies published in the **Federal Register** on October 16, 1996.

DATES: By this Notice, DOE is requesting comments on the draft Notice of Availability of Funds and Request for Applications. Formal applications are not requested and will not be accepted at this time. DOE intends to hold a public meeting in San Francisco, California, in July 1997, to provide a forum for discussion of the DOE special medical care program in the RMI and this draft Notice of Availability of Funds and Request for Applications. Parties interested in attending the public meeting should notify the EH information contact listed herein as soon as possible but no later than 2 weeks after publication of this Notice of their intent to attend and/or make an oral presentation at the public meeting. DOE will advise actual location, date and time of meeting by letter to respondents.

COMMENTS AND ADDRESSES: Formal written comments on this draft Notice may be submitted to EH via Neil Barss, Office of International Health Programs (EH–63), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290, not later than thirty (30) days after the public meeting. DOE will consider and may utilize all information, recommendations, and suggestions provided in response to this Notice. Respondents should not provide any information that they consider to be privileged or confidential or which the respondent does not want disclosed to the public. DOE does not intend to respond to comments, either to individual commentors or by publication of a formal Notice. After reviewing these comments, DOE may modify the draft Notice and formally publish it in the **Federal Register** as a Notice of Availability of Funds and Request for Applications To Deliver Special Medical Care in the Marshall Islands.

This draft Notice should not be construed (1) as a commitment by the Department to enter into any agreement with any entity submitting comments in response to this Notice, (2) as a commitment to issue any award concerning the subject of this Notice, or (3) as a request for Applications. The mailing address for applications will be specified in the future formal Notice.

FOR FURTHER INFORMATION CONTACT: All correspondence in response to this Notice should be directed to Neil Barss, Office of International Health Programs (EH–63), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290; telephone: (301) 903–4024; facsimile: (301) 903–1413; or neil.barss@eh.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Purpose
II. Background
III. Program Requirements
IV. Applications
V. Application Instructions
VI. Award Information and Application Format
VII. DOE's Role
VIII. Applicants

I. Purpose

DOE provides a special medical care program for a specific group of RMI citizens in accordance with Section 103(h) of the Compact of Free Association Act of 1985, as amended, which mandates that the United States ''shall continue to provide special medical care and logistical support thereto for the remaining * * * members of the population of Rongelap and Utrik [sic] who were exposed to radiation resulting from the 1954 United States thermonuclear 'Bravo' test, pursuant to Public Laws 95–134 and 96–205.'' Section 104(a)(4) of Public Law 95–134, enacted in 1977, directed the Secretary of the Interior to provide for the populations residing on Rongelap and Utirik Atolls on March 1, 1954, ''adequate medical care and treatment * * * of any radiation injury or illness directly related to the [''Bravo''] thermonuclear detonation * * *'' Section 104(a)(4) goes on to state that, ''The costs of such medical care and treatment shall be assumed by the Administrator of the Energy Research and Development Administration,'' a precursor agency to DOE. Pursuant to this congressional mandate, DOE is required to provide a special medical care program consisting of:

- Medical screening, diagnosis and treatment for radiation-related diseases, illness or injuries (see Appendix A for definition) in an economically disadvantaged tropical environment in the central Pacific.
- Medical care and treatment of other diseases or injuries as time and resources permit.
- Administrative management, cognizance and oversight of patients and patient records, clinical referrals and followups as medically appropriate.

DOE is currently seeking ways to more effectively and efficiently deliver special medical care services in the Marshall Islands to an aging population, and to spend more of the allocated budget on medical services rather than logistical support .

DOE intends to award one (1) cooperative agreement in support of the RMI special medical care program by late first quarter fiscal year (FY) 1998. The cooperative agreement award will be for a one (1) year budget period, and may be negotiated and renewed annually as continuation awards for up to four (4) additional years.

The current funding level for the implementation of the medical program is $1.1 million annually.

II. Background

As a result of the 1954 United States' thermonuclear ''Bravo'' test in the Marshall Islands, approximately 253 Marshallese people (hereinafter referred to as patients) on Rongelap and Utirik Atolls were exposed to high levels of radioactive fallout. Since 1956, DOE and its predecessor agencies have provided medical care to these patients. Within DOE, this special medical care program is currently administered by the Office of International Health Programs for the Assistant Secretary for Environment, Safety and Health.

Currently, there are three programs providing medical care in the RMI. The first is provided by the RMI Ministry of Health for the national primary medical care of approximately 60,000 people. This care is delivered by means of primary and secondary care facilities on Ebeye and Majuro islands, with smaller facilities in the remote outer islands that function as first aid stations, providing limited primary care and pharmaceutical capabilities (see Appendix B for details). Two-way radio is the primary means of inter-atoll communications, and medical emergencies are transported by air from the outer islands to Ebeye or Majuro.

The second is known as the 177 Health Care Program (177 HCP), described in section 103(j) of the Compact of Free Association Act of 1985 as the Four Atoll Health Care Program. This program provides medical care for the people of the Atolls of Bikini, Enewetak, Rongelap and Utirik who were affected by the consequences of the 1946–1958 U.S. nuclear testing program in the northern Marshall Islands, and their descendants. The program is administratively overseen by the Department of the Interior (DOI), is funded by the Congress through the DOI, and is currently implemented by Mercy International, Inc., under contract to the RMI Ministry of Health. The program serves approximately 10,600 individuals (which includes the non radiation-related medical needs of the current DOE patients) and provides primary medical care, secondary referrals to the hospitals at Ebeye and Majuro, and tertiary referrals to the Queen's Medical Center and Group in Honolulu, Hawaii.

The third is the special medical care program provided by DOE to approximately 238 patients in the Rongelap and Utirik communities.

DOE's special medical care program currently provides biannual medical screening visits and full medical care for radiation-related conditions for the remaining 131 members of the original patient population, as well as medical treatment for approximately 107 people in a comparison group. From the inception of DOE's program, medical treatment has been delivered biannually by teams consisting of Brookhaven National Laboratory (BNL) employees supplemented with volunteer medical specialists. Logistical support for DOE's medical missions has also been provided by a contractor, which is currently Bechtel Nevada Corporation.

Those DOE patients with medical conditions that can be effectively managed in the Marshall Islands are either treated by the BNL medical personnel at the U.S. Army hospital on Kwajalein island, or are referred to the 177 HCP. Since 1986, patients have been referred to the 177 HCP for continued care during the time between BNL screening visits and for non-radiation related disease or injuries. Currently, the 177 HCP has not been able to adequately meet all the medical needs of the DOE patients.

Those DOE patients with radiation-related medical findings that cannot be managed in the Marshall Islands are referred to Straub Hospital and Clinic in Honolulu for tertiary evaluation and treatment.

In 1995, DOE started to transition from biannual vessel-based medical missions to biannual land-based medical missions. Vessel-based missions were handicapped by the inability to keep a vessel equipped with state-of-the-art medical equipment. The land-based approach has improved the quality of medical care delivery for the patient populations in Rongelap and Utirik and will also affect cost efficiencies. This approach makes available, at existing medical facilities in the Marshall Islands, more sophisticated diagnostic equipment and improved laboratory capabilities, for example: use of ultrasound equipment; ability to perform immediate fine needle aspiration or thyroid surgery; availability of certified mammography equipment at Kwajalein and other medical equipment that permits immediate followup, additional tests, and surgery when needed.

As with vessel-based care, the land-based system includes visits to infirm patients in their homes at Mejatto and Utirik. Land-based medical assets have also added the ability to provide full diagnostics and tests of samples taken right after the visit to these remote islands, rather than (as previously) shipping such samples for analysis to the U.S. mainland.

In January 1997, the RMI requested the DOE to compete the current special medical care program due to problems being experienced by the 177 HCP and the RMI's desire to spend more of the allocated budget on medical care rather than logistical support services.

III. Program Requirements

A. General

The awardee will be required to execute a high quality special medical care program within DOE requirements and budget; provide continuity with the medical program conducted since 1956; and operate in a highly visible international political environment and under rigorous oversight by the U.S. Congress.

Applications should be based on a budget of $1.1 million annually over a 5 year period. In preparing applications to deliver DOE's special medical care program in the RMI, potential applicants should consider innovative ways to:

(a) Provide full time medical services in the Marshall Islands to the Rongelap and Utirik communities, sufficient to cover the medical needs of the effected Marshallese citizens.

(b) Collaborate or coordinate medical care delivery with local Marshallese health care providers.

(c) Use telemedicine and other electronic technologies that enhance professional communications and maximize cost savings.

(d) Use recruited volunteer medical professionals to maximize cost savings.

(e) Use current DOE contractor support (i.e., Bechtel Nevada Corporation, the Straub Hospital and Clinic, and the U.S. Army Hospital at Kwajalein) or propose a replacement for the services provided by these contractors (see Appendices C, D, and E, respectively, for currently provided services). Applications that propose replacement services should emphasize more dollars being spent for medical care rather than logistic support, but may provide a cost estimate that exceeds $1.1 million annually.

B. Project Description

For the approximately 238 patients, whose general medical and demographic information is summarized in Appendix F, the awardee shall either itself implement or use subcontractors for the following special medical program requirements:

The DOE Clinical Medical Program

For this program element:

(a) Conduct and implement a special medical care program for patients with

radiation-related diseases, illness or injuries in a tropical and under-developed area of the world that includes treatment of as much non radiation-related disease as medically indicated. The special medical care program should be implemented by primary care medical professional(s) augmented by physicians with specialties in oncology, diagnostic radiology, gynecology, internal medicine, and endocrinology, as appropriate.

(b) Provide the services of other medical specialists, as indicated by patient condition, including but not limited to the fields of: allergy/immunology, cardiology, dentistry, dermatology, emergency medicine, family practice, gastroenterology, geriatrics, hematology, infectious diseases and parasitology, nephrology, neurology, nuclear medicine, obstetrics, ophthalmology, pathology, physical medicine, pulmonary medicine, rheumatology, surgery, tropical medicine and therapeutic radiology.

(c) Provide, in addition to the physician services specified in this section, nursing, pharmacy, radiology (including nuclear medicine), clinical laboratory, histology and pathology, inpatient, outpatient and technical medical support services.

(d) Institute appropriate ethical safeguards that include obtaining the express written consent of any patient for participation.

(e) Provide appropriate gender medical personnel to accommodate Marshallese cultural sensitivities.

(f) Conduct medical examinations in accordance with medical screening recommendations, published guidelines or standards (e.g., American Cancer Society, American College of Physicians, U.S. Preventive Services Task Force of the Department of Health and Human Services, etc.).

(g) Provide radiology services that include:

(1) Mammography utilizing a unit that is certified by the American College of Radiology and complies with U.S. Food and Drug Administration regulations.

(2) Diagnostic equipment that has been inspected for radiological safety and approved for operation (e.g., chest x-ray, nuclear medicine imaging or therapy, mammography).

(3) Therapy as clinically prescribed for the treatment of cancer.

(h) Conduct examinations of the thyroid gland including:

(1) Thyroid ultrasound measurements.

(2) Palpation of the thyroid by a physician skilled in such technique.

(3) Appropriate blood and chemistry tests of thyroid function (e.g., TSH, T_3, T_4).

(i) Provide diagnostic and clinical laboratory services, as appropriate.

(j) Utilize laboratory testing capabilities and services that comply with the requirements specified in the Clinical Laboratory Improvement Amendments of 1988 (documentation required).

(k) Provide appropriate immunizations, as indicated by patient needs.

(l) Provide pharmaceuticals based on the needs of the patients.

(m) Provide pathological services for the identification of cancer.

Logistical and Administrative Support

For this program element:

(a) Obtain insurance (and documentation thereof) for medical malpractice and comprehensive general liability, for $1 million per occurrence and $3 million aggregate for each insurance type.

(b) Implement non-medical administrative functions in support of the special medical care program, which shall at a minimum include the following:

(1) Provision of non-medical personnel and administrative staff services to adequately support the medical personnel and services.

(2) Unless the current contractors and subcontractors are replaced by either the awardee or the awardee's subcontractors, the awardee will be required to:

(i) Establish and maintain a working programmatic relationship with Bechtel Nevada Corporation which not only currently provides the logistic needs of the medical program, but also DOE's radiological and environmental monitoring programs.

(ii) Establish and maintain a working programmatic relationship with the current secondary or tertiary referral facilities (U.S. Army Hospital at Kwajalein and Straub Hospital and Clinic in Honolulu). DOE currently has a Memorandum of Understanding and a contract, respectively, with these facilities to provide the services.

(3) As applicable, establish and maintain a working programmatic relationship with existing medical providers in the Marshall Islands and/or the 177 HCP using the capabilities listed in Appendix G, to help implement the DOE special medical care program.

(4) Provide current state-of-the-art methods for the consolidation, storage, management and retention of current and historical patient medical records and medical program operational records. This will include receipt from the current DOE provider of approximately 30 cubic feet of all hard copy medical records, a similar volume of records compressed onto compact discs and an Oracle©® database of current patients.

(5) Protect the confidentiality of patient medical information and records.

(6) Implement a continuing quality control and assurance program for all clinical medical and recordkeeping aspects of the program necessary to maintain compliance with applicable medical standards.

(7) Develop and implement a transition phase with Brookhaven National Laboratory.

Direct Marshallese Involvement

For this program element:

(a) Interface, establish and maintain a working relationship with Marshallese appointed spokespersons and/or citizen advisory committees in the Rongelap and Utirik communities to:

(1) Consult and inform before implementing any changes in the DOE special medical program.

(2) Establish a regular process that receives community and patient input and feedback on DOE special medical program activities.

(3) Recommend improvements in the care delivery.

(4) Inform DOE of Marshallese concerns and work with DOE to accommodate the concerns within a framework of DOE's legal mandate, funding and sound medical practice.

(b) Develop and implement a Rongelap and Utirik community health outreach educational program that:

(1) Reflects DOE and Marshallese community representative input on Marshallese history, language, culture and the experience of DOE or its predecessors for the past 45 years (e.g., development of videotapes, brochures and handouts for health care provider briefings and use).

(2) Helps patients and their family members learn about medical program activities and findings by distributing and explaining an annual report.

(3) Utilizes Marshallese public health educational materials and brochures.

(4) Augments Marshallese public health and educational materials where germane to the medical care being provided by the awardee (e.g., provision of handouts, brochures or videotapes for Marshallese use).

(5) Advises on the known relationships between radiation dose and health effects.

(c) Develop and implement a training program for Marshallese medical and

para-medical, and/or technical support professionals for the special medical care program that includes:

(1) A needs assessment as to the types and number of professionals (physicians, physician assistants, nurses, support service technicians).

(2) Recommendations on how to meet needs using the indigenous Marshallese population.

(3) Means to provide training and ''on-the-job'' practical experience in the Marshall Islands.

(4) Consideration of available regional educational resources to meet these objectives.

(d) Develop and implement a plan to build an infrastructure in the Marshall Islands with respect to:

(1) Partnerships with local health care providers.

(2) Facilitating the training of Marshallese professionals.

(3) Acquisition and use of medical equipment.

Development of Documentation

At the time the special medical program is implemented, the following will be required:

(a) Written protocol(s) and/or manuals describing procedures and associated forms to be used by the medical professionals for medical examinations, patient referrals, and overall administrative implementation of a special medical care program that includes:

(1) Identities, qualifications and biographies of medical or medical program experience for all persons providing medical, technical, nursing and administrative support services.

(2) The awardee's selection and qualification criteria for all personnel who will participate in or implement the program.

(3) Involvement of local Marshallese medical, health and support personnel, including:

(i) Participation of medical and other health care or technical professionals.

(ii) As applicable, selection and qualification criteria by which these personnel will be made eligible to participate.

(iii) Provision of bilingual Marshallese/English speaking individuals for adequate communication, translation and the interpretation of examination results and meaning between the patients and the care providers.

(4) Frequency and types of patient examinations.

(5) Method(s) of patient examinations and treatments that afford personal privacy.

(6) Method(s) by which patient informed consent and medical release will be obtained for any medical examination or treatment modality that ensures patient understanding in Marshallese.

(7) As applicable, method(s) by which a program physician will interface with existing medical care providers in the Republic of the Marshall Islands and the Pacific region and provide referrals as needed.

(8) Method(s) by which medical services will be provided to those patients (approximately 25) who habitually reside in the United States, such as other medical care insurance options in lieu of awardee provided medical services.

(9) Method(s) by which the program referring physician will consult with and remain continually cognizant of the medical condition and results of a patient referred to another medical professional or organization identified in items (7) or (8).

(10) Method(s) to inform all patients (or their designated guardians) in Marshallese of individual medical results and any additional followup actions necessary.

(11) Method(s) by which pharmaceuticals will be obtained, inventoried, managed and dispensed.

(12) Method(s) for retaining, storing, maintaining, or releasing (to honor a lawful request), patient tissue samples and specimens used for pathological classification of disease.

(13) Method(s) by which the awardee will implement the working programmatic relationships with any contractor or regional health care provider.

(b) An annual summary report (in English and Marshallese) on the following:

(1) Program activities, medical conditions and statistical analyses of the findings.

(2) Number of individuals remaining in the patient and comparison populations.

(3) The overall health of the two populations and the identification of any special risks to their health.

(4) Identification of all medical, nursing, technical practitioners and support personnel that performed provider services.

(5) Identification of patient related medical problems with recommendations for improvement or resolution.

(6) Progress made on strategic plan initiatives.

(7) Recommendations to improve programmatic functions.

(c) A strategic plan which proposes and details ways to:

(1) Achieve partnership and coordination with the RMI medical and health organizations.

(2) Evolve medical partnerships and coordinate awardee's resources, to the greatest extent possible, with local Marshallese or U.S. Federal resources, to:

(i) Strengthen local healthcare delivery.

(ii) Involve local personnel in medical activities.

(iii) Share new skills and technical knowledge.

(iv) Strengthen local land based assets such as radiologic, pathologic and laboratory support services.

(3) Maintain a cost effective medical program as the patient population ages and incurs greater needs for medical services.

(4) Use other local or regional health care and/or logistical support capabilities or services to supplement and maximize the above objectives conducted in the Marshall Islands.

(5) Use other clinical referral options outside the Marshall Islands.

Cost Reporting Requirements

(a) The awardee shall implement cost containment measures, maximization of financial savings, and negotiation of subcontracted services to maintain a high quality special medical care program in accordance with applicable medical care standards and DOE budgetary constraints. At a minimum, the cost reporting requirements that will be required under the cooperative agreement will include but not be limited to providing:

(1) Budget, financial and programmatic activity reports. The contents and formats are to be specified and revised as necessary by DOE.

(2) A monthly report of all program expenditures.

(3) Fiscal planning and budget information in the format prescribed by DOE.

(4) A separate itemized price list (detailing both direct and indirect costs) for all clinical medical examinations, treatments, services or supplies to conduct and implement the medical program for any anticipated medical referrals.

(5) A separate itemized price list for the direct and indirect medical program and non-clinical administrative and program management aspects, salaries, and supplies for the proposed support services.

(6) A separate itemized price list for any service that is anticipated to be subcontracted.

(7) A separate itemized price list for any capital equipment that must be

purchased to implement the medical program.

(8) The formula or estimated cost for each of the following non-priced listed items:

(i) Special DOE requests (e.g., record duplication, statistical analysis of medical findings, special topical reports in response to RMI or congressional inquiries).

(ii) Non-stocked medical or administrative items and supplies.

(iii) Cost of any other service or expense that the provider intends to charge but does not appear on a price list.

IV. Applications

This Notice of Availability of Funds and Request for Applications is issued pursuant to DOE regulations contained in 10 CFR part 602: Epidemiology and Other Health Studies Financial Assistance Program, as published in the **Federal Register** on January 31, 1995 (60 FR 5841). The Catalog of Federal Domestic Assistance number for 10 CFR part 602 is 81.108, and its solicitation control number is EOHSFAP 10 CFR part 602. 10 CFR 602 contains the specific requirements for applications, evaluation, and selection criteria. Only those applications following these specific criteria and forms will be considered. Application forms may be obtained at the address previously cited. Applications will be peer reviewed by evaluators apart from DOE employees and contractors as described under section 10 CFR 602.9(c), and submission of an application constitutes agreement that this is acceptable to the care provider(s) and the submitting organization.

V. Award Information and Application Format

A. General

The application shall contain two volumes, technical and cost. Technical Applications shall be no more than one hundred (100) pages in length; resumes of key personnel should be submitted as an appendix to the technical application and will not be counted against the page limit. Cost proposals have no page limit.

The cost proposal will be structured to include a five (5) year project period consisting of five one (1) year budget periods. A cooperative agreement will be awarded for the first budget year only and may be negotiated and renewed annually as continuation awards for up to four (4) additional years based on the availability of funds and the awardee's continuation application, which will be submitted not later than 120 days before the end of each budget period.

It is left to the applicant to determine how best to structure the proposal. However, the application shall include a detailed project description that discusses and demonstrates the applicant's ability to successfully conduct the RMI special medical care program in general, and to specifically perform the activities described in the draft project description in section III.B. including the technical and cost reporting requirements. The applications shall not merely offer to perform work in accordance with the draft project description but shall outline the actual work proposed as specifically as possible.

B. Specific Application Instructions

Applications must include the following information that:

(a) Demonstrates that the applicant has the experience and capability to plan, organize and manage the special medical care program.

(b) Demonstrates the competency of personnel and the adequacy of resources.

(c) Identifies technical and administrative staff, and detail their professional experience as well as their level of program involvement. In the event that any of the proposed personnel are not currently employed by the applicant, letters of commitment from those individuals shall be submitted.

(d) Itemizes the medical diagnostic or laboratory equipment that the applicant intends to use for this program, and how the applicant will integrate such equipment with the Government provided equipment listed in Appendix H.

(e) Specifies the location(s) where services will be obtained. The applicant is free to propose referral locations of its choosing within or outside of the Marshall Islands, provided that all services are made available to the entire patient population.

(f) Identifies the recommendations or standards to be used to satisfy the requirements of section III.B., paragraph (f) and any reason for exception(s) taken by the applicant to those standards.

(g) Contains initial concepts for the training program development requirements of paragraph (c) under *Direct Marshallese Involvement.*

(h) Contains initial concepts for the development and implementation of the applicant's plan to meet the Marshall Islands infrastructure requirements of paragraph (d) under *Direct Marshallese Involvement.*

(i) Contains a short-term plan detailing milestones and deadlines stating:

(1) Applicant's requirements for a transition phase with BNL.

(2) When independence will be achieved to implement all aspects of the medical program.

(j) Contains initial concepts for the strategic plan required by paragraph (c) under *Development of Documentation*, that includes milestones and deadlines for implementation.

(k) Provides a cost proposal for the first budget period year (year 1) detailing expenses associated with the following:

(1) The clinical medical aspects of implementing the special medical program.

(2) All non-medical administrative staff functions to implement the special medical program.

(3) The logistical support of the special medical program and services in the Marshall Islands.

(4) The transportation of patients within or outside the Marshall Islands.

(5) The use of any current DOE contractor.

(6) The use of any other alternative instead of the existing DOE contractors to provide any of the required services for any of the budget years.

(l) Contains estimated cost information supporting the applicant's project description for budget years 2 through 5.

VI. Application Review and Evaluation Criteria

Formal applications will be subjected to formal merit review (peer review) and will be evaluated against the following criteria, in descending order and codified at 10 CFR 602.9:

(a) The medical and technical merit of the proposed special medical program.

(b) The appropriateness of the proposed program.

(c) Competency of the program personnel and adequacy of proposed resources.

(d) Reasonableness and appropriateness of the proposed budget.

Formal applications will be peer reviewed by evaluators apart from DOE employees and contractors as described in the EH Merit Review System (57 FR 55524, November 25, 1992) and at 10 CFR 602.9. Submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

VII. DOE's Role

In order for DOE to utilize a cooperative agreement for this medical program, there must be substantial involvement between DOE and any awardee(s). DOE established the core requirements for this program and

prepared this Notice of Availability of Funds and Request for Applications. DOE will conduct the selection and award process, which will include evaluations by persons outside the Federal Government. DOE will utilize the results of these evaluations and make one initial award. Continuation awards may be made based upon the availability of funds and other DOE performance criteria that will be set forth in any initial award. DOE will consult with program medical professionals and coordinate joint provider(s) and Marshallese community meetings. DOE will consult with representatives from the RMI national and local governments, the Department of the Interior, the Department of State and the Department of Health and Human Services on the medical program.

Finally, DOE will monitor and evaluate the performance and delivery of the medical program by conducting program reviews and the patients' level of satisfaction to determine adequacy of program delivery.

VIII. Applicants

Applicants for the cooperative agreements could include domestic or international nonprofit and for profit organizations, universities, medical centers, state or local government health care organizations, labor unions and other employee representative groups, small, minority and/or women-owned businesses or other domestic or international health care organizations. Consortiums of interested organizations are encouraged to apply. Awardee(s) for the medical program will work cooperatively with Marshallese health care providers, current DOE contractors (as applicable), other regional health care providers and designated Marshallese community representatives.

Issued in Washington, DC, on May 22, 1997.

Paul J. Seligman,

Deputy Assistant Secretary for Health Studies.

Appendix A—Definition of Radiation Related Disease, Illness or Injury

For the purposes of this program, applicants shall consider the following to be radiation related diseases, illness or injury:

(a) Any thyroid cancer, other tumor or thyroid nodule that has been found as a result of medical evaluation.

(b) In accordance with Public Law 101–426, ''Radiation Exposure Compensation Act'' (October 15, 1990), the following are considered latently expressed diseases attributed to radiation:

(1) Leukemia (other than chronic lymphocytic leukemia).

And the following diseases, provided onset was at least 5 years after the first exposure to radiation:

(2) Multiple myeloma.

(3) Lymphomas, other than Hodgkin's disease.

(4) Primary cancer of the thyroid, provided that the initial exposure occurred by age 20.

(5) Primary cancer of the female breast, provided that the initial exposure occurred prior to age 40.

(6) Primary cancer of the esophagus, provided low alcohol consumption and not a heavy smoker.

(7) Primary cancer of the stomach.

(8) Primary cancer of the pharynx, provided not a heavy smoker.

(9) Primary cancer of the small intestine.

(10) Primary cancer of the pancreas.

(11) Primary cancer of the bile ducts.

(12) Primary cancer of the gall bladder.

(13) Primary cancer of the liver, except if cirrhosis or hepatitis B is indicated.

Appendix B—RMI Medical Program Information:

Available RMI Medical Facilities and Services for DOE patients:

(a) Local dispensaries at Utirik and Mejatto provide limited medicine and first aid, and are staffed by medical personnel with MEDEX level training and experience (i.e., between a regional nurse and nurse-practitioner). Short-wave radio communications are maintained between the dispensaries and the off-island medical health care providers (up to 300 miles distant) to discuss serious medical conditions.

(b) A small 34 bed community hospital is available with limited capabilities in a community of 12,000 living on Ebeye (an island of approximately 4 square miles located 2 miles from Kwajalein island where the U.S. Army contractor-operated hospital facility that serves the base personnel is located).

(c) A 75 bed hospital is available with limited capabilities to serve 29,000 living on the capital island of Majuro. This hospital also receives referrals from the entire national population of 60,000.

Appendix C—Bechtel Nevada Corporation Medical Support Capabilities

(a) Provides all logistics to transport and support medical program personnel to the Marshall Islands twice a year, which is currently limited to travel, lodging and per diem costs west of Honolulu.

(b) Provides all logistics to transport and support ambulatory patients and their authorized medical escorts to medical facilities at Kwajalein.

(c) Provides all logistics to transport medical personnel for subsidiary home visits to non-ambulatory infirm patients at Mejatto, Ebeye, Utirik and Majuro.

(d) Provides transportation and support to RMI medical personnel assigned to participate in the DOE special medical program.

(e) Operates and provides all logistics and support services for patients referred to the Straub Hospital and Clinic located in Honolulu, Hawaii by Brookhaven National Laboratory. The services provided include:

(1) Bilingual Marshallese/English speaking escorts to accompany patients.

(2) Coordination of patient travel and medical appointment schedules.

(3) Lodging and per diem arrangements and expenses.

(4) Coordination between Brookhaven National Laboratory and the Straub Hospital and Clinic on medical services, as required.

(f) Conducts market research on the availability of marine assets in the U.S. and Central Pacific Area to support a limited, sea-based medical program.

(g) Issues and monitors the Straub Hospital and Clinic medical services subcontract.

(h) Administers and manages the DOE's interagency agreements with the U.S. Army at Kwajalein and Hickam Air Force Base at Honolulu.

(i) Implements terms and conditions, including the making of payments and collections under DOE's agreements with other agencies, and instrumentalities of the RMI.

(j) Implements requirements as directed by DOE during the course of the year.

(l) Interfaces and coordinates with the U.S. Army at Kwajalein to provide the following in accordance with a Memorandum of Understanding between DOE and the U.S. Army:

(1) Marine craft (currently a LCU) used to transport patients to and from Mejatto.

(2) Hospital services as delineated in Appendix E.

(3) Trailer rentals for medical use (currently 2, each 660 square feet).

(4) Housing, lodging and dining facilities for patients and medical team members.

(5) Maintenance of facilities and equipment.

(6) Aircraft services limited to within Kwajalein Atoll at no cost.

(7) Automotive services used to transport patients at Kwajalein.

(8) Recreational services for medical team use.

(9) Public services used to announce medical team activities at Kwajalein.

(10) Ferry services between Kwajalein and Ebeye at no cost.

Appendix D—Services Provided by the Straub Hospital and Clinic Located in Honolulu, Hawaii

(a) Complete and comprehensive medical services for DOE patients that have radiation-related diseases.

(b) Refers diseases diagnosed as non radiation-related back to the 177 HCP.

(c) Provides certified and accredited medical personnel.

(d) Provides price list as basis for charges.

Note: Straub Hospital and Clinic is accredited by the Joint Commission for Accreditation of Hospital and Health Care Organizations.

Appendix E—Medical Services Provided by U.S. Army Hospital at Kwajalein in the RMI

In accordance with a Memorandum of Understanding between DOE and the U.S.

Army, the following medical services are provided at the U.S. Army Hospital in Kwajalein:

(a) Laboratory Services
(b) Mammography Screening
(c) X-ray Screening
(d) Proctosigmoidoscopy
(e) Limited Surgery (e.g., appendectomy, amputations for advanced diabetic conditions)
(f) Professional Services (physicians, nurses, technicians)
(g) Safety inspection and certification of mammography and x-ray equipment by Trippler Army hospital technical staff
(h) Inpatient care and treatment

Note: Brookhaven National Laboratory is responsible to ensure that proper and current certification for the special medical equipment and services are in place prior to receiving services.

Appendix F—DOE Medical Program Information

1. Summary of Clinical Findings

After 41 years of medical monitoring, the most prevalent health effect has been related to thyroid function and the appearance of thyroid-related nodules and cancer. There has been one case and death due to radiation-related leukemia, two pituitary tumors and two cases of basal cell carcinoma. The major non radiation-related diseases seen in the Rongelap and Utirik people have been Type II diabetes, hypertension, cardiovascular diseases, and their associated complications.

The above information has been summarized from the report entitled, ''Medical Status of Marshallese Accidentally Exposed to 1954 Bravo Fallout Radiation; January 1988 Through December 1991'', by Brookhaven National Laboratory/Department of Energy, DOE/EH0493 and BNL–52470, July 1995.

2. Patient Population Description

Age range	Male	Female
30–39	1	1
40–49	57	59
50–59	28	35
60–69	15	19
70–79	8	12
80+	1	2

3. Summary of Patient Location

Patients in the Rongelap and Utirik populations are combined in the table below and represent approximate estimates of total patients in each location:

Location	Female	Male	Total
Ailinglaplap	1	1	2
Ailingnae	2	0	2
Arno	1	0	1
Ebeye	40	33	73
Hawaii	9	4	13
Kili	1	0	1
Lib	1	0	1
Mainland USA	4	2	6
Majuro	41	46	87
Mejatto	19	12	31
Mejit	1	1	2
Ujae	1	1	2
Unknown	1	0	1
Utirik	6	8	14
Wotje	1	1	2
Total	129	109	238

Appendix G—The RMI 177 Health Care Program (HCP)

(a) Currently implements DOE patient care in absence of Brookhaven National Laboratory.

(b) Provides all non radiation-related care of DOE patients.

(c) Provides general medical care for the people of Rongelap, Utirik, Enewetak and Bikini. Serves a total population of approximately 10,600 (which includes the 238 DOE patients).

(d) Refers its non-DOE patients to the Queen's Medical Center and Group in Honolulu, Hawaii. Current services provided to the 177 HCP by Brookhaven National Laboratory:

(a) Assists and provides consultations to 177 HCP medical personnel for non-DOE patients.

(b) Provides access to DOE patient medical records. Current services provided to the 177 HCP by Bechtel Nevada Corporation:

(a) Utilization of DOE mission aircraft and sea charters when possible.

(b) Facilitates entry and exit clearances for 177 HCP staff at Kwajalein.

Appendix H—DOE Equipment Used by Brookhaven National Laboratory

(a) Johnson & Johnson, Ektachem DT60 II–DTSC II Module Chemistry Analyzer, K-Number 339 4116, Serial Number 60029378
(b) Kodak-Ektachem DT60 DTSC Module Chemistry Analyzer, K-Number 337 0137
(c) Ektachem DT60 Module Chemistry Analyzer, K-Number 322 1695
(d) Calposcope
(e) Ultramark 4 Plus with transducers
(f) Nikon Microscope
(g) Sereno Baker 9118c Blood Analyzer Machine
(h) Ektachem DT60II System
(i) Biorad Micromat Model 415
(j) Beckman TJ6 Centrifuge
(k) Portable defibrillator
(l) Hoag-Streit Slip Lamp system
(m) Sun computer workstation

[FR Doc. 97–14027 Filed 5–28–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, June 5, 1997 6:00 p.m.—9:30 p.m.

ADDRESSES: Westminster City Hall (Lower-level Multi-purpose Room), 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

(1) The Board will discuss a proposed recommendation on radioactive waste transportation issues. The proposal addresses issues related to the transportation of radioactive materials from Rocky Flats and other Department of Energy sites through Colorado to the Waste Isolation Pilot Plant outside Carlsbad, New Mexico. Specific recommendation issues include evaluating rail transportation options, escorts for shipments, testing of transportation containers, emergency medical training, terrorism plans, and accident reporting.

(2) Board members will hear a presentation regarding a proposal to designate two temporary storage areas at Rocky Flats for wastes produced by cleanup activities—one for containerized wastes and one for bulk storage.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public

comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC, on May 22, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–14031 Filed 5–28–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–307–002]

ANR Pipeline Company; Notice of Filing

May 22, 1997.

Take notice that on May 15, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheet to become effective May 2, 1997:

Substitute Fifth Revised Sheet No. 15

ANR states that the filing reflects the revisions to a pending tariff sheet in the captioned dockets which revisions were necessitated by compliance filing made on May 15, 1997, at Docket No. RP97–307–000.

ANR states that a copy of this filing was mailed to its Original Volume No. 2 customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the 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. 97–13988 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–527–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Request Under Blanket Authorization

May 22, 1997.

Take notice that on May 16, 1997, Great Lakes Gas Transmission Limited Partnership (Great Lakes), One Woodward Avenue, Suite 1600, Detroit, Michigan 48226, filed in Docket No. CP97–527–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a dual line tap in Clearwater County, Minnesota, under its blanket certificate issued in Docket No. CP90–2053–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Great Lakes proposes to construct and operate a dual 4-inch line tap and associated piping so as to interconnect its mainline and loopline with a meter station to be owned by the City of Clearbrook, Minnesota in Clearwater County, Minnesota and to be constructed and operated on its behalf by Northern States Power.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is file and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13984 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2935]

GTXL, Inc.; Notice of Existing Licensee's Failure to File Notice of Intent to File a Subsequent License Application

May 22, 1997.

By September 30, 1996, GTXL, Inc., the existing licensee for the Enterprise Project No. 2935 was required to file a notice of intent to file an application for a subsequent license. The existing license for Project No. 2935 expires on September 30, 2001.

The 1,200-kilowatt project is located on the Augusta Canal of the Savannah River in the City of Augusta, Richmond County, Georgia. The principal project works consist of: (1) Intake works, including two diversion gates and trash racks; (2) two 300-foot-long, 8-foot-diameter penstocks; (3) a powerhouse containing two 600-kilowatt generating units; (4) a 350-foot-long underground tailrace; (5) a 500-foot-long, 16-foot-wide, and 10-foot-deep open tailrace; and (6) appurtenant facilities.

Pursuant to Section 16.19(b) of the Commission's regulations, an existing licensee with a minor license or a license for a minor part of a hydroelectric project must file a notice of intent pursuant to Section 16.6(b).

Pursuant to Section 16.6(b) of the Commission's regulations, in order to notify the Commission whether or not a licensee intends to file an application for new license, the licensee must file with the Commission a letter, that contains * * * an unequivocal statement of the licensee's intention to file or not to file an application for a new license.

GTXL, Inc. has not filed a notice of intent to file an application for a subsequent license for this project.

Pursuant to Section 16.23(b) of the Commission's regulations, an existing licensee of a water power project * * * that fails to file a notice of intent pursuant to Section 16.6(b) shall not deemed to have filed a notice of intent

indicating that it does not intend to file an application for subsequent license.

Pursuant to Section 16.20 of the Commission's regulations, applications for subsequent license (except from the existing licensee which is prohibited from filing) must be filed with the Commission at least 24 months prior to the expiration of the existing license. Applications for license for this project must be filed by September 29, 1999. Questions concerning this notice should be directed to William Guey-Lee at (202) 219–2808.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13986 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–370–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 22, 1997.

Take notice that on May 19, 1997, Kock Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to become effective June 19, 1997:

Nineteenth Revised Sheet No. 20

Koch states that this tariff sheet is being filed to reflect a minor typographical correction to its Fifth Revised Volume No. 1 FERC Gas Tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First 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 must be filed as provided by Section 154.210 of the Commission's Regulations. 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. 97–13989 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–367–000]

Northwest Pipeline Corporation; Notice of Informal Settlement Conference

May 22, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on May 29, 1997 and May 30, 1997 at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact William J. Collins at (202) 208–0248 or Edith A. Gilmore at (202) 208–2158.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13987 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–248–004]

Portland Natural Gas Transmission System; Notice of Amendment to Application for Authorization To Operate Border Facilities and for Presidential Permit

May 22, 1997.

Take notice that on May 19, 1997, Portland Natural Gas Transmission System (PNGTS), 30 Monument Square, Concord, Massachusetts 01742, filed an amendment to its application filed pursuant to Section 3 of the Natural Gas Act, Sections 153.10 through 153.12 of the Commission's Regulations, and Executive Order No. 10485, as amended by Executive Order No. 12038 and Secretary of Energy Delegation Order No. 0204–112, for Section 3 authorization and a Presidential Permit to site, construct, operate and maintain pipeline facilities at the United States-Canada International Boundary, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, PNGTS now seeks authorization to site, construct, operate and maintain approximately 750 feet of 24-inch diameter pipeline in the town of Pittsburg, New Hampshire, commencing at the United States-Canada border and ending at a valve assembly. Previously, PNGTS has proposed to construct approximately 500 feet of either 20-inch or 24-inch diameter pipeline at the same location, extending from the border to a proposed joint or bend in the pipeline. In addition, PNGTS now proposes to interconnect at the border with TransQuebec & Maritimes Pipeline Inc. (TQM). Previously, PNGTS has proposed to interconnect with TransCanada Pipelines Limited TransCanada). However, on April 30, 1997, TransCanada formally requested TQM to provide the necessary transportation service for delivery into PNGTS.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1997, file with the Federal Energy Regulatory Commission, 888 First St., NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for PNGTS to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13981 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–521–000]

Texas Gas Transmission Corporation; Notice of Application

May 22, 1997.

Take notice that on May 14, 1997, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 20008, Owensboro, Kentucky 42301, filed an abbreviated application in Docket No. CP97–521–000 pursuant to section 7 of the Natural Gas Act, and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity and request for abandonment authority in order for Texas Gas to replace four existing engines at its Slaughters, Kentucky Compressor Station with two new engines, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas proposes to abandon by removal four Ingersoll-Rand 123KVG engines rated at 1,320 horsepower each, and replace those engines by installing two Dresser-Rand TLAD–6 engines rated at 2,530 horsepower each. Although the total rated horsepower is slightly lower, Texas Gas states that the new Dresser-Rand engines have ambient capabilities that will allow them to achieve the existing horsepower levels.

Texas Gas states that such a project would normally qualify for the exemption from Section 7(c) authority provided under Section 2.55(b) of the Commission's regulations. However, due to the fact that there will be an incidental amount of additional winter-only capacity created on portions of Texas Gas's system due to the ambient temperature capability of the two new engines and the fact that additional property was acquired by Texas Gas in order to accommodate the replacement of the affected horsepower, Texas Gas is requesting Section 7 authority for the project.

Texas Gas states that the costs associated with the installation of the two new Dresser-Rand engines is approximately $11,800,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13983 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1864–005]

Upper Peninsula Power Company; Notice of Meeting To Discuss Settlement Issues

May 22, 1997.

On June 5, 1997, at 9:00 a.m. Central Daylight Time, Commission staff from the Office of Hydropower Licensing will attend a settlement meeting for the proposed relicensing of the Bond Falls Hydroelectric Project. The meeting will be held in the Sylvania Visitor Center in Watersmeet, MI.

This hydropower project is located on major branches of the Ontonagon River, a tributary of western Lake Superior, in Ontonagon and Gogebic counties of the upper peninsula of Michigan, and Vilas County in northern Wisconsin.

The purpose of this meeting is to discuss the water budget modeling of various options before the settlement team. This meeting will provide an opportunity for the settlement team and others that may attend this meeting to fully understand the water budget modeling, but will not serve as a forum to debate the merits of the settlement process.

For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13985 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2426–000]

UtiliSys Corporation; Notice of Issuance of Order

May 23, 1997.

UtiliSys Corporation (UtiliSys) submitted for filing a rate schedule under which UtiliSys will engage in wholesale electric power and energy transactions as a marketer. UtiliSys also requested waiver of various Commission regulations. In particular, UtiliSys requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by UtiliSys.

On May 13, 1997, 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 UtiliSys should filed a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First 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).

Absent a request for hearing within this period, UtiliSys is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, 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 UtiliSys' 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 12, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary

[FR Doc. 97–14032 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2743–000]

Washington Water Power Company; Notice of Filing

May 22, 1997.

Take notice that on April 30, 1997, Washington Water Power Company tendered for filing its reports on activity for the quarter ending March 31, 1997.

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, 888 First 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 3, 1997. 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 Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13980 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–520–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

May 22, 1997.

Take notice that on May 14, 1997, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP97–520–000, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (NGA) for authorization to install a tap and associated facilities for the delivery of gas to AFG Industries, Inc. (AFG), in Johnson County, Kansas, under the authorization issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that the projected volumes are 1,460,000 Dth with a peak day volume of 4,800 Dth and the estimated cost is $118,013. Further, this proposal is not detrimental to other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13982 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2275–000, et al.]

Virginia Electric and Power Company, et al.; Electric Rate and Corporate Regulation Filings

May 22, 1997.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. ER97–2275–000]

Take notice that on May 5, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing a revised refund report in the above-referenced docket.

Copies of the filing were served upon USGen Power Services, L.P., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. JEB Corporation; American Power Exchange, Inc.; Gulfstream Energy, LLC; Lambda Energy Marketing Company; J. Aron & Company; Kohler Company; Indeck-Pepperell Power Associates, Inc.

[Docket Nos. ER94–1432–010, ER94–1578–009, ER94–1597–009, ER94–1672–009, ER95–34–010, ER95–1018–003, ER96–1635–003 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On January 30, 1997, JEB Corporation filed certain information as required by the Commission's September 8, 1994, order in Docket No. ER94–1432–000.

On January 13, 1997, American Power Exchange, Inc. filed certain information as required by the Commission's October 19, 1994, order in Docket No. ER94–1578–000.

On January 8, 1997, Gulfstream Energy, LLC filed certain information as required by the Commission's November 21, 1994, order in Docket No. ER94–1597–000.

On January 22, 1997, Lambda Energy Marketing Company filed certain information as required by the Commission's December 28, 1994, order in Docket No. ER94–1672–000.

On January 21, 1997, J. Aron & Company filed certain information as

required by the Commission's March 1, 1995, order in Docket No. ER95–34–000.

On April 28, 1997, Indeck-Pepperell Power Associates, Inc. filed certain information as required by the Commission's July 15, 1996, order in Docket No. ER96–1635–000.

On January 22, 1997, Kohler Company filed certain information as required by the Commission's August 4, 1995, order in Docket No. ER95–1018–000.

3. Pennsylvania Power & Light Company

[Docket No. ER97–2860–000]

Take notice that on May 5, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated May 2, 1997 with The Detroit Edison Company (Detroit Edison) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds Detroit Edison as an eligible customer under the Tariff.

PP&L requests an effective date of May 5, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Detroit Edison and to the Pennsylvania Public Utility Commission.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Union Electric Company

[Docket No. ER97–2861–000]

Take notice that on May 5, 1997, Union Electric Company (UE), tendered for filing a Notice of Cancellation of UE's FERC Rate Schedule No. 157 between UE and Noram Energy Services Inc. (NORAM).

UE requests that this cancellation become effective August 1, 1997.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Union Electric Company

[Docket No. ER97–2862–000]

Take notice that on May 5, 1997, Union Electric Company (UE), tendered for filing a Notice of Cancellation of UE's FERC Rate Schedule No. 160 between UE and AES Power, Incorporated (AES).

UE requests that this cancellation become effective August 1, 1997.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Penobscot Bay Energy Company, L.L.C.

[Docket No. ER97–2875–000]

Take notice that on May 6, 1997, Penobscot Bay Energy Company, L.L.C. (Penobscot Bay), tendered for filing Electric Service Rate Schedule No. 1, together with a petition for waivers and blanket approvals of various Commission regulations necessary for such Rate Schedule to become effective 60 days after the date of filing.

Penobscot Bay states that it intends to engage in electric power and energy transactions as a marketer and a broker, and that it proposes to make sales under rates, terms and conditions to be mutually agreed to with the purchasing party. Penobscot Bay further states that it does not own any generation or transmission facilities.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER97–2876–000]

Take notice that on May 7, 1997, Louisville Gas and Electric Company, tendered for filing copies of a Service Agreement between Louisville Gas and Electric Company and Stand Energy Corp. under Rate GSS.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER97–2877–000]

Take notice that on May 7, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreement to provide Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Noram Energy Services (Noram).

A copy of this filing has been served on Noram and the Arizona Corporation Commission.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Delmarva Power & Light Company and Pennsylvania Power & Light Co.

[Docket No. ER97–2878–000]

Take notice that on May 7, 1997, Delmarva Power & Light Company on behalf of itself and Pennsylvania Power & Light Company tendered for filing a System Capacity Agreement with Old Dominion Electric Cooperative. The parties request a July 1, 1997 effective date for the Agreement.

The transmittal letter states that copies of the submittal have been served on the retail regulatory agencies in the states of Delaware and Maryland and the Commonwealths of Pennsylvania and Virginia.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Pennsylvania Power & Light Co.

[Docket No. ER97–2879–000]

Take Notice that on May 7, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated April 25, 1997 with The Power Company of America, L.P. (PCA) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds PCA as an eligible customer under the Tariff.

PP&L requests an effective date of May 7, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to PCA and to the Pennsylvania Public Utility Commission.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Southern Indiana Gas and Electric Company

[Docket No. ER97–2880–000]

Take notice that on May 7, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing four (4) service agreements for non-firm transmission service under Part II of its Transmission Services Tariff with the following entities:

1. Carolina Power & Light
2. New York State Electric & Gas Corporation
3. PacifiCorp Power Marketing, Inc.
4. Delhi Energy Services, Inc.

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: June 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Union Electric Company

[Docket No. ER97–2859–000]

Take notice that on May 5, 1997, Union Electric Company (UE), tendered for filing a Notice of cancellation of UE's FERC Rate Schedule No. 153 between UE and Enron Power Marketing, Incorporated.

UE requests that this cancellation become effective August 1, 1997.

Comment date: June 5, 1997, 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, 888 First 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. 97–14030 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2696–000, et al.]

Wisconsin Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

May 21, 1997.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Electric Power Company

[Docket No. ER97–2696–000]

Take notice that on May 9, 1997, Wisconsin Electric Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Duquesne Light Company

[Docket No. ER97–2839–000]

Take notice that on May 5, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated April 30, 1997 with Dayton Power and Light Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Dayton Power and Light Company as a customer under the Tariff. DLC requests an effective date of April 30, 1997 for the Service Agreement.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Duquesne Light Company

[Docket No. ER97–2840–000]

Take notice that on May 5, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated April 30, 1997 with Louisville Gas and Electric Company under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Louisville Gas and Electric Company as a customer under the Tariff. DLC requests an effective date of April 30, 1997 for the Service Agreement.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Duquesne Light Company

[Docket No. ER97–2841–000]

Take notice that on May 5, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated April 30, 1997 with Louisville Gas and Electric Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Louisville Gas and Electric Company as a customer under the Tariff. DLC requests an effective date of April 30, 1997 for the Service Agreement.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. PECO Energy Company

[Docket No. ER97–2842–000]

Take notice that on May 5, 1997, PECO Energy Company (PECO) filed an executed Service Agreement dated February 26, 1997 with Seminole Electric Cooperative, Inc. (SECI) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement replaces an unexecuted Service Agreement accepted for filing in Docket No. ER97–316–000.

PECO requests an effective date of January 1, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to SECI and to the Pennsylvania Public Utility Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER97–2843–000]

Take notice that on May 5, 1997, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Delhi Energy Services, Inc. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Duquesne Light Company

[Docket No. ER97–2844–000]

Take notice that on May 5, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated March 26, 1997 with Atlantic City Electric Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Atlantic City Electric Company as a customer under the Tariff. DLC requests an effective date of April 30, 1997 for the Service Agreement.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Duquesne Light Company

[Docket No. ER97–2845–000]

Take notice that on May 5, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated April 30, 1997 with Cinergy under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Cinergy as a customer under the Tariff. DLC requests an effective date of April 30, 1997 for the Service Agreement.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. The Washington Water Power Company

[Docket No. ER97–2847–000]

Take notice that on May 5, 1997, The Washington Water Power Company, tendered for filing Amendment No. 1 to the Northwest Power Pool Agreement dated December 22, 1995 and amended November 13, 1996 (the Agreement).

A copy of this filing has been mailed to each of the members of the Northwest Power Pool Agreement.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER97–2848–000]

Take notice that on May 5, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and a service agreement for one new customer.

CILCO requested an effective date of May 15, 1997.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. South Carolina Electric & Gas Company

[Docket No. ER97–2849–000]

Take notice that on May 5, 1997, South Carolina Electric & Gas Company (SCE&G), submitted a service agreement establishing Aquila Power Corporation (APC) as a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon APC and the South Carolina Public Service Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Rochester Gas and Electric Corporation

[Docket No. ER97–2850–000]

Take notice that on May 5, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the PacifiCorp Power Marketing, Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of April 29, 1997 for the PacifiCorp Power Marketing, Inc., Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Interstate Power Company

[Docket No. ER97–2851–000]

Take notice that on May 5, 1997, Interstate Power Company (IPW), tendered for filing a Network Transmission Service and Operating Agreement between IPW and Wisconsin Power and Light (WPL). Under the Service Agreement, IPW will provide Network Integration Transmission Service to WPL for the City of Albany.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Peco Energy Company

[Docket No. ER97–2852–000]

Take notice that on May 5, 1997, PECO Energy Company (PECO), filed a Service Agreement dated April 23, 1997 with Ontario-Hydro (HYDRO) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds HYDRO as a customer under the Tariff.

PECO requests an effective date of April 23, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to HYDRO and to the Pennsylvania Public Utility Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Central Illinois Public Service Company

[Docket No. ER97–2853–000]

Take notice that on May 5, 1997, Central Illinois Public Service Company (CIPS), submitted a service agreement, dated April 28, 1997, establishing Wisconsin Public Service Corporation as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of April 28, 1997 for the service agreement. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Wisconsin Public Service Corporation and the Illinois Commerce Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Puget Sound Energy, Inc.

[Docket No. ER97–2854–000]

Take notice that on May 5, 1997, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) with Idaho Power Company (Idaho), as Transmission Customer. A copy of the filing was served upon Idaho.

The Service Agreement is for firm point-to-point transmission service.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Minnesota Power & Light Company

[Docket No. ER97–2855–000]

Take notice that on May 5, 1997, Minnesota Power & Light Company, tendered for filing a signed Service Agreement with Consumers Power Company and The Detroit Edison Company, collectively referred to as ''Michigan Companies'' under its Non-Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Minnesota Power & Light Company

[Docket No. ER97–2856–000]

Take notice that on May 5, 1997, Minnesota Power & Light Company (Minnesota Power), tendered for filing a signed Service Agreement with Northern States Power Company under its Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Union Electric Company

[Docket No. ER97–2858–000]

Take notice that on May 5, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between UE and PacifiCorp Power Marketing, Inc., Valero Power Services Company and Virginia Electric and Power Co. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER97–2863–000]

Take notice that on May 6, 1997, Commonwealth Edison Company (ComEd) submitted for filing Service Agreements, establishing Consolidated Edison Company of New York (Consolidated), EnerZ Corporation (EnerZ), Southern Minnesota Municipal Power Agency (SMMP), and CMS Marketing, Services and Trading Company (CMS), as customers under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT–1 (PSRT–1 Tariff). The Commission has previously designated the PSRT–1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd requests an effective date of May 6, 1997, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Consolidated, EnerZ, SMMP, CMS, and the Illinois Commerce Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Virginia Electric and Power Company

[Docket No. ER97–2864–000]

Take notice that on May 6, 1997, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement between Virginia Electric and Power Company and the Detroit Edison Company under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to The Detroit Edison Company under the rates, terms and conditions of the Power Sales Tariff

as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the Michigan Public Service Commission.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Entergy Power Marketing, Corp.

[Docket No. ER97–2865–000]

Take notice that on May 6, 1997, Entergy Power Marketing Corp. (Entergy Power Marketing) tendered for filing an executed service agreement between Entergy Power Marketing and Sam Rayburn Municipal Power Agency pursuant to Entergy Power Marketing's FERC Rate Schedule 1.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Wisconsin Electric Power Company

[Docket No. ER97–2866–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on May 6, 1997, tendered for filing a temporary revision to the Emergency Energy Service Schedule of its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). The revision would allow the cost of Wisconsin Electric's retail curtailable service option to be recovered in its provision of Emergency Energy to members of the Mid America Interconnected Network (MAIN). According to Wisconsin Electric, the modification to the Emergency Energy service schedule is in response to the power supply challenge faced by Wisconsin utilities in the summer of 1997.

Wisconsin Electric respectfully requests an effective date of May 15, 1997. Wisconsin Electric is also requesting that the revision be terminated effective September 30, 1997. The conventional definition of ''out-of-pocket cost'' would then be restored. Because of the extraordinary nature of the power supply situation in the Wisconsin-Illinois region, Wisconsin Electric seeks waiver of the Commission's advance notice requirements to permit timely implementation of this rate change.

Copies of the filing have been served on members of MAIN, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. The Alternative Current Power Group (d.b.a. The AC Power Group)

[Docket No. ER97–2867–000]

Take notice that on May 6, 1997, The Alternative Current Power Group, (d.b.a. The AC Power Group) petitioned the Commission for acceptance of The AC Power Group Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

The AC Power Group intends to engage in wholesale electric power and energy purchases and sales as a marketer. The AC Power Group is 100% owned and controlled by a sole proprietor, Bruce L. Meador, Jr. of Dallas, TX.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Northern Indiana Public Service Company

[Docket No. ER97–2868–000]

Take notice that on May 6, 1997, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Duke/Louis Dreyfus L.L.C.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Duke/Louis Dreyfus L.L.C. pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of April 23, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Central Hudson Enterprise Corporation

[Docket No. ER97–2869–000]

Take notice that on May 6, 1997, Central Hudson Enterprise Corporation (CHEC) 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 at the earliest possible time, but no later than 60 days from the date of its filing.

CHEC intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where CHEC sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. As outlined in the petition, CHEC is an affiliate of Central Hudson Gas & Electric Corporation, which filed an application for market-based rate authority on the same date as CHEC.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Interstate Power Company

[Docket No. ER97–2870–000]

Take notice that on May 6, 1997, Interstate Power Company (IPW) tendered for filing Amendment No. 6 to the Electric Service Agreement between IPW and the Municipal Light and Water Department Board of Trustees of the City of Bellevue. This amendment provides for minor revisions in billing specifications to reflect changes in operating conditions.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Interstate Power Company

[Docket No. ER97–2871–000]

Take notice that on May 6, 1997, Interstate Power Company (IPW) tendered for filing a Transmission Service Agreement between IPW and Morgan Stanley Capital Group Inc. (MS Capital). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to MS Capital.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Central Hudson Gas & Electric Corporation

[Docket No. ER97–2872–000]

Take notice that on May 6, 1997, Central Hudson Gas & Electric Corporation (CHG&E) 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 Market-Based Rate Schedule to be effective at the earliest possible time, but no later than 60 days from the date of its filing.

CHG&E intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where CHG&E sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. As outlined in the petition, CHG&E is an affiliate of Central Hudson Enterprise Corporation, which filed an application for market-based rate authority on the same date as CHG&E.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. PacifiCorp

[Docket No. ER97–2873–000]

Take notice that PacifiCorp on May 6, 1997, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Non-Firm Transmission Service Agreements with Amoco Energy Trading Corporation, PanEnergy Trading and Market Services, L.L.C. and USGen Power Services, L.P. under PacifiCorp's FERC Electric Tariff, Original Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: June 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. NP Energy Inc.

[Docket No. ER97–2874–000]

Take notice that on May 6, 1997, NP Energy Inc. (NP Energy) tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) indicating that NP Energy's application for membership in WSPP had been accepted. NP Energy requests that the Commission amend the WSPP Agreement to include it as a member.

NP Energy request an effective date of May 6, 1997 for the proposed amendment. Accordingly, NP Energy requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the WSPP Executive Committee and its General Counsel.

Comment date: June 4, 1997, 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, 888 First 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 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. 97–13979 Filed 5–28–97; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Asset Marketing Survey—Loans and Real Estate.''

DATES: Comments must be submitted on or before July 28, 1997.

ADDRESSES: Interested parties are invited to submit written comments to Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Asset Marketing Survey—Loans and Real Estate.'' Comments may be hand-delivered to Room F–400, 1776 F Street, N.W. Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Steven F. Hanft, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Asset Marketing Survey—Loans and Real Estate.

OMB Number: 3064–0089.

Frequency of Response: Occasional.

Affected Public: Prospective investors interested in loan portfolios and real estate available for sale by the FDIC.

Estimated Number of Respondents: 1,900.

Estimated Time per Response: 25 hours.

Estimated Total Annual Burden: 450 hours.

General Description of Collection: The collection consists of Forms FDIC 7240/01 and 7240/03 which are used to collect information on investor interest in loans and real estate. The two forms permit local, regional and national investors to identify the types of loans or real estate they want to purchase from the FDIC, the size of loan portfolios they will consider, and the locations which meet their interests.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 22nd day of May, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–14005 Filed 5–28–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Procedures for monitoring Bank Protection Act compliance.

Form Number: None.

OMB Number: 3064–0095.

Expiration Date of OMB Clearance: June 30, 1997.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before June 30, 1997, to both the OMB reviewer and the FDIC contact listed above.

Information: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

Frequency of Response: Annual.

Affected Public: FDIC-insured state nonmember banks.

Estimated Number of Respondents: 5,830.

Estimated Time per Response: ½ hour.

Estimated Total Annual Burden: 2,915 hours.

General Description of Collection: FDIC-insured state nonmember banks subject to 12 CFR part 326 have a one-time requirement to establish a written security program and develop training materials. The program and training materials must be kept current and the bank's security officer must make an annual report to the board of directors on the program's effectiveness.

Dated: May 22, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–14006 Filed 5–28–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 203–011573

Title: Tecmarine/Nina Aps Space Charter Agreement

Parties:

Tecmarine Lines, Inc.

Nina Aps

Synopsis: The proposed Agreement would authorize the parties to reach non-binding agreement on rates, charter space to each other, rationalize sailings, interchange equipment, and jointly negotiate leases and contracts in the trade between Port Everglades, Florida and the Dominican Republic.

Agreement No.: 203–011574

Title: Blue Star/South Seas Cooperative Working Agreement

Parties:

Blue Star Line (North America) Limited

South Seas Steamship Co. Ltd

Synopsis: The proposed Agreement permits the parties to discuss and enter into non-binding arrangements on rates and service contract terms, to charter space from each other, and to interchange equipment in the trade between the United States and Cook Islands, Fiji, New Caledonia, Vanuatu, Western Samoa, Solomon Islands, Society Islands, Tonga, Kiribati, Tuvalu and Papua New Guinea.

Agreement No.: 217–011575

Title: Maersk/OOCL Space Charter Agreement

Parties:

A.P. Moller-Maersk Line (''Maersk'')

Orient Overseas Container Line (''OOCL'')

Synopsis: The proposed Agreement would authorize Maersk to charter space to OOCL and for the parties to agree on administrative matters in the trade from ports in California, and inland and coastal points served via such ports, and ports and points in Northern Europe. The parties have requested short review.

Agreement No.: 202–011576

Title: South America Independent Lines Association

Parties:

Interocean Lines, Inc.

Seaboard Marine, Ltd.

Trinity Shipping Line, S.A.

Synopsis: The proposed Agreement would establish a conference agreement in the trade between United States Atlantic and Gulf Ports, and inland U.S. points via such ports, and ports and points in Chile, Ecuador, and Peru. The Agreement would permit the parties to discuss and agree upon rates, terms, and conditions of service in the trade as well as service contracts. It would also permit them to enter into agreements with carriers not members of the Agreement and to charter space among themselves. the parties have requested a shortened review period.

Agreement No.: 232–011577

Title: The ZIM/HMM Space Charter Agreement

Parties:

Zim Israel Navigation Co., Ltd.

Hyundai Merchant Marine Co., Ltd.

Synopsis: The proposed Agreement authorizes the parties to charter space to and from each other and to rationalize their services in the trade between ports on the U.S. Pacific and Atlantic Coasts, including Alaska and inland U.S. points served via such ports, and ports in Asia. The parties have requested short review.

Agreement No.: 224–201023

Title: Philadelphia Port Authority/ Delaware River Stevedores Terminal Agreement

Parties:

Philadelphia Regional Port Authority (''PRPA'')

Delaware River Stevedores, Inc. (''DRS'')

Synopsis: The Agreement provides that PRPA will provide DRS berthing and space at the Tioga Marine Terminal for the temporary embarking and discharging of passengers and the parking of vehicles owned by

passengers sailing on the M/V Meridian. The initial term of the Agreement extends through June 23, 1997.

Agreement No.: 224–201024
Title: Philadelphia Regional Port Authority/Delaware River Stevedores, Inc., Berthing Agreement
Parties:
Philadelphia Regional Port Authority
Delaware River Stevedores, Inc.
Synopsis: Under the proposed agreement, the port authority will provide berthing for a vessel and space to Delaware River Stevedoring at the Tioga Marine Terminal for the embarking and discharging of passengers and the parking for passengers' vehicles. The term of the agreement is from June 3, 1997 through June 17, 1997.

By Order of the Federal Maritime Commission.

Dated: May 23, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–14033 Filed 5–28–97; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 13389–90, dated March 20, 1997) is amended to reflect the merger of the Office of Public Affairs and the Office of Health Communication, Centers for Disease Control and Prevention (CDC) and the establishment of the Office of Communication.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete the title and functional statement for the *Office of Public Affairs (CA2).*

Delete the title and functional statement for the *Office of Health Communication (CA3)* and insert the following.

Office of Communication (CA3). (1) Establishes, administers, and coordinates CDC's health communication and media relations policies in a manner to ensure that health communication efforts reflect the scientific integrity of all CDC research, programs, and activities, and that such information is factual, accurate, and targeted toward improving public heath; (2) plans, organizes, administers, and, when appropriate, implements CDC's communication programs consistent with policy direction established by the Department of Health and Human Services (DHHS); (3) provides leadership in the development of CDC's priorities, strategies, and practices for effective health communication and media relations; (4) provides a CDC-wide forum for the discussion, development, and adoption of health communication and media relations policies and procedures; (4) provides for the policy review and clearance of informational communication materials and media materials including press releases, press kits, talking points, and fact sheets; (6) provides the public, through information and media channels, access to information systems, services, and materials that support or promote the health of individuals and communities; (7) provides the mass media with access to subject matter experts, reports, and publications; (8) plans, coordinates, and conducts projects related to CDC-wide events and information programs for CDC personnel; (9) promotes, stimulates, conducts, and supports research on health communication topics of CDC-wide interest; (10) assists and supports the Centers, Institute, and Offices (CIOs) of the agency in conducting formative, process, and outcome research and evaluation in specific applications of health communication to program areas; (11) assists the CIOs and their constituents in identifying and building needed expertise and state-of-the-art technology, logistical support, and other capacities required for effective health communication and media relations; (12) promotes quality assurance in health communication programs, products, and initiatives; (13) systematically captures, assesses, and disseminates information on health communication research results and current or emerging trends and issues; (14) maintains liaison with officials from DHHS, other Federal and State public health agencies, and non-profit and voluntary health agencies to coordinate communication programs of mutual interest and concern; (15) creates and maintains liaison with CIOs to share information about health communication programs and media relations, encouraging and providing opportunities for CDC-wide collaboration; (16) coordinates implementation of the Freedom of Information Act for CDC.

Office of the Director (CA31). (1) Advises the Director, CDC, and the CIO's on all matters related to health communication and media relations; (2) ensures that CDC communication activities follow policy directions established by the Assistant Secretary for Public Affairs (HHS); (3) develops and coordinates CDC-wide policies and plans for health communication and media relations; (4) provides leadership in the development of CDC's priorities, strategies, and practices for effective communication activities; (5) manages the implementation of the Freedom of Information Act for CDC; (6) manages periodic CDC-wide events; (7) manages DHHS required clearances for CDC communication products; (8) produces periodic reports and publications; (9) provides writer-editor and other technical services to OC Divisions and CDC/OD regarding media and public relations communication; (10) manages CDC communication services to the public; (11) maintains liaison with officials of other Federal agencies, voluntary health agencies, and State agencies to coordinate communication programs of mutual concern.

Division of Health Communication (CA32). (1) Provides leadership in the development of CDC policy, principles, strategies, and practices for effective health communication; (2) provides a CDC-wide forum for the development of health communication policies and procedures; (3) promotes, stimulates, supports, and conducts research on topics of CDC-wide interest in health communication; (4) assists CIO's in conducting health communication research by providing consultation and access to information, expertise, and related services; (5) promotes, stimulates, and supports evaluation of the effort, efficiency, and effectiveness of health communication initiatives; (6) assists CIO's and their constituents in identifying and building needed expertise, state-of-the-art technology, and logistical support; (7) assists CIO's and their constituents in the planning, design, implementation, and evaluation of health communication initiatives; (8) systematically captures, assesses, and disseminates information on ongoing research, current trends, and emerging issues in health communication; (9) identifies and fosters collaboration with public, non-profit, and private organizations involved with health communication; (10) creates and maintains liaison with CIO's, staff offices, and other HHS agencies to share information about health communication activities and identify,

promote and implement collaborative efforts.

Divison of Media Relations (CA33). (1) Provides leadership through the development of policies and practices for effective communication through the media; (2) develops strategies for the Director, CDC, and other CDC leaders in developing and disseminating information through the media; (3) coordinates the development and dissemination of media information among CIO's and between CDC and HHS; (4) assists CIO's in meeting their press-related needs and priorities; (5) provides training and technical assistance to CDC staff about media relations; (6) provides advice and consultation to the Director and oversight of crosscutting issues related to communication; (7) provides the central point of contact to CDC for media representatives; (8) provides timely, thorough, and appropriate responses to inquiries by media representatives; (9) employs the latest technologies to serve CDC and media constituents best; (10) conducts special activities to develop relationships with media representatives; (11) periodically assesses the conduct of CDC media relations activities, including feedback from consumers.

Dated: May 15, 1997.

David Satcher,

Director.

[FR Doc. 97–13965 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0108]

Determination of Regulatory Review Period for Purposes of Patent Extension; PATANOL™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PATANOL™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product PATANOL™ (olopatadine hydrochloride). PATANOL™ is indicated for the temporary prevention of itching of the eye due to allergic conjunctivitis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for PATANOL™ (U.S. Patent No. 5,116,863) from Alcon Laboratories, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 1, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of PATANOL™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for PATANOL™ is 1,064 days. Of this time, 739 days occurred during the testing phase of the regulatory review period, while 325 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: January 21, 1994. The applicant claims January 20, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was January 21, 1994, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: January 29, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for PATANOL™ (NDA 20–688) was initially submitted on January 29, 1996.

3. *The date the application was approved*: December 18, 1996. FDA has verified the applicant's claim that NDA 20–688 was approved on December 18, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 571 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 28, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 25, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management

Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 20, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–14108 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97M–0204]

QLT Phototherapeutics, Inc.; Premarket Approval of OPTIGUIDE™ Fiber Optic Diffuser (Models DCYL 10, DCYL 15, and DCYL 25), Coherent Lambda Plus™ PDL1 and PDL2 Photodynamic Lasers, and 600 Series Dye Modules (Models 630 and 630 XP) and Series 700 and 800 KTP/532® and KTP/YAG™ Surgical Lasers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the applications by QLT Phototherapeutics, Inc., submitted by Hogan & Hartson, Washington, DC on behalf of QLT Phototherapeutics, Inc., Vancouver, Canada, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the following devices which constitute the device portion of a combination drug/device product: OPTIGUIDE™ Fiber Optic Diffuser DCYL Series (Models DCYL 10, DCYL 15, and DCYL 25); Coherent Lambda Plus™ PDL1 and PDL2 Photodynamic Lasers; and 600 Series Dye Modules (Models 630 and 630 XP) and Series 700 and 800 KTP/532® and KTP/YAG™ Surgical Lasers. These devices are to be used with the drug PHOTOFRIN® under conditions specified in the drug labeling. After reviewing the recommendation of the Oncologic Drugs Advisory Committee operating under the authority of the Inter Agency Agreement regarding combination drug/device products, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of December 27, 1995, of the approval of the applications.

DATES: Petitions for administrative review by June 30, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard P. Felten, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1307.

SUPPLEMENTARY INFORMATION: On April 13, 1994, Hogan & Hartson, Washington, DC 20004–1109, submitted to CDRH, on behalf of QLT Phototherapeutics, Inc., Vancouver, Canada, applications for premarket approval of a combination drug/device product which included the following devices for use with the drug PHOTOFRIN®: (1) OPTIGUIDE™ Fiber Optic Diffuser DCYL Series; (2) Coherent Lambda Plus™ PDL1 and PDL2 Photodynamic Lasers; and (3) 600 Series Dye Modules (Models 630 and 630 XP) and Series 700 and 800 KTP/532® and KTP/YAG™ Surgical Lasers.

The Fiber Optic Diffuser is indicated as a delivery system for use in Photodynamic Therapy with PHOTOFRIN® for palliation of patients with completely obstructing esophageal cancer, or of patients with partially obstructing esophageal cancer who, in the opinion of their physician, cannot be satisfactorily treated with Nd:YAG laser therapy. The laser systems are indicated for use in Photodynamic Therapy as sources for the photoactivation of PHOTOFRIN® for palliation of patients with completely obstructing esophageal cancer, or of patients with partially obstructing esophageal cancer who, in the opinion of their physician, cannot be satisfactorily treated with Nd:YAG laser therapy.

On September 21, 1995, the Immunology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, operating under the authority of the Inter Agency Agreement for combination drug/device products, reviewed and recommended approval of the applications. On December 27, 1995, CDRH approved the applications by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Summaries of the safety and effectiveness data on which CDRH based its approval are on file in the Dockets Management Branch (address above) and are available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve these applications. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 30, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the devices and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 18, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–13958 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0025]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled, ''Medical Devices Standards Activities Report'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 21, 1997 (62 FR 8024), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). OMB has approved the information collection and has assigned OMB control number 0910–0219. The approval expires on April 30, 2000. Under 5 CFR 1320.5(b), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: May 21, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–13959 Filed 5–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Emphasis Panel (SEP) meetings:

Name of SEP: Review of Conference Grant (R13) (Telephone Conference Call).

Date: June 11, 1997.

Time: 1:00 p.m.

Place: National Institute of Environmental Health Sciences, North Campus, Building 17 Conference Room 1713, Research Triangle Park, NC 27709.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the grant/contract review and funding cycle.

Name of SEP: Review of Conference Grant (R13) (Telephone Conference Call).

Date: June 24, 1997.

Time: 1:00 p.m.

Place: National Institute of Environmental Health Sciences, North Campus, Building 17, Conference Room 1713, Research Triangle Park, NC 27709.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health.)

Dated: May 23, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–14041 Filed 5–28–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Call for Nominations for Listing or Delisting Substances in the Biennial Report on Carcinogens (BRC)

Background

The National Toxicology Program (NTP) has the responsibility within the U.S. Department of Health and Human Services (DHHS) for preparation of the Biennial Report on Carcinogens. The NTP solicits and encourages the broadest participation from interested individuals or parties in nominating agents, substances or mixtures for listing in or delisting from the BRC. The criteria for listing or for removing an agent substance or mixture in the Biennial Report on Carcinogens were revisited during 1994 and 1995 in a series of open public meetings. In recognition of the advances made in understanding the biological events involved in carcinogenesis, it was recommended that the criteria for listing an agent be expanded to include a broader array of information related to the carcinogenic process. The revised criteria for listing a substance in the Biennial Report on Carcinogens were approved by the Secretary, HHS on September 13, 1996, and are as follows:

1. Known To Be Human Carcinogens

There is sufficient evidence of carcinogenicity from studies in humans which indicates a causal relationship between exposure to the agent, substance or mixture and human cancer.

2. Reasonably Anticipated To Be Human Carcinogens

There is limited evidence of carcinogenicity from studies in humans which indicates that causal interpretation is credible but that alternative explanations such as chance, bias or confounding factors could not adequately be excluded; *or*

There is sufficient evidence of carcinogenicity from studies in experimental animals which indicates there is an increased incidence of malignant and/or a combination of malignant and benign tumors: (1) In multiple species, or at multiple tissue sites, or (2) by multiple routes of exposure, or (3) to an unusual degree with regard to incidence, site or type of tumor or age at onset; *or*

There is less than sufficient evidence of carcinogenicity in humans or laboratory animals, however; the agent, substance or mixture belongs to a well defined, structurally-related class of substances whose members are listed in a previous Annual or Biennial Report on Carcinogens as either a known to be human carcinogen, or reasonably anticipated to be human carcinogen or there is convincing relevant information that the agent acts through mechanisms indicating it would likely cause cancer in humans.

Conclusions regarding carcinogenicity in humans or experimental animals are based on scientific judgment, with consideration given to all relevant information. Relevant information

includes, but is not limited to dose response, route of exposure, chemical structure, metabolism, pharmacokinetics, sensitive sub populations, genetic effects, or other data relating to mechanism of action or factors that may be unique to a given substance. For example, there may be substances for which there is evidence of carcinogenicity in laboratory animals but there are compelling data indicating that the agent acts through mechanisms which do not operate in humans and would therefore not reasonably be anticipated to cause cancer in humans.

Call for Nominations

Petitions for listing or delisting an agent, substance, or mixture in the BRC may be submitted by any interested individual or party and should be sent to the National Toxicology Program, Biennial Report on Carcinogens, MD WC–05, P.O. Box 12233, Research Triangle Park, NC 27709. Petitions must contain a rationale for listing or delisting as either a ''known human carcinogen'' or a ''reasonably anticipated human carcinogen''. Appropriate background information and relevant data (e.g. Journal articles, NTP Technical Reports, IARC listings, exposure surveys, release inventories, etc.) which support a petition should be provided or referenced when possible.

A detailed description of listing/delisting procedures, including the steps in the formal review process, can be obtained by contacting: Dr. C. W. Jameson, National Toxicology program, Biennial Report on Carcinogens, MD WC–05, P.O. Box 12233, Research Triangle Park, NC 27709; phone (919) 541–4096, fax: (919) 541–2242, email: jameson@niehs.nih.gov. Any questions regarding the process, procedures, or the information contained herein may also be directed to Dr. Jameson.

The most recent Report (the 7th Annual Report on Carcinogens) was published in 1994 and may be obtained by contacting: NTP Central Data Management, P.O. Box 12233, MD E1–02, Research Triangle Park, NC 27709. The 8th BRC is nearing completion and will be published in 1997. All nominations received in 1997 are expected to receive consideration and review in 1997 and 1998 and any new listings or delistings would be included in the 9th BRC to be published in 1999.

Dated: May 20, 1997.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 97–14040 Filed 5–28–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4210–C–02]

Notice of Funding Availability for Housing Opportunities for Persons with AIDS; Correction

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Correction.

SUMMARY: In the NOFA published on Wednesday, May 7, 1997 (62 FR 25082), one provision concerning compliance with a court order involving Dallas, Texas was not stated clearly enough. This document corrects the language to make it clear that two bonus points are available for an application from Dallas that would address issues of racial segregation in low income housing.

SUPPLEMENTARY INFORMATION: To correct an inadvertent error in stating how points are determined with respect to responsiveness to the needs of clients, the last sentence of paragraph II, (c)(2)(C)(ii)(f) of the NOFA (FR–Doc. 97–11881) published on May 7, 1997, in the third column of page 25090 (lines 8 through 11), is revised to read as follows: ''HUD may add up to 2 points, based on this consideration, to the points otherwise available under this criterion.''

Dated: May 20, 1997.

Jacquie Lawing,

General Deputy Assistant Secretary.

[FR Doc. 97–14029 Filed 5–28–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for a Permit To Authorize Incidental Take of the Threatened Northern Spotted Owl by Ribar Timberlands, Humboldt County, California

AGENCY: Fish and Wildlife Service.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that Ribar Timberlands of Humboldt County, California (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number PRT–828760. The requested permit would authorize the incidental take of northern spotted owls (*Strix occidentalis caurina*) (owls) that may occur in or near the project area in Humboldt County, California, as a result of the Applicant's timber-management activities. A Habitat Conservation Plan, including an Implementing Agreement, was submitted as part of the application in accordance with section 10(a) of the Act. The Service specifically requests comments on the appropriateness of the ''No Surprises'' assurances contained in this application (see sections II.D.1 and III.K of the Implementing Agreement).

The Service also announces the availability of an Environmental Assessment for the proposed issuance of the incidental take permit and approval of the Habitat Conservation Plan. All comments received will become part of the public record and may be released. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and Environmental Assessment should be received on or before June 30, 1997.

ADDRESSES: Comments regarding the application or Environmental Assessment should be addressed to Mr. Bruce Halstead, Project Leader, U.S. Fish and Wildlife Service, Coastal California Fish and Wildlife Office, 1125 16 Street, Room 209, Arcata, California 95521; (707) 822–7201. Please refer to permit number PRT–828760 when submitting comments. Individuals wishing copies of the application package or Environmental Assessment for review should immediately contact the office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Hoffman, U.S. Fish and Wildlife Service, at the above address; telephone (707) 822–7201.

SUPPLEMENTARY INFORMATION: Under section 9 of the Act and its implementing regulations, ''taking'' of threatened and endangered species is prohibited. However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are codified in 50 CFR 17.32 and 17.22, respectively.

The Applicant has requested that the Service issue an incidental take permit and approve the Habitat Conservation Plan, authorizing incidental take of owls that may result from their proposed timber harvest on the 1,384-acre project

area in Humboldt County, California. The Applicant's proposed timber harvest may result in the take owls, as defined in the Act and its implementing regulations. The term of the permit and Habitat Conservation Plan would be for 30 years.

The Applicant proposes to mitigate for potential impacts from incidental take of owls by retaining at least one stand of viable owl nesting habitat at all times, conducting pre-harvest owl surveys, deferring any timber harvest which may displace an activity center until outside the breeding season, and maintaining at least 35% of the forested area of the property in a condition of suitable owl habitat at all times. To minimize impacts to owls, the Habitat Conservation Plan requires specified activities that could potentially result in take not be conducted within a 1000-foot radius of any occupied owl nest site. The retention of owl habitat, including at least one stand of viable nesting habitat would ensure the availability of owl habitat in the future.

The Environmental Assessment considers the environmental consequences of three alternatives, including a no-action alternative. The proposed action alternative is the issuance of the permit under section 10(a) of the Act which would authorize incidental take of the owl. The proposed action would require the Applicant to implement their Habitat Conservation Plan. Under the no-action alternative, the permit would not be issued, the Habitat Conservation Plan would not be implemented, and the Applicant would avoid the take of owls. A third alternative is briefly considered which would defer all harvests in perpetuity with the intent of maximizing the number of spotted owls nesting on the property.

Authority: 16 U.S.C. 1531–1544, and 4201–4245.

Dated: May 21, 1997.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–13999 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a), notice is hereby given that the Coastal Gabrieleno/Diegueno Band of Mission Indians, 1226 West Third Street, Santa Ana, California 92703, has filed a letter of intent to petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on March 18, 1997, and was signed by members of the group's governing body.

This is a notice of receipt of a letter of intent to petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, N.W., Washington, D.C. 20240, Phone: (202) 208–3592.

Dated: May 20, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–13960 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Proposed Boundary Adjustment

SUMMARY: Minor adjustments in the boundaries of Hopewell Culture National Historical Park. The National Park Service has determined that a boundary adjustment is necessary for the Hopewell Mound Group unit of the park referred to in 16 U.S.C. 410uu–1(a).

FOR FURTHER INFORMATION CONTACT: Superintendent, Hopewell Culture National Historical Park, 16062 State Route 104, Chillicothe, Ohio 45601–8694 or by telephone at 614–774–1126.

SUPPLEMENTARY INFORMATION: 16 U.S.C. 410uu–1(c) authorizes the Secretary of the Interior to make these adjustments after receipt of public comment. Therefore, notice is hereby given that public comments will be accepted for a period of 45 calendar days from the publication date of this notice. Comments should be sent to the Superintendent, Hopewell Culture at the above address. In the absence of any subsequent action to modify the proposed boundary adjustment, this boundary adjustment will become the final determination of the Department of the Interior.

This proposed boundary adjustment will add approximately 114.58 acres of privately owned land to the park and will allow for the Federal protection of significant archeological resources. The Hopewell Mound Group Unit is located in Union Township, Ross County, Ohio. The National Park Service has prepared a map identified as Proposed Boundary Adjustment for Hopewell Culture National Historical Park, bearing drawing number 353/80,046 and dated April 1997. The map depicts the specific real property proposed for inclusion to the park.

Copies of this map are on file and available for inspection at the following three locations: The Department of the Interior, National Park Service, Lands Resources Division, 1849 ''C'' Street, NW., Room 2444, Washington, D.C. 20240; the Midwest Field Area (GLSO–L), 1709 Jackson Street, Omaha, Nebraska 68102; and Hopewell Culture National Historical Park, at the address given above.

Dated: May 13, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–14043 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Request for Public Comment on Proposed Amendments and Clarifications of NPS–48 (Concession Guidelines)

SUMMARY: On February 20, 1997, the National Park Service (NPS) requested public comment on those portions of its staff manual (NPS–48) dealing with the administration of concession authorizations which had not been made available for public comment previously. On March 27, 1997, NPS extended the due date for receipt of

comments through April 8, 1997. This notice seeks public comment on certain proposed amendments and clarifications to NPS–48.

COMMENT DATE: June 30, 1997.

ADDRESSES: Comments should be addressed to Robert Yearout, Program Manager, Concessions Program, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127.

FOR FURTHER INFORMATION CONTACT: Copies of the Food Code proposed amendments to NPS–48 discussed below and, for those persons who have not previously obtained one, a copy of those portions of NPS–48 which had not previously been published for comment, are available by contacting Wendelin Mann, Concessions Program, National Park Service (202) 565–1219.

SUPPLEMENTARY INFORMATION: As a result of considering NPS–48 after receipt of public comments from the February 20, 1997, NPS is considering several clarifications and amendments to NPS–48. In addition, NPS is considering amending NPS–48 to update its Food Code guidelines. The proposed amendments and clarifications are set forth below, except for the proposed Food Code amendments which are available upon request from interested persons. NPS will respond to all comments received as a result of this notice and the February 20, 1997, notice through an additional **Federal Register** notice.

Proposed NPS–48 Amendments and Clarifications

1. Conformance With Revised Regulations

One commenter in response to the February 20, 1997, notice, pointed out that the concession contracting regulations (36 CFR, Part 51) included in NPS–48 are not the most recent version of these regulations, which were amended effective October 5, 1992. NPS agrees that the copy of the regulations contained in NPS–48 is outdated, and hereby proposes to delete the old regulations and incorporate the revised regulations in NPS–48. NPS further notes that in the event of any conflict between these revised regulations and any guidance contained in NPS–48, the revised regulations will prevail.

2. Concessioner Evaluation Program

One Commenter pointed out that a conflict exists between NPS–48 and the revised regulations (36 CFR 51.5) concerning the disposition of unsatisfactory and marginal ratings. NPS–48 states that if a concessioner receives an annual overall rating of ''unsatisfactory'' in *any* year of the contract term or ''marginal'' for *any* 2 consecutive years, then the concessioner is not entitled to a right of preference in the renewal of its contract. The regulations at 36 CFR 51.5(a) limit the loss of a concessioner's right of preference in contract renewal to the last year (for ''unsatisfactory'' ratings) or the last 2 years (for ''marginal'' ratings) prior to issuance of a prospectus. NPS agrees that the regulations and guideline are in conflict on this point, and hereby proposes to amend NPS–48 to adopt the language of the regulation at 36 CFR 51.5(a).

3. Deposits for Advance Reservations

One commenter pointed out that one provision in NPS–48 requires that rates in effect at the time of a deposit should apply to all or a portion of the visitor stay, even though there may have been a price increase (Chapter 29, D.2.b), and that this conflicts with another provision in NPS–48 which allows concessioners to charge the increased rates so long as individuals making advance reservations are notified that rates are subject to change and are not guaranteed by the deposit (Chapter 29, D.1.c.(1)). NPS agrees that these provisions are in conflict and hereby proposes to adopt the provision allowing concessioners to charge increased rates if individuals making reservations are notified that rates are subject to change and not guaranteed by the deposit.

4. Waiver of Franchise Fees

NPS proposes to clarify NPS–48 with respect to waiver of franchise fees. In this regard, Chapter 24, section 5.i. of NPS–48 authorizes waiver of NPS concession contract franchise fees in certain circumstances. However, NPS–48 fails to note that as a matter of law such waivers are permissible only where the concession contract or permit in question contains an express provision authorizing such a waiver. Decision of the Comptroller General, April 11, 1944 (B–40226). In addition, NPS needs to state more directly that the waiver provisions of NPS–48 apply only to franchise fees, not to any other financial obligations of a concessioner set forth in an NPS concession contract or permit.

Specific Proposed Amendments and Clarifications to NPS–48

1. Chapter 5, Subsection B.21., of NPS–48 is hereby proposed to be amended by deleting the former text of 36 CFR Part 51, and replacing it with the text of 36 CFR, Part 51, as revised on October 5, 1992.

2. Chapter 19 of NPS–48 is hereby proposed to be amended by deleting the first sentence of subsection G and replacing it with the following two sentences;

When a concessioner's Annual Overall Rating is Unsatisfactory for a year, or Marginal for two consecutive years, it constitutes ground for termination of the contract/permit. Further, if a concession receives an annual overall rating of Unsatisficatory during the last year prior to issuance of a prospectus, or an annual overall rating of Marginal during the 2 years prior to issuance of a prospectus, then the concessionare is not entitled to a right of preference in the renewal of its contract or permit.

3. Chapter 24 of NPS–48 is hereby proposed to be clarified by adding the following two sentences to the end of the first paragraph of section 5.i.:

Franchise fee waivers as a matter of law are only permissible under this section or otherwise where the concession contract or permit in question contains an express provision which authorizes such a waiver. In addition, even in circumstances where a concession contract or permit contains such an express franchise fee waiver provision, such waiver authority applies only to payment of franchise fees; it does not apply to any other financial or other obligations a concessioner may have under the terms of a concession contract or permit unless the contract or permit in question expressly so states.

4. Chapter 29 of NPS–48 is hereby proposed to be amended by deleting subsection D.2.b.

5. NPS hereby proposes to amend Chapter 21, Standard 1, of NPS–48 with respect to its Food Code guidelines to conform them to the revised ''Food Code'' issued by the United States Public Health Service in 1993. Copies of the proposed changes are available at the address and telephone number mentioned above.

Dated: May 16, 1997.

Robert K. Yearout,

Concession Program Manager.

[FR Doc. 97–14042 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, June 16, 1997.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at park headquarters, Acadia National Park, Rt. 233, Bar Harbor, Maine, at 1:00 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held August 5, 1996.
2. Welcome to new Commission members.
3. Report of the Conservation Easement Subcommittee:

A. Proposed Black conservation easement, Town of Swans Island

B. Guest speaker: Ms. Deb Brighton, Ad Hoc Associates: ''Open Land, Development, Land Conservation and Property Taxes in Maine's Organized Municipalities''

4. Report of the Acquisition Subcommittee.
5. Report of the Planning Subcommittee.
6. Appointment of new subcommittee members.
7. Old business.
8. Superintendent's report.
9. Public comments.
10. Proposed agenda and date of next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: May 16, 1997.

Len Bobinchock,

Acting Superintendent, Acadia National Park.

[FR Doc. 97–14059 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Maine Acadian Culture Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Maine Acadian Culture Preservation Commission will meet on Friday, June 20, 1997. The meeting will convene at 7:00 p.m. in the cafeteria at the Madawaska Elementary School, Eleventh Avenue, Madawasks, Aroostook County, Maine.

The Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (PL 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

- The development and implementation of an interpretive program of Acadian culture in the state of Maine; and
- The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review and approval of the summary reports of the meeting held February 21, 1997, and the workshop held April 18, 1997.
2. A talk by Deborah Robichaud on ''The Iconography of Evangeline''
3. NPS staff report
4. Upcoming commission meetings and speakers
5. Other business
6. Heritage Council formation
7. Dedication of Maine Acadian traveling exhibit
8. Proposed agenda, place, and date of the next Commission meeting

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5472.

Dated: May 12, 1997.

Paul F. Haertel,

Superintendent, Acadia National Park.

[FR Doc. 97–14058 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Ecosystem Roundtable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) Ecosystem Roundtable will meet to discuss several issues including: the review and selection process for Category III applications; the recently issued request for proposals (RFP) for Category III funds; the public outreach for the RFP; funding coordination; and the status of the proposed federal funds. This meeting is open to the public. Interested persons may make oral statements to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The BDAC Ecosystem Roundtable meeting will be held from 9:30 am to 12:30 pm on Friday, June 13, 1997.

ADDRESSES: The BDAC Ecosystem Roundtable will meet in Room 1131, Resources Building, 1416 Ninth Street, Sacramento, CA.

CONTACT PERSON FOR MORE INFORMATION: Kate Hansel, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta

ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: May 20, 1997.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 97–13971 Filed 5–28–97; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

Possible Modifications to the International Harmonized System Nomenclature

AGENCY: United States International Trade Commission.

ACTION: Request for public comments on proposal to delete certain low-trade categories from the Harmonized System.

SUMMARY: The Commission is soliciting the views of interested parties on a proposal before the Review Subcommittee (RSC) of the World Customs Organization (WCO), Brussels, Belgium, to delete certain low-trade headings and subheadings from the international Harmonized Commodity Description and Coding System (Harmonized System or HS).

EFFECTIVE DATE: May 21, 1997.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202/205–2595, E-Mail rosengarden@usitc.gov) or Ronald Heller (202/205–2596, E-Mail rheller@usitc.gov). The O/TA&TA fax number is 202/205–2616.

Background

The Harmonized System was established by an international Convention, which, *inter alia,* provides that the System should be kept up-to-date in light of changes in technology and patterns of international trade. The international HS nomenclature, which is administered by the WCO, provides a uniform structural basis for the customs tariff and statistical nomenclatures of all major trading countries of the world, including the United States. The Commission, the U.S. Customs Service and the Bureau of the Census are responsible for the development of U.S. technical proposals concerning the HS under section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3010). A 1988 notice issued by the United States Trade Representative (53 FR 45646, November 10, 1988), establishes the Commission as the lead U.S. agency in considering proposals for HS amendments that are intended to ensure that it reflects such changes in technology and trade.

In November 1996, the WCO decided provisionally to implement the next series of amendments to the nomenclature by the year 2002. As part of the current review cycle, the RSC requested that the WCO Secretariat develop a list of four-digit headings and six-digit subheadings for which world trade in each category did not exceed US$100 million and US$20 million, respectively. Based on preliminary trade data for calendar year 1993 provided by the United Nations Statistical Office (UNSO), the WCO Secretariat recently published a list of approximately 500 HS headings and subheadings that showed world trade below those thresholds. On this basis, the Subcommittee will consider deleting these headings and subheadings from the HS. The Subcommittee noted that as more recent data become available many of the categories would automatically be dropped from the list of possible deletions and thereby be retained in the HS. Additionally, each country was invited to examine the list and indicate to the Subcommittee each category which that country feels should be retained because (1) more recent trade data available to that country reveals that the category in fact exceeds the threshold or (2) international concern over environmental, social or economic issues necessitates monitoring global trade on products in the category despite the low volume of trade. Beginning in its 16th session (September 1997) the Subcommittee will examine the Secretariat's list and all national requests for retention of individual categories.

The following is a list of the headings (ending with double zeros) and subheadings as provided by the Secretariat. Items in the list marked with an asterisk (*) are those for which the Commission is proposing that the United States request retention.

0101.20,* 0206.80,* 0209.00,* 0301.91, 0302.31,* 0302.33,* 0302.61,* 0302.66,* 0303.76,* 0303.77,* 0305.10, 0305.42, 0307.51,* 0501.00,* 0502.10,* 0502.90,* 0503.00,* 0507.10,* 0604.10, 0709.52, 0709.70, 0711.10, 0802.21, 0810.30, 0812.20, 0814.00, 0903.00,* 0906.20,* 0907.00,* 0908.10,* 0908.20,* 0908.30,* 0909.40,* 0909.50,* 0910.30,* 0910.40,* 0910.50,* 1102.10, 1103.12, 1103.14, 1103.21, 1103.29, 1104.11, 1104.21, 1104.22, 1106.10, 1106.20, 1106.30, 1108.20, 1203.00, 1207.10, 1207.30, 1207.92, 1209.19, 1209.26, 1212.91, 1212.92, 1402.10, 1402.90, 1403.10, 1403.90, 1503.00, 1504.30,* 1505.10, 1505.90, 1506.00,* 1510.00,* 1515.60, 1521.10, 1521.90, 1522.00, 1602.10,* 1603.00,* 1802.00, 1902.40, 1903.00, 2001.20, 2003.20, 2005.10, 2006.00,* 2009.50, 2205.90,* 2209.00,* 2302.20, 2302.50, 2307.00, 2308.10, 2502.00, 2504.90,* 2506.10, 2506.21, 2506.29, 2509.00, 2511.20, 2512.00, 2513.11, 2513.19, 2513.20, 2514.00, 2515.20,* 2516.21, 2516.22, 2517.20,* 2518.30, 2522.30,* 2525.10, 2525.20, 2525.30, 2527.00, 2530.40, 2605.00, 2611.00, 2612.10,* 2612.20,* 2617.10,* 2617.90,* 2620.50,* 2621.00, 2702.10, 2705.00, 2706.00, 2707.20, 2708.20, 2802.00,* 2804.80,* 2804.90,* 2805.22,* 2805.40,* 2806.10, 2806.20, 2808.00, 2809.10, 2812.10,* 2812.90,* 2815.30, 2816.10,* 2816.20,* 2816.30,* 2821.20, 2824.20,* 2824.90,* 2826.20, 2827.33, 2827.34,* 2827.35,* 2827.36,* 2827.38,* 2827.51, 2829.19, 2830.10, 2830.20,* 2830.30,* 2830.90,* 2831.90, 2832.30, 2833.30,* 2834.22,* 2836.70,* 2837.20,* 2838.00,* 2839.20, 2841.20,* 2841.40,* 2841.50,* 2844.30,* 2844.50,* 2845.10,* 2845.90,* 2848.00,* 2851.00,* 2903.16, 2903.62, 2907.30, 2909.20, 2911.00, 2912.13, 2912.21, 2912.50, 2913.00, 2914.21, 2915.22, 2918.17, 2921.12, 2939.70, 3001.10, 3101.00, 3102.70, 3103.20, 3104.10, 3205.00, 3211.00, 3301.26, 3601.00, 3605.00, 3606.10, 3606.90, 3702.91, 3702.92, 3704.00, 3706.90, 3803.00, 3805.10,* 3805.20,* 3805.90,* 3807.00, 3813.00, 3817.20, 4002.80, 4003.00, 4004.00, 4017.00, 4107.21, 4108.00, 4110.00, 4204.00,* 4206.10, 4206.90,* 4301.20, 4301.30, 4301.40, 4301.50, 4301.70, 4301.90, 4302.12, 4304.00, 4404.10, 4404.20, 4405.00, 4406.10, 4406.90, 4411.31, 4411.39, 4413.00, 4416.00, 4501.10, 4501.90, 4502.00, 4601.10, 4601.99, 4704.19, 4807.10, 4812.00, 4815.00, 4817.20, 4904.00, 4905.10, 4905.91, 4905.99, 5001.00, 5006.00,* 5103.30, 5104.00, 5105.40, 5109.10, 5109.90,* 5110.00, 5113.00, 5202.91, 5203.00, 5204.19,* 5205.35,* 5206.13,* 5206.15,* 5206.21,* 5206.25,* 5206.31,* 5206.33,* 5206.34,* 5206.35,* 5206.41,* 5206.43,* 5206.44,* 5210.12,* 5211.21,* 5211.22,* 5211.29,* 5211.41,* 5211.42,* 5211.43,* 5211.52,* 5212.12,* 5212.21,* 5212.22,* 5212.24,*

5302.10, 5302.90, 5303.10, 5303.90, 5304.10, 5304.90, 5305.11, 5305.19, 5305.21, 5305.29, 5305.91, 5305.99, 5308.10, 5308.20,* 5308.30, 5310.90,* 5405.00, 5406.10,* 5406.20,* 5407.30,* 5505.20, 5507.00, 5508.20,* 5511.10,* 5511.20,* 5511.30,* 5512.21,* 5513.32,* 5513.33,* 5513.42,* 5513.43,* 5514.13,* 5514.31,* 5514.32,* 5514.33,* 5514.42,* 5515.92,* 5516.31,* 5516.34,* 5605.00, 5607.30, 5702.39,* 5702.51,* 5702.59,* 5801.24,* 5801.26,* 5801.32,* 5801.34,* 5802.20,* 5803.10,* 5803.90,* 5804.30,* 5805.00,* 5809.00,* 5901.10,* 5901.90,* 5904.91, 5904.92, 5905.00,* 5908.00, 5909.00, 6002.41,* 6101.90,* 6102.90,* 6103.11,* 6103.12,* 6103.19,* 6103.21,* 6103.29,* 6103.31,* 6103.39,* 6103.41,* 6104.11,* 6104.12,* 6104.19,* 6104.29,* 6107.19,* 6107.29,* 6107.92,* 6107.99,* 6108.39,* 6108.99,* 6111.10,* 6111.90,* 6112.19,* 6112.20,* 6112.39,* 6116.99,* 6117.20,* 6203.21,* 6209.10,* 6213.10,* 6213.90,* 6215.90,* 6301.10,* 6302.29,* 6302.59,* 6302.92,* 6302.93,* 6302.99,* 6303.11,* 6303.19,* 6304.11,* 6305.90,* 6306.11,* 6306.19,* 6306.39, 6306.41, 6306.91, 6306.99, 6308.00,* 6406.91, 6501.00,* 6502.00,* 6503.00,* 6504.00,* 6505.10, 6506.92, 6507.00, 6602.00,* 6701.00,* 6703.00,* 6704.90,* 6808.00, 6811.30, 6811.90, 6812.10, 6812.20, 6812.30, 6812.40, 6812.50, 6812.60, 6814.10, 6814.90, 6901.00, 6905.90,* 6906.00,* 7001.00, 7003.30, 7012.00, 7105.90,* 7107.00, 7109.00, 7110.41, 7110.49, 7111.00, 7118.10, 7118.90, 7202.80, 7227.20, 7229.20,* 7302.20, 7313.00,* 7316.00,* 7401.10, 7401.20, 7403.23, 7405.00, 7414.20, 7414.90,* 7415.10, 7415.21, 7415.31, 7416.00, 7417.00,* 7505.11, 7505.21, 7507.11, 7507.20, 7603.10, 7603.20, 7611.00, 7613.00, 7802.00,* 7803.00,* 7804.11,* 7804.19,* 7804.20,* 7805.00,* 7806.00,* 7906.00, 8002.00, 8003.00, 8004.00, 8005.00, 8006.00, 8102.10, 8106.00, 8107.10, 8107.90, 8109.10, 8112.11, 8112.19, 8112.99, 8113.00, 8201.20,* 8205.60,* 8205.80, 8304.00,* 8410.11,* 8428.50, 8430.62, 8461.10, 8505.30,* 8606.20, 8606.30, 8606.92, 8711.90,* 8801.10,* 8801.90,* 8804.00, 9007.11, 9027.40, 9103.90, 9104.00,* 9106.20, 9108.91, 9112.10, 9112.80,* 9112.90,* 9201.90,* 9203.00,* 9204.10,* 9204.20,* 9304.00,* 9601.10,* 9601.90,* 9604.00,* 9605.00,* 9610.00,* 9613.30,* 9614.20,* 9614.90,* 9618.00,* 9704.00.*

Copies of the U.S. Harmonized Tariff Schedule (HTSUSA), which incorporates the international Harmonized System in its overall structure, can be accessed in several ways. A copy of the HTSUSA can be downloaded in compressed form (self-extracting files) at the USITC's World Wide Web (WWW) site on the following page (URL): htt://www.usitc.gov/taffairs.htm. An on-line readable and searchable copy of the HTSUSA can be found at the U.S. Customs Service's WWW site, on the following page (URL): http://www.customs.ustreas.gov/imp-exp/rulings/harmoniz/. Hard copies and electronic copies of the HTSUSA can be found at many of the 1,400 federal Depository Libraries located throughout the United States and its territories; further information about these locations can be found on the WWW at the following location (URL): http://www.access.gpo.gov/su-docs/dips/ad[ps001.html, or by contacting GPO Access at the Government Printing Office, 1–888–293–6498.

This proposal is part of a comprehensive review of the international HS being carried out by the RSC. Its implementation internationally would not necessarily require that any specific domestic tariff rates or statistical coverage be eliminated completely from the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Any such consequential changes would be separately considered by the Commission at a later date, pursuant to section 1205 of the 1988 Act.

Request for Proposals

The Commission is seeking comments on the list of proposed deletions from the HS and, in particular, on those categories for which the United States may request retention. *No proposals for changes to the Explanatory Notes or national-level provisions (including Additional U.S. Notes, U.S. 8-digit subheadings, statistical annotations and rates of duty) will be considered by the Commission as a part of this review.* Interested parties, associations and government agencies should submit specific HS category numbers from the above list which they feel should be retained in the HS and, for each category, the reason for retaining the category in the international system (including, where relevant, trade data).

Deadline

Suggestions must be received no later than the close of business, June 20, 1997, in order to be considered by the Commission.

Written Submissions

All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St., S.W., Washington, D.C. 20436. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons.

TDD Access: Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

World Wide Web Access: This notice, and any subsequent notices published pursuant to section 1210 of the 1988 Act, may be obtained from the ITC Internet web server: http://www.usitc.gov.

Issued: May 22, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–14061 Filed 5–28–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,190]

Allied Signal, Incorporated Parsippany, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 11, 1997, a company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on April 4, 1997, and published in the **Federal Register** on May 2, 1997 (62 FR 24134).

The petitioner presents evidence that the Department's customer survey was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 15th day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14050 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33, 229]

Avesta Sheffield, Inc., Baltimore, MD; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 9, 1997, the AFL–CIO–USA, Local 1245, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on April 2, 1997, and published in the **Federal Register** on April 15, 1997 (62 FR 18361).

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 13th day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14053 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,068]

Smith & Wesson Springfield, Massachusetts; Notice of Affirmative Determination Regarding Application for Reconsideration

In a letter dated April 17, 1997, Smith & Wesson has requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on March 13, 1997, and published in the **Federal Register** on March 31, 1997 (62 FR 15199).

The company presents evidence that the Department's customer survey was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 13th day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14054 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,485]

SPX Corporation, Contech Division, Dowagiac, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 12, 1997 in response to a worker petition which was filed on behalf of workers at SPX Corporation, Contech Division, Dowagiac, Michigan.

A negative determination applicable to the petitioning group of workers was issued on April 10, 1997 (TA–W–33,305). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 16th day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14048 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,450]

Technotrim, Incorporated Greencastle, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 28, 1997 in response to a worker petition which was filed on April 11, 1997 on behalf of workers at TechnoTrim, Incorporated, located in Greencastle, Indiana.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–33,353). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 20th day of May, 1997.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14047 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than June 9, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than June 9, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of May 1997.

Linda G. Poole,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX.—PETITIONS INSTITUTED ON 05/12/97

TA–W	Subject Firm (petitioners)	Location	Date of petition	Product(s)
33,470	Vision Ease (Co.)	Ft. Lauderdale, FL	04/21/97	Ophthalmic Lenses.
33,471	London Fog Industries (UNITE)	Baltimore, MD	04/29/97	Men's & Ladies' Raincoats.
33,472	Master Lock Co (UAW)	Milwaukee, WI	03/07/97	Padlocks.
33,473	Falcon Industries (Wkrs)	Columbia, TN	04/24/97	Jersey Knit Activewear.
33,474	Fisher-Price (Co.)	East Aurora, NY	04/30/97	Infant Products and Toys.
33,475	Mattel Fisher Price (Co.)	Medina, NY	04/30/97	Infant Products and Toys.
33,476	Luther Gurvis Sutherland (Co.)	Haleyville, AL	04/28/97	Wood Colonial Window Grids.
33,477	Cone Mills (Wkrs)	Henrietta, NC	04/08/97	Denim Fabrics.
33,478	Brian Toggs, Inc (Wkrs)	Hobson City, AL	04/28/97	Boy's & Girls' Hooded Sweat Jackets.
33,479	G.E. Medical Systems (Co.)	Milwaukee, WI	04/30/97	Medical Diagnostic Imaging Equipment.
33,480	Shana Knitwear, Inc (Co.)	Greensboro, NC	05/02/97	Ladies' & Childrens' Knit Outer Garments.
33,481	Able Knitting Mills (Wkrs)	Farmingdale, NY	05/02/97	Knitted Fabric.
33,482	Vision Technologies (Wkrs)	Iron Ridge, WI	05/02/97	Computers.
33,483	Puget Sound Bureau (Wkrs)	Ketchikan, AK	04/14/97	Scaling & Grading Logs.
33,484	Cookson Pigments (Co.)	Newark, NJ	04/28/97	Pigments.
33,485	Contech Dowagiac (Wkrs)	Dowagiac, MI	05/01/97	Aluminum Rack & Pinion Housings.

[FR Doc. 97–14046 Filed 5–28–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Indian and Native American Programs Under Title IV–A

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation process to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This process helps to ensure that requested data can be provided in the desired format, reporting burdens are minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA), in consultation with the Native American Employment and Training Council, is soliciting comments concerning the proposed continuation of the current planning and reporting system for Job Training Partnership Act (JTPA) title IV–A, section 401 Indian and Native American grantees for three more program years (July 1, 1997 to June 30, 2000). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 28, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the sue of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Thomas M. Dowd, Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room N–4641, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219–8502 ext 119 (VOICE) or (202) 219–6338 (FAX) (these are not toll-free numbers) or INTERNET: DOWDT@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Employment and Training Administration of the Department of Labor, in consultation with the Native American Employment and Training Council, is continuing its currently-approved planning and reporting system for Job Training Partnership Act (JTPA) title IV–A, section 401 Indian and Native American grantees for three more program years (July 1, 1997 to June 30, 2000). In evaluating the last two years' planning and reporting experience of the grantees who receive funding under section 401, including title II–B Summer Youth funds, the Department has decided that the system does not require any changes. This position is reached in part because of pending new workforce legislation, which would possibly require extensive revisions to the current planning and reporting system.

II. Current Actions

The proposed ICR will be a continuation of an existing system currently in place and used by approximately 170 section 401 grantees as the primary planning and reporting vehicle for enrolled individuals, their characteristics, training and services provided, outcomes, including job placement and employability enhancements, as well as detailed financial data on program expenditures. Grantees participating in the demonstration under Public Law 102–477 will not be affected by this continuation, and have not been included in the following burden estimates.

Type of Review: This is a request for the continuation of an existing collection.

Agency: Department of Labor, Employment and Training Administration.

Title: Planning and reporting system for JTPA title IV–A, section 401 Indian and Native American grantees.

OMB Number: 1205–0308.

Catalog of Federal Domestic Assistance Number: 17.251.

Recordkeeping: Grantees shall retain supporting and other documents necessary for the compilation and submission of the subject reports for three years after submission of the final financial report for the grant in question [29 CFR 97.42 and/or 29 CFR 95.53].

Affected Public: Federally and State-recognized Indian tribes, bands, and groups; Alaska Native entities; Hawaiian Native entities; private non-profit organizations; State agencies; consortia of any and/or all of the above.

Cite/Reference/Form/etc.: The collection instrument is the Indian and Native American Planning and Reporting System and related instructions. OMB-approved forms are provided for use in gathering information at the grantee field office level.

Total Respondents: 170.

Frequency: Semi-annually and annually (title IV–A); annually (title II–B).

Total responses: [For title IV–A] 510 (170 times 2, plus 170 times 1) (there is one semi-annual submission per year, consisting of a financial report and a program report, plus an annual submission covering both areas for the entire program year).

[For title II–B] 252 (126 times 2) (there is one financial report and one program report due annually on the summer program's activity).

In addition, there are required financial and program planning forms which must be submitted annually with documents required to receive annual title II–B or title IV–A funds. The minimum submission requirements are as follows:

Budget Information Summary (BIS): 170 (title IV–A); 126 (title II–B).
Program Planning Summary (PPS): 170 (title IV–A); 126 (title II–B).

Average Time per Response

Budget Information Summary (BIS)—17.5 hours; [ETA 8600].
Program Planning Summary (PPS)—17.5 hours; [ETA 8601].
Financial Status Report (FSR)—7.75 hours; [ETA 8602]
Program Status Summary (PSS)—9.67 hours; [ETA 8603]
Annual Status Report (ASR)—22.5 hours. [ETA 8604]

The individual time per response varies widely depending on the degree of automation attained by individual grantees. Grantees also vary according to the numbers of individuals served in each program year. If the grantee has a fully-developed and automated MIS, the response time is limited to one-time programming plus processing time for each response. It is the Department's desire to see as many section 401 grantees as possible become computerized, so that response time for planning and reporting will eventually sift down to an irreducible minimum with an absolute minimum of human intervention.

Estimated Total Burden Hours: (minimum) 1,354 responses times various hours (average is approximately 15 hours—see above for individual details) = 19,342 total hours per response cycle (one program year).

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $290,130 (19,342 total hours per response cycle times an estimated average wage of $15.00 per grantee staff hour). As noted, these costs will vary widely among grantees, from nearly no additional cost to some higher figure, depending on the state of automation attained by each grantee and the wages paid to the staff actually completing the various forms.

All costs associated with the submission of these five forms, whether for planning or reporting purposes, are allowable grant expenses.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington, DC, this 22nd day of May 1997.

Anna W. Goddard,

Director, Office of Special Targeted Programs.

[FR Doc. 97–14045 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act Annual Service Delivery Area Report (JASDA); Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed reinstatement collection of the Job Training Partnership Act Annual Service Delivery Area Report (JASDA).

A copy of the proposed information collection requested (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 28, 1997.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Ron Putz, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4469, Washington, DC 20210; telephone number (202) 219–5305, ext. 173 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The JTPA Annual Service Delivery Area Report, ETA 9045, is required under the provision of the Job Training Partnership Act as amended by the Job Training Reform Amendments of 1992 (PL 102–367). The data collected will be used in the development of reports for Congress, budget materials, and assessment of program performance.

II. Current Actions

The reinstatement of ETA 9045 is necessary for the collection of data on Title II programs as required by the JTPA as amended. The data is used to develop budget materials and reports for Congress.

Type of Review: Reinstatement.

Agency: Employment and Training Administration.

Title: JASDA.

OMB Number: 1205–0341.

Agency Number: ETA 9040.

Affected Public: States.

Total Respondents: 59 Respondents.

Frequency: Annual.

Total responses: 59.

Average Time per Response: 1 hour.

Estimated Total Burden Hours: 59 hours.

Total Burden Cost (capital/startup): N/A.

Total Burden Cost (operating/maintaining): $6,000.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 22, 1997.

Theodore Mastroianni,

Administrator, Office of Job Training Programs.

[FR Doc. 97–14056 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act and Work Opportunity Tax Credit; Lower Living Standard Income Level; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of determination of lower living standard income level; correction.

SUMMARY: In notice document 97–10699, published at 62 FR 20205 (April 25, 1997), in the table on page 20209, ''Table 4—Seventy Percent of Updated 1997 LLSIL, By Family Size,'' two figures were inadvertently omitted. The corrected table (lines 14 and 30) is published as the attachment to this document

We apologize for any inconvenience this may have caused.

Signed at Washington, DC, this 22nd day of May 1997.

Theodore Mastroianni,

Administrator, Office of Job Training Programs.

BILLING CODE 4510–30–M

Table 4--SEVENTY PERCENT OF UPDATED 1997 LLSIL, BY FAMILY SIZE

Family of One	Two	Three	Four	Five	Six
(5,710)	(9,360)	(12,850)	(15,860)	(18,720)	21,890
(5,840)	(9,570)	(13,130)	16,210	19,130	22,370
(5,860)	(9,600)	(13,180)	16,270	19,300	22,460
(6,160)	(10,100)	13,860	17,110	20,190	23,620
(6,180)	(10,130)	13,900	17,160	20,250	23,690
(6,210)	(10,180)	13,980	17,250	20,360	23,810
(6,260)	(10,250)	14,070	17,370	20,500	23,980
(6,280)	(10,290)	14,120	17,430	20,570	24,060
(6,320)	(10,360)	14,220	17,550	20,710	24,220
(6,360)	(10,420)	14,300	17,650	20,830	24,360
(6,480)	10,620	14,580	17,990	21,230	24,830
(6,490)	10,630	14,590	18,010	21,260	24,860
(6,500)	10,650	14,630	18,050	21,300	24,910
(6,520)	10,680	14,660	18,090	21,350	24,970
(6,550)	10,740	14,740	18,190	21,470	25,110
(6,650)	10,890	14,950	18,450	21,780	25,470
(6,660)	10,920	14,990	18,500	21,830	25,530
(6,760)	11,070	15,200	18,760	22,140	25,890
(6,790)	11,130	15,270	18,850	22,250	26,020
(6,820)	11,170	15,330	18,920	22,330	26,110
(6,820)	11,170	15,340	18,930	22,340	26,130
(6,990)	11,460	15,730	19,410	22,910	26,790
(7,000)	11,470	15,740	19,430	22,930	26,820
(7,000)	11,470	15,750	19,440	22,940	26,830
(7,010)	11,490	15,770	19,460	22,970	26,860
(7,110)	11,650	15,990	19,740	23,300	27,250
(7,270)	11,910	16,350	20,180	23,820	27,850
(7,320)	11,990	16,460	20,320	23,980	28,050
(7,420)	12,160	16,700	20,610	24,320	28,450
(7,470)	12,240	16,800	20,740	24,480	28,450
8,590	14,080	19,320	23,850	28,150	32,920
8,830	14,470	19,860	24,510	28,930	33,830
9,150	15,000	20,590	25,410	29,990	35,070
9,400	15,410	21,150	26,110	30,810	36,040

1 Figures provided in Tables 1–3 of this notice are for a family of four persons. To use Table 4, the appropriate figure should be found in the Family of Four column; then one may read across the row for family sizes other than four in the appropriate column.

[FR Doc. 97–14055 Filed 5–28–97; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01640]

Renee Jabbour Manufacturing Incorporated, Allentown, Pennsylvania; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on May 1, 1997 in response to a petition filed on behalf of workers at Renee Jabbour Manufacturing Incorporated, Allentown, Pennsylvania.

This case is being terminated because the workers were separated from the subject firm more than one year prior to the date of the petition. The NAFTA Implementation Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 15th day of May 1997.

Russell T. Kile,

Program Manager Policy, and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14049 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,276 and NAFTA–01510]

Square D Company Schneider North America Milwaukee, WI; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 22, 1997, the International Brotherhood of Electrical Workers, AFL–CIO, Local 2336, requested administrative reconsideration of the Department of Labor's Notices of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance (TA–W–33,276) and FAFTA-Transitional Adjustment Assistance (NAFTA–01510) for workers of the subject firm. The denial notice for TA–W–33,276 was signed on March 28, 1997, and published in the **Federal Register** on April 15, 1997 (62 FR 18361). The denial notice for NAFTA–01510 was signed on March 28, 1997, and published in the **Federal Register** on April 15, 1997 (62 FR 18362).

The petitioner claims that the company has continued to shift production of low voltage transformers from Milwaukee to Mexico.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 13th day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14051 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01511 and NAFTA–01511A]

Sunbeam Corporation Personal Care and Comfort Products Division McMinnville, Tennessee and Sunbeam Corporation Oster Professional Products Division McMinnville, Tennessee; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on April 10, 1997, applicable to all workers of Sunbeam Corporation, Professional Products Division, in McMinnville, Tennessee. The notice was published in the **Federal Register** on May 9, 1997 (62 FR 25660).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The findings show that worker separations did occur in April, 1997 when production at Sunbeam's Personal Care and Comfort Products Division and Oster Professional Products Division was shifted from the McMinnville, Tennessee location to Mexico City, Mexico. The workers were engaged in the production of clippers and trimmers for personal and pet use. Accordingly, the Department is amending the certification to cover workers at the subject firm's Personal Care and Comfort Products Division. The Department is also amending the name and number for the Professional Products Division of Sunbeam Corporation in McMinnville, Tennessee to specify the Oster Professional Products Division and NAFTA–01511A instead of NAFTA–01511.

The intent of the Department's certification is to include all workers of Sunbeam Corporation who were adversely affected by imports from Mexico.

The amended notice applicable to NAFTA–01511 is hereby issued as follows:

All workers of Sunbeam Corporation, Personal Care and Comfort Products Division, McMinnville, Tennessee (NAFTA–01511) and Sunbeam Corporation, Oster Professional Products Division, McMinnville, Tennessee (NAFTA–01511A) who became totally or partially separated from employment on or after February 10, 1996 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–14052 Filed 5–28–97; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Dance Section (Heritage & Preservation and Education & Access categories) to the National Council on the Arts will be held on June 19 and 20, 1997. The panel will meet from 9:00 a.m. to 7:00 p.m. on June 19 and 20, in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting, from 9:00 a.m. to 11.00 a.m. on June 20, will be open to the public for a policy discussion. The remaining portions of this meeting, from 9:00 a.m. to 7:00 p.m. on June 19 and from 11:00 a.m. to 4:00 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National

Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussion at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5691.

Dated: May 22, 1997.

Kathy Plowtiz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–14064 Filed 5–28–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Literature Section (Heritage & Preservation and Education and Access categories) to the National Council on the Arts will be held on June 26 and 27, 1997. The panel will meet from 9:00 a.m. to 5:30 p.m. on June 26 and from 9:00 a.m. to 4:00 p.m. on June 27 in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. A portion of this meeting, from 11:00 a.m. to 1:00 p.m. on June 27, will be open to the public for a policy and guidelines discussion.

The remaining portions of this meeting, from 9:00 a.m. to 5:30 p.m. on June 26 and from 9:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 4:00 p.m. on June 27, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: May 22, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–14065 Filed 5–28–97; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–70 and DPR–75 issued to Public Service Electric & Gas Company (the licensee) for operation of Salem Nuclear Generating Station, Units 1 and 2, located in Salem County, New Jersey.

The proposed amendments would revise Technical Specification (TS) Surveillance Requirement 4.7.6.1.d.1 to indicate that the specified acceptance filter differential pressure (DP) is to be measured across the filter housing and to change the filter DP acceptance value from ≤ 3.5 inches water gauge to ≤ 2.70 inches water gauge.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The [Control Room Emergency Air Conditioning System] CREACS filter train is provided for post-accident atmospheric cleanup of the control room air volume in order to limit doses to control room personnel to less than the limits prescribed by 10CFR50, Appendix A, Criterion 19.

The CREACS does not communicate with the Reactor Coolant System (RCS) and does not penetrate the Containment. The environmental controls portion of the system (i.e., cooling coil, fans, ductwork and associated dampers, and filtration capability) are not affected by the proposed changes. Therefore, control room temperature, humidity, air distribution and cleanliness requirements will continue to be maintained within acceptance limits. As such, the probability of an accident previously evaluated is unchanged.

The change to the Surveillance Test boundary requires that the pressure drop across all elements in the filter train be evaluated, thereby ensuring that the CREACS filter is maintained in a condition which would not restrict post-accident CREACS flow below acceptable levels. The change to the filter DP acceptance limit reallocates design margin associated with filter performance to CREACS fan performance in the control room pressurization mode. As such,

infiltration of potentially contaminated air is limited to that presently in the dose analysis. The Technical Specification maximum allowable CREACS flow rate, minimum allowable [high-efficiency particulate air] HEPA and Charcoal Adsorber removal efficiencies, and post-accident control room pressurization requirements are not affected by this change. As such, the consequences of previously evaluated accidents are unchanged.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The CREACS does not communicate with the Reactor Coolant System (RCS) and does not penetrate the Containment. The proposed changes do not require any modification to the CREACS or its support systems. The design basis safety function of the CREACS is unaffected by the proposed changes. The environmental controls portion of the CREACS (i.e., cooling coil, fans, ductwork and associated dampers, and filtration capability) are not affected by the proposed changes. As such control room temperature, humidity and air distribution requirements will continue to be maintained within acceptance limits. The maximum allowable CREACS flow rate and control room DP requirements imposed by the Technical Specifications are not changed by this proposal. For these reasons, the possibility of a new or different kind of accident is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

A new acceptance limit for filter DP (i.e., cleanliness) has been proposed. The change to the filter DP acceptance reallocates design margin associated with filter performance to CREACS fan performance in the control room pressurization mode. Planned modifications to reduce control room leakage paths, together with the proposed changes to the CREACS filter DP Surveillance Test acceptance limit, ensure that control room pressurization requirements and CREACS filter functionality are maintained during post-accident operation.

The environmental controls portion of the system (i.e., cooling coil, fans, ductwork and associated dampers, and filtration capability) are not affected by the proposed changes. Therefore, control room temperature, humidity, air distribution and cleanliness requirements will continue to be maintained within acceptance limits. The proposed changes to the Surveillance Test boundary and acceptance limits maintain a conservative Operability standard for the CREACS filter train. Acceptance limits and test methods specified for the HEPA filter and Charcoal Adsorber efficiencies are not affected by this proposal.

Based on the above discussions, it is concluded that the margin of safety has not been reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 30, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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 Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the

contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–2, petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 14, 1997, 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 Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 23rd day of May 1997.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14012 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–356]

University of Illinois at Urbana-Champaign Notice of Withdraw of Application for Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the University of Illinois at Urbana-Champaign (University) to withdraw its September 29, 1989, as supplemented, application for renewal of Facility Operating License No. R–117 for the Low Power Reactor Assembly (LOPRA) located on the University's campus in Urbana, Illinois. The University has decommissioned the LOPRA and requested that the facility operating license be terminated.

The Commission had previously issued a notice of ''Consideration of Application for Renewal of Facility Operating License'' published in the **Federal Register** on January 2, 1990 (55 FR 72). No requests for a hearing were received. By letter dated April 15, 1997, the applicant requested withdrawal of the application.

For further details with respect to this action, see the application for license renewal dated September 29, 1989, as supplemented on March 22, 1990, and the letter from the University dated April 15, 1997, which requested withdrawal of the application. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland, the 22nd of May 1997.

For the Nuclear Regulatory Commission.

Marvin M. Mendonca,

Acting Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14016 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to Washington Public Power Supply System (the licensee) for operation of the Washington Nuclear Project No. 2 (WNP–2) located in Benton County, Washington.

The proposed amendment would revise the Minimum Critical Power Ratio (MCPR) limits in Technical Specification (TS) 2.1.1.2 to indicate that for ATRIUM–9X fuel the MCPR limit shall be greater than or equal to 1.13 for two loop operation and greater

than or equal to 1.14 for single loop operation. The limits for all other fuel would remain the same. The proposed amendment would also add a new reference to Section 5.6.5 ''Core Operating Limits Report'' of the TS. This change reflects new ATRIUM–9X additive constant uncertainty calculations. The respective BASES have also been modified accordingly.

The exigent circumstances for this TS amendment request exist in order to avoid an unnecessary delay in restart of the facility. Siemens Power Corporation provided revised MCPR limits to the licensee for ATRIUM–9X fuel by letter dated May 20, 1997, therefore, the exigent circumstances could not have been avoided.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established consistent with NRC approved methods to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed Technical Specifications amendment conservatively establishes the ATRIUM–9X MCPR safety limit for WNP–2 such that the fuel is protected during normal operation as well as during plant transients or anticipated operational occurrences.

The probability of an evaluated accident is not increased by increasing the ATRIUM–9X MCPR safety limit to [greater than or equal to] 1.13 (two loop operation) or [greater than or equal to] 1.14 (single loop operation). The change does not require any physical plant modifications, physically affect any plant component, or entail changes in plant operation. Therefore, no individual precursors of an accident are affected.

This Technical Specification amendment proposes to change the MCPR safety limit for ATRIUM–9X fuel to protect the fuel during normal operation as well as during plant transients or anticipated operational occurrences. The method that is used to determine the ATRIUM–9X additive constant uncertainty is conservative, such that the resulting ATRIUM–9X MCPR safety limit is high enough to ensure that less than 0.1% of the fuel rods are expected to experience boiling transition if the limit is not violated. Operational limits will be established based on the proposed ATRIUM–9X MCPR safety limits to ensure that the safety limits are not violated. This will ensure that the fuel design safety criteria (more than 99.9% of the fuel rods avoid transition boiling during normal operation as well as anticipated operational occurrences) is met. In addition, since the operability of plant systems designed to mitigate any consequences of accidents have not changed, the consequences of an accident previously evaluated are not expected to increase.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in allowable modes of operation. This Technical Specification submittal does not involve any modifications of the plant configuration or allowable modes of operation. This Technical Specification change results in added conservatism in the ATRIUM–9X MCPR safety limits due to analytical changes and use of an expanded database. Therefore, no new precursors of an accident are created and no new or different kinds of accidents are created.

3. The proposed change does not involve a significant reduction in a margin of safety.

The MCPR safety limit provides a margin of safety by ensuring that less than 0.1% of the rods are expected to be in boiling transition if the MCPR limit is not violated. The proposed Technical Specification amendment is based on conservative calculations by SPC [Siemens Power Corporation] using the new ATRIUM–9X additive constant uncertainty. These new ATRIUM–9X additive constant uncertainty calculations are based on a larger pool of data than previous calculations (527 data points versus 82 data points). Additionally, the revised additive constant uncertainty is being conservatively applied to calculate a new ATRIUM–9X MCPR safety limit which is more restrictive than the current limit.

Because more conservative methods are being used to calculate and apply the additive constant uncertainty to the ATRIUM–9X MCPR safety limit calculation, a decrease in the margin of safety will not occur due to changing the ATRIUM–9X MCPR safety limit. The revised safety limit will continue to ensure that an appropriate level of fuel protection exists. Additionally, operational limits will be established based on the proposed ATRIUM–9X MCPR safety limit to ensure that the ATRIUM–9X MCPR safety limit is not violated. This will ensure that the fuel design safety criteria of more than 99.9% of the fuel rods avoiding transition boiling during normal operation as well as anticipated operational occurrences is met.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating, shutdown or failure to restart the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received.

Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 30 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the NRC's Local Public Document Room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William H. Bateman, Director, Project Directorate IV–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 20, 1997, 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 NRC's Local Public Document Room located at the Richland Public Library, 955

Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 22nd day of May 1997.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14015 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Meeting Between the American Society for Quality Control and NRC to Discuss Quality Assurance Principles

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a meeting between the American Society for Quality Control, Energy and Environmental Division, Power Production Committee (ASQC EED) and the Nuclear Regulatory Commission (NRC) on quality assurance principles of mutual interest.

SUMMARY: The ASQC EED and the NRC have met periodically to discuss technical matters of mutual interest. Topics at this meeting will cover codes and standards, graded QA, and more detailed QA features found in QA standards.

DATES: The meeting will be held on June 5, 1997, from 8:00 am–5:00 pm, and on June 6, 1997, from 8:00 am–12:00 noon.

ADDRESSES: Conference Room O–1 F7/9, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Owen P. Gormley (301) 415–6793 Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: The ASQC EED and NRC meet periodically to discuss topics of mutual interest concerning problems in achieving quality and means to correct the problems, or interpretations or problems in implementing activities found in QA standards and in most QA programs. Topics at this session will include codes and standards, graded QA, and more detailed QA features found in QA standards. The format of the meeting will consist of discussion between the ASQC EED and NRC on the topics noted above. Seating for the public will be on a first come, first-served basis.

Dated at Rockville, Maryland, this 22nd day of May 1997.

For the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering Technology Office of Nuclear Regulatory Research.

[FR Doc. 97–14017 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revised

The agenda for the 442nd meeting of the Advisory Committee on Reactor Safeguards scheduled to be held on June 11–13, 1997, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland, has been revised to include Committee discussion of the NRC staff's position on the need for a containment spray system for the AP600 design for severe accident management. This discussion is scheduled between 8:30 a.m. and 10:30 a.m. on Friday, June 13, 1997. Following the discussion of this item, the items previously scheduled for Friday, June 13, 1997 will be discussed. If necessary, the meeting will be extended to Saturday, June 14, 1997 to complete the Committee business.

The agenda for June 11 and 12, 1997 remains the same as published in the **Federal Register** on Tuesday, May 20, 1997 (62 FR 27632).

Further information regarding this meeting can be obtained by contacting Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 a.m. and 4:15 p.m. EDT.

Dated: May 22, 1997.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 97–14009 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Correction to Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

On May 21, 1997, the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 27802, under Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Power Plant, the date of amendment request should have been April 14, 1997 (TSCR 197).

Dated at Rockville, Maryland, this 22nd day of May 1997.

For the Nuclear Regulatory Commission.

Kevin A. Connaughton,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14011 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

In the Matter of GPU Nuclear Corporation; Oyster Creek Nuclear Generating Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated April 1, 1997, Berkeley Township Environmental Commission (Petitioner) has passed a resolution opposing transfer of spent nuclear fuel from wet to dry storage during operation of Oyster Creek Nuclear Generating Station (OCNGS). Petitioner requests that the U.S. Nuclear Regulatory Commission (NRC) direct GPU Nuclear (GPU) to shut down the nuclear reactor at OCNGS during the aforementioned fuel transfer.

As the bases for its request, Petitioner asserts that (1) the load transfer path for the 100-ton fuel transfer cask passes over the reactor's containment mechanism and other safety-related equipment; (2) NRC Bulletin 96–02, dated April 11, 1996, states that a dropped cask could damage the isolation condensers and the torus, creating the possibility of an unisolable leak, which in industry jargon describes a situation perilously close to a nuclear meltdown; (3) the operating record of GPU demonstrates it is capable of human error, including dropping heavy loads; (4) Berkeley Township could not be successfully evacuated in the event of a serious nuclear accident at OCNGS; and (5) the safer simpler alternative of turning off the reactor while lifting 100-ton loads over the containment can be easily implemented.

This request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. A copy of the Petition is available for public inspection at the Commission's Public Document Room at 2120 L Street, N.W., Washington, D.C.

Dated at Rockville, Maryland this 20th day of May 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14014 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Availability of Draft Branch Technical Position on a Performance Assessment Methodology for Low-Level Radioactive Waste Disposal Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of Draft Branch Technical Position.

SUMMARY: The U.S. Nuclear Regulatory Commission is announcing the availability of the ''Draft Branch Technical Position on a Performance Assessment Methodology for Low-Level Radioactive Waste Disposal Facilities.''

DATES: The comment period expires August 27, 1997.

ADDRESSES: Send comments to Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Mail Stop T–6–D59, Rockville, Maryland 20852–2738. Comments may be delivered to the same address between 7:45 a.m. and 4:15 p.m., on Federal workdays.

A copy of the draft Branch Technical Position (BTP) is available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street (Lower Level), NW, Washington, DC 20555–0001. Copies of the draft BTP may also be obtained by contacting Karen S. Vandervort, Division of Waste Management, Office of Nuclear Material Safety and Safeguards. Telephone: (301) 415–7252.

FOR FURTHER INFORMATION CONTACT: Anne E. Garcia, Division of Waste Management, Office of Nuclear Material Safety and Safeguards. Telephone: (301) 415–6631.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission's (NRC's) regulation regarding the licensing requirements for the land disposal of low-level radioactive waste (LLW) can be found at 10 CFR part 61. Part 61 requires that technical analyses be performed to demonstrate protection of the general population from releases of radioactivity to the general environment in certain environmental pathways such as ground water, surface water, air, soil, and biota (plants). A LLW performance assessment is a technical analysis that can be used to demonstrate compliance with NRC's performance objective for radiological protection of the general public—10 CFR 61.41. NRC's Performance Assessment Working Group has prepared a draft BTP, designated NUREG–1573, as a step toward providing detailed LLW performance assessment guidance to potential applicants for a NRC license. When finalized, the BTP may contain information that may be useful to Agreement States and disposal site developers on LLW performance assessment. In this regard, the draft BTP includes the staff's technical positions on: (a) An acceptable approach for systematically integrating site characterization, facility design, and performance modeling into a single performance assessment process; (b) five principal regulatory issues regarding interpreting and implementing Part 61 performance objectives and technical requirements governing LLW site post-closure performance; and (c) implementation of NRC's LLW performance assessment methodology. In arriving at the proposed positions taken on these issues in the draft BTP, the staff has considered a number of alternatives. Nevertheless, the staff is interested in the public's views on both the suitability of approaches presented in the draft BTP for measuring the performance of LLW disposal facilities, as well as the staff's proposed positions on certain LLW regulatory issues: (a) Consideration of future site conditions, processes, and events; (b) performance of engineered barriers; (c) timeframe for an LLW performance assessment; (d) treatment of sensitivity and uncertainty; and (e) the role of performance assessment during the operational and closure periods.

To obtain early feedback on the guidance for LLW performance assessment under development by the staff, a preliminary draft of the BTP was distributed for comment to LLW-sited and host Agreement State regulatory entities; the Advisory Committee on Nuclear Waste (ACNW); the U.S. Department of Energy (DOE); the U.S. Environmental Protection Agency; and the U.S. Geological Survey in January 1994. The staff briefed the ACNW and the Commission on the scope and content of the BTP in March and April 1994, respectively. The staff subsequently held two workshops on the BTP and LLW performance assessment. The first was a 2-day workshop held at NRC Headquarters on November 16–17, 1994. The second was a half-day workshop, limited to certain technical issues in LLW performance assessment, held at the 16th Annual DOE/LLW Management Conference on December 13–15, 1994. Finally, the staff briefed the ACNW on key regulatory issues and its evaluation of the workshop comments on March 16, 1995. This draft BTP reflects the staff's consideration of feedback received during those interactions. However, the staff did not formally respond to these comments in preparing this version.

In a related matter, the staff would be interested in the views of the public concerning whether it would be appropriate to discount potential doses, from a hypothetical LLW disposal site, to future generations. In the context of LLW disposal, it does not appear that the use of the ''time-value of money'' approach to discounting is implementable considering the long time frames of performance considered. In the context of LLW disposal, application of discounting, either qualitative or quantitative, might more appropriately weigh present-day economic cost of design and performance features associated with LLW disposal against expectations about future health risks. This approach would not allow the standard to be exceeded, but would address the level of assurance necessary to demonstrate that the LLW performance objectives will be met. Although the draft BTP does not address this issue, the staff has been asked by the Commission to request comment on this concept as part of the public comment process.

Finally, the staff is aware that several entities have commented on aspects of the BTP, as presented in the January 1994, preliminary draft, through the Commission's November 1995 Strategic Assessment and Rebaselining Initiative. The staff was directed by the Commission to inform it on how it plans to resolve those comments prior to a decision to finalize the BTP. As part of the public comment process, the staff will provide the Commission with a summary of all public comments, including those made during the Strategic Assessment and Rebaselining Initiative, and proposed resolutions to those comments prior to finalizing the BTP.

Dated at Rockville, Maryland, this 22nd day of May 1997.

For the U.S. Nuclear Regulatory Commission.

Michael J. Bell,

Acting Chief, Performance Assessment and High-Level Waste Integration Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–14010 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

PANAMA CANAL COMMISSION

Revision of a Currently Approved Collection of Information

AGENCY: Panama Canal Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 109 Stat. 163), this notice announces the Panama Canal Commission (PCC) is planning to submit to the Office of Management and Budget a Paperwork Reduction Act Submission (83-I) for a revision of a currently approved collection of information contained in Subchapter C (Shipping and Navigation) of Chapter I, Title 35, Code of Federal Regulations (CFR), OMB No. 3207–0001.

DATES: Written comments on this proposed action regarding the collection of information must be submitted by July 28, 1997.

ADDRESSES: Address all comments concerning this notice to Edward H. Clarke, Desk Officer for Panama Canal Commission, Office of Information and Regulatory Affairs, Room 10202, New Executive Office Building, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Ruth Huff, Office of the Secretary, Panama Canal Commission, 202–634–6441.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Collection of information is defined in 44 U.S.C, 3502(3) and 5 CFR 1320.3(c). Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires Federal agencies to provide a 60-day notice in the **Federal Register**, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, by soliciting comments to: (a) evaluate 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) evaluate the accuracy of the proposed collection of information; enhance the quality, utility, and clarity of the information to be collected; and (c) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Title: Subchapter C (Shipping and Navigation) of Chapter I, 35 CFR.

Type of Request: Revision of a currently approved collection.

Background: Article III of the Panama Canal Treaty of 1977 and section 1101 of its implementing legislation, Public Law 96–70, 93 Stat. 456, vest in the Panama Canal Commission the responsibility and authority to maintain and operate the Panama Canal. Section 1801 of Public Law 96–70, codified at 22 U.S.C. 3811, explicitly authorizes the Commission to promulgate regulations governing navigation of the waters of the Panama Canal. The information required by various sections of Subchapter C (Shipping and Navigation) of Title 35 of the Code of Federal Regulations, and obtained through the use of the subject forms, is essential for the Commission to carry out its mission in a safe and efficient manner.

Abstract: On December 24, 1981, OMB approved a collection of information proposal submitted by the Panama Canal Commission in conjunction with a revision of its navigation regulations (35 CFR Chapter I, Subchapter C), and assigned this collection OMB Number 3207–0001 with an expiration date of December 31, 1984. Prior to the expiration of the collection, PCC requested another extension and received OMB approval through March 31, 1988. PCC continued requesting approval in subsequent expiration years and received extensions through August 31, 1991, September 30, 1994 and September 30, 1997. The forms required by those regulations, which make up the collection of information are used to collect, from vessels arriving in the Panama Canal waters, information required for assuring the vessels are in compliance with Panama Canal Commission shipping and navigation regulations. The information collected will be used for economic analyses, traffic forecasting, identification, tonnage calculation, billing, safety and sanitation purposes.

Burden Statement: It is estimated the burden (which varies widely, depending upon the nature of each vessel's operations) for cargo vessels ranges from 5 minutes to 4 hours per response. The burden will be lessened for those vessels having the capability of producing computer-generated cargo declarations. For passenger vessels, the range would be from approximately 2 hours to 13 hours. The utilization of computer-generated crew and passenger lists should reduce by 8 to 10 hours the time required of a vessel like the ''M/V GALAXY.'' The smallest passenger vessels carry about 13 passengers; one of the largest, the ''M/V GALAXY'' is capable of carrying 2,217 passengers. It would be very difficult to provide a meaningful estimate of the total burden for each vessel since some transit frequently, while others may transit only once or infrequently.

Estimated Number of Respondents: 16,487.

Estimated Total Hours per Response: 2.

Total Annual Reporting Hour Burden: 32,974.

Respondents: Canal users.

Frequency of Collection: When arriving in Panama Canal waters.

Jacinto Wong,

Chief Information Officer, Senior Official for Information Resources Management.

[FR Doc. 97–14034 Filed 5–28–97; 8:45 am]

BILLING CODE 3640–04–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 22679; 812–9934]

The Latin American Discovery Fund, Inc., et al.; Notice of Application

May 21, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: The Latin American Discovery Fund, Inc., The Malaysia Fund, Inc., Morgan Stanley Africa Investment Fund, Inc., Morgan Stanley Asia-Pacific Fund, Inc., Morgan Stanley Emerging Markets Debt Fund, Inc., Morgan Stanley Emerging Markets Fund, Inc., Morgan Stanley Fund, Inc., Morgan Stanley Global Opportunity Bond Fund, Inc., Morgan Stanley High Yield Fund, Inc., Morgan Stanley India Investment Fund, Inc., Morgan Stanley Institutional Fund, Inc., The Pakistan Investment Fund, Inc., Morgan Stanley Russia and New Europe Fund, Inc., Morgan Stanley Universal Fund, Inc., The Turkish Investment Fund, Inc. (collectively, the ''Funds''); Morgan Stanley Asset Management Inc.

(''MSAM''); Morgan Stanley Trust Company (''MSTC''); Morgan Stanley & Co. Incorporated (''MS&Co''); MS Securities Services Inc. (''MSSSI''), and Morgan Stanley Market Products Inc. (''MS Market Products''), on behalf of themselves and (i) securities brokers now or in the future controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with MS&Co, Morgan Stanley Group Inc. (''MS Group''), or Morgan Stanley, Dean Witter, Discover & Co. (''MSDWD'') [1] (collectively with MS&Co, MSSSI, and MS Market Products, the ''Affiliated Broker-Dealers''), (ii) registered investment companies for which MSAM or any person controlling, controlled by or under common control with MSAM, MS Group, or MSDWD now or in the future serves as investment adviser (the ''Future Funds''), and (iii) Fund custodians now or in the future controlling, controlled by, or under common control with MSTC, MS Group, or MSDWD.

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) of the Act from section 17(a)(3), and under rule 17d–1 from section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order to permit: (i) The Funds to lend their portfolio securities to Affiliated Broker-Dealers; (ii) MSTC to receive a fee from the Funds for its services as lending agent, such fee to be based upon a share of the proceeds derived by the Funds from their securities lending activities and (iii) the Funds to deposit cash collateral received in connection with their securities lending activities in one or more joint trading accounts or subaccounts (the ''Cash Collateral Joint Accounts'').

FILING DATES: The application was filed on December 26, 1995, and amended on May 10, 1996, December 20, 1996, March 18, 1997, and May 19, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: MSSI and MSTC, One Pierrepont Plaza, Brooklyn, New York 11201; all other applicants, 1585 Broadway, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are management investment companies registered under the Act. MSAM. a wholly-owned subsidiary of MS Group, is an investment adviser registered under the Investment Advisers Act of 1940, and acts as adviser to each Fund.

2. MS&Co, a wholly-owned subsidiary of MS Group, is a registered broker-dealer. MSSSI, a wholly-owned subsidiary of MS&Co, also is a registered broker-dealer. MS Market Products, a wholly-owned subsidiary of MS Group, is primarily engaged in the trading, on principal basis, of Government agency mortgage-backed securities and over-the counter options on U.S. Treasury securities.

3. MSTC is a wholly-owned subsidiary of MS Group that is organized as a trust company under the laws of the State of New York. MSTC serves as custodian for each of the Funds, and maintains an extensive monitoring system tot rack the Funds' securities holdings.

4. The Funds propose to lend portfolio securities to securities brokerage firms, including the Affiliated Broker-Dealers, that meet certain established criteria (collectively, the ''Borrowers''). MSTC proposes to act as lending agent for the Funds in securities loans to the Borrowers. Subject to parameters set forth in procedures approved by the board of directors of each Fund, MSAM will pre-approve both securities that are eligible to be loaned and eligible Borrowers.[2] MSTC will be responsible for soliciting Borrowers from among those pre-approved, negotiating the terms of each loan within pre-approved limits, monitoring collateral requirements, investing cash collateral under the supervision of and in accordance with guidelines established by MSAM, and performing other administrative or ministerial functions in connection with each Fund's securities lending program.[3]

5. Applicants state that the conditions and monitoring to which the securities lending program will be subject will protect the Funds against potential favoritism of Affiliated Broker-Dealers by MSTC. In order to ensure that securities loans to Affiliated Broker-Dealers do not involve overreaching, each such loan will be made with a spread that is no lower than that applied to comparable loans to unaffiliated broker-dealers.[4] In addition, at least 50% of the loans made by the Funds, on an aggregate basis, will be made to unaffiliated Borrowers, all loans will be made with spreads that conform to a schedule of spreads established by the directors of each Fund who are not ''interested persons'' of the Fund as defined in section 2(a)(19) of the Act (the ''Disinterested Directors''), and all transactions with Affiliated Broker-Dealers will be monitored daily by an officer of each Fund to ensure that the terms of such loans are comparable with the terms of that Fund's loans to unaffiliated Borrowers.[5] In addition, the lending committee of each Fund

[1] All of the named applicants are directly or indirectly controlling, controlled by, or under common control with MS Group. In February 1997, MS Group signed a merger agreement contemplating the merger of MS Group with and into Dean Witter Discover & Co. to form MSDWD, a new corporation. As a result, MS Group is expected to be merged out of existence and the new holding company of the Morgan Stanley entities will be MSDWD. Existing entities that currently do not intend to rely on the requested order have not signed the application. These entities may rely on any such order in the future, however, if they decide to participate in the securities lending activities and cash collateral joint accounts described in the application.

[2] In the case of Future Funds advised by affiliated persons of MSAM, the affiliate rather than MSAM may establish the written parameters for securities lending and the Cash Collateral Joint Accounts, in compliance with the representations and conditions contained herein.

[3] *See Norwest Bank Minnesota N.A. and Society National Bank* (pub. avail. May 25, 1995).

[4] In the absence of comparable loans to unaffiliated entities on any given day, MSTC will review the fairness of the negotiated rebate to an Affiliated Broker-Dealer by analyzing the rebates paid in recent loans of securities of that type, taking into account overall trends in the securities lending and other financial markets since the rebate was made.

[5] If there are no directly comparable loans and the officer cannot make a reasonable evaluation based on all the loans outstanding, the officer will contact the Funds' securities lending agent for an explanation of the method used to determine the spread charged. In the quarterly reports to the Lending Committee, the officer will specifically note those spreads for which he could not arrive at a reasonable evaluation and the reasons for the difficulty in arriving at an evaluation.

(''Lending Committee'') (which will be composed of Disinterested Directors) will review detailed quarterly and annual reports on all lending activity.

6. Applicants represent that MSTC's procedures for soliciting and negotiating securities loans will provide additional protection against potential favoritism of Affiliated Broker-Dealers. If more than one Borrower requests a loan of the same assets, MSTC will allocate those assets on a first-come, first-served basis. If more than one request for the same security is received at approximately the same time, other factors, such as price and volume of business, may be considered. Furthermore, when MSTC negotiates a fee with a Borrower for securities available for lending, it will do so on a global basis for its entire available inventory in that security; at the time the fee is agreed upon, the MSTC trader will not know which leading client will supply the assets. Finally, MSTC's discretion will be circumscribed further by the fact that it cannot enter into a loan in which transaction costs would exceed the income attributable to the loan.

7. MSTC's fee for acting as securities lending agent will be based on a share of returns generated by the investment of cash collateral received by the Fund (or, where non-cash collateral is accepted, on a share of the fee paid to the Fund by the Borrower). Applicants propose the following safeguards to ensure that the fee arrangement and other terms of the relationship between the Funds and MSTC are fair:

a. In connection with the initial approval of MSTC as lending agent to a Fund, a majority of the board of directors of each Fund (including a majority of the Disinterested Directors) will determine that (i) The contract with MSTC is in the best interests of the fund and its shareholders; (ii) the services to be performed by MSTC are required by the Fund; (iii) the nature and quality of the services provided by MSTC are at least equal to those provided by others offering the same or similar services; and (iv) the fees for MSTC's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. In connection with the initial approval of MSTC as lending agent to a Fund, the board of directors of the Fund will review the lending agent fees of at least three independent lending agents to assist the board in making the findings referred to above.

c. Each Fund's contract with MSTC for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the board of directors of each Fund (including a majority of the Disinterested Directors) makes the findings referred to above.

8. The Funds also propose to establish Cash Collateral Joint Accounts with Chase Manhattan Bank (''Chase'') or another custodian or subcustodian (collectively with Chase, the ''Custodians''), into which they intend to deposit some or all of the cash collateral received in connection with the securities lending programs.[6] The balance in these accounts will be used to enter into repurchase agreements with an overnight, over-the-weekend or over-a-holiday maturity (''Overnight Investments''). The maximum maturity of any Overnight Investment will be seven days. No Fund will be under any obligation, on any day, to deposit its cash collateral, or any portion of it, in any Cash Collateral Joint Account.

9. The board of directors for each Fund will establish standards and procedures for Overnight Investments. These standards and procedures will include the requirements that each Overnight Investment (a) be fully collateralized (as defined in rule 2a–7 under the Act) at all times, (b) comply with the investment, and (c) include creditworthiness standards for repurchase agreement counterparties. Each Fund's list of approved counterparties will be monitored by MSAM on an ongoing basis and reviewed quarterly by that Fund's board of directors.[7]

10. The Cash Collateral Joint Accounts may comprise multiple joint subaccounts, if MSAM determines that multiple joint subaccounts are necessary or advisable to provide the Funds with additional flexibility and choice in the Overnight Investments in which they choose to invest. For example, one joint subaccount may accept only Treasury securities as collateral, while another may accept other U.S. Government securities as collateral, and yet another may accept as collateral high quality commercial paper. Joint subaccounts may also be established for other reasons, such as to facilitate monitoring of individual Funds' interests in different Overnight Investments, or to permit tracking of Overnight Investments with different counterparties, consistent with the variations in investment restrictions and policies among the various Funds.

11. For each Overnight Investment, the Custodian will calculate the market price of the collateral (to ensure full collateralization) and the interest earned at maturity, and will monitor aggregate exposure to each approved counterparty. The Custodian also will record each Fund's deposits into the Cash Collateral Joint Accounts and maintain account records with respect to each Fund and the Joint Accounts generally, updated daily. At the end of each day, the custodian will reconcile the aggregate amount of each Fund's designated cash collateral with the total amount of Overnight Investments made. The same allocations data from the settlement system also will be provided daily to MSAM and to MSTC as custodian for the Funds. This information will show each Fund's investments in the Joint Accounts and the interest rate and maturity of each Overnight Investment. The Custodian also will provide monthly reports of all Overnight Investments and each Fund's investments in and earnings from the Joint Accounts. MSAM will review the daily and monthly reports to ensure that the Overnight Investments have been made in compliance with the guidelines set by each Fund's board of directors and the conditions set forth in the application.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act makes it unlawful for any affiliated person of a registered investment company (or any affiliated person of such person), acting as principal, to borrow money or other property from that investment company. Section 2(a)(3) of the Act defines the term ''affiliated person'' of another person to include any person under common control with that other person and, if that other person is an investment company, any investment adviser of that company. Because MSAM and the Affiliated Broker-Dealers are under the common control of MS Group, they may be deemed to be affiliated persons of each other. In addition, MSAM is an affiliated person of the Funds. Accordingly, absent an exemption from section 17(a)(3), the Affiliated Broker-Dealers would not be

[6] Initially, the Funds intend to establish only one Cash Collateral Joint Account, although they may establish other Cash Collateral Joint Accounts in the future with Chase or other Custodians. Such accounts may be used to invest in investments collateralized by only a particular type of collateral.

[7] Applicants expect that approved counterparties will consist of (a) any bank that, at the time a repurchase agreement is entered into, has a rating not less than AAA from Standard & Poor's Ratings Group (''S&P'') or the equivalent thereof by a nationally recognized statistical rating organization (''NRSRO''), and (b) any broker-dealer that, at the time a repurchase agreement is entered into, has a rating not lower than A from S&P or the equivalent thereof by a NRSRO (or, if the broker-dealer is a wholly-owned subsidiary, its parent has such a rating). The approved counterparties will not include a Custodian, MSAM, or any person directly or indirectly controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with a Custodian or MSAM.

permitted to borrow property from the Funds.

2. Section 17(b) of the Act provides that any person may file an application for an exemption from section 17(a) with the SEC, and the SEC shall grant the requested relief if it is established that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned (as recited in its registration statement and reports filed under the Act); and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act provides that the SEC by order upon application may conditionally or unconditionally exempt any person, security, or transaction (or any class or classes thereof) from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under sections 6(c) and 17(b) for an exemption from the provisions of section 17(a)(3) to avoid having to file a separate application for an order pursuant to section 17(b) with respect to each proposed securities loan.

3. Applicants assert that the terms of the proposed securities loans to Affiliated Broker-Dealers, as outlined above, including the consideration to be paid to the Funds, are reasonable and fair and do not involve overreaching. Applicants also submit that the proposed securities loans are consistent with the policy of each Fund, as recited in its registration statement and reports filed under the Act. Applicants believe that the proposed securities loans are consistent with the general purposes of the Act, as a failure to grant the requested exemption would limit the number of companies to which the Funds can lend securities and would exclude MS&Co, one of the largest single borrowers of securities, from the group of Borrowers to which the Funds may loan securities. Furthermore, the lack of diversity in Borrowers could have a tangible effect on the spreads that the Funds receive from unaffiliated broker-dealers, who would not be subject to competition from Affiliated Broker-Dealers. Finally, applicants believe that the safeguards described above will ensure a substantially similar level of investor protection to that afforded by section 17(a)(3), and that the requested exemption is consistent with the protection of investors and with the purpose, policy and provisions of the Act.

4. Section 17(d) of the Act makes it unlawful for any affiliated person, or affiliated person of an affiliated person, of a registered investment company, acting as principal, to effect any transaction in which the company is a joint or joint and several participant with the affiliated person in contravention of such rules and regulations as the SEC may prescribe for the purpose of limiting or preventing participation by such company. Rule 17d–1 thereunder authorizes the SEC to grant an exemption if the participation of each of the Funds is not on a basis different from or less advantageous than that of the other participants and is consistent with the provisions, policies, and purposes of the Act.

5. Because MSAM and MSTC are subsidiaries of the same parent company and because MSTC's compensation as securities lending agent will be based on a share of returns, the compensation of MSTC in its capacity as securities lending agent for the Funds may be deemed to involve a prohibited joint enterprise or joint transaction or profit-sharing plan within the meaning of section 17(d) and rule 17d–1 thereunder. Applicants assert, however, that the arrangements outlined above pursuant to which MSTC will receive its lending agent fee satisfy the requirements of rule 17d–1 for an exemption.

6. Applicants believe that MSTC is the most advantageous choice to employ as lending agent for the Funds and Future Funds, even if MSTC does not serve as custodian for the Future Funds. MSTC is experienced in securities lending, and already maintains communications links with a wide range of Borrowers. In addition, MSTC can administer the Funds' securities lending program through systems it already has in place to monitor the Funds' securities holdings. Applicants represent that an unaffiliated lending agent would have to maintain a parallel communications and monitoring system for securities lending purposes, raising the prospect that redundancies and inconsistencies between securities lending networks would create confusion and inefficiency within the funds' securities lending program, the cost of which would be passed on to the Funds.

7. Applicants also believe that the Funds' participation in the proposed Cash Collateral Joint Accounts could be deemed to involve a prohibited joint enterprise or joint transaction or profit-sharing plan within the meaning of section 17(d) and rule 17d–1. Each Fund may be deemed an affiliated person of each other Fund under the definition set forth in section 2(a)(3).

8. Applicants believe that investing in Overnight Investments through the Cash Collateral Joint Accounts, as contrasted with separated accounts, would increase the Funds' average returns on Overnight Investments because use of the Cash Collateral Joint Accounts is expected to reduce transaction costs and enable MSAM to negotiate more favorable interest rates on these instruments. In addition, tri-party repurchase agreements (*i.e.*, repurchase agreements in which both parties maintain accounts at the same custodian bank) for which there are no collateral transfer costs and, as a consequence, higher net yields, may not be available for small transactions.

9. Applicants believe that the proposed operation of the Cash Collateral Joint Accounts will be free of any inherent bias favoring one Fund over another, and that the anticipated benefits flowing to each participating Fund will fall within an acceptable range of fairness. Applicants also believe that the proposed method of operating the Cash Collateral Joint Accounts will not result in any conflicts of interest between any of the Funds or between any Funds and MSAM. MSAM will likely gain some benefit through the administrative convenience of investing in Overnight Investments on a joint basis and may experience some reduction in clerical costs. Applicants assert that the Funds will be the primary beneficiaries of the proposed joint investments in overnight Investments, however, because of the increased efficiencies realized through use of the Cash Collateral Joint Accounts, the possible increase in rates of return available, and, for some Funds, the opportunity to invest in Overnight Investments. Accordingly, applicants submit that the proposed operations of the Cash Collateral Joint Accounts meet the standard established in rule 17d–1 for granting exemptions under that rule.

10. Applicants submit that participation in an integrated securities lending program would permit the Funds to derive benefits beyond those conferred by each individual exemption. Specifically, applicants believe that it is important for the success of the securities lending program that the Funds be permitted to use the strength of their combined securities inventories and the breadth of their relationships with all Borrowers to obtain the best available spreads on securities loans to Affiliated Broker-Dealers and unaffiliated broker-dealers alike. All spreads will be measured

against an objective benchmark established by the schedule of spreads as well as an objective benchmark established by comparable market transactions. The combination of loans to Affiliated Broker-Dealers and the use of MSTC as lending agent will permit the Funds to offer their broad array of securities collectively and efficiently, and to develop the business relationships necessary for a successful securities lending program. In addition, the use of Cash Collateral Joint Accounts will provide the Funds with an opportunity to maximize the advantages of the securities lending program through the investment of cash collateral obtained through the program. Finally, applicants state that the potential for overreaching by affiliates in the consolidated securities lending program will be avoided through the combination of oversight by Fund directors and officers, the competitive pressures of the securities lending market, and compliance with explicit, objective conditions that can be easily verified.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. The Funds, on an aggregate basis, will make at least 50% of their portfolio securities loans to unaffiliated Borrowers.

2. A Fund will not make any loan to an Affiliated Broker-Dealer unless the income attributable to such loan fully covers the transaction costs incurred in making such loan.

3. a. All loans will be made with spreads no lower than those set forth in a schedule of spreads (the ''Schedule of Spreads'').

b. The Schedule of Spreads, which will be established and may be modified from time to time by committees of the Funds' board of directors composed of Disinterested Directors, will set forth rates of compensation to the Funds that are reasonable and fair, and that are determined in light of those considerations set forth in the application. The Schedule of Spreads and any modifications thereto will be ratified by the full board of directors of each Fund and by a majority of the Disinterested Directors.

c. The Schedule of Spreads will be uniformly applied to all Borrowers of the Funds' portfolio securities, and will specify the lowest allowable spread with respect to a loan of securities to any Borrower.

d. If a security is loaned to an unaffiliated Borrower with a spread higher than the minimum set forth in the Schedule of Spreads, all comparable loans to an Affiliated Broker-Dealer will be made at no less than the higher spread.

e. The Funds' portfolio securities lending program will be monitored on a daily basis by an officer of each Fund who is subject to section 36(a) of the Act. This officer will review the terms of each loan to an Affiliated Broker-Dealer for comparability with loans to unaffiliated Borrowers and conformity with the Schedule of Spreads, and will periodically, and at least quarterly, report his or her findings to the Funds' Lending Committees.

4. The boards of directors of the Funds, including a majority of the directors who are not interested persons, (a) will determine no less frequently than quarterly that all transactions with Affiliated Broker-Dealers effected during the preceding quarter were effected in compliance with the requirements of the procedures adopted by the boards and the conditions of any order that may be granted and that such transactions were documented on terms that were reasonable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

5. The Funds will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) that are followed in lending securities, and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan occurs, the first two years in an easily accessible place, a written record of each loan setting forth the number of shares loaned, the face amount of the securities loaned, the fee received (or the rebate remitted), the identity of the Borrower, the terms of the loan, and any other information or materials upon which the finding was made that each loan made to an Affiliated Broker-Dealer was fair and reasonable, and that the procedures followed in making such loan were in accordance with the other undertakings set forth herein.

6. The total value of securities loaned to any one broker-dealer on the approved list will be in accordance with a schedule to be approved by the board of directors of each Fund, but in no event will the total value of securities that may be loaned to any one Affiliated Broker-Dealer exceed 10% of the net assets of the Fund, computed at market.

7. Except as set forth herein, the securities lending program of each Fund will comply with all present and future applicable SEC staff positions regarding securities lending arrangements, *ie.*, with respect to the type and amount of collateral, voting of loaned securities, limitations on the percentage of portfolio securities on loan, prospectus disclosure, termination of loans, receipt of dividends or other distributions, and compliance with fundamental policies.

8. Approval of the board of directors of a Fund, including a majority of the Disinterested Directors, shall be required for the initial and subsequent approvals of MSTC's service as lending agent for the Fund, for the institution of all procedures relating to the securities lending program of the Fund, and for any periodic review of loan transactions for which MSTC acted as lending agent.

9. The Cash Collateral Joint Accounts will be established as one or more separate cash accounts on behalf of the Funds at a Custodian. Each Fund may deposit, daily, all or a portion of its cash collateral into the Cash Collateral Joint Accounts.

10. Cash in the Cash Collateral Joint Accounts will be invested solely in Overnight Investments that are collateralized fully, as defined in rule 2a–7 under the Act, and that comply with the investments policies of all Funds participating in that Overnight Investment.

11. All Overnight Investments invested in through the Cash Collateral Joint Accounts will be valued on an amortized cost basis. Each Fund that relies on rule 2a–7 will use the dollarweighted average maturity of a Cash Collateral Joint Account's Overnight Investments for the purpose of computing that Fund's average portfolio maturity with respect to the portion of the cash collateral held by it in that Cash Collateral Joint Account.

12. In order to ensure that there will be no opportunity for one Fund to use any part of a balance of any Cash Collateral Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Cash Collateral Joint Account for any reason, although each Fund will be permitted to draw down its *pro rata* share of the entire balance at any time. Each Fund's decision to invest through the Cash Collateral Joint Accounts shall be solely at the option of that Fund and MSAM (within the strict standards and procedures established by that Fund's board of directors), and no Fund will, in any way, be obligated to invest through, or to maintain any minimum balance in, the Cash Collateral Joint Accounts. In addition, each Fund will retain the sole rights to any of the cash collateral, including interest payable on the cash collateral, invested by that Fund through the Cash Collateral Joint

Accounts. Each Fund's investments effected through the Cash Collateral Joint Accounts will be documented daily on the books of that Fund as well as on the books of the Custodian.

13. Each Fund will participate in the income earned or accrued in the Cash Collateral Joint Accounts through which it is invested on the basis of its percentage share of the total balance of such Cash Collateral Joint Accounts on that day.

14. MSAM (or the appropriate affiliated investment adviser) will administer the Cash Collateral Joint Accounts in accordance with the strict standards and procedures established by the boards of directors of the Funds as part of its duties under the existing or any future investment advisory contracts with the Funds. MSAM and its investment adviser affiliates will receive no additional or separate fee for administering the Cash Collateral Joint Accounts.

15. The administration of the Cash Collateral Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

16. The board of directors for each Fund investing in Overnight Investments through the Cash Collateral Joint Accounts will adopt procedures pursuant to which such Accounts will operate, which procedures will be reasonably designed to provide that requirements of the exemption will be met. In addition, not less frequently than annually, the boards will evaluate the Cash Collateral Joint Account arrangements, will determine whether such Accounts have been operated in accordance with the adopted procedures, and will authorize a Fund's continued participation in such Accounts only if the Board determines that there is a reasonable likelihood that such continued participation would benefit that Fund and its shareholders.

17. Substantially all investments by the Cash Collateral Joint Accounts will be Overnight Investments with a maximum maturity of seven days.

18. The Cash Collateral Joint Accounts will not be distinguished from any other accounts maintained by a Fund with a Custodian except that cash collateral from various Fund will be deposited in the Cash Collateral Joint Accounts on a commingled basis. The Cash Collateral Joint Account will not have separate existence with indicia of a separate legal entity. The sole function of the Cash Collateral Joint Accounts will be provide a convenient way of aggregating individual transactions that would otherwise require daily management and investment by each Fund of its cash collateral.

19. All transactions in Overnight Investments will be effected in accordance with Investment Company Act Release No. 13005 (February 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release adopting any new rule, or any release adopting any amendments to any existing rule.

For the SEC, by the Division or Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13967 Filed 5–28–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38669; File No. SR–NYSE–97–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Amendments to the Exchange's Allocation Policy and Procedures

May 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 16, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange, pursuant to Rule 19b–4 of the Act, submits a proposed rule change amending the NYSE's Allocation Policy and Procedures. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]

New York Stock Exchange, Inc., Allocation Policy and Procedures

I. Purpose

The current allocation process was established in 1976. [In September 1987] *T*[t]he Quality of Markets Committee of the NYSE Board of Directors *has periodically* appointed [a] special Allocation System Review Committees (ARC*s*) to conduct [a] comprehensive reviews of the allocation process. [The ARC's recommendations were implemented once approved by the SEC in May 1990. A second and third committee were appointed to review the policy and to make revisions where appropriate.] The objective of each review was to preserve the integrity of the original system and build upon its strengths, in order to ensure that the allocation process:

(1) Is based on fairness and consistency;

(2) Maximizes the professionalism, expertise and objectivity of committee members;

(3) Minimizes potential conflicts of interest;

(4) Rewards performance and provides an incentive for performance improvement;

(5) Spreads reward and risk throughout the specialist system, in order to contribute to its strength and continued viability;

(6) Provides the best possible match between specialist unit and stock, and provides an opportunity for input from the listing company for that purpose;

(7) Provides for education of all participants in the allocation process; and

(8) Ensures the strength and autonomy of the Allocation Committee in applying policy.

[Both committees concluded that, since its inception in 1976, the allocation process has worked very well.] Because specialists can expand their business only by increasing the number of their specialty stocks, allocation criteria and procedures and the performance evaluations on which they rely focus critical attention on customer service and ongoing improvement in the level of specialists' performance. The result is higher quality markets, benefiting the investing public, listed companies and member organizations.

[The committee recognizes that one key to continued success is ongoing education to ensure understanding of and commitment to the allocation process. The effectiveness of the allocation system, and the full confidence of the broad range of Exchange constituents in that process, also depend on specialist performance data and can be sustained only to the extent that the performance evaluation process provides the highest quality data to the deliberative process. The Allocation System Review Committee reviewed and developed recommendations regarding the SPEQ

[1] 15 U.S.C. 78s(b)(1).

process in 1991. It is essential that the Exchange continue to periodically review and seek to improve the specialist performance evaluation process as well as the allocation system.]

This document presents the policy of the Exchange with respect to the allocation of equity securities: (1) When a common stock is to be initially listed on the Exchange: (2) when a security is to be reallocated as a result of disciplinary or other proceedings under Exchange Rules 103A, 475 and 476; or (3) when a specialist unit voluntarily surrenders its registration in a security as a result of possible disciplinary or performance improvement action. The purpose of the allocation system is: (1) To ensure that securities are allocated in an equitable and fair manner and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security and (4) to contribute to the strength of the specialist system.

II. Allocation Committee

Responsibility

The Allocation Committee has sole responsibility for the allocation of securities to specialist units under this policy pursuant to authority delegated by the Board of Directors, and is overseen by the Quality of Markets Committee of the Board (''QOMC''). The Allocation Committee renders decisions based on the allocation criteria specified in this policy (see Section IV). Allocation decisions are published for Exchange Floor members and are communicated to listing companies by Exchange staff. The Allocation Committee gives periodic reports to the QOMC.

Composition

The composition of the Allocation Committee is intended to maximize expertise and objectivity in the allocation process.

To this end, the committee is comprised of 7 Floor brokers, including 3 broker Governors (1 of whom may be an independent/two dollar broker), 4 other Floor brokers from the Allocation Panel (1 of whom must be an independent/two dollar broker) and 2 allied members from the Market Performance Committee or the panel. For options allocations, only 1 Governor shall sit on the committee. Commission brokers contribute their experience in conducting business with specialists, as well as broad-based knowledge of units on the Floor. Therefore, they have the largest representation on the committee. Allied members often provide a perspective on the trading characteristics of new listings and experience as an off-Floor customer of the specialists. Including Governors on the committee adds comprehensive knowledge of specialist performance as well as a broad perspective and expertise relating to the Exchange.

The 9-member committee is chosen from an Allocation Panel (See Section III), which includes Floor brokers, allied members, Governors, and Senior Floor Officials. Selection of committee members within the appropriate member categories is random as to individuals, but an effort is made to appoint individuals who have not yet served on the committee before reappointing past committee members. The Exchange also tries to provide a balanced Floor geographical mix—3 Main Room, 2 Garage, 1 Blue Room, 1 Expanded Blue Room. Efforts are also made to include no more than one broker or allied member whose firm is affiliated with a specialist unit.

Term of Service

Committee members serve 4-month terms, and every two months four or five members are rotated, thereby fostering continuity and objectivity in the decision-making process.

A committee member whose term has expired is ineligible for consecutive reappointment, but after two months is eligible for further service if again randomly selected.

Quorum Requirement

A full Allocation Committee affords optimal participation, and every effort is made to have 9 members for each allocation decision. Whenever standing committee members are unable to serve for a particular meeting or must abstain from deliberations regarding particular stocks, randomly selected panel members may substitute to complete a 9-member committee. A quorum requirement is established so that allocation decisions can otherwise be made, provided there are 7 members including 6 Floor brokers, at least two of whom are Governors, and 1 allied member. For options allocations, a quorum shall include one Governor. In the event that any of the broker Governors on the standing committee are not able to attend an Allocation Committee meeting, or are unable to participate in the allocation of a particular stock, the Exchange first seeks to substitute for such Governor(s) with another broker Governor on the panel. If no such Governor is available, a Senior Floor Official broker on the panel who is not currently a standing member of the Allocation Committee may serve as a substitute for a Governor for the purpose of meeting the Governor quorum requirement. If no Senior Floor Official broker on the panel is available, any Senior Floor Official broker on the standing committee may substitute for the absent Governor(s) for the purpose of meeting the Governor quorum requirement. The Exchange seeks as a substitute a Senior Floor Official who is not currently a standing member of the Allocation Committee in order to maximize the level of seniority of the standing committee. In the event no current Floor broker or allied panel member is available, a former Allocation Committee chairman may substitute, but may not substitute for a Governor for the purpose of meeting the Governor quorum requirement, unless such former Allocation Committee chairman is a Senior Floor Official on the panel. A former chairman brings unique experience and expertise to the process.

Chairman

The Allocation Committee chairman is selected from among the Floor brokers on the standing committee whose firms conduct business with the public, as well as Governors. (Governors and brokers whose firms are affiliated with a specialist unit are ineligible to serve as chairman.) All candidates for chairman must have experience on the Allocation Committee to qualify. The chairman is elected by current Allocation Committee members, including outgoing members, and members of the committee who will be serving at the time of the chairman's appointment.

While allocation decisions are made by the committee as a whole, the chairman's role calls for leadership in conducting meetings in accordance with policy and procedure, emphasizing the importance of preserving the integrity of the allocation process, the committee's responsibility to serve the best interests of the public and the Exchange, and the need to suspend individual interest and avoid possible conflicts of interest.

In order to foster a complete understanding of and ensure consistency of the allocation process, each new chairman is elected two months prior to the commencement of his or her term as chairman. The eligible members will thus include the brokers with 4 to 6 months remaining in their committee terms, plus the brokers selected for rotation onto the committee two months hence. The chairman will

serve until the end of his or her committee term (i.e., two to six months).

If elected prior to the commencement of his or her committee term the chairman-elect will attend meetings as an observer and discuss the allocations with the current chairman. If already serving on the committee, the chairman-elect will likewise discuss the meetings with the current chairman. Orientation of each new chairman will also be provided by former chairmen of the Allocation Committee and by the Quality of Markets Committee. A standardized agenda for education of new chairmen will be made available.

Committee Member Abstentions

In making allocation decisions pursuant to this policy, it is the responsibility of each Allocation Committee member to adhere strictly to the approved allocation criteria. A committee member who feels he or she cannot abide by the criteria due to potential conflict of interest (e.g., allocation involving a relative, a financial interest, relief specialists, etc.) should disqualify himself or herself from the deliberations.

If an Allocation Committee member has an investment banking relationship (defined as manager or co-manager of an underwriting group) or is in an advisory fee relationship with an about-to-be listed company, that committee member must abstain from allocation deliberations with respect to that particular stock. A broker or allied member whose firm is affiliated with a specialist unit must abstain from deliberations regarding allocation of a stock for which that unit has applied.

Committee Disclosure

The names of the standing committee members will be kept confidential. Allocation Committee books will not be delivered to committee members on the trading Floor. Committee members will pick up their books at the Committee Support Services area.

Committee Information

Allocation policy provides the application form and related written correspondence as the means by which interested parties transmit to the Allocation Committee information pertinent to allocations. Exchange members and investment bankers may not initiate contact with Allocation Committee members pertaining to an upcoming allocation. Allocation Committee members will enforce this prohibition. Allocation decisions are made by the committee as a whole, based on the published allocation criteria. Under all circumstances the confidentiality of the Allocation Committee's deliberations is paramount.

Observation of Committee Meetings

All incoming committee members are expected to observe as many committee meetings as possible prior to the commencement of their committee terms.

III. Allocation Panel

Composition

The composition of the Allocation Panel reflects the committee structure and includes 28 Floor brokers, [8] *12* allied members *(including the 4 allied members serving on the Market Performance Committee),* the 8 Floor broker Governors who are part of the panel by virtue of their appointment as Governors, [the 4 allied members serving on the Market Performance Committee,] and a minimum of 5 Senior Floor Official brokers that have been appointed to the panel.

Selection

Panel members are nominated by the membership. A selection committee, appointed by the Floor Directors, reviews the nominations and recommends panel appointments to the Floor Directors, who finalize recommendations for presentation to the QOMC. The selection committee operates in accordance with such guidelines as are established and made known to the membership from time to time. The selection committee and, in turn, the Floor Directors seek to develop a representative panel that maximizes professional expertise and broad exposure on the Floor by including members from various types of firms and from diverse locations on the Floor. To the maximum extent possible, the Floor members on the panel are expected to be a core group of experienced, senior professionals, such as former Allocation Committee chairmen, Senior Floor Officials, and current and former Floor Governors.

In the case of allied members, the member organization is appointed to the panel. The individual representative is then selected by the organization. A Floor Director gives guidance to the organization in selecting an appropriate representative.

Eligibility

Professional expertise and experience are essential to the excellence of the allocation system. Therefore, a Floor member must have a minimum of 5 years experience as a member on the Floor in order to be eligible for appointment to the Allocation Panel. In the case of allied members, the member organization shall select a representative with at least 51 years of trading experience in listed equities and a senior position on the trading desk. Each allied member may designate one alternate who meets the Panel qualifications, subject to approval by the Floor Directors.

Term of Service

Panel members are appointed to serve a one-year term. They may serve a maximum of 6 consecutive one year terms. Once a panel member has served a total of two 4-month committee terms, the member is rotated off the panel at the next annual meeting of the Exchange. The panel members serve staggered terms so that every 2 months 4 or 5 members rotate from the committee. Once rotated off, the member is ineligible for appointment to the panel for one year. Governors are not subject to the two committee term restriction, but remain on the panel for as long as they are Governors. Senior Floor Officials are subject to annual reappointment, but are not subject to the two committee term restriction and are not limited to a maximum of six consecutive one year terms.

IV. Allocation Criteria

Allocation decisions under this policy are based on the professional judgment of the Allocation Committee in applying specified criteria.

In order to ensure that a single criterion is not afforded too great a weight in any allocation decision, and in order to ensure consistency in the allocation process, the Allocation Committee will base its decisions on the following:

(i) Results of the Specialist Performance Evaluation Questionnaire (''SPEQ'') (to be given [no more than] 25% weight);

(ii) Objective performance measures; and

(iii) The committee's expert professional judgment in considering the SPEQ, objective measures of performance, and other criteria as enumerated below. Set forth below are the criteria, followed by an explanation of each:

—SPEQ

—Objective performance measures

—Professional judgment

—Listing company input

—Allocations received

—Capital deficiency, disciplinary actions, justifiable complaints

—Foreign listing considerations

Specialist Performance Evaluation Questionnaire

The SPEQ includes several facets. Professional judgment determines the relative weight of the various aspects listed below:

(a) Ratings in the current quarter, particularly relative to other applicants;

(b) Improved ratings;

(c) Ratings over time (e.g., 4 quarters), to consider possible aberrations in ratings;

(d) The strengths of the individual specialist designated by the unit to handle the stock, relative to the strengths of the specialists designated by other applicants, as indicated by SPEQ comments that frequently refer to performance of individuals;

(e) Ratings and written comments on specific specialist functions in relation to particular characteristics of the new listing; and

(f) Written SPEQ comments as to the performance of the entire unit.

Objective Measures of Performance

The objective performance measures include TTV, stabilization, *capital utilization, near neighbor analysis* and such other measures as may be adopted. Objective measures in Rule 103A include:

(a) Timeliness of regular openings;

(b) Promptness in seeking Floor official approval of a non-regulatory delayed opening;

(c) Timeliness of DOT turnaround; and

(d) Response to administrative messages.

The objective measures are reported to the Allocation Committee as a ''pass'' or ''fail'' as specified in Rule 103A.

Specialist dealer performance is measured in terms of participation (TTV)*;* [and] stabilization; *capital utilization, which is the degree to which the specialist unit uses its own capital in relation to the total dollar value of training in the unit's stocks; and near neighbor analysis, which is a measure of specialist performance and market quality comparing performance in a stock to performance of stocks hat have similar market characteristics.* The Allocation Committee receives the most recent data available and historical data with respect to each applicant's performance in relation to other units evaluated during the same time period.

The Allocation Committee is informed if an applicant has been subject to a performance improvement action in the most recent four quarters.

Although stocks are allocated to units, as noted above, the committee may give consideration to the person who will serve as the specialist. Therefore, it is important that the application accurately represent the unit's plans as to the individual who will handle the stock.

Professional Judgment

The expert, professional judgment of the members of the Allocation Committee is crucial to the allocation decision-making process. Decisions are based on professional judgment, rather than mathematical calculation. Each committee member evaluates the data and determines how the specified criteria should be applied in each allocation, based on his or her expertise and experience from the viewpoint of his or her role in the Exchange community. In addition to the SPEQ and the objective performance measures described above, the committee also considers listing company input, allocations received, capital and disciplinary and cautionary data, as detailed below.

Listing Company Input

Listing on the New York Stock Exchange is a significant development for a company, and the assignment of a specialist through the allocation process is an important step. The Exchange's Allocation Policy is intended to provide listing companies with a choice of alternatives as to how their specialist unit may be selected. The listing company may choose to have its specialist unit selected by the Allocation Committee, in accordance with the criteria specified in the Allocation Policy, and the exercise of the Committee's expert professional judgment. Alternatively, the listing company may choose to become more directly involved in the selection process. In that case, the company may request that the Allocation Committee select specialist units that would be appropriate to trade the company's stock, with the company then making the final selection from among the group of units as chosen by the Allocation Committee. Such a group shall consist of three, four, or five units, selected by the Committee as demonstrably deemed to be the most qualified to receive such allocation from among the units that apply, based upon the criteria set forth in this policy. These procedures shall apply to the allocation of a newly-listing company, as well as the reallocation of an already listed company.

Specialist Unit Selected by Allocation Committee

If the listing company so chooses, the Allocation Committee shall select the specialist unit to be allocated the company's stock based on the Committee's expert assessment of the type of specialist unit that would be most appropriate for the company, and the Committee's professional evaluation of performance data and other relevant information as specified in the Allocation Policy. The listing company may submit a letter to the Allocation Committee describing the characteristics (e.g., trading philosophy, policies on maintaining communications with its listed companies, etc.) it believes would be appropriate for the unit that would be selected to trade its stock. The listing company may not, however, identify any particular specialist unit in its letter, or specify characteristics so unique as to be applicable only to a readily identifiable specialist unit.

Specialist Unit Selected by Listing Company

If the listing company so chooses, it may request that the Allocation Committee select specialist units that would be appropriate to trade the company's stock, with the company then making the final selection. If the listing company chooses this alternative, the company may either make no communication to the Allocation Committee, or it may submit a letter (as noted in the preceding paragraph) to the Committee describing the characteristics the company believes would be appropriate for the units to be selected by the Committee. The listing company may not, however, identify any particular specialist unit in its letter, or specify characteristics so unique as to be applicable only to a readily identifiable specialist unit.

Meetings Between Listing Company and Specialist Units

Within two business days after the selection of a group of specialist units as described above (unless the Exchange has determined to permit a longer time period in a particular case), the listing company shall meet, either in person or by teleconference, with representatives of each of the specialist units. Meetings to be held in person shall normally be held at the Exchange, unless the Exchange has agreed that they may be held elsewhere. At least one representative of the listing company must be a senior official of the rank of Corporate Secretary of above of that company. No more than three representatives of each specialist unit may participate in the meeting, each of whom must be employees of the specialist unit, and one of whom must be the individual who is proposed to trade the company's stock.

Listing Company's Selection of Specialist Unit

Within one business day following its meeting with representatives of the specialist units (or such longer time period as the Exchange may permit in a particular case), the listing company shall select its specialist unit in writing, signed by a senior official of the rank of Corporate Secretary or higher duly authorized to so act on behalf of the company. The Allocation Committee shall then confirm the allocation of the stock to that unit, at which time the stock shall be deemed to have been so allocated.

Allocation Applications

In their applications for the allocation of a listing company's stock, specialist units must describe all pertinent factors as to why they believe they should be allocated the stock. At a minimum, such factors should include *how the unit will allocate resources (staff and/or capital) to accommodate this new issue and what new resources, if any, will the unit need to acquire to service this stock* [a description of the unit's capital base]; identify and experience of the individual proposed to trade the stock, with a description of other securities traded by that individual; and a discussion of why that individual is appropriate to trade the listing company's stock. If the listing company has submitted a letter to the Allocation Committee as permitted herein, a copy of such letter shall be made available to all specialist units. In their applications to be allocated the stock of such company, specialist units shall be expected to indicate how they meet the characteristics described in the company's letter. If, within six months of the date a newly-listed company begins trading on the Exchange (or a company which has been reallocated begins trading with its new unit), the specialist unit determines that the individual specialist who trades the company's stock should be an individual other than the one named in the allocation application, the specialist unit shall so inform the Allocation Committee, in writing, and disclose its reasons therefor. These letters shall be maintained in the permanent records of the Committee.

In addition, specialist units must describe in their applications to be allocated the stock of a listing company any contacts they, or any individual acting on their behalf, have had with any employee of that company, or any individual acting on behalf of that company with regard to its prospective listing on the Exchange, within six months prior to the date that allocation applications are solicited with respect to that company.

Allocations Received

The committee is provided information on allocations received by each unit in the preceding year and the current year, the number of applicants for those stocks allocated in the past and the number of stocks lost through corporate mergers, delistings or other such events over which the specialist has no control. While a recent allocation does not preclude a unit from being awarded a subsequent new listing, the committee considers such factors in comparing similarly qualified applicants.

Capital Deficiency Information

The committee is informed of any applicant that is in capital violation, or is potentially in violation, based on a current check of estimated capital data (conducted between the application deadline and the date of the allocation meeting). A unit with a capital deficiency will be informed in advance of the meeting and may provide information for the committee explaining the circumstances of the unit's capital situation. The unit's capital history will also be provided (frequency of past violations and borderline situations).

Disciplinary and Cautionary Data

The committee is informed of disciplinary and cautionary actions, as described below.

Cautionary letters and *summary fines* regarding market maintenance are reported for 12 months beginning at the time of issuance.

All other cautionary letters and summary fines are reported for 6 months beginning at the time of issuance.

The preceding parameters apply equally to disciplinary or cautionary actions that result from a justifiable complaint (public or institutional complaint received via correspondence).

The committee is informed of significant pending enforcement matters. The investigations are included in an allocation file when [(a) a stipulation is signed or (b) when charges are issued] *the commencement of an enforcement action is authorized.* If formal disciplinary action is ultimately taken, the item would remain in the file for [6] *12* months after a Hearing Panel decision is final.

Foreign Listing Considerations

The special characteristics of foreign issues often require the specialist to commit extra resources in order to be a presence in the foreign market. Therefore, in allocating a foreign issue, the committee also considers a specialist applicant's commitment to establish and maintain relationships with arbitrage houses and foreign brokerage firms, and to gain familiarity with various aspects of trading securities of foreign issuers.

V. Policy Notes

Spin-offs, Listing of Related Companies and Relistings

Spin-offs and related companies of listed companies and relistings are treated as new listings, with allocation open to all units. Information about the relationship to a listed company or prior listing and the name of the specialist involved, is included on the stock data sheet inviting specialist applications. The same information is provided to the committee for consideration in their deliberations regarding the allocation of the new listing. While committee members use their own judgment to determine what consideration, if any, should be given to that information, a listing company's request not to be allocated to its former specialist unit (or the specialist in the parent or related company) will be honored.

Listed Company Mergers

When two NYSE listed companies merge, the merged entity is assigned to the specialist in the company that is determined to be the survivor-in-fact (dominant company). Where no surviving/dominant entity can be identified, the matter is referred to the Allocation Committee and all specialist units are invited to apply.

In situations involving the merger of a listed company and an unlisted company, where the unlisted company is determined to be the survivor-in-fact, such company may choose to remain registered with the specialist unit that had traded the listed company entity in the merger, or it may request that the matter be referred to the Allocation Committee. In such a case, applications will be invited from all specialist units, and the Allocation Committee shall honor the company's request not to be allocated to the specialist unit that had traded the listed company.

''Target'' Stock. The specialist unit registered in such stock prior to a separate listing shall remain registered in such stock after its separate listing, unless the listing company requests that the matter be referred to the Allocation Committee. In such a case, applications will be invited from all specialist units, and the Allocation Committee shall

honor the company's request not to be allocated to the specialist unit that had traded the ''target'' stock.

Allocation Freeze Policy

In the event that a specialist unit: (i) loses its registration in a specialty stock as a result of proceedings under Exchange Rules 103A, 475 or 476; or (ii) voluntarily withdraws its registration in a specialty stock as a result of possible proceedings under those rules, the unit will be ineligible to apply for future allocations for the six month period immediately following the reassignment of the security (Allocation Prohibition).

Following the Allocation Prohibition, a second six month period will begin during which a specialist unit may apply for new listings, provided that the unit demonstrates to the Exchange relevant efforts taken to resolve the circumstances that triggered the Allocation Prohibition. The determination as to whether a unit may apply for new listings will be made by Exchange staff, in consultation with the Floor Directors. The factors the Exchange will consider will vary depending on the unit's particular situation, but may include one or more steps such as:

—Supplying additional manpower/ experience;
—Changes in professional staff;
—Attaining appropriate dealer participation;
—Enhancing back-office staff; and
—Implementing more stringent supervision/new procedures.

Allocation Sunset Policy

Allocation decisions shall remain effective with respect to any initial public offering listing company which lists on the Exchange within three months of such decision. If a listing company does not list within three months, the matter shall be referred again to the Allocation Committee, with applications invited from all units.

Support of the Allocation System

The Allocation Committee views positively a specialist unit's applying for a broad range of issues.

Criteria for Applicants That Are Not Currently Specialists

Since an entity seeking to enter the specialist business does not have a history directly comparable to that of existing units, the Allocation Committee considers the following criteria with respect to applicants that are not currently specialists.

1. Individuals proposed as specialists must have successfully completed the Exchange's specialist examination.

2. The proposed unit must demonstrate that it understands the specialist business, including the needs of brokers, their organizations, and their customers.

3. The proposed unit must demonstrate an ability and willingness to trade as necessary to maintain fair and orderly markets with depth and liquidity, and facilitate the execution of orders.

(a) The proposed unit should indicate the extent of its capital commitment to specializing over and above the minimum capital requirements.

(b) The proposed unit must have sufficient specialist and clerical support dedicated to maintaining and servicing the market in a specialty stock.

(c) If the proposed specialist unit or any of its participants is presently a specialist or market maker on any exchange, performance during the prior 12 months, as evidenced by available data maintained by such exchange which evaluates the quality of performance of the unit or its participants as a specialist or market maker on such exchange, will be considered by the Allocation Committee.

4. Other factors that will be considered by the Allocation Committee include any action taken or warning issued within the past 12 months by any regulatory or self-regulatory organization against the unit or any of its participants [relating to:] *with respect to any capital or operational problem, or any regulatory or disciplinary matter.*

(a) Any capital or operational problem; or

(b) Any Floor-related activity.

VI. Procedures

Applications

Whenever a security is to be allocated to a specialist, unit, all specialist units are invited to submit applications to the Exchange prior to the published deadline for the allocation of such security. The application of any specialist unit shall be in such form as shall be approved from time to time by the Exchange, but each applicant shall be free to submit in writing such additional information in support of its application as it may wish to bring to the attention of the Allocation Committee.

Blanket Applications

All specialist units shall be deemed to have filed with the Exchange a blanket application pursuant to which the applicant agrees to accept the allocation of any security. Any security allocated to a specialist unit on the basis of its blanket application shall not be reflected in the records of the Exchange as a ''security gained'' nor shall it prejudice that unit's eligibility for future allocations.

Decision Making

An allocation decision pursuant to this policy is made on the basis of the specified criteria, by a majority vote of the committee members present at the meeting and eligible to vote on such matter.

Announcement

Written notice of the name and post location of the successful applicant are make known to the members of the Exchange and to the issuer of the security allocated.

Registration of Specialists

Each member associated with the specialist unit to which any security is allocated who acts as a regular specialist in such security shall be registered as a specialist in such security pursuant to Rule 103.

VII. Education

Education of all participants is a key to ensuring continued quality and consistency in the allocation process. A summary of the education process follows:

New panel members receive an orientation conducted by former Allocation Committee chairmen and staff, and serve as observers at meetings before their terms begin. A standardized agenda for educating allocation Committee members will be made available. The new Allocation Committee chairman is elected two months in advance of his or her appointment to provide time to observe and learn from the existing chairman. The newly elected chairman also receives an orientation by former committee chairmen and the Quality of Markets Committee. A standardized agenda for educating new chairmen will be made available.

Education efforts regarding the allocation process are offered periodically for specialists as well as the general membership.

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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The intent of the Exchange's Allocation Policy and Procedures is: (1) To ensure that securities are allocated in an equitable and fair manner and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between a specialist unit and a security; and (4) to contribute to the strength of the specialist system. In September 1987, the Quality of Markets Committee (''QOMC'') appointed the first Allocation Review Committee (''ARC'') to undertake a comprehensive review of the Exchange's then-existing allocation procedures which had been in effect since 1976. ARC's recommendations were filed with the SEC in 1988 and approved in 1990.[2] In April 1991, the QOMC determined that the Allocation Policy and Procedures should be re-examined and appointed a new committee, ARC II, to do so. The Committee's recommendations were subsequently filed with the Commission, and approved in 1993 as a one-year pilot.[3] In August 1994, the Exchange filed for and subsequently received permanent approval of that pilot.[4] In accordance with the Exchange's commitment to preserve the integrity of the existing allocation system while refining the allocation policy as necessary, ARC III convened in November 1993. The Committee's recommendations were filed with the Commission, and approved in September 1994.[5] In December 1995, the QOMC appointed ARC IV to continue to review the allocation process. The Committee made several recommendations with respect to the Allocation Policy and Procedures. Several of these recommendations were submitted by the Exchange for immediate effectiveness in March 1997 for a seven-month pilot period.[6] Additional recommendations of ARC IV are being submitted in this filing.

The principle changes to the Exchange's Allocation Policy and Procedures are described below.

Mergers of listed and unlisted companies. Currently, companies resulting from mergers of listed and unlisted companies are registered by staff with the specialist in the listed company, regardless of size or survivorship considerations. Under the proposal, a company resulting from the merger of a listed company with an unlisted company would remain with the specialist in the listed company unless the unlisted company is determined to be the survivor-in-fact and the unlisted company requests allocation, in which case, all units would be invited to apply.

Targeted stock. Currently, there is no policy for targeted stock. Under the proposal, these securities (also known as ''letter stock'') typically are ''targeted'' to a specific aspect of an issuer's overall business. When such a security is ''uncoupled'' and becomes an independent entity, it would remain with the current specialist in the target stock unless the issuer requests that the new stock be allocated by the Allocation Committee.

Reporting of disciplinary actions. Currently, enforcement actions are reported to the Allocation Committee when the stipulation is signed or charges are issued. Such items remain in the file for 6 months after a Hearing Panel decision is made final. Under the proposal, enforcement actions would be reported to the Allocation Committee when an enforcement case is authorized. Moreover, if formal disciplinary action is ultimately taken, the item would remain in the file for 12 months after a Hearing Panel decision is final. In addition, the current policy interpretation that summary fines, not just cautionary letters, for market maintenance are reported for 12 months, has been codified.

Allocation applications. Currently, a specialist's application for an allocation of a particular issue must contain a description of the unit's capital base. Under the proposal, the specialist is required to describe how it will allocate resources (staff and/or capital) to accommodate the new issue being applied for, and what new resources, if any, will the unit need to service the stock being applied for.

Allocation ''Sunset'' Policy. Currently, a one year sunset policy has been followed. Under the proposal, initial public offering companies that list within three months after allocation would be traded by the specialist unit that originally received the allocation. Thereafter, the matter would be referred again to the Allocation Committee, with applications invited from all units.

Allocation ''Freeze'' Policy. The Allocation Freeze Policy, which provides that a specialist firm may not apply to be allocated a stock following reallocation of a stock or voluntary withdrawal of registration in a stock as a result of an Exchange disciplinary proceeding would be incorporated into the Allocation Policy. The Allocation Freeze Policy was approved in a prior filing, but was not incorporated directly into the Allocation Policy.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[2] Securities Exchange Act Release No. 27803 (Mar. 14, 1990), 55 FR 10740 (Mar. 22, 1990) (order approving File No. SR–NYSE–88–32).

[3] Securities Exchange Act Release No. 33121 (Oct. 29, 1993), 58 FR 59085 (Nov. 5, 1993) (order approving File No. SR–NYSE–92–15).

[4] Securities Exchange Act Release No. 34906 (Oct. 27, 1994), 59 FR 55142 (Nov. 3, 1994) (order approving File No. SR–NYSE–94–30).

[5] Securities Exchange Act Release No. 34626 (Sept. 1, 1994), 59 FR 46457 (Sept. 8, 1994) (order approving File No. SR–NYSE–94–18).

[6] Securities Exchange Act Release No. 38373 (Mar. 7, 1997), 62 FR 13421 (Mar. 20, 1997) (notice of filing and immediate effectiveness for a seven-month period of File No. SR–NYSE–97–04).

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–97–12 and should be submitted by June 19, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14018 Filed 5–28–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38668; File No. SR–PSE–96–30]

Self-Regulatory Organizations; Pacific Stock Exchange Incorporated; Order Granting Approval to Proposed Rule Change Relating to the Use of Member Badges On, and the Admission of Visitors to, the Equity Floors of the Exchange

May 22, 1997.

On August 22, 1996, the Pacific Exchange, Inc. (''Exchange'')[1] submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder, a proposed rule change relating to the use of Member badges on, and the admission of visitors to, the Equity Floors of the Exchange.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37799 (October 9, 1996), 61 FR 54479. No comments were received on the proposal.

The Exchange proposed to amend its Equity Floor Procedure Advice 1–C relating to the use of Member badges on, and the admission of visitors to, the Equity Floors of the Exchange. In addition, the Exchange proposed to amend its Minor Rule Plan, Rule 10.13(i), which sets out Equity Floor Decorum and Minor Trading Violations, and the fines thereof.

The Commission finds that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(6), in particular, in that it is designed to assure that Exchange Members and persons associated with such Members are appropriately disciplined for violations of the rules of the Exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–PSE–96–30) is approved.[3]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14019 Filed 5–28–97; 8:45 am]

BILLING CODE 8010–01–M

[1] On March 14, 1997, the Pacific Stock Exchange, Inc. changed its corporate name to the Pacific Exchange, Inc. *See* Securities Exchange Act Release No. 38403 (March 14, 1997), 62 FR 11247.

[2] 15 U.S.C. 78s(b)(1).

[3] In approving this rule proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[4] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before July 28, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Notice to New Borrowers''.

Type of Request: Extension of a Currently Approved Collection.

Form No: 793.

Description of Respondents: Companies are required to keep records in order for SBA to determine the compliance status of the recipient.

Annual Responses: 72,800.

Annual Burden: 6,067.

Comments: Send all comments regarding this information collection to Diane Gaffney, Deputy Chief, Office of Equal Employment Opportunity, Small Business Administration, 409 3rd Street, S.W., Suite 6400, Washington, D.C. 20416. Phone No: 202–205–6750. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Title: ''Customer Satisfaction Survey, Business Information Centers''.

Type of Request: Extension of a Currently Approved Collection.

Form No: 1916.

Description of Respondents: Small Business Clients.

Annual Responses: 3,000.

Annual Burden: 800.

Comments: Send all comments regarding this information collection to Philip Gibson, Office of Special Initiatives, Business Initiatives, Small Business Administration, 409 3rd Street, S.W., Suite 6100, Washington, D.C. 20416, Phone No: 202–205–7427. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: May 21, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–14000 Filed 5–28–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before June 30, 1997. If you intend

to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory, Affairs Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Title: Disaster Home Loan Application.

Form No's.: SBA Forms 5C, 739, 1632.

Frequency: On Occasion.

Description of Respondents: Applicants Requesting SBA Disaster Home Loans.

Annual Responses: 26,100.

Annual Burden: 52,200.

Dated: May 22, 1997.

Jacqueline White,

Chief Administrative Information Branch.

[FR Doc. 97–14002 Filed 5–28–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Erie Small Business Investment Company; (License# 03/03–0177); Notice of License Surrender

Notice is hereby given that Erie Small Business Investment Company (''Erie''), 32 West 8th Street, Suite 615, Erie, Pennsylvania 16501, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (''the Act''). Erie was licensed by the Small Business Administration on July 19, 1985.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on May 21, 1997, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 22, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–14001 Filed 5–28–97; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of Veteran Affairs C & P) (Match Number 1008)

AGENCY: Social Social Administration.

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget. The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Associate Commissioner, Office of Program Support, 4400 West High Rise, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving records of Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements.

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: May 12, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

Notice of Computer Matching Program, Department of Veteran Affairs (VA) With Social Security Administration (SSA)

A. Participating Agencies

SSA and VA.

B. Purpose of the Matching Program

To identify Supplemental Security Income (SSI) recipients who receive VA benefits and to update their records (SSR) for unearned income.

C. Authority for Conducting the Matching Programs

Sections 1631(e)(1)(B) and 1631(f) of the Social Security Act, 42 U.S.C. 1383(e)(1)(B) and 1383(f).

D. Categories of Records and Individuals Covered by the Matching Program

The VA will provide SSA with magnetic tapes containing compensation and payment (C & P) data from its system of records entitled C & P, Educational and Rehabilitation records. SSA will then match the VA data with SSI payment information maintained in the SSI Record, HHS/SSA/OSR, 09–60–0103 system of records.

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after a copy of the agreement, as approved by the Data Integrity Boards of both agencies, is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be

extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 97–13857 Filed 5–28–97; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/States SDX/BENDEX Files, SSA Match Numbers 6001, 6002, 6004)

AGENCY: Social Security Administration.

ACTION: Notice of computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, this notice announces a computer matching program that SSA plans to conduct with the States.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935, or writing to the Associate Commissioner for Program Support, 4400 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain Data Integrity Board approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: May 15, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

Notice of Computer Matching Program, States' Income Eligibility Verification System Records With the Social Security Administration (SSA)

A. Participating Agencies

SSA and the States.

B. Purpose of the Matching Program

Section 1137 of the Social Security Act (the Act) requires individual States to have in effect an income and eligibility verification system meeting certain requirements in order to administer certain State benefit programs.

A chief purpose of this matching program is to facilitate administration of this provision. Individual agreements with the States will describe the conditions under which SSA and other States agree to disclose information to each other relating to the eligibility for, and payment of, Social Security and Supplemental Security Income (SSI) benefits and State-administered income, food assistance, and medical assistance programs described in section 1137 (b), includung tax return information disclosed by SSA in accordance with applicable provisions of the Internal Revenue Code.

The matching program will also be used to implement provisions of Pub. L. 104–193, The Personal Responsibility and Work Reconciliation Act of 1996, involving the significance of social security coverage information to the eligibility of certain aliens for some Federal and State public benefits. Under this matching program, SSA will disclose certain social security coverage information on specific persons to States administering appropriate benefit programs.

C. Authority for Conducting the Matching Program

Sections 1106 and 1137 of the Social Security Act.

Sections 402, 412, 421 and 435 of Pub. L. 104–193. Relevant provisions of the Internal Revenue Code under 26 U.S.C. 6103.

D. Categories of Records and Individuals Covered by the Matching Program

States will provide SSA with names and other identifying information of appropriate benefit applicants or recipients. Specific information from participating States will be matched as provided in the agreement for the specific program with the following systems of records maintained by SSA:

(1) SDX—Supplemental Security Income Record, SSA/OSR (09–60–0103);

(2) BENDEX—Master Beneficiary Record (09–60–0090) and the Earnings Recording and Self-Employment Income System, SSA/OSR (09–60–0059);

(3) EVS—Master Files of Social Security Number (SSN) Holders, and SSN Applications, SSA/OSR (09–60–0058);

(4) QC Query—Master Earnings File (MEF), SSA/OSR 09–60–0059, and Master Files of SSN Holders and SSN Applications, SSA/OSR 09–60–0058.

SSA and the States will exchange information through the File Transfer Management System (FTMS). Cartridge or magnetic tape will be used in the event FTMS is inoperable.

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget (OMB), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. Individual State matching agreements under the program may also become effective upon the signature of the agreements by the parties to the agreements. The agreements with individual States will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 97–13858 Filed 5–28–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 2553]

Advisory Committee on International Communications and Information Policy, Public Meeting

The Department of State is holding the next meeting of its Advisory Committee on International Communications and Information Policy. The Committee was renewed in 1996, in order to continue to provide a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

The 24-person committee was appointed by Ambassador Vonya B. McCann, United States Coordinator for International Communications and Information Policy, U.S. Department of State, and serves under the Chairmanship of Ed Black, President, Computer & Communications Industry Association.

The purpose of this meeting will be to hear reports from the working groups on various issues that chart the future direction and work plan of the committee. The members will look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

This meeting will be held on Thursday, June 19, 1997, from 9:45 a.m.–12:30 p.m. in Room 1205 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, N.W., Washington, D.C. 20520. Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Jennifer Texeira at (202) 647–5205 or by fax at (202) 647–5957. All attendees must use the ''C'' Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact Timothy C. Finton, Executive Secretary of the Committee, at (202) 647–5385.

Dated: May 15, 1997.

Timothy C. Finton,

Executive Secretary, Advisory Committee for International Communications and Information Policy.

[FR Doc. 97–14044 Filed 5–28–97; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF STATE

[Public Notice No. 2550]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Safety of Navigation; Notice of Meeting

The Working Group on Safety of Navigation of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 am on Tuesday, June 24, 1997, in room 6103, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting is to prepare for the 43rd session of the Subcommittee on Safety of Navigation (NAV) of the International Maritime Organization (IMO) which is scheduled for July 14–18, 1997, at the IMO Headquarters in London.

Items of principal interest on the agenda are:

—Routing of ships, ship reporting, and related matters
—Development of measures complementary to the Code for Safe Carriage of Irradiated Nuclear Fuel (INF)
—Revision of SOLAS chapter V
—Ergonomic criteria for bridge equipment and layout
—Navigational aids and related matters
—International Telecommunication Union (ITU) matters including Radiocommunication ITU–R Study Group 8
—Amendments to the Merchant Ship Search and Rescue (MERSAR) Manual (1995 SOLAS/Conference resolution 8)
—Operational aspects of wing in ground (WIG) craft—Possible amendments to the International Regulations for Prevention of Collisions at Sea (COLREGS)

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–MOV–3), Room 1407, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–0416.

Dated: May 19, 1997.

Russell A. La Mantia,

Chairman, Shipping Coordinating Committee.

[FR Doc. 97–14089 Filed 5–28–97; 8:45 am]

BILLING CODE 4710–70–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Task Force on Assistance to Families in Aviation Disasters, Open Meeting

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of meeting.

SUMMARY: The Task Force on Assistance to Families in Aviation Disasters will hold a meeting to discuss assistance to families of passengers involved in aviation accidents. The meeting is open to the public.

DATES: The meeting will be held on Monday, June 9, 1997, from 9:30 am to 4:30 pm.

ADDRESSES: The meeting will take place in Room 2230 of Department of Transportation (DOT) Headquarters, 400 7th Street, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Steven R. Okun, Task Force Executive Director, telephone 202–366–0140, or Marc C. Owen, Task Force Staff Director, mailing address, 400 7th Street SW, Room 5424, Washington, D.C. 20590, telecopier 202–366–7147, and telephone 202–366–6823.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. Appendix), DOT gives notice of a meeting of the Task Force on Assistance to Families in Aviation Disasters (Task Force). The Task Force was established by the Aviation Disaster Family Assistance Act of 1996 to develop recommendations on ways to improve the treatment of families of passengers involved in aviation accidents. The principal purpose of the meeting on June 9 is to examine the role of Federal, State, and private entities at aviation accident sites, as well as to discuss issues facing private and public entities on the treatment of families of persons involved in aviation accidents.

The meeting will be open to the public. Limited seating is available on a first-come, first-served basis. The public may submit written comments to the Task Force at any time. Comments should be sent to Mr. Owen at the address or telecopier number shown above. Another public meeting will be held in July, on a date to be determined, in which the public will be invited to testify on issues within the charter of the Task Force.

Issued in Washington, D.C., on May 23, 1997.

Steven R. Okun,

Task Force Executive Director, Department of Transportation.

[FR Doc. 97–14098 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

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

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an emergency clearance by June 6, 1997, in accordance with 5 CFR § 1320.13. The following information describes the nature of the information collection and its expected burden.

DATES: Submit any comments to OMB and FAA by July 28, 1997.

SUPPLEMENTARY INFORMATION:

Title: AST Customer Service Survey.

Need: In accordance with the Government Performance and Results Act of 1993 (GPRA) and Executive Order No. 12862, which mandate surveying customer satisfaction, the Associate Administrator for Commercial Space Transportation (AST) is proposing to disseminate the ''AST Customer Service Survey'' to obtain industry input on the Customer Service Standards published and disseminated by AST.

Respondents: The respondents will be approximately 50 representatives of the U.S. commercial launch industry and other industry representatives from related industries such as U.S. satellite manufacturers and users, as well as representatives from businesses and associations which have an interest in our business-related concerns with the U.S. commercial launch industry.

Frequency: Annually.

Burden: 1 hour per respondent, times 50 respondents for a total of 50 hours.

FOR FURTHER INFORMATION: You may contact: Federal Aviation Administration, Brenda Parker, AST Customer Service Representative, 400 7th Street, SW, Washington, DC 20590.

Comments may be submitted to the agency at the address above and to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, Attention FAA Desk Officer, 725 17th Street, NW, Washington, DC 20503.

Issued in Washington, DC on May 22, 1997.

Steve Hopkins,

Manager, Corporate Information Division, ABC–100.

[FR Doc. 97–14091 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program, DeKalb-Peachtree Airport, Atlanta, GA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by DeKalb County under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On October 3, 1996 the FAA determined that the noise exposure maps submitted by DeKalb County under Part 150 were in compliance with applicable requirements. On April 25, 1997, the Administrator approved the DeKalb County noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the DeKalb-Peachtree Airport noise compatibility program is April 25, 1997.

FOR FURTHER INFORMATION CONTACT: Atlanta Airports District Office, Campus Building, Attn: Ms. Lee Kyker, 1701 Columbia Ave., Suite 2–260, College Park, GA 30337–2747, Phone: (404) 305–7149.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the DeKalb-Peachtree Airport, effective April 26, 1997.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act'', an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law.Approval does not by itself constitute an FAA implementing Action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially

assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Atlanta, Georgia.

DeKalb County submitted to the FAA on July 22, 1996 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study update conducted from May 1996 through September 1996. The DeKalb-Peachtree Airport noise exposure maps were determined to be in compliance with applicable requirements on October 29, 1996. Notice of this determination was published in the **Federal Register** on November 6, 1996.

The DeKalb-Peachtree Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2001. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on October 29, 1996, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained eleven noise abatement actions and seven land use measures for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective April 25, 1997.

Outright approval was granted for seven of the eleven noise abatement actions and all seven of the land use measures. No action is required at this time on noise abatement Action #2 concerning Standard Instrument Departures Buford 1, 2, & 3. Due to air traffic efficiency and workload, ATCT has recommended alterations to flight patterns modeled in the NCP. These alterations would need to be modeled to determine their noise mitigation benefits. Noise abatement action #4 concerning charted visual flight procedures arrival routes is disapproved due to the increased workload it would create on the Atlanta Approach control while providing just minimal benefits. For purposes of Part 150, pursuit of funding for the cost benefit analysis of stage 2 night time use aircraft restrictions as an add-on to the Part 150 study is disapproved. With full implementation of the land use measures in this NCP, the sponsor will accomplish 100 percent mitigation within the DNL 65dB contour. Construction of a designated maintenance runup area on the west side of Runway 2R/20L is disapproved for purposes of Part 150 pending submission of additional information to make an informed analysis. Approved noise abatement actions include a runway use program, VFR departure routes, noise abatement pamphlet, airfield signage, automatic terminal advisory service, letter to airmen, and an annual review of the effectiveness of the noise compatibility program implementation. Approved land use measures include a voluntary land acquisition program in the 75, 70–74 and 65–69 Ldn contours, voluntary sound attenuation program, environmental review process, informal building code revision, and incorporation of finding and recommendations of the FAR Part 150 Noise Compatibility Study in the DeKalb County Comprehensive Plan.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on April 25, 1997. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of DeKalb County.

Issued in College Park, Georgia, May 21, 1997.

Dell Jernigan,

Manager, Atlanta Airports District Office.

[FR Doc. 97–14090 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–02–U–OO–DUJ) To Use the Revenue From a Passenger Facility Charge (PFC) at Dubois-Jefferson County Airport, Dubois, PA

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 use the revenue from a PFC at Dubois-Jefferson County 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 June 30, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. L.W. Walsh, Manager Harrisburg Airports District Office, 3911 Hartzdale Drive, Suite 1, Camp Hill, Pennsylvania 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Robert W. Shaffer, Airport Manager of the Dubois-Jefferson County Airport at the following address: Clearfield-Jefferson Counties Regional Airport Authority, Box 299, Falls Creek, Pennsylvania 15840.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Clearfield-Jefferson Counties Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. L.W. Walsh, Manager Harrisburg Airports District Office, 3911 Hartzdale Drive, Suite 1, Camp Hill, Pennsylvania 17011 (Tel (717)–730–2831). 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 use the revenue from a PFC at Dubois-Jefferson County 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 14, 1997, the FAA determined that the application to use the revenue from a PFC submitted by the Clearfield-Jefferson Counties Regional 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 August 12, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1995.

Proposed charge expiration date: March 1, 1998.

Total estimated PFC revenue: $292,195.

Brief description of proposed projects:
—Sewage/Water System
—Emergency Generator

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators Filing FAA Form 1800–31.

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 Clearfield-Jefferson Counties Regional Airport Authority.

Issued in Jamaica, New York, on May 20, 1997.

Thomas Felix,

AIP Program Manager.

[FR Doc. 97–14095 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–02–C–00–ERI) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Erie Municipal Airport, Erie, Pennsylvania

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 the Erie Municipal 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 June 30, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Lawrence W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert August, Executive Director of the Erie Municipal Airport Authority at the following address: 4411 West 12th Street, Erie, Pennsylvania 16505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Erie Municipal Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Manager Harrisburg Airports district Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–730–2831. 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 the Erie Municipal 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 15, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Erie Municipal 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 2, 1997.

The following is a brief overview of the application.

Application number: 97–02–C–00–ERI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1997.

Proposed charge expiration date: July 1, 2001.

Total estimated PFC revenue: $1,496,987.

Brief description of proposed projects: The PFC funds will be utilized to fund the following projects.

—Acquire Easement Runway approach
—Install Glycol Recovery System
—Purchase Snow Removal Tractor
—Upgrade Security System
—Rehabilitate Maintenance Snow Removal Storage Building
—Rehabilitate and expand Baggage Area
—Rehabilitate Jetway
—Airfield Expansion
—PFC Administration

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31.

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 Erie Municipal Airport Authority.

Issued in Jamaica, New York, on May 20, 1997.

Thomas Felix,

AIP Program Manager.

[FR Doc. 97–14094 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 97–2525]

Notice of Request for Renewal of an Existing Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew the information collection that documents a railroad's cost of labor, materials, supplies, and equipment incurred when undertaking Federal-aid highway projects.

DATES: Comments must be submitted on or before July 28, 1997.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to

minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB renewal of this information collection.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Winans, Office of Engineering, (202) 366–4656, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Developing and Recording Costs for Railroad Adjustments

Omb Number: 2125–0521.

Background: Under the provisions of 23 U.S.C. 130 and 23 U.S.C. 101(a), Federal-aid highway funds may be used to reimburse State highway agencies when they have paid for the cost of projects that eliminate hazards at railroad/highway crossings or that adjust railroad facilities to accommodate the construction of highway projects. Section 121 of Title 23 establishes the general principle that when Federal-aid highway funds are being used to reimburse State highway agencies for construction costs, Federal payment shall be based on costs incurred.

FHWA regulation, 23 CFR 140, subpart I requires that each railroad company be able to document its costs or expenses for adjusting its facilities. Each railroad company is required to have a system of recording labor, materials, supplies and equipment costs incurred when undertaking necessary railroad work. This record of costs forms the basis for payment by the State highway agency to the railroad company and, in turn, FHWA reimburses the State for its payment to the railroad.

Respondents: Railroad Companies.

Estimated Annual Burden on Respondents: It is estimated that the recording of railroad costs incurred on a typical adjustment takes 16 hours.

Estimated Total Annual Burden: 36,800 hours.

Frequency: Records must be kept for all projects designated for reimbursement with Federal-aid highway funds. Railroads are required to maintain records of costs for 3 years after final payment is received.

Authority: 23 U.S.C. 101(a), 121, and 130; 23 CFR 140, subpart I and 646.

Issued on: April 23, 1997.

George S. Moore,

Associate Administrator for Administration.

[FR Doc. 97–14097 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–945]

Notice of Application for Written Permission Under Section 608 and Section 805(a) of the Merchant Marine Act 1936, as Amended

Pursuant to section 608 and section 805(a) of the Merchant Marine Act 1936, as amended (Act), Seabulk Transmarine Partnership, Ltd. (Seabulk) and Seabulk Transmarine II, Inc. (Seabulk II), by letter dated May 2, 1997, propose that Seabulk, as owner and operator of the U.S.-flag chemical tanker SEABULK AMERICA, will operate the vessel in an essential service of the foreign commerce of the United States pursuant to the Operating-Differential Subsidy Agreement (ODSA) MA/MSB–441, as amended, currently owned by its affiliate, Seabulk II, a wholly owned subsidiary of Hvide Marine Incorporated (Hvide). Accordingly, Seabulk and Seabulk II request (1) consent under section 608 of the Act to the assignment of the ODSA by Seabulk II to Seabulk, and (2) permission, pursuant to section 805(a) of the Act, with respect to the domestic operations of Seabulk's affiliates not covered by prior permissions. The result of the reactivation of the ODSA will be that the SEABULK AMERICA, which has operated in the domestic trade since 1990, will be removed from the domestic trade for at least one year and operated in the worldwide chemical trade, initially pursuant to a time charter to Stolt Parcel Tankers, Inc.

The ODSA was entered into on October 18, 1978 by Suwanee River SPA Finance for the operation of the tug/barge OXY PRODUCER/4102 for a term expiring June 11, 2001. Following the loss of the tug portion, the OXY PRODUCER, the ODSA was assigned in 1982, with the Maritime Administration's (MARAD) approval, to Seabulk II, in connection with Seabulk II's purchase of the barge portion, the 4102. In 1989, the 4102 was incorporated into the SEABULK AMERICA, which is the chemical tanker resulting from the rebuilding of the FUJI, a foreign-built oil tanker rebuilt for the domestic trade pursuant to the Wrecked Vessel Act.

Although Seabulk II ultimately transferred the barge to Seabulk in connection with the rebuilding of the SEABULK AMERICA, it transferred its rights under the ODSA to Crestar Bank, N.A., as trustee, on November 22, 1989. The ODSA was placed into the trust in order to resolve an issue whether an affiliate's purchase of domestic offshore supply boats required permission under section 805(a). Accordingly, under the terms of the trust, no subsidy may be paid pursuant to the ODSA until the termination of the trust, and the trust may be terminated only if MARAD approves a transfer of the ODSA under section 608 or grants permission under section 805(a) with respect to the 1989 supply boat purchase. No subsidy has been paid under the ODSA since its assignment to Seabulk II in 1982.

The applicants are affiliated with Hvide, which, together with its affiliates, operate vessels primarily in the domestic trade. Hvide's operations fall into four principal categories: chemical transportation, petroleum product transportation, offshore energy support, and offshore and harbor towing.

This application seeks permission under section 805(a) for affiliation with the Hvide affiliates conducting the following domestic operations:

(1) Operation of the four chemical tankers SEABULK MAGNACHEM, HMI DYNACHEM, HMI ASTRACHEM, and HMI PETROCHEM in the carriage of chemicals and petroleum products between U.S. ports;

(2) Operation, when delivered, of up to seven new product tankers to be owned by Hvide Van Ommeren Tankers I, II, III, IV, and V, and Hvide Van Ommeren Tankers Options LLC in the carriage of chemicals and petroleum products between U.S. ports;

(3) Ocean towing services and harbor towing and assistance in the ports of Mobile, Port Canaveral, and Port Everglades as set forth in Attachment A, including moving such vessels among those ports as necessary to fulfill obligations to provide tug assist services and including new tugs and/or ship docking modules replacing such vessels in the future;

(4) Operation of 68 supply boats, crew boats, and utility boats, as well as additional vessels of similar types to be constructed or acquired in the future, in the service of offshore oil and gas exploration and production activities in U.S. waters; and

(5) Operation of the Sun State fleet of 10 towboats and 13 barges, as well as replacement towboats and barges to be required, in the carriage of petroleum

products on the inland waterways within the State of Florida.

The application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in the application within the meaning of section 805(a) of the Act and desiring to submit comments concerning the application, must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street, SW., Washington, D.C., 20590. Comments must be received no later than 5:00 p.m. on June 9, 1997, including petition for leave to intervene under section 805(a) of the Act. Any petition for leave to intervene under section 805(a) of the Act shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no comments are received within the specified time, including any petition for leave to intervene under section 805(a) of the Act, or if it is determined that such petition does not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.805 Operating-Differential Subsidies (ODS))

Dated: May 23, 1997.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administrator.

[FR Doc. 97–14073 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects. Further, the notice requests suggestions for topics to be presented by the agency.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on June 19, 1997, beginning at 9:45 a.m. and ending at approximately 2:00 p.m. The deadline for interested parties to suggest agenda topics is 4:15 p.m. on June 5, 1997. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by June 11, 1997, to the address given below. If sufficient time is available, questions received after the June 11 date will be answered at the meeting in the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by June 11 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Clarion Inn, Detroit Metro Airport, 9191 Wickham Road, Romulus, Michigan 48174. Suggestions for specific R&D topics as described below and questions for the June 19, 1997, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW, Washington, DC 20590. The fax number is 202–366–5930.

SUPPLEMENTARY INFORMATION: NHTSA intends to provide detailed presentations about its research and development programs in a series of public meetings. The series started in April 1993. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This seventeenth meeting in the series will be held on June 19, 1997.

NHTSA requests suggestions from interested parties on the specific agenda topics to be presented. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by close of business at 4:15 p.m. on June 5, 1997. Before the meeting, it will publish a notice with an agenda listing the research and development topics to be discussed. The agenda can also be obtained by calling or faxing the information numbers listed elsewhere in this notice. NHTSA asks that the suggestions be limited to six, in priority order, so that the presentations at the June 19 R&D meeting can be most useful to the audience. Specific R&D topics are listed below. Many of these topics have been discussed at previous meetings. Suggestions for agenda topics are not restricted to this listing, and interested parties are invited to suggest other R&D topics of specific interest to their organizations.

Specific R&D topics are:

On-line tracking system for NHTSA's research projects, and
Crash Injury Research and Engineering Network (CIREN).

Specific Crashworthiness R&D topics are:

Automatic lifesaving system—improved triage, transport, and treatment decisionmaking for automatic collision notification technologies,
Status of advanced air bag research,
Demonstration of CD ROM for child restraint/vehicle compatibility,
Preparation of new dummies for assessment of advanced air bag technology,
Status of research on restraint systems for rollover protection,
Improved frontal crash protection (program status, problem identification, offset testing),
Advanced glazing research,
Vehicle aggressivity and fleet compatibility,
Upgrade side crash protection,
Upgrade seat and occupant restraint systems,
Child safety research (ISOFIX),
Child restraint/air bag interaction (CRABI) dummy testing,
Truck crashworthiness/occupant protection,
National Transportation Biomechanics Research Center (NTBRC),
Head and neck injury research,
Lower extremity injury research,
Thorax injury research,
Human injury simulation and analysis,
Refinements to the Hybrid III dummy, and
Advanced frontal test dummy.

Specific Crash Avoidance R&D topics are:

Intelligent vehicle initiative,
Strategic plan for NHTSA's Intelligent Transportation Systems (ITS) crash avoidance research,
Status and plans for anti-lock brake system (ABS) research,
Truck tire traction,
Portable data acquisition system for crash avoidance research (DASCAR),
Systems to enhance EMS response (automatic collision notification),
Crash causal analysis,
Human factors guidelines for crash avoidance warning devices,
Longer combination vehicle safety,
Drowsy driver monitoring,
Driver workload assessment,
Pedestrian detection devices for school bus safety,
Preliminary rearend collision avoidance system guidelines,
Preliminary road departure collision avoidance system guidelines,

Preliminary intersection collision avoidance system guidelines, and
Preliminary lane change/merge collision avoidance system guidelines.

National Center for Statistics and Analysis (NCSA) topic is:
Special crash investigation studies of air bag cases.

Separately, questions regarding research projects that have been submitted in writing not later than close of business on June 11, 1997, will be answered. A transcript of the meeting, copies of materials handed out at the meeting, and copies of the suggestions offered by commenters will be available for public inspection in NHTSA's Technical Reference Division, Room 5108, 400 Seventh St., SW., Washington, DC 20590. Copies of the transcript will then be available at 10 cents a page, upon request to NHTSA's Technical Reference Division. The Technical Reference Division is open to the public from 9:30 a.m. to 4:00 p.m.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons on 202–366–4862 by close of business June 12, 1997.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930.

Issued: May 22, 1997.

Ralph J. Hitchcock,

Acting Associate Administrator for Research and Development.

[FR Doc. 97–14036 Filed 5–28–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120S, Schedule D, and Schedule K–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120S, U.S. Income Tax Return for an S Corporation, Schedule D (Form 1120S), Capital Gains and Losses and Built-In Gains, and Schedule K–1 (Form 1120S), Shareholder's Share of income, Credits, Deductions, etc.

DATES: Written comments should be received on or before July 28, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for an S Corporation (Form 1120S), Capital Gains and Losses and Built-In Gains (Schedule D), and Shareholder's Share of Income, Credits, Deductions, etc. (Schedule K–1).

OMB Number: 1545–0130.

Form Number: 1120S, Schedule D (Form 1120S), and Schedule K–1 (Form 1120S).

Abstract: Form 1120S, Schedule D (Form 1120S), and Schedule K–1 (Form 1120S) are used by an S corporation to compute its tax liability, and income and other tax-related information to pass through to its shareholders. Schedule D is used to report gain or loss from sales or exchanges of capital assets and the computation of tax on certain capital gains and built-in capital gains imposed by Internal Revenue Code section 1374. Schedule K–1 is used to report to shareholders their share of the corporation's income, deductions, credits, etc.

Current Actions: Changes to Form 1120S.

(1) Item G on page 1 and the ''Designation of Tax Matters Person'' block on page 2 have been eliminated. The Small Business Job Protection Act of 1996 repealed the Tax Equity and Fiscal Responsibility Act of 1982 (''TEFRA'') audit provisions applicable to S corporations. Therefore, an S corporation can no longer have a Tax Matters Person. Previous line H has been redesignated line G.

(2) Under Schedule L, Balance Sheets per Books, new line 25, ''Adjustments to shareholders'= equity,'' has been added. The purpose is to conform the balance sheet with ''Generally Accepted Accounting Principles'' (GAAP). Previous lines 25 and 26 have been redesignated 26 and 27.

(3) The instructions are being revised to reflect the provisions of the Small Business Job Protection Act of 1996.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 1,880,000.

Estimated Time Per Respondent: 238 hr., 3 min.

Estimated Total Annual Burden Hours: 447,539,160.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 21, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–14070 Filed 5–28–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 6466 and 6467

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6466, Transmittal of Forms W–4 Reported Magnetically/Electronically, and Form 6467, Transmittal of Forms W–4 Reported Magnetically/Electronically (Continuation).

DATES: Written comments should be received on or before July 28, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 6466, Transmittal of Forms W–4 Reported Magnetically/Electronically and Form 6467, Transmittal of Forms W–4 Reported Magnetically/Electronically (Continuation).

OMB Number: 1545–0314.

Form Number: Forms 6466 and 6467.

Abstract: Under regulation section 31.3402(f)(2)-1(g), employers are required to submit certain withholding certificates (Form W–4) to the Internal Revenue Service. Transmittal Form 6466 and the continuation sheet Form 6467 are submitted by an employer, or an authorized agent of the employer, who will be reporting submissions of Form W–4 on magnetic/electronic media.

Current Actions: Publication 1245, Specifications for Filing Form W–4, Employee's Withholding Allowance Certification on Magnetic Tape and 5¼ or 3½ inch Magnetic Diskettes, is being revised in 1997. Due to changes in Publication 1245, Forms 6466 and 6467 are also being revised. Most of the information collected on these forms will remain essentially the same. However, the layout of the forms is changing. Boxes 6 and 9 on Form 6466 are being eliminated and consolidated in revised Box 10 of the new form. Box 12 is being eliminated because the information is no longer necessary. The Martinsburg Computing Center will now be accepting electronic filing of Form W–4 along with additional types of magnetic media listed on the form. The layout of Form 6467 is being changed to parallel the changes to Form 6466.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour, 20 minutes.

Estimated Total Annual Burden Hours: 133.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 22, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–14071 Filed 5–28–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 172 (Rev. 5)]

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to waive all or part of the excise tax imposed under section 4971(f) of the Internal Revenue Code (Code) with respect to liquidity shortfalls within the meaning of section 412(m)(5)(E) of the Code is delegated to the Director, Employee Plans Division, and may be redelegated to branch chiefs within the division. The text of the delegation order appears below.

EFFECTIVE DATE: June 15, 1997.

FOR FURTHER INFORMATION CONTACT: John H. Turner, CP:E:EP:P:2, Room 6702, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–6214 (not a toll-free number).

Delegation Order No. 172 (Rev. 5)

Effective: June 15, 1997.

Waiver of Excise Taxes Imposed Under Section 4971 of the Internal Revenue Code.

Authority: To waive all or part of the 100% excise imposed under section 4971(b) of the Internal Revenue Code in accordance with subsection (b) of section 3002 of the Employee Retirement Income Security Act of 1974 (ERISA).

Delegated to: Director, Employee Plans Division.

Redelegation: This authority may be redelegated to branch chiefs within the division for waivers that are not deemed substantial. For purposes of this order, a substantial waiver is a waiver of the additional tax liability resulting from a computation based on an accumulated funding deficiency in excess of one million dollars.

Authority: To waive all or part of the excise tax imposed by section 4971(f) of the Internal Revenue Code with respect to liquidity shortfalls within the meaning of section 412(m)(5)(E).

Delegated to: Director, Employee Plans Division.

Redelegation: This authority may be redelegated to branch chiefs within the division.

Source of Authority: Treasury Order 150–10.

To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.

This order supersedes Delegation Order No. 172 (Rev. 4), which was effective 12–31–96.

Approved: April 15, 1997.

James E. Donelson,

Acting Chief Compliance Officer.

[FR Doc. 97–14069 Filed 5–28–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[SPR–104006–97]

Mark-to-Market Valuation Software

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Solicitation for comments.

SUMMARY: The IRS is soliciting comments on the scope, algorithms, and use of its new software to provide historic market values for certain financial instruments.

DATES: Comments are requested on or before July 28, 1997.

ADDRESSES: Send written comments to: Internal Revenue Service, Attn: CC:DOM:CORP:R (SPR–104006–97), room 5226, POB 7604, Ben Franklin Station, Washington, DC. 20044. Alternatively, respondents may hand deliver written comments to CC:DOM:CORP:R (SPR–104006–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC., or may submit comments electronically via the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax__regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Suzanne J. Boulé at 212–298–2116 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 475 of the Internal Revenue Code requires that dealers in securities use a mark-to-market method of accounting. Under that method, inventory securities must be included in inventory at fair market value. For a security that is not inventory in the hands of the dealer and that is held at the close of a taxable year, the dealer must recognize gain or loss as if the security were sold for its fair market value on the last business day of that taxable year.

The IRS intends to implement mark-to-market valuation software to assist with the administration of section 475. The software is being developed by the Los Alamos National Laboratory under the supervision of the IRS's Office of Financial Products and Transactions. The software will be used to compute ranges of values for various financial instruments.

Comments

The IRS is soliciting comments from the public concerning this new software. Comments are invited concerning the scope, algorithms, use, and other aspects of the software.

Scope

The software can compute a range of values for interest rate swaps; currency swaps; path-independent caps, floors, and collars; path-dependent caps, floors, and collars; ndex-amortizing swaps; European options on any of the above; and American and mid-Atlantic (Bermudan) options on path-independent instruments. The IRS invites comments concerning which instruments should be included in the scope of the software for various historic periods.

Algorithms

The software uses models of the term structure of interest rates developed by Black, Derman, and Toy [1]; Black and Karasinski [2]; Heath, Jarrow, and Morton [3,4,5]; Ho and Lee [6]; and Hull and White [7]. These models are widely used in the financial products industry. The IRS invites comments concerning which models should be used by the software for various historic periods.

Use

The software uses models and financial data appropriate to the date as of which a financial instrument is to be valued. The models are calibrated to match market data for swaps, caps, floors, and swaptions on that date. For this purpose, the IRS has acquired extensive databases of historical interest rates, currency exchange rates, and interest rate and currency derivative data. The IRS invites comments concerning the use of the models, including the derivation of inputs to the models from these databases.

Credit Risk, Etc.

In industry practice, the values computed using the basic models are often adjusted to reflect credit risk and other factors. The IRS invites comments concerning which, if any, such adjustments are appropriate for valuations under section 475 and concerning the methods by which any adjustments should be effected. More generally, the IRS invites comments identifying any reason why there might be differences between the values produced by the software and the values that should be taken into account under section 475. The IRS also invites suggestions regarding appropriate ways to reconcile those differences.

Batch Processing

The software currently supports on-line interactive processing of single instruments, and will soon support off-line batch processing of portfolios of instruments. The IRS invites comments on the implementation of batch processing.

Comments are requested on or before July 28, 1997. Written comments should be sent to: Internal Revenue Service, Attn: CC:DOM:CORP:R (SPR–104006–97), room 5226, POB 7604, Ben Franklin Station, Washington, DC. 20044. Alternatively, respondents may hand deliver written comments to CC:DOM:CORP:R (SPR–104006–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC., or may submit comments electronically via the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax__regs/comments.html.

If a respondent is submitting written comments, a signed original and eight (8) copies are requested. All comments will be available for public inspection and copying in their entirety.

References

1. Black, Fischer, Emanuel Derman and William Toy. ''A One-Factor Model of Interest Rates and its Application to Treasury Bond Options.'' Financial Analysts Journal 46 (January–February 1990): 33–39.
2. Black, Fischer, and Piotr Karasinski. ''Bond and Option Pricing When Short Rates are Lognormal.'' Financial Analysts Journal 47 (July–August 1991): 52–59.
3. Heath, David, Robert Jarrow and Andrew Morton. ''Bond Pricing and the Term Structure of Interest Rates: A Discrete Time Approximation.'' Journal of Financial and Quantitative Analysis 25 (December 1990): 419–440.
4. Heath, David, Robert Jarrow and Andrew Morton. ''Contingent Claim Valuation with a Random Evolution of Interest Rates.'' Review of Futures Markets 9 no. 1 (1990): 54–76.
5. Heath, David, Robert Jarrow and Andrew Morton. ''Bond Pricing and the Term Structure of Interest Rates: A New Methodology for Contingent Claims Valuation.'' Econometrica 60 (January 1992): 77–105.

6. Ho, Thomas S. Y., and Sang-Bin Lee. ''Term Structure Movements and Pricing Interest Rate Contingent Claims.'' Journal of Finance 41 (December 1986): 1011–1029.
7. Hull, John, and Alan White. ''Pricing Interest Rate Derivative Securities.'' Review of Financial Studies 3 no. 4 (1990): 573–592.

Belinda S. McCafferty,

Director, Office of Financial Products and Transactions, Office of Assistant Commissioner (International).

[FR Doc. 97–14072 Filed 5–28–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals).

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals).

OMB Number: 1535–0016.

Form Number: PD F 1022–1.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Bearer Securities owned by individuals.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 92.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13991 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Organizations).

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Organizations).

OMB Number: 1535–0015.

Form Number: PD F 1022.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Bearer Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 92.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13992 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Relief on Account of Loss, Theft, or Destruction of United States Registered Securities.

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application For Relief on Account of Loss, Theft, or Destruction of United States Registered Securities.

OMB Number: 1535–0014.

Form Number: PD F 1025.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Registered Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 460.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13993 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Special Form of Request For Payment of United States Savings and Retirement Securities Where Use of a Detached Request is Authorized.

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Special Form of Request for Payment of United States Savings and Retirement Securities Where Use of A Detached Request is Authorized.

OMB Number: 1535–0004.

Form Number: PD F 1522.

Abstract: The information is requested to establish ownership and request for payment of United States Savings Bonds/Retirement Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 56,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 14,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13994 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request for Reissue of United States Savings Bonds/Notes During the Lives of Both Coowners.

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request For Reissue of United States Savings Bonds/Notes During The Lives of Both Coowners.

OMB Number: 1535–0008.

Form Number: PD F 1938.

Abstract: The information is requested to establish ownership and request reissue of United States Savings Bonds/Notes.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 37,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 6,179.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13995 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate of Entitlement United States Savings and Retirement Securities and Checks After Administration of Decedent's Estate.

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Entitlement United States Savings and Retirement Securities and Checks After Administration of Decedent's Estate.

OMB Number: 1535–0006.

Form Number: PD F 2458.

Abstract: The information is requested to establish entitlement of United States Savings and Retirement Securities and Checks After Administration of a Decedent's Estate.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 7,000.

Estimated Time Per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 938.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13996 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Claim For Relief on Account of the Nonreceipt of United States Savings Bonds.

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Claim For Relief on Account of the Nonreceipt of United States Savings Bonds.

OMB Number: 1535–0098.

Form Number: PD F 3062–4.

Abstract: The information is used to support a request for substitute savings bonds in lieu of savings bonds not received.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 5,010.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13997 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Exchange Application For U.S. Savings Bonds of Series HH.

DATES: Written comments should be received on or before July 29, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Exchange Application For U.S. Savings Bonds of Series HH.

OMB Number: 1535–0005.

Form Number: PD F 3253.

Abstract: The information is used to support a request to exchange Series EE/E bonds or notes for Series HH Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 39,960.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 22, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–13998 Filed 5–28–97; 8:45 am]

BILLING CODE 4810–39–P

Federal Register

Thursday
May 29, 1997

Part II

Nuclear Regulatory Commission

10 CFR Parts 170 and 171
Revision of Fee Schedules: 100 Percent Fee Recovery, FY 1997; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AF 55

Revision of Fee Schedules; 100% Fee Recovery, FY 1997

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), which mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year (FY) 1997 less amounts appropriated from the Nuclear Waste Fund (NWF). The FY 1997 NRC Appropriation also excluded from the fee base the cost of NRC review relating to the commercial vitrification of waste stored at the Department of Energy Hanford, Washington, site. The amount to be recovered for FY 1997 is approximately $462.3 million.

EFFECTIVE DATE: July 28, 1997.

ADDRESSES: Copies of comments received and the agency workpapers that support these final changes to 10 CFR Parts 170 and 171 may be examined at the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: C. James Holloway, Jr., Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–6213.

SUPPLEMENTARY INFORMATION:

I. Background
II. Responses to Comments
III. Final Action
IV. Section-by-Section Analysis
V. Environmental Impact: Categorical Exclusion
VI. Paperwork Reduction Act Statement
VII. Regulatory Analysis
VIII. Regulatory Flexibility Analysis
IX. Backfit Analysis
X. Small Business Regulatory Enforcement Fairness Act

I. Background

Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), enacted November 5, 1990, requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Department of Energy (DOE) administered NWF, for FYs 1991 through 1995 by assessing fees. OBRA–90 was amended in 1993 to extend the NRC's 100 percent fee recovery requirement through FY 1998.

The NRC assesses two types of fees to recover its budget authority. First, license and inspection fees, established in 10 CFR Part 170 under the authority of the Independent Offices Appropriation Act (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing individually identifiable services to specific applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for the issuance of new licenses, approvals or renewals, and amendments to licenses or approvals. Second, annual fees, established in 10 CFR Part 171 under the authority of OBRA–90, recover generic and other regulatory costs not recovered through 10 CFR Part 170 fees.

On April 12, 1996 (61 FR 16203), the NRC published its final rule establishing the licensing, inspection, and annual fees necessary for the NRC to recover approximately 100 percent of its budget authority for FY 1996, less the appropriation received from the Nuclear Waste Fund. Several changes to the fees assessed for FY 1996 were adopted by the NRC. These changes were highlighted in the final rule (61 FR 16203; April 12, 1996) and bear on the approach for establishing annual fees set forth in this final rule for FY 1997.

On February 27, 1997 (62 FR 8885), the NRC published a proposed rule to establish the licensing, inspection, and annual fees necessary for the NRC to recover approximately 100 percent of its budget authority for FY 1997, less the appropriation received from the Nuclear Waste Fund and the General Fund. These changes were highlighted in the proposed rule (62 FR 8885; February 27, 1997) and have been adopted in this final rule for FY 1997. The major changes are summarized as follows:

1. Adjust all 10 CFR 171 annual fees upward by about 8 percent. This change is consistent with the NRC's intention stated in the FY 1995 final rule. The NRC indicated that, beginning in FY 1996, annual fees would be stabilized by adjusting prior year annual fees by the percent change (plus or minus) in the NRC budget authority taking into consideration the estimated collections from 10 CFR Part 170 fees and the number of licensees paying fees;

2. Establish and assess a new annual fee of $2,606,000 (fee Category 1.E.) for each Certificate of Compliance issued to the United States Enrichment Corporation.

3. Revise the two professional hourly rates in § 170.20 which are used to determine the 10 CFR Part 170 fees assessed by the NRC. The rate for FY 1997 for the reactor program is $131 per hour and the rate for the materials program is $125 per hour.

4. Adjust the current licensing and inspection fees in §§ 170.21 and 170.31 for applicants and licensees to reflect both the changes in the revised hourly rates and the results of the review required by the Chief Financial Officers Act.

5. Implement a procedural change whereby fees will be assessed under §§ 170.21 and 170.31 to verify quality assurance, safeguards contingency, and emergency plan changes submitted by licensees.

II. Responses to Comments

The NRC received nine comments on the proposed rule. Although the comment period ended on March 31, 1997, the NRC has reviewed and evaluated all comments received, including those submitted after that date.

Several of the comments were similar in nature. For evaluation purposes, these comments have been grouped, as appropriate, and addressed as single issues in this final rule.

The comments are as follows:

A. Comments Regarding the Major Changes Proposed in the FY 1997 Fee Rule

1. Streamline and Stabilize Annual Fees

Comment. Commenters continue to support the positive steps taken by the NRC to equitably distribute and to reduce the burden of user fees on licensees. Two commenters, who represent nuclear power plants, argue that the annual fees being charged to power plant licensees, and particularly the 8 percent increase in those fees proposed for 1997, are inconsistent with statutory requirements. In particular, the commenters argue that 42 U.S.C. 2214(b) requires, without exception, that every recipient of a definite service from the NRC should pay 10 CFR Part 170 fees. The statute says that ''any person who receives a service or thing of value from the Commission *shall* [emphasis added] pay fees to cover the Commission's costs in providing any such service or thing of value.'' 42 U.S.C. 2214(b). The commenters believe that the word ''shall'' means that the agency has no authority not to charge 10 CFR Part 170 fees to parties who receive benefits from the agency. They argue that the result of the NRC's not charging all beneficiaries, is a fee system that

charges nuclear power plants for services provided to others. Therefore, the NRC fee system fails to meet the statutory requirement that, ''[t]o the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services' to licensees. 42 U.S.C. 2214(c)(3). As evidence that this statutory requirement has been violated, the commenters argue that the 8 percent increase in annual fees in FY 1997 is due largely to a projected and unexplained reduction in 10 CFR Part 170 fees charged to persons and entities other than power reactor licensees and is thus unrelated to the costs of regulating nuclear power reactors. The commenters believe that the agency should replace the proposed rule with one that charges everyone who receives a service from the agency the cost of providing that service.

Response. The NRC readily acknowledges the commenters' concerns for fairness and equity. To meet its statutory obligation to recover approximately 100 percent of its budget through fees, the NRC does collect from each power reactor licensee an annual fee a portion of which recovers costs not attributable to the regulation of nuclear power plants. There are also other licensees whose annual fees in part cover costs not attributable to the regulation of those licensees.

However, for reasons the NRC has set forth on many occasions, the NRC believes that the current fee system is as fair and equitable as the current statutory structure underlying the agency's fee system will permit. For example, the NRC is barred by law from charging all but two Federal agencies 10 CFR Part 170 fees; not all the work which the NRC does for other agencies and governments can be recovered through reimbursable agreements (see 60 FR 32218, 32222 (June 20, 1995)), and yet that work is necessary for public health and safety and U.S. national interests and under the Regulatory Flexibility Act, the agency is obliged to consider carefully the impact of its fee rules on small entities and to seek less onerous alternatives.

Such exemptions from fees as the NRC has granted are of long-standing, have been granted only after full and public consideration of the relevant policy questions (see, for example, 59 FR 12539 (March 19, 1994)), and are well-founded in law. When subsection 2214(b) in 42 U.S.C. says that ''any person who receives a service or thing of value from the Commission shall pay fees'', the words ''shall'' and ''any person'' are not absolute. They certainly do not eliminate any possibility of exemptions or override other statutory restrictions on the NRC's ability to assess user fees.

For example, the phrase ''any person'' is not all-inclusive. Subsection 2214(b) says persons shall pay ''pursuant to section 9701 of title 31, United States Code'', but section 9701 in turn rules out imposing such fees on any ''person on official business of the United States Government'', absent other legislation authorizing such assessments. Moreover, neither subsection 2214(b) nor the legislative history behind it reveal any intention to do away with the 10 CFR Part 170 exemptions that existed at the time subsection 2214(b) was enacted, and of which Congress was fully aware. Indeed, section 2214's basic requirement that the agency recover approximately 100 percent of its budget, less certain amounts, has been extended more than once since its enactment in 1990, and throughout the period since that enactment, most notably in the report to Congress required by section 2903 of the Energy Policy Act of 1992, the NRC has kept the Congress fully informed about the Part 170 exemptions and their impact on power reactor licensees, and Congress has chosen not to take any action against those exemptions. ''When the statute giving rise to the longstanding interpretation has been reenacted without change, the congressional failure to revise or repeal the agency's interpretation is persuasive evidence that the interpretation is the one intended by Congress.'' *FDIC* v. *Philadelphia Gear*, 476 U.S. 426, 437 (1986).

Moreover, to the extent that the commenters' arguments are directed at the burdens they bear because some licensees are exempted from annual fees, the answer is much the same. Such exemptions have been carefully considered, after notice and comment rulemaking; and it is unmistakable that exemptions from Part 171 are permitted by law: See *Florida Power & Light* v. *NRC*, 846 F.2d 765, 770 (D.C. Cir 1988), *cert. denied* 109 S. Ct. 1952 (1989) (NRC did not abuse its discretion by failing to impose annual fees on all licensees).

The 8 percent increase in annual fees for power reactors, about which the commenters are understandably concerned, was fully explained in the statement of considerations accompanying the proposed rule. See Part II, Section B and Table 1 in 62 Fed. Reg. 8885, 8887 (February 27, 1997). As the discussion there shows, the increase is neither arbitrary nor capricious. To recap briefly, the increase is the result of several factors: a substantial reduction in projected 10 CFR Part 170 fees, largely because reductions in resources devoted to reviews of applications for standard plant and reactor operating licenses; a reduction in the number of licensees paying annual fees, largely the result of one reactor's having ceased operations permanently and the reassignment this last March to Massachusetts of regulatory responsibility for some 425 materials licenses; several million dollars less in collections received in the current fiscal year as a result of billings from an earlier fiscal year; a small increase in the amount by which small entity fees are reduced; and a greater allowance for unpaid bills, to help assure that the agency will meet its obligation to collect 100 percent of its budget.

The commenters mention the increase in power reactor annual fees resulting from Massachusetts becoming an Agreement State as evidence that the increase in those fees is in fact attributable to costs of programs unrelated to the regulation of nuclear power reactors. See, e.g., 60 FR 32218, 32225 (June 20, 1995). The NRC has already addressed the comment that part of the increase cannot be attributed to the costs of regulating power reactors. The NRC adds here simply that only a small part of that increase can be attributed to the loss of half the annual fees from former NRC licensees in Massachusetts.

While the agency believes that its current structure is fully justified by law and policy, the agency remains committed to working with Congress to reduce the fee burdens that power reactor licensees, and other licensees, bear because they pay for regulatory activities that do not directly benefit them. Three years ago, the agency submitted a report to Congress that recommended enactment of legislation that would reduce the amount to be recovered from fees from 100 percent of the NRC budget to about 90 percent, thus eliminating the surcharge the power plant licensees, and some others, bear because some parties receive benefits for which they do not pay. In the near future, the NRC will be updating that report and reassessing the need for legislation.

This final rule adopts the methodology to streamline and stabilize FY 1997 annual fees by adjusting these fees by the percentage change (plus or minus) in NRC's total budget authority. The FY 1996 annual fees have been used as base annual fees and these annual fees have been adjusted upward for FY 1997 based on the percentage change in the NRC's budget authority, taking into consideration the total number of licensees paying fees and

estimated collections from 10 CFR Part 170 licensing and inspection fees. Therefore for FY 1997, all annual fees have been adjusted 8.4 percent above the FY 1996 levels.

2. Revise the Two Professional Rates in 10 CFR 170.20 Based on the FY 1997 Budget and Adjust the 10 CFR 170.21 and 170.31 Licensing (Application and Amendment) ''Flat'' Fees to Reflect the Costs of Providing the Licensing Services

a. *Comment.* Commenters supported the revised method of calculating two hourly rates adopted by NRC in FY 1995 to separately and more equitably allocate costs associated with the reactor program and the materials program. However, one commenter was concerned that the increase in hourly rates from last year exceeds the general increase that was provided to all government workers. The commenter encouraged the NRC to control its costs by seeking efficiencies in these areas to attain a downward trend of licensing and inspection fees. Another commenter indicated that the hourly rate will increase almost five percent ($120 per hour to $125 per hour) and believes the hourly rate is unjustifiably high and does not reflect the cost of providing regulatory services to licensees. The commenter stated that the $125 hourly rate equals or exceeds the hourly charges of senior consultants or principals at major consulting firms and that it exceeds the generally accepted rate for similar work in private industry. The commenter requests that with hourly rates as high as $125, the NRC continue its efforts to provide bills that contain more meaningful descriptions of the work done.

Response. The NRC has established in this final rule two professional hourly rates for FY 1997 which will be used to determine the 10 CFR Part 170 fees. A rate of $131 per hour is established in § 170.20 for the reactor program and a second rate of $125 per hour is established in $170.20 for the nuclear materials and nuclear waste programs. The two rates are based on the ''cost center'' concept that is now being used for budgeting purposes.

The NRC professional hourly rates are established to recover approximately 100 percent of the agency's Congressionally-approved budget, less the appropriation from the Nuclear Waste Fund (NWF), and the General Fund. The rates reflect the NRC budgeted cost per direct professional hour. This cost includes the salary and benefits for the direct hours, a prorata share of the salary and benefits for the program and agency overhead and agency general and administrative expenses (e.g., rent, supplies, and information technology). Both the method and budgeted costs used by the NRC in the development of the hourly rates of $131 and $125 are discussed in detail in Part III, Section-by-Section Analysis, relating to § 170.20 of the proposed rule (62 FR 8888; February 27, 1997) and the same section of this final rule. For example, Table II shows the budgeted costs and the direct FTEs that must be recovered through fees assessed for the hours expended by the direct FTEs. The budgeted costs as well as the direct resources are those required by the NRC to implement its statutory responsibilities and effectively accomplish the mission of the agency. Additional information on the hourly rates is provided in the NRC workpapers located in the Public Document Room. The specific details regarding the budget for FY 1997 are documented in the NRC's publication ''Budget Estimates, Fiscal Year 1997'' (NUREG–1100, Volume 12), which is available to the public. Copies of NUREG–1100, Volume 12, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001. The NRC will continue its current practice of providing available backup data to support 10 CFR Part 170 licensing and inspection billings upon request by the licensee or applicant.

b. *Comment.* One commenter indicated that although they appreciate NRC's efforts to stabilize fees based on percentage changes in NRC's annual budget, they have concerns about the lack of a reasonable relationship between the cost to uranium recovery licensees of NRC's regulatory program and the benefit derived from such services. The commenter asserts that the Commission cannot impose fees under the IOAA unless there is a rational relationship between the fees and the regulatory services provided. The commenter, citing *Central & S. Motor Freight Tariff Ass'n* v. *United States,* 777 F.2d 722, 729 (D.C. Cir. 1985), notes that in applying this IOAA requirement, the fees assessed must be reasonably related to, and may not exceed the value of the service to the recipient whatever the agency's cost may be. The commenter then suggests that the NRC fee system may violate this principle because the proposed hourly rate of $125 for services provided by agency professionals is unduly high. The commenter goes on to say that the problem of the lack of reasonable relationship between annual fees and services rendered is exacerbated as more states become Agreement States, e.g., Massachusetts which became an Agreement State in FY 1997, leaving fewer NRC licensees to bear an even greater share of the burden. The commenter states that the current system, in effect, gives preferential treatment to licensees in Agreement States. The commenter also indicated that as the uranium recovery industry continues to shrink in size, the decreasing number of licensees will ultimately be charged increasing annual fees thereby forcing more financial hardships on an already depressed industry.

Response. The Commission believes that its IOAA fee schedule is fully supported by applicable legal precedent and does not accept commenter's suggestion. In upholding the Commission's IOAA fee schedule, the United States Court of Appeals for the Fifth Circuit held that the NRC may recover the *full cost* of providing a service to an identifiable recipient. (Emphasis in original) *Mississippi Power & Light* v. *NRC,* 601 F.2d at 230 (5th cir. 1979), *cert. denied,* 444 U.S. 1102 (1980). This is consistent with the earlier teaching of *National Cable Television Ass'n Inc.* v. *FCC,* 554 F.2d 1094, 1106 (D.C. 1976) relied upon by the court in *Central & S Motor Freight Tariff Ass'n, supra.* There the court held that fees should be a reasonable approximation of the attributable costs that the Commission identifies as being expended to benefit the recipient. The Court suggested that a fee might be questionable if the fee unreasonably exceeds the value of the specific services for which it is charged. Here the services provided by the NRC are required for licensees to maintain their licenses and the benefits derived therefrom. The basis for the revised hourly rates is fully discussed in NRC's response to comment A.2.a. which relates to the hourly rates being assessed by NRC under 10 CFR Part 170. The commenter has provided virtually no evidence that could cause the NRC to conclude that its fees unreasonably exceed the value of the services rendered.

In FY 1995, the NRC changed the methodology for allocating those budgeted costs (about 10 percent of the NRC budget authority) that cause fairness and equity concerns because

the legislation requested by the NRC had not been passed by the Congress (60 FR 32218; June 20, 1995). These costs, which include the cost of the Agreement State oversight and regulatory support to the Agreement States, are now treated in a manner similar to overhead. These costs are distributed based on the percentage of the budget directly attributable to a class of licensees. Commenters at that time supported this method of allocation as being more equitable, pending legislative relief by Congress to remedy this inequitable situation. If additional states become Agreement States and the NRC decides to rebaseline the fees based on substantive changes to the budget, then any increased cost for Agreement State oversight and regulatory support to the Agreement States would be identified, treated similar to overhead, and distributed based on the percentage of the budget directly attributable to a class of licensees.

The NRC also revised its methodologies in the FY 1995 final rule for determining annual fees for fuel facility and uranium recovery licensees. The revised methodologies resulted in annual fees that more accurately reflect the costs of providing regulatory services to the subclasses of fuel facility and uranium recovery licensees. The revised methodologies were fully explained in Section IV, Section-by-Section Analysis, of the final FY 1995 rule (60 FR 32218; June 20, 1995).

In response to comments relative to increases in annual fees as a result of the decrease in the number of licensees, the changes adopted in the FY 1995 final rule to stabilize fees should minimize large fee changes as a result of decreases in licensees.

3. Annual Fees for Certificates of Compliance Issued to the United States Enrichment Corporation

a. *Comment.* The United States Enrichment Corporation (USEC) commented that the proposed annual fees of $2,600,000 which have been proposed for the first time for each of the two enrichment facilities are not fair and equitable when compared to those imposed on similar facilities regulated by the NRC. USEC stated that the rationale for this as expressed in the NRC's proposed rule is an unsupported assertion that the relative weighted safety and safeguards factors for USEC's facilities are similar to a high enriched uranium facility. USEC believes this rationale is incorrect, unsupported by the facts, and contradictory to the NRC's own licensing actions. USEC indicates that the NRC has, in fact, certified USEC's gaseous diffusion plants (GDPs) as low enriched uranium facilities and, as part of that licensing action, the NRC has approved safeguards measures appropriate for low enriched uranium facilities and has not imposed the safeguards measures required at high enriched facilities possessing strategic special nuclear material. USEC indicates that, in accordance with the joint statement of understanding between the NRC and the Department of Energy (DOE), DOE is solely responsible for any strategic special nuclear material which may be located at the Portsmouth, Ohio, GDP and that the presence of any such high enriched uranium at the Portsmouth GDP is not relevant to the NRC's fee-setting process. USEC states that the NRC methodology for determining annual fees for major fuel facilities, presented in the June 20, 1995, **Federal Register**, clearly states that the issued license is the source for determining authorized nuclear material and use/associated activity and is the determining factor in placing a licensee into one of the five fuel facility license fee categories created in the NRC's methodology. USEC argues that the GDPs are clearly in the low enriched fuel category on the basis of the issued licenses (certificates) and not in the high enriched-fuel category. USEC states that the NRC's proposal to put the GDPs into the same fee category as high enriched fuel facilities has not been justified by the cited NRC methodology and appears to be arbitrary and that the NRC has provided no basis for its conclusion that the relative weighted safety and safeguards factors for the GDPs are similar to a high enriched uranium facility. USEC states that the annual fee for the GDPs should be the same as that proposed for other low enriched facilities, $1,276,000 annually.

Response. NRC does not dispute that the GDPs have been certified as low enriched uranium facilities with corresponding safeguards measures for category III facilities. The NRC recognizes that DOE maintains sole regulatory responsibility for strategic special nuclear material that may be located at the Portsmouth GDP. The NRC methodology for determining annual fees for major fuel facilities, published in the June 20, 1995 **Federal Register**, (60 FR 32218, 32234), does state that the issued license is the source for determining authorized nuclear material and use/associated activity. However, it does not state that this information is the determining factor for placing a licensee into one of the five fee categories. The factors for placing a licensee into a fee category were stated as:

> This new methodology results in the creation of five fuel facility license fee categories. Licenses are grouped into these categories according to their license (nuclear material type, enrichment, form, quantity, and use/associated activity) *and according to the scope, depth of coverage and rigor of generic regulatory programmatic effort applicable to each category* (emphasis added).

The nuclear material and activity at the GDPs, authorized by the certificates, does not automatically place the facilities into the high enriched fuel category. The scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to the GDPs, however, is approximately equivalent to that of a high enriched fuel facility.

As described in the GDP Safety Analysis Reports, the facilities are subject to a relatively large number of credible accidents, most of which have multiple initiating events. The potential onsite and offsite consequences posed by these accidents are significantly greater than those applicable to low enriched fuel facilities. The large size and scope of the GDP operations require substantially more effort for the development of inspection procedures, guidance, and schedules. This large size and scope is also expected to result in a higher number of reportable events that NRC staff must review.

The complexity, higher potential accident consequences, and large size and scope of the GDP operations require the NRC to provide generic regulatory programmatic effort that is of a scope, depth of coverage, and rigor equivalent to that for a high enriched fuel facility. This level of generic effort is the basis for assigning the two GDPs to the high enriched fuel facility category for the purpose of determining and assessing annual fees in FY 1997.

b. *Comment.* USEC also indicated that based on the March 16, 1993, D.C. Court of Appeals decision directing the NRC to grant Combustion Engineering an exemption from fees for one of its two low enriched uranium plants located in Hematite, Missouri and Windsor, Connecticut, it too deserves to be considered for an exemption because its two enrichment facilities are operationally equivalent to a single licensed facility because they are part of one process to produce enriched uranium product. Therefore, the commenter requests that the NRC reconsider the implication of the Court's holding with respect to the disproportionate allocation of its costs under 10 CFR 171.11(d), especially as the allocation of these costs adversely impacts the licensee.

Response. With respect to USEC's request that one of its certificates be exempt from annual fees, the D.C. Circuit Court of Appeals in *Allied Signal, Inc.* v. *NRC*, 988 F.2d 146 (D.C. Cir. 1993) directed the NRC to grant an exemption from annual fees to Combustion Engineering (CE) for one of its two low enriched uranium facilities. The NRC had previously denied the exemption request from CE. The Court found that the two facilities in the aggregate were operationally equivalent to the single-plant, single-license facilities of other low enriched uranium manufacturers. The Court concluded that ''the argument that the ''equal fee per license'' rule is ''unfair and inequitable'' is persuasive only on the ground that the rule produced troubling results when applied to Combustion's circumstances.'' The Court saw no reason for requiring the NRC to attend to that rather rare situation in the rule itself. Thus, consistent with the Court decision and 10 CFR Part 171, if USEC feels that based on the circumstances of its particular situation it can make a strong case to the NRC for an exemption from the FY 1997 annual fees then they should do so. The NRC will consider such requests for exemption under the provisions of 10 CFR 171.11(d). In accordance with 10 CFR Part 171.11(b), such requests for exemption must be filed within 90 days from the effective date of this final rule. The filing of an exemption request does not extend the date on which the bill is payable. If a partial or full exemption is granted, any overpayment will be refunded.

B. Other Comments

1. Eliminate the Application Fee for Uranium Enrichment Facilities

Comment. One commenter noted that an application fee of $125,000 is required to accompany an application to construct and operate a uranium enrichment facility (§ 170.31, fee Category 1.E.) and stated that the application fee is assessed in addition to the ''full cost'' to process the application. The commenter requests that the application fee for uranium enrichment facilities be eliminated to achieve fee equity among all materials licensees.

Response. Section 170.31, fee Category 1.E. of the Commission's regulations was established on June 1, 1992 (57 FR 18388). The change in the fee regulations was made to reflect changes made to the Atomic Energy Act of 1954 (as amended) by the Solar, Wind, Waste and Geothermal Power Production Incentives Act of 1990. The principal effect of these amendments is that uranium enrichment facilities will be licensed subject to the provisions of the Act pertaining to source and special nuclear material rather than under the provisions pertaining to a production facility. Previous to June 1992, uranium enrichment facilities were treated for fee purposes under § 170.21, the fee regulation that relates to reactors and other production and utilization facilities. As a result of the conforming changes made June 1, 1992, to the NRC's regulations, the category relating to uranium enrichment facilities, which included the application fee, was moved directly to the materials schedule in § 170.31. Licensees who pay the $125,000 fee upon filing an application are given credit for the fee toward the full cost of processing the application. Licensees do not pay the full cost of processing plus the application fee of $125,000. However, because other major fuel facilities covered by § 170.31 do not pay an application fee for a new license application, the NRC agrees with the commenter and has eliminated the $125,000 application fee from § 170.31, fee Category 1.E.

2. Fees for Amendments to Medical Licenses

Comment. One commenter, while indicating support for fees to recover costs of NRC regulatory activities, questioned why such a high fee ($460) would be required to amend a medical license to add another physician to the license.

Response. In developing the revised fee schedule, the NRC was obligated under Title V of the Independent Offices Appropriation Act of 1952 to examine the costs of processing license amendments not only for medical license fee Category 7C but also for all of its materials license fee categories. The amendment fee of $460 was developed based on the ''average-cost'' method (flat fees) to process an amendment for medical licensees in fee Category 7C. Based on data for the last five years, the average number of hours expended to review and approve license amendments for licenses included in fee Category 7C is 3.7 hours of professional effort. An explanation of how the average number of hours are determined for materials licenses is found in Part IV, Section-by-Section Analysis, Section 170.31 of this final rule. To determine the amount of the amendment fee, the average hours to review and approve medical amendments (3.7 hours) was multiplied by the professional hourly rate ($125/hour) to arrive at the amendment fee of $460 for the medical license.

3. Fee Legislation

Comment. Several commenters noted that the NRC had completed its report on fee policy as required by the Energy Policy Act of 1992 and that the NRC had sent a report to Congress with legislative recommendations. The commenters commended NRC's efforts in this regard and stated that they continue to believe that 100 percent fee recovery for NRC, as mandated by OBRA–90, is inequitable and unfair to licensees because licensees are paying for certain costs that are not directly related to and do not benefit them. The commenters acknowledged that without legislative change to OBRA–90, the central problems with NRC's fees cannot be completely resolved. Commenters strongly supported more efforts to define a more equitable fee base and recommended that the NRC continue to work with Congress and the Administration and actively seek the necessary legislative changes. In this regard, commenters stated that it is time for NRC to actively pursue a legislative agenda with Congress by drafting specific language to modify OBRA–90 or the Atomic Energy Act.

Response. The need for legislation is beyond the scope of this rulemaking proceeding. As indicated in the FY 1996 final rule (61 FR 16203; April 12, 1996), the NRC will continue to work with the Congress to make fees more fair and equitable. As part of its Strategic Assessment and Rebaselining initiative, the Commission considered issues associated with fees. After evaluation of comments from stakeholders, the Commission concluded that in order to make annual fees more fair and equitable for all NRC licensees, the Commission must seek Office of Management and Budget and Congressional authorization to remove certain NRC activities that do not directly benefit NRC licensees from the fee base and instead fund those activities from non fee-based appropriations or separate appropriations. To this end, the Commission has requested the NRC staff to prepare an update to its February 1994 report to Congress on this matter.

4. Fees Based on Other Factors

Comment. One commenter, while understanding the need for NRC to be financially self-sufficient, was concerned about the effect of an 8 percent increase in annual fees on rural hospitals. The commenter states that the annual fees should be revised to take into account the small, low procedure volume, one room, one camera, diagnostic nuclear medicine department

who pays the same annual fee as a large metropolitan hospital. Another commenter indicated that the NRC's intention to continue small entity and lower tier small entity fees based on market volume (gross annual receipts) is necessary and proper in order to aid in the survival of small firms.

Response. The issue of basing fees on the amount of material possessed, the frequency of use of the material, the size of the facilities, and market competitive positions, was addressed by the NRC in previous rules and in the Regulatory Flexibility Analysis in Appendix A to the final rule published July 10, 1991 (56 FR 31511–31513). The NRC did not adopt that approach because it would require licensees to submit large amounts of new data and would require additional NRC staff to evaluate the data submitted and to develop and administer even more complex fee schedules. The NRC continues to believe that uniformly allocating the generic and other regulatory costs to the specific licensee within a class to determine the amount of the annual fee is a fair, equitable, and practical way to recover those costs and that establishing reduced annual fees based on gross receipts (size) is the most appropriate approach to minimize the impact on small entities. Therefore, NRC finds no basis for altering its approach at this time. This approach was upheld by the D.C. Circuit in its March 16, 1993, decision in *Allied-Signal, supra*.

III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 100 percent of its FY 1997 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF and the General Fund. For FY 1997, the NRC's budget authority is $476.8 million, of which $11.0 million has been appropriated from the NWF. In addition, $3.5 million has been appropriated from the General Fund for activities related to commercial vitrification of waste stored at the Department of Energy Hanford, Washington, site. The FY 1997 appropriation statute states that the $3.5 million appropriated for regulatory reviews and other activities pertaining to waste stored at the Hanford, Washington, site shall be excluded from license fee revenues notwithstanding 42 U.S.C. 2214. Therefore, NRC is required to collect approximately $462.3 million in FY 1997 through 10 CFR Part 170 licensing and inspection fees and 10 CFR Part 171 annual fees.

The total amount to be recovered for FY 1997, and therefore the total fees, is the same as the amount estimated for recovery for FY 1996. However, the distribution of the total amount to be collected between the two types of fees is different. The NRC estimates that approximately $95.2 million will be recovered in FY 1997 from fees assessed under 10 CFR Part 170 and other receipts compared to $120.5 million in FY 1996. The remaining $367.1 million in FY 1997 will be recovered through the 10 CFR Part 171 annual fees. Because the estimated 10 CFR Part 170 fees and other offsetting receipts for FY 1997 are below the estimates for FY 1996, annual fees must increase. The lower estimate for 10 CFR Part 170 fees plus other changes cause an 8.4 percent increase in FY 1997 annual fees compared to FY 1996. These changes are more fully explained in Section B. The following examples illustrate the changes in annual fees.

	FY 1996 annual fee	FY 1997 annual fee
Class of Licensees:		
Power Reactors	$2,746,000	$2,978,000
Nonpower Reactors	52,800	57,300
High Enriched Uranium Fuel Facility	2,403,000	2,606,000
Low Enriched Uranium Fuel Facility	1,179,000	1,279,000
UF_6 Conversion Facility	597,800	648,000
Uranium Mills	57,000	61,800
Typical Materials Licenses:		
Radiographers	13,000	14,100
Well Loggers	7,500	8,200
Gauge Users	1,600	1,700
Broad Scope Medical	21,700	23,500

The amounts of the annual fees for some of the classes of licenses have slightly increased since the publication of the proposed fee in February 1997. The annual fees for a majority of the classes of licensees remain the same as those proposed. The reason for the increase in annual fees from those proposed for some of the classes is that the NRC has recently completed the third quarter billing in FY 1997 for 10 CFR Part 170 fees for services. The total estimate for 10 CFR Part 170 fee billings for the remainder of FY 1997 based on actual amount billed for the first three quarters is about $800,000 below the estimate of $96,000,000 used in the FY 1997 proposed rule. As a result, annual fees have been increased in this final rule 8.4 percent above the FY 1996 levels as compared to an 8.2 percent increase in the proposed rule. The amount of the increases from the proposed rule range from a low of $100 for a radiographer, for example, to a high of $6,000 for an operating power reactor and a high enrichment uranium facility.

Because the final FY 1997 fee rule will be a ''major'' final rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC's fees for FY 1997 will become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send a bill for the amount of the annual fee upon publication of the FY 1997 final rule to reactors and major fuel cycle facilities. For these licensees, payment will be due on the effective date of the FY 1997 rule. Those materials licensees whose license anniversary date during FY 1997 falls before the effective date of the final FY 1997 final rule will be billed during the anniversary month of the license and continue to pay annual fees at the FY 1996 rate in FY 1997. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 1997 final rule will be billed at the FY 1997 revised rates during the anniversary month of the license and payment will be due on the date of the invoice.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services

Three amendments have been made to 10 CFR Part 170 and one change in practice under 10 CFR Part 170. These amendments do not change the underlying basis for the regulation—that fees be assessed to applicants, persons, and licensees for specific identifiable services rendered. The amendments also comply with the guidance in the Conference Committee Report on OBRA–90 that fees assessed under the Independent Offices Appropriation Act (IOAA) recover the full cost to the NRC of identifiable regulatory services each applicant or licensee receives.

First, the NRC is amending § 170.11 of the Commission's fee regulations to add an exemption provision for those amendments to materials portable gauge licenses issued in accordance with NUREG 1556, Volume 1, that will change only the name of the Radiation Safety Officer (RSO). This change is consistent with the proposed regulatory approach outlined in draft NUREG–1556, Volume 1, entitled ''Consolidated Guidance About Materials Licenses, Program-Specific Guidance About Portable Gauge Licenses'' issued October 3, 1996, for public comment. No amendment fees will be assessed for the amendments to portable gauge licenses because the regulatory program outlined in NUREG–1556, Volume 1, includes commitments from the licensee concerning RSO qualifications and if those commitments are included in the amendment application, then a technical review is not required. NUREG–1556, Volume 1, is expected to be finalized in May 1997.

Second, the two professional hourly rates established in FY 1996 in § 170.20 are revised based on the FY 1997 budget. These rates are based on the FY 1997 direct FTEs and that portion of the FY 1997 budget that either does not constitute direct program support (contractual services costs) or is not recovered through the appropriation from the NWF or the General Fund. These rates are used to determine the Part 170 fees. The NRC has established a rate of $131 per hour ($233,055 per direct FTE) for the reactor program. This rate is applicable to all activities whose fees are based on full cost under § 170.21 of the fee regulations. A second rate of $125 per hour ($222,517 per direct FTE) is established for the nuclear materials and nuclear waste program. This rate is applicable to all materials activities whose fees are based on full cost under § 170.31 of the fee regulations. In the FY 1996 final fee rule, these rates were $128 and $120 respectively.

The two rates are based on cost center concepts adopted in FY 1995 (60 FR 32225; June 20, 1995) and used for NRC budgeting purposes. In implementing cost center concepts, all budgeted resources are assigned to cost centers to the extent they can be distinguished. These costs include all salaries and benefits, contract support, and travel that support each cost center activity.

Third, the NRC has adjusted the current Part 170 licensing and inspection fees in §§ 170.21 and 170.31 for applicants and licensees to reflect both the changes in the revised hourly rates and the results of the biennial fee schedule review required by the Chief Financial Officers (CFO) Act. To comply with the requirements of the CFO Act, the NRC has evaluated historical professional staff hours used to process a licensing action (new license and amendment) for those materials licensees whose fees are based on the average cost method (flat fees). This review also included new license and amendment applications for import and export licenses.

Based on evaluation of the historical data related to the average number of professional staff hours needed to complete materials licensing actions, the NRC increased the fees in some categories and decreased the fees in others to reflect the costs incurred in completing the licensing actions. Thus, the revised average professional staff hours reflect the changes in the NRC licensing review program that have occurred since FY 1995. The licensing fees are based on the revised average professional staff hours needed to process the licensing actions multiplied by the nuclear materials professional hourly rate for FY 1997 of $125 per hour. The data for the average number of professional staff hours needed to complete licensing actions were last updated in FY 1995 (60 FR 32218; June 20, 1995). For new materials licenses, the licensing fees for FY 1997 are increased in approximately 70 percent of the categories, while the proposed fees for materials amendments will increase in over 60 percent of the categories. In response to a comment received on the proposed rule, the NRC has eliminated the $125,000 application fee from § 170.31, fee Category 1.E.

In addition to these changes, the NRC is clarifying how it will recover the costs of post-implementation reviews of changes licensees make without prior NRC review; for example, changes under §§ 50.54, 50.59 and 70.32. Licensees will be billed for post-implementation review of these changes under §§ 170.21 and 170.31, beginning with the effective date of the FY 1997 final fee rule. There will be no change in how fees are assessed for any pre-implementation interactions, including any review prior to licensee submissions, between NRC and licensees. As in the past, any pre-implementation interaction will not be fee bearing. The NRC plans to inform reactor licensees in the near future that their submittals under § 50.54 (a), (p) and (q) should not ask for pre-implementation reviews. Instead, licensees are required to perform their analyses, implement their changes (if the analyses show that the changes do not degrade plans the NRC has already approved), and make their submittals under the relevant paragraph of § 50.54. The NRC will then verify that the changes are in compliance with § 50.54.

In summary, the NRC has:

(1) Revised the two 10 CFR Part 170 hourly rates;

(2) Revised the licensing (application and amendment) fees assessed under 10 CFR Part 170 in order to comply with the CFO Act's requirement that fees be revised to reflect the cost to the agency of providing the service;

(3) Added a provision to the regulations exempting from 10 CFR Part 170 fees certain amendments to materials portable gauge licenses issued in accordance with NUREG–1556 Volume 1 which is expected to be issued in May 1997;

(4) Eliminated the $125,000 application fee in § 170.31 for fee Category 1.E.; and

(5) Changed the procedure whereby charges under Part 170 will be made for post-implementation review of quality assurance plan, safeguards contingency plan and emergency plan changes.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Operating Licenses, and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by NRC

Six amendments have been made to 10 CFR Part 171. First, the NRC is amending § 171.13 to revise the language to indicate that if the NRC is unable to publish a fee rule with an effective date within the current fiscal year, then the NRC will continue to assess fees on the same basis as the previous fiscal year. The NRC believes that it will be able to publish an effective fee rule within a current fiscal year as it has done since FY 1991. However, as a contingency the NRC is

amending the rule to permit NRC to meet the requirements of OBRA–90 in the case that unforeseen events prevent NRC from publishing a new rule during a fiscal year.

Second, the NRC is amending §§ 171.15 and 171.16 to revise the annual fees for FY 1997 to recover approximately 100 percent of the FY 1997 budget authority, less fees collected under 10 CFR Part 170 and funds appropriated from the NWF and the General Fund. In the FY 1995 final rule, the NRC stated that it would stabilize annual fees as follows. Beginning in FY 1996, the NRC would adjust the annual fees only by the percentage change (plus or minus) in NRC's total budget authority unless there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees. If either case occurred, the annual fee base would be recalculated (60 FR 32225; June 20, 1995). The NRC also indicated that the percentage change would be adjusted based on changes in 10 CFR Part 170 fees and other adjustments as well as on the number of licensees paying the fees.

In the FY 1996 final rule, the NRC stabilized the annual fees by establishing the annual fees for all licensees at a level of 6.5 percent below the FY 1995 annual fees. In this FY 1997 final rule, the NRC followed the same method as used in FY 1996. Because the total amount estimated for recovery through fees in FY 1997 is the same as the amount for FY 1996, establishing new baseline fees is not warranted for FY 1997. While the total amount to be collected is the same, the distribution between Part 170 and 171 fees has changed. In FY 1996, 26 percent was estimated to be collected from 10 CFR Part 170 fees. This decreases to 21% in FY 1997. Therefore, to recover 100 percent of the budget, 10 CFR Part 171 annual fees must increase in FY 1997 compared to FY 1996. The NRC is establishing the FY 1997 annual fees for all licensees at a level of 8.4 percent above the FY 1996 annual fees. The 8.4 percent increase results primarily from a reduction in the amount of the budget recovered for 10 CFR Part 170 fees, a reduction in other offsetting adjustments, and reduction in the number of licensees paying annual fees. In addition, the NRC has made adjustments to recognize that all fees billed in a fiscal year are not collected in that year. Table I shows the total budget and amounts of fee billed and collected for FY 1996 and FY 1997.

TABLE I.—CALCULATION OF THE PERCENTAGE CHANGE TO THE FY 1996 ANNUAL FEES

[Dollars in millions]

	FY96	FY97
Total Budget	$473.3	$476.8
Less NWF	−11.0	−11.0
Less General Fund (Hanford Tanks)	—	−3.5
Total Fee Base	462.3	462.3
Less Part 170 Fees	114.5	95.2
Less other receipts	[1] 6.01	.....
Part 171 Fee Collections Required	341.8	367.1
Part 171 Billing Adjustments:[2]		
Small Entity Allowance	4.9	5.0
Unpaid FY 1997 bills	.....	3.0
Payments from prior year bills	.....	−2.0
Subtotal	4.9	6.0
Total Part 171 Billing	346.7	373.1

[1] $6 million in excess collections from FY 1995 were available to reduce FY 1996 annual fees.
[2] These adjustments are necessary to ensure that the ''billed'' amount results in the required collections. Positive amounts indicate amounts billed that will not be collected in FY 1997.

As shown in Table I, the total amount of annual fees to be billed in FY 1997 is $26.4M ($373.1–$346.7) or 7.6 percent higher than the amount that was to be billed in annual fees in FY 1996. The NRC notes that the reduction in the estimates of 10 CFR Part 170 fees for FY 1997 is primarily in the areas relating to the review of applications for reactor operating licenses and the review of standard plant applications. In addition, for the first time, the estimates take into consideration an allowance for bad debt by estimating billings in the fiscal year that are not projected to be collected in that fiscal year and collections received in the current fiscal year as a result of billings from a prior fiscal year. These adjustments to the annual fees will allow the NRC to come closer to meeting its obligation to recover approximately 100 percent of its budget authority through the assessment of fees.

In addition to changes in 10 CFR Part 170 fees and other adjustments, the number of licensees to pay fees in FY 1997 has decreased compared to FY 1996. This decrease in the number of licensees paying fees causes annual fees to increase by an additional 0.8 percent. For example, the Haddam Neck power reactor ceased operations in December 1996 and the fuel has been permanently removed from the reactor. Therefore, the utility will pay only a partial annual fee in FY 1997. In addition, Massachusetts became an Agreement State on March 21, 1997, and regulatory authority over approximately 425 NRC materials licenses was transferred to Massachusetts. These licensees will pay only one half of the annual fee for FY 1997.

Third, an annual fee is established in § 171.16(d), fee Category 1.E., for each certificate of compliance issued to the United States Enrichment Corporation (USEC) on November 26, 1996, to operate the two gaseous diffusion plants (GDPs) located at Paducah, Kentucky and at Piketon, Ohio. The NRC assumed regulatory jurisdiction over the two plants from the U.S. Department of Energy (DOE) on March 3, 1997.

Fourth, Footnote 1 of 10 CFR 171.16(d) is amended to provide for a waiver of annual fees for FY 1997 for those materials licensees, and holders of

certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 1996, and permanently ceased licensed activities entirely by September 30, 1996. All other licensees and approval holders who held a license or approval on October 1, 1996, are subject to FY 1997 annual fees. This change is being made in recognition of the fact that since the final FY 1996 rule was published in April 1996, some licensees have filed requests for termination of their licenses or certificates with the NRC. Other licensees have either called or written to the NRC since the FY 1996 final rule became effective requesting further clarification and information concerning the annual fees assessed. The NRC is responding to these requests as quickly as possible. However, the NRC was unable to respond and take action on all such requests before the end of the fiscal year on September 30, 1996. Similar situations existed after the FY 1991–1995 rules were published, and in those cases, the NRC provided an exemption from the requirement that the annual fee is waived only when a license is terminated before October 1 of each fiscal year.

Fifth, the NRC has amended the proration provisions in § 171.17 for reactor and materials licensees. The reactor provision in § 171.17(a) is revised to reflect the changes in 10 CFR Part 50 relating to the decommissioning of power reactors which became effective August 28, 1996 (61 FR 39278). The materials provision is amended to recognize that licenses transferred to an Agreement State as a result of a new Agreement are effectively terminated by the NRC, for annual fee purposes, on the date that the Agreement with the State becomes effective.

Sixth, § 171.19 is amended to update fiscal year references and to credit the partial payments made by certain licensees in FY 1997 either toward their total annual fee to be assessed or to make refunds, if necessary. This section is amended to modify the annual fee billing schedule for materials licenses terminated and new materials licenses issued during the fiscal year.

The NRC will send a bill to reactors and major fuel cycle facilities for the amount of the annual fee upon publication of the FY 1997 final rule. For these licensees, payment will be due on the effective date of FY 1997 rule. Those materials licensees whose license anniversary date during FY 1997 falls before the effective date of the final FY 1997 rule will be billed during the anniversary month of the license and continue to pay annual fees at the FY 1996 rate in FY 1997. Those materials licensees whose license anniversary date falls on or after the effective date of the final FY 1997 rule will be billed, at the FY 1997 revised rates, during the anniversary month of the license and payment will be due on the date of the invoice.

The final amendments to 10 CFR Part 171 do not change the underlying basis for 10 CFR Part 171; that is, charging a class of licensees for NRC costs attributable to that class of licensees. The final changes are consistent with the NRC's FY 1995 final rule indicating that, for the period FY 1996–1999, the expectation is that annual fees would be adjusted by the percentage change (plus or minus) to the NRC's budget authority adjusted for NRC offsetting receipts and the number of licensees paying annual fees.

IV. Section-by-Section Analysis

The following analysis of those sections that will be amended by this final rule provides additional explanatory information. All references are to Title 10, Chapter I, U.S. Code of Federal Regulations.

Part 170

Section 170.11—Exemptions

This section is amended to add a new paragraph indicating that amendments to materials portable gauge licenses issued in accordance with NUREG–1556, Volume 1, that change only the name of the Radiation Safety Officer (RSO) are exempt from amendment fees. No amendment fees will be assessed for the amendments issued in accordance with NUREG–1556, Volume 1, to portable gauge licenses because the regulatory program includes commitments from the licensee concerning RSO qualifications and if those commitments are included in the amendment application then there is no technical review conducted by the NRC. NUREG–1556, Volume 1, is expected to be finalized in May 1997.

Section 170.20—Average Cost per Professional Staff-Hour

This section is amended to establish two professional staff-hour rates based on FY 1997 budgeted costs—one for the reactor program and one for the nuclear material and nuclear waste program. Accordingly, the NRC reactor direct staff-hour rate for FY 1997 for all activities whose fees are based on full cost under § 170.21 is $131 per hour, or $233,055 per direct FTE. The NRC nuclear material and nuclear waste direct staff-hour rate for all materials activities whose fees are based on full cost under § 170.31 is $125 per hour, or $222,517 per direct FTE. The rates are based on the FY 1997 direct FTEs and NRC budgeted costs that are not recovered through the appropriation from the NWF or the General Fund. The NRC has continued the use of cost center concepts established in FY 1995 in allocating certain costs to the reactor and materials programs in order to more closely align budgeted costs with specific classes of licensees. The method used to determine the two professional hourly rates is as follows:

1. Direct program FTE levels are identified for both the reactor program and the nuclear material and waste program.

2. Direct contract support, which is the use of contract or other services in support of the line organization's direct program, is excluded from the calculation of the hourly rate because the costs for direct contract support are charged directly through the various categories of fees.

3. All other direct program costs (i.e., Salaries and Benefits, Travel) represent ''in-house'' costs and are to be allocated by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for general and administrative support are allocated to each program based on that program's salaries and benefits. This method results in the following costs which are included in the hourly rates.

TABLE II.—FY 1997 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

[Dollars in millions]

	Reactor program	Materials program
Salary and Benefits	$155.3	$48.4
Allocated Agency Management & Support	42.5	13.2

TABLE II.—FY 1997 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES—Continued

[Dollars in millions]

	Reactor program	Materials program
Subtotal	197.8	61.6
General and Administrative Support (G&A):		
Program Travel and Other Support	9.6	2.5
Allocated Agency Management and Support	72.1	22.4
Subtotal	81.7	24.9
Less offsetting receipts	.1	.....
Total Budget Included in Hourly Rate	279.4	86.5
Program Direct FTEs	1,196.9	388.7
Rate per Direct FTE	233,055	222,517
Professional Hourly Rate	131	125

Dividing the $279.4 million budget for the reactor program by the number of reactor program direct FTEs (1196.9) results in a rate for the reactor program of $233,055 per FTE for FY 1997. Dividing the $86.5 million budget for the nuclear materials and nuclear waste program by the number of program direct FTEs (388.7) results in a rate of $222,517 per FTE for FY 1997. The Direct FTE Hourly Rate for the reactor program is $131 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($233,055) by the number of productive hours in one year (1776 hours) as indicated in the revised OMB Circular A–76, ''Performance of Commercial Activities.'' The Direct FTE Hourly Rate for the materials program is $125 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($222,517) by the number of productive hours in one year (1776 hours). The FY 1997 rate is slightly higher than the FY 1996 rate due in part to the Federal pay raise given to all Federal employees.

Section 170.21—Schedule of Fees for Production and Utilization Facilities, Review of Standard Reference Design Approvals, Special Projects, Inspections and Import and Export Licenses

The NRC is revising the licensing and inspection fees in this section, which are based on full-cost recovery, to reflect FY 1997 budgeted costs and to recover costs incurred by the NRC in providing licensing and inspection services to identifiable recipients. The fees assessed for services provided under the schedule are based on the professional hourly rate, as shown in § 170.20, for the reactor program and any direct program support (contractual services) costs expended by the NRC. Any professional hours expended on or after the effective date of the final rule will be assessed at the FY 1997 hourly rate for the reactor program, as shown in § 170.20. The fees in § 170.21 for the review of import and export licensing, facility Category K, are adjusted for FY 1997 to reflect both the increase in the hourly rate and the revised average professional staff hours needed to process certain types of licensing actions.

For those applications currently on file and pending completion, footnote 2 of § 170.21 is revised to provide that professional hours expended up to the effective date of the final rule will be assessed at the professional rates in effect at the time the service was rendered. For topical report applications currently on file that are still pending completion of the review, and for which review costs have reached the applicable fee ceiling established by the July 2, 1990, rule, the costs incurred after any applicable ceiling was reached through August 8, 1991, will not be billed to the applicant. Any professional hours expended for the review of topical report applications, amendments, revisions, or supplements to a topical report on or after August 9, 1991, are assessed at the applicable rate established by § 170.20.

Section 170.31—Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections and Import and Export Licenses

The licensing and inspection fees in this section, which are based on full-cost recovery, are modified to recover the FY 1997 costs incurred by the NRC in providing licensing and inspection services to identifiable recipients. The fees assessed for services provided under the schedule are based on both the professional hourly rate as shown in § 170.20 for the materials program and any direct program support (contractual services) costs expended by the NRC. Licensing fees based on the average time to review an application (''flat'' fees) are adjusted to reflect both the revised average professional staff hours needed to process a licensing action (new license and amendment) and the increase in the professional hourly rate from $120 per hour in FY 1996 to $125 per hour in FY 1997.

As previously indicated, the CFO Act requires that the NRC conduct a biennial review of fees and other charges imposed by the agency for its services and revise those charges to reflect the costs incurred in providing the services. Consistent with the CFO Act requirement, the NRC has completed its most recent review of license fees assessed by the agency. The review focused on the flat fees that are charged to nuclear materials users for licensing actions (new licenses and amendments). The full cost license and inspection fees (e.g., for fuel cycle facilities) and annual fees were not included in this biennial review because the hourly rate for full cost fees and the annual fees are reviewed and updated annually in order to recover 100 percent of the NRC budget authority.

To determine the licensing flat fees for materials licensees and applicants, the NRC uses historical data to determine the average number of professional hours required to perform a licensing action for each license category. These average hours are multiplied by the materials program professional hourly rate of $125 per hour for FY 1997. The review indicated that the NRC needed to modify the average number of hours on which the current licensing flat fees are based in order to recover the cost of providing licensing services. The average number of hours required for licensing actions was last reviewed and modified in 1995 (60 FR 32218; June 20, 1995). Thus the revised hours used to determine the fees

for FY 1997 reflect the changes in the licensing program that have occurred since that time. For new licenses, the fees for FY 1997 are increased in approximately 70 percent of the fee categories, while the fees for amendments have increased in over 60 percent of the fee categories.

The ''flat'' fees in § 170.31 for the review of licensing applications have increased from FY 1996 as a result of the increase in the hourly rate and the results of the biennial review. The licensing ''flat'' fees are applicable to fee categories 1.C and 1.D; 2.B and 2.C; 3.A through 3.P; 4.B through 9.D, 10.B, 15.A through 15.E and 16. Applications filed on or after the effective date of the final rule will be subject to the fees in this final rule.

The amounts of the materials licensing ''flat'' fees were rounded off so that the amounts would be de minimis and the resulting flat fee would be convenient to the user. Fees under $1,000 are rounded to the nearest $10. Fees that are greater than $1,000 but are less than $100,000 are rounded to the nearest $100. Fees that are greater than $100,000 are rounded to the nearest $1,000.

For those licensing, inspection, and review fees that are based on full-cost recovery (cost for professional staff hours plus any contractual services), the materials program hourly rate of $125, as shown in § 170.20, applies to those professional staff hours expended on or after the effective date of the final rule.

In addition to these changes, the NRC is clarifying how it would recover the costs of post-implementation reviews of changes licensees make without prior NRC review; for example, changes under §§ 50.54, 50.59 and 70.32. Licensees will be billed for post-implementation reviews of these changes under §§ 170.21 and 170.31, beginning with the effective date of the FY 1997 final fee rule. There will be no change in how fees are assessed for any pre-implementation interactions including any review prior to licensee submissions, between the NRC and licensees. As in the past, any pre-implementation interaction will not be fee-bearing. The NRC intends to inform reactor licensees, in the near future, that their submittals under § 50.54 (a), (p) and (q) should not ask for pre-implementation reviews. Instead, licensees are required to perform their analyses, implement their changes (if the analyses show that the changes do not degrade plans the NRC has already approved), and make their submittals under the relevant paragraph of § 50.54. The NRC will then verify that the changes are in compliance with § 50.54.

Part 171

Section 171.13—Notice

The language in this section is revised to indicate that in the unlikely event the NRC is unable to publish a fee rule with an effective date within the current fiscal year, the NRC will continue to assess fees at the same rates as the previous fiscal year. The NRC believes that it will be able to publish an effective fee rule within a current fiscal year as it has done since FY 1991 when 100 percent fee recovery was initiated. However, the possibility exists that the NRC might be unable to establish fees for a current fiscal year in a timely manner through the notice and comment process. Therefore, as a contingency plan for meeting the requirement of OBRA–90, the NRC is amending § 171.13 to indicate that if the NRC is unable to promulgate a final fee rule within a current fiscal year, then fees will continue to be assessed at the same rates as the previous fiscal year. The NRC will continue to work diligently to publish the fee rules at the earliest possible time during the fiscal year.

Section 171.15—Annual Fee: Reactor Operating Licenses

The annual fees in this section are revised as described below. Paragraphs (a), (b), (c)(1), (c)(2), (e), and (f) are revised to comply with the requirement of OBRA–90 that the NRC recover approximately 100 percent of its budget for FY 1997.

Paragraph (b) is revised in its entirety to establish the FY 1997 annual fee for operating power reactors and to change fiscal year references from FY 1996 to FY 1997. The fees are established by increasing FY 1996 annual fees (prior to rounding) by 8.4 percent. In the FY 1995 final rule, the NRC stated it would stabilize annual fees by adjusting the annual fees only by the percentage change (plus or minus) in NRC's total budget authority and adjustments based on changes in 10 CFR Part 170 fees as well as in the number of licensees paying the fees. The first adjustment to the annual fees using this method occurred in FY 1996 when all annual fees were decreased 6.5 percent below the FY 1995 annual fees. The activities comprising the base FY 1995 annual fee and the FY 1995 additional charge (surcharge) are listed in paragraphs (b) and (c) for convenience purposes.

With respect to Big Rock Point, a smaller, older reactor, the NRC hereby grants a partial exemption from the FY 1997 annual fees similar to FY 1996 based on a request filed with the NRC in accordance with § 171.11.

Each operating power reactor, except Big Rock Point, will pay an annual fee of $2,978,000 in FY 1997.

Paragraph (e) is revised to show the amount of the FY 1997 annual fee for nonpower (test and research) reactors. In FY 1997, the annual fee of $57,300 is 8.4 percent above the FY 1996 level. The NRC will continue to grant exemptions from the annual fee to Federally-owned and State-owned research and test reactors that meet the exemption criteria specified in § 171.11(a)(2).

Paragraph (f) is revised to change fiscal year date references.

Section 171.16—Annual fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

Section 171.16(c) covers the fees assessed for those licensees that can qualify as small entities under NRC size standards. The NRC will continue to assess two fees for licensees that qualify as small entities under the NRC's size standards. In general, licensees with gross annual receipts of $350,000 to $5 million pay a maximum fee of $1,800. A second or lower-tier small entity fee of $400 is in place for small entities with gross annual receipts of less than $350,000 and small governmental jurisdictions with a population of less than 20,000. No change in the amount of the small entity fees is being made because the small entity fees are not based on the budget but are established at a level to reduce the impact of fees on small entities. The small entity fees are shown in the final rule for convenience. A materials licensee may pay a reduced annual fee if the licensee qualifies as a small entity under the NRC's size standards and certifies that it is a small entity using NRC Form 526.

Section 171.16(d) is revised to establish the FY 1997 annual fees for materials licensees, including Government agencies, licensed by the NRC. These fees were determined by increasing the FY 1996 annual fees (prior to rounding) by 8.4 percent.

In addition, an annual fee is established in § 171.16(d), fee Category 1.E., for each Certificate of Compliance issued to the USEC on November 26, 1996, to operate the two gaseous diffusion plants (GDPs) located at Paducah, Kentucky, and at Piketon, Ohio. The NRC announced its intent to issue the compliance certificates to USEC on September 19, 1996 (61 FR 49360). The NRC assumed regulatory jurisdiction over the two plants from

DOE on March 3, 1997. Because the two plants have been certified in FY 1997, the NRC is establishing an annual fee of $2,606,000 for each of these two facilities. The NRC methodology for determining annual fees for major fuel facilities was explained in the FY 1995 final fee rule published in the **Federal Register** on June 20, 1995 (60 FR 32234). As indicated in the **Federal Register**, the methodology can be applied to determine annual fees for new licenses or certificates. The NRC has applied the methodology to the USEC facilities and has concluded that the relative weighted safety and safeguards factors for these facilities is similar to a high enriched uranium facility. Therefore, the NRC is establishing the annual fee for each USEC uranium enrichment facility at $2,606,000, the same as that for a high enrichment facility (fee category 1.A.(1)(a)). Because the certifications are in effect for the last six months of FY 1997, the NRC will assess one-half of the annual fee or $1,303,000 to USEC for each certificate for FY 1997.

The amount or range of the FY 1997 annual fees for all materials licensees is summarized as follows:

MATERIALS LICENSES—ANNUAL FEE RANGES

Category of license	Annual fees
Part 70—High enriched fuel facility.	$2,606,000.
Part 70—Low enriched fuel facility.	$1,279,000.
Part 40—UF_6 conversion facility.	$648,000.
Part 40—Uranium recovery facilities.	$22,300 to $61,800.
Part 30—Byproduct Material Licenses.	$490 to $23,500.[1]
Part 71—Transportion of Radioactive Material.	$1,000 to $78,900.
Part 72—Independent Storage of Spent Nuclear Fuel.	$283,000.

[1] Excludes the annual fee for a few military ''master'' materials licenses of broad-scope issued to Government agencies, which is $421,000.

Footnote 1 of 10 CFR 171.16(d) is amended to provide a waiver of the annual fees for materials licensees, and holders of certificates, registrations, and approvals, who either filed for termination of their licenses or approvals or filed for possession only/storage only licenses before October 1, 1996, and permanently ceased licensed activities entirely by September 30, 1996. All other licensees and approval holders who held a license or approval on October 1, 1996, are subject to the FY 1997 annual fees.

Section 171.17—Proration

The NRC is amending the proration provisions in § 171.17 for reactor and materials licenses. Paragraph (a) is amended to reflect the changes in 10 CFR Part 50 relating to the decommissioning of power reactors which became effective August 28, 1996 (61 FR 39278). Reactor annual fees will be prorated based on the requirements of § 50.82(a)(2) that upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect, the 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. Previously the proration of reactor annual fees was based on the date of issuance of the possession only license (POL).

Paragraph (b) is amended to recognize that materials licenses transferred to a new Agreement State are considered terminated by the NRC for annual fee purposes, on the date that the Agreement with the State becomes effective. The State of Massachusetts became an Agreement State on March 21, 1997, and approximately 425 materials licenses were transferred to the State on the effective date of the Agreement. The NRC will assess the annual fees for those licenses being transferred to the State of Massachusetts using the current proration provisions of § 171.17(b) whereby the licenses will be considered terminated on the effective date of the Agreement with Massachusetts.

New licenses issued during FY 1997 will receive a prorated annual fee in accordance with the current proration provision of § 171.17. For example, those new materials licenses issued during the period October 1 through March 31 of the FY will be assessed one-half the annual fee in effect on the anniversary date of the license. New materials licenses issued on or after April 1, 1997, will not be assessed an annual fee for FY 1997. Thereafter, the full annual fee is due and payable each subsequent fiscal year on the anniversary date of the license. Beginning June 11, 1996, (the effective date of the FY 1996 final rule), affected materials licensees will be subject to the annual fee in effect on the anniversary date of the license. Affected licensees who are not sure of the anniversary date of their materials license should check the original issue date of the license.

Section 171.19—Payment

Paragraph (b) is revised to give credit for partial payments made by certain licensees in FY 1997 toward their FY 1997 annual fees. The NRC anticipates that the first, second, and third quarterly payments for FY 1997 will have been made by operating power reactor licensees and some large materials licensees before the final rule becomes effective. Therefore, the NRC will credit payments received for those quarterly annual fee assessments toward the total annual fee to be assessed. The NRC will adjust the fourth quarterly bill to recover the full amount of the revised annual fee or to make refunds, as necessary. Payment of the annual fee is due on the date of the invoice and interest accrues from the invoice date. However, interest will be waived if payment is received within 30 days from the invoice date.

Paragraph (c) is revised to update fiscal year references. Paragraph (d) is revised to modify the billing schedule for terminated materials licenses and new materials licenses. Licenses subject to the annual fee that are terminated during the fiscal year but prior to the anniversary month of the license will be billed upon termination for the fee in effect at the time of the billing. New licenses subject to the annual fee will be billed in the month the license is issued or in the next available monthly billing for the fee in effect on the anniversary date of the license. Thereafter, annual fees for new licenses will be assessed in the anniversary month of the license.

As in FY 1996, the NRC will continue to bill annual fees for most materials licenses on the anniversary date of the license (licensees whose annual fees are $100,000 or more will continue to be assessed quarterly). The annual fee assessed will be the fee in effect on the license anniversary date. This applies to those materials licenses in the following fee categories: 1.C. and 1.D.; 2.A.(2) through 2.C.; 3.A. through 3.P.; 4.A. through 9.D., and 10.B. For annual fee purposes, the anniversary date of the materials license is considered to be the first day of the month in which the original materials license was issued. For example, if the original materials license was issued on June 17 then, for annual fee purposes, the anniversary date of the materials license is June 1 and the licensee would continue to be billed in June of each year for the annual fee in effect on June 1. Materials licensees with anniversary dates in FY 1997 before the effective date of the FY 1997 final rule will be billed during the anniversary month of the license and continue to pay annual fees at the FY

1996 rate in FY 1997. Those materials licensees with license anniversary dates falling on or after the effective date of the FY 1997 final rule will be billed, at the FY 1997 revised rates, during their anniversary month of their license and payment will be due on the date of the invoice.

During the past six years, many licensees have indicated that, although they held a valid NRC license authorizing the possession and use of special nuclear, source, or byproduct material, they were either not using the material to conduct operations or had disposed of the material and no longer needed the license. In response, the NRC has consistently stated that annual fees are assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. Whether or not a licensee is actually conducting operations using the material is a matter of licensee discretion. The NRC cannot control whether a licensee elects to possess and use radioactive material once it receives a license from the NRC. Therefore, the NRC reemphasizes that the annual fee will be assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. To remove any uncertainty, the NRC issued minor clarifying amendments to 10 CFR 171.16, footnotes 1 and 7 on July 20, 1993 (58 FR 38700).

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental impact assessment has been prepared for the final regulation. By its very nature, this regulatory action does not affect the environment, and therefore, no environmental justice issues are raised.

VI. Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

VII. Regulatory Analysis

With respect to 10 CFR Part 170, this final rule was developed pursuant to Title V of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in its decision of *National Cable Television Association, Inc.* v. *United States,* 415 U.S. 36 (1974) and *Federal Power Commission* v. *New England Power Company,* 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the ''value to the recipient'' of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission,* 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission,* 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission,* 554 F.2d 1109 (D.C. Cir. 1976) and *Capital Cities Communication, Inc.* v. *Federal Communications Commission,* 554 F.2d 1135 (D.C. Cir. 1976). These decisions of the Courts enabled the Commission to develop fee guidelines that are still used for cost recovery and fee development purposes.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission,* 601 F.2d 223 (5th Cir. 1979), *cert. denied,* 444 U.S. 1102 (1980). The Court held that—

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by NEPA;

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR part 171, on November 5, 1990, the Congress passed Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90) which required that for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority be recovered through the assessment of fees. OBRA–90 was amended in 1993 to extend the 100 percent fee recovery requirement for NRC through FY 1998. To accomplish this statutory requirement, the NRC, in accordance with § 171.13, is publishing the final amount of the FY 1997 annual fees for operating reactor licensees, fuel cycle licensees, materials licensees, and holders of Certificates of Compliance, registrations of sealed source and devices and QA program approvals, and Government agencies. OBRA–90 and the Conference Committee Report specifically state that—

(1) The annual fees be based on the Commission's FY 1997 budget of $476.8 million less the amounts collected from Part 170 fees and the funds directly appropriated from the NWF to cover the NRC's high level waste program and the general fund related to commercial vitrification of waste at the Department of Energy Hanford, Washington site.

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

10 CFR Part 171, which established annual fees for operating power reactors effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States,* 846 F.2d 765 (D.C. Cir. 1988), *cert. denied,* 490 U.S. 1045 (1989).

The NRC's FY 1991 annual fee rule was largely upheld by the D.C. Circuit Court of Appeals in *Allied Signal* v. *NRC,* 988 F.2d 146 (D.C. Cir. 1993).

VIII. Regulatory Flexibility Analysis

The NRC is required by the Omnibus Budget Reconciliation Act of 1990 to recover approximately 100 percent of its budget authority through the assessment of user fees. OBRA–90 further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This final rule establishes the schedules of fees that are necessary to implement the Congressional mandate for FY 1997. The final rule results in an increase in the annual fees charged to all licensees, and holders of certificates, registrations, and approvals. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this final rule. The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) was signed into law on March 29, 1996. The SBREFA requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C.

604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis (Appendix A to this document) is the small entity compliance guide for FY 1997.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule. The backfit analysis is not required because these final amendments do not require the modification of or additions to systems, structures, components, or the design of a facility or the design approval or manufacturing license for a facility or the procedures or organization required to design, construct or operate a facility.

X. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 the NRC has determined that this action is a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. The authority citation for part 170 continues to read as follows:

Authority: 31 U.S.C. 9701, 96 Stat. 1051; sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–4381, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205, Pub. L. 101–576, 104 Stat. 2842, (31 U.S.C. 901).

2. In § 170.11, paragraph (a)(11) is added to read as follows:

§ 170.11 Exemptions.

(a) * * *

(11) Materials portable gauge licenses issued in accordance with NUREG–1556, Volume 1, that are amended to change only the name of the Radiation Safety Officer. This exemption does not apply to those materials portable gauge licenses that also authorize possession and use of nuclear materials for other activities.

* * * * *

3. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, Part 55 requalification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 that are based upon the full costs for the review or inspection will be calculated using the following applicable professional staff-hour rates:

Reactor Program (§ 170.21 Activities).	$131 per hour.
Nuclear Materials and Nuclear Waste Program (§ 170.31 Activities).	$125 per hour.

4. In § 170.21, the introductory text, Category K, and footnotes 1 and 2 to the table are revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

Applicants for construction permits, manufacturing licenses, operating licenses, import and export licenses, approvals of facility standard reference designs, requalification and replacement examinations for reactor operators, and special projects and holders of construction permits, licenses, and other approvals shall pay fees for the following categories of services.

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees[1 2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued pursuant to 10 CFR Part 110:	
1. Application for import or export of reactors and other facilities and exports of components which must be reviewed by the Commissioners and the Executive Branch, for example, actions under 10 CFR 110.40(b):	
Application-new license	$8,100
Amendment	$8,100
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a)(1)–(8):	
Application-new license	$5,000
Amendment	$5,000
3. Application for export of components requiring foreign government assurances only:	
Application-new license	$2,900
Amendment	$2,900
4. Application for export of facility components and equipment not requiring Commissioner review, Executive Branch review, or foreign government assurances:	
Application-new license	$1,300
Amendment	$1,300

SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

Facility categories and type of fees	Fees[1 2]
5. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis or review:	
Amendment	$190

[1] Fees will not be charged for orders issued by the Commission pursuant to § 2.202 of this chapter or for amendments resulting specifically from the requirements of these types of Commission orders. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., §§ 50.12, 73.5) and any other sections now or hereafter in effect regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100 percent of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through that period when authority is granted for full power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100 percent of full rated power, the total costs for the license will be at that determined lower operating power level and not at the 100 percent capacity.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20. In no event will the total review costs be less than twice the hourly rate shown in § 170.20.

* * * * * * *

5. Section 170.31 is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

Applicants for materials licenses, import and export licenses, and other regulatory services and holders of materials licenses, or import and export licenses shall pay fees for the following categories of services. This schedule includes fees for health and safety and safeguards inspections where applicable.

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees[1]	Fee[2 3]
1. Special nuclear material:	
A. Licenses for possession and use of 200 grams or more of plutonium in unsealed form or 350 grams or more of contained U–235 in unsealed form or 200 grams or more of U–233 in unsealed form. This includes applications to terminate licenses as well as licenses authorizing possession only:	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI):	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers:[4]	
Application—New license	$580.
Amendment	$390.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1A:[4]	
Application—New license	$780.
Amendment	$300.
E. Licenses or certificates for construction and operation of a uranium enrichment facility:	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost
2. Source material:	
A. (1) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, refining uranium mill concentrates to uranium hexafluoride, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode:	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
(2) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal except those licenses subject to fees in Category 2.A.(1).	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(1):	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.
B. Licenses which authorize the possession, use and/or installation of source material for shielding:	
Application—New license	$130.
Amendment	$290.
C. All other source material licenses:	
Application—New license	$3,700.
Amendment	$580.
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application—New license	$3,900.
Amendment	$550.
B. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application—New license	$1,600.
Amendment	$580.
C. Licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 170.11(a)(4). These licenses are covered by fee Category 3D:	
Application—New license	$7,100.
Amendment	$650.
D. Licenses and approvals issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 170.11(a)(4):	
Application—New license	$2,000.
Amendment	$440.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units):	
Application—New license	$1,100.
Amendment	$390.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes:	
Application—New license	$2,000.
Amendment	$450.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes:	
Application—New license	$4,700.
Amendment	$760.
H. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of Part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter:	
Application—New license	$2,800.
Amendment	$1,000.
I. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of Part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter:	
Application—New license	$4,500.
Amendment	$1,100.
J. Licenses issued pursuant to Subpart B of Part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter:	
Application—New license	$1,800.
Amendment	$310.
K. Licenses issued pursuant to Subpart B of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter:	
Application—New license	$1,000.
Amendment	$350.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees[1]	Fee[2 3]
L. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution:	
Application—New license	$5,600.
Amendment	$780.
M. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for research and development that do not authorize commercial distribution:	
Application—New license	$1,900.
Amendment	$640.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C:	
Application—New license	$2,100.
Amendment	$510.
O. Licenses for possession and use of byproduct material issued pursuant to Part 34 of this chapter for industrial radiography operations:	
Application—New license	$4,400.
Amendment	$700.
P. All other specific byproduct material licenses, except those in Categories 4A through 9D:	
Application—New license	$750.
Amendment	$350.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application—New license	$2,600.
Amendment	$540.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application—New license	$2,300.
Amendment	$230.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:	
Application—New license	$3,600.
Amendment	$850.
B. Licenses for possession and use of byproduct material for field flooding tracer studies:	
License, renewal, amendment	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material:	
Application—New license	$6,600.
Amendment	$1,000.
7. Medical licenses:	
A. Licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application—New license	$3,600.
Amendment	$400.
B. Licenses of broad scope issued to medical institutions or two or more physicians pursuant to Parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application—New license	$3,900.
Amendment	$740.
C. Other licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application—New license	$1,800.
Amendment	$460.
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:	
Application—New license	$590.
Amendment	$410.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution:	
Application—each device	$3,700.
Amendment—each device	$610.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices:	
Application—each device	$2,200.
Amendment—each device	$1,100.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution:	
Application—each source	$940.
Amendment—each source	$630.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel:	
Application—each source	$480.
Amendment—each source	$160.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers:	
Approval, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
B. Evaluation of 10 CFR Part 71 quality assurance programs:	
Application—Approval	$350.
Amendment	$640.
Inspections	Full Cost.
11. Review of standardized spent fuel facilities:	
Approval, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
12. Special projects:[5]	
Approvals and preapplication/ licensing activities	Full Cost.
Inspections	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance:	
Approvals	Full Cost.
Amendments, revisions, and supplements	Full Cost.
Reapproval	Full Cost.
B. Inspections related to spent fuel storage cask	
Certificate of Compliance	Full Cost.
C. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities pursuant to 10 CFR Parts 30, 40, 70, and 72 of this chapter:	
Approval, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
15. Import and Export licenses:	
Licenses issued pursuant to 10 CFR Part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite.	
A. Application for export or import of high enriched uranium and other materials, including radioactive waste, which must be reviewed by the Commissioners and the Executive Branch, for example, those actions under 10 CFR 110.40(b). This category includes application for export or import of radioactive wastes in multiple forms from multiple generators or brokers in the exporting country and/or going to multiple treatment, storage or disposal facilities in one or more receiving countries.	
Application-new license	$8,100.
Amendment	$8,100.
B. Application for export or import of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite, including radioactive waste, requiring Executive Branch review but not Commissioner review. This category includes application for the export or import of radioactive waste involving a single form of waste from a single class of generator in the exporting country to a single treatment, storage and/or disposal facility in the receiving country.	
Application-new license	$5,000.
Amendment	$5,000.
C. Application for export of routine reloads of low enriched uranium reactor fuel and exports of source material requiring only foreign government assurances under the Atomic Energy Act.	
Application—new license	$2,900.
Amendment	$2,900.
D. Application for export or import of other materials, including radioactive waste, not requiring Commissioner review, Executive Branch review, or foreign government assurances under the Atomic Energy Act. This category includes application for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures.	
Application—new license	$1,300.
Amendment	$1,300.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
E. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis, review, or consultations with other agencies or foreign governments.	
Amendment	$190.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application (initial filing of Form 241)	$1,100.
Revisions	$200.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for preapplication consultations and reviews and applications for new licenses and approvals, issuance of new licenses and approvals, amendments and certain renewals to existing licenses and approvals, safety evaluations of sealed sources and devices, and certain inspections. The following guidelines apply to these charges:

(a) *Application fees.* Applications for new materials licenses and approvals; applications to reinstate expired, terminated or inactive licenses and approvals except those subject to fees assessed at full costs, and applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20, must be accompanied by the prescribed application fee for each category, except that applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(b) *License/approval/review fees.* Fees for applications for new licenses and approvals and for preapplication consultations and reviews subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12 (b), (e), and (f).

(c) *Renewal/reapproval fees.* Applications subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(d).

(d) *Amendment/Revision Fees.*

(1) Applications for amendments to licenses and approvals and revisions to reciprocity initial applications, except those subject to fees assessed at full costs, must be accompanied by the prescribed amendment/revision fee for each license/revision affected. An application for an amendment to a license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories in which case the amendment fee for the highest fee category would apply. For those licenses and approvals subject to full costs (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14), amendment fees are due upon notification by the Commission in accordance with § 170.12(c).

(2) An application for amendment to a materials license or approval that would place the license or approval in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for the new category.

(3) An application for amendment to a license or approval that would reduce the scope of a licensee's program to a lower fee category must be accompanied by the prescribed amendment fee for the lower fee category.

(4) Applications to terminate licenses authorizing small materials programs, when no dismantling or decontamination procedure is required, are not subject to fees.

(e) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. The fees assessed at full cost will be determined based on the professional staff time required to conduct the inspection multiplied by the rate established under § 170.20 plus any applicable contractual support services costs incurred. Inspection fees are due upon notification by the Commission in accordance with § 170.12(g).

[2] Fees will not be charged for orders issued by the Commission pursuant to 10 CFR 2.202 or for amendments resulting specifically from the requirements of these types of Commission orders. However, fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections now or hereafter in effect) regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9A through 9D.

[3] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For those applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20. The minimum total review cost is twice the hourly rate shown in § 170.20.

[4] Licensees paying fees under Categories 1A, 1B, and 1E are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except in those instances in which an application deals only with the sealed sources authorized by the license. Applicants for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1C only.

[5] Fees will not be assessed for requests/reports submitted to the NRC:

(a) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(b) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(c) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting generic regulatory improvements or efforts.

PART 171—ANNUAL FEES FOR REACTOR OPERATING LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

6. The authority citation for part 171 continues to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by Sec. 3201, Pub. L. 101–239, 103 Stat. 2106 as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, (42 U.S.C. 2213); sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201(w)); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 2903, Pub. L. 102–486, 106 Stat. 3125, (42 U.S.C. 2214 note).

7. Section 171.13 is revised to read as follows.

§ 171.13 Notice.

The annual fees applicable to an operating reactor and to a materials licensee, including a Government agency licensed by the NRC, subject to this part and calculated in accordance with §§ 171.15 and 171.16, will be published as a notice in the **Federal Register** as soon as is practicable but no later than the third quarter of FY 1997 and 1998. The annual fees will become due and payable to the NRC in accordance with § 171.19 except as provided in § 171.17. Quarterly payments of the annual fees of $100,000 or more will continue during the fiscal year and be based on the applicable annual fees as shown in §§ 171.15 and 171.16 of the regulations until a notice concerning the revised amount of the fees for the fiscal year is published by the NRC. If the NRC is unable to publish a final fee rule that becomes effective during the current fiscal year, then fees will be assessed based on the rates in effect for the previous fiscal year.

8. In § 171.15, paragraphs (a), (b), (c) introductory text, (c)(1), (c)(2), (e), and (f) are revised to read as follows:

§ 171.15 Annual Fees: Reactor operating licenses.

(a) Each person licensed to operate a power, test, or research reactor shall pay the annual fee for each unit for which the person holds an operating license at any time during the Federal FY in which the fee is due, except for those test and research reactors exempted in § 171.11 (a)(1) and (a)(2).

(b) The FY 1997 uniform annual fee for each operating power reactor which must be collected by September 30, 1997, is $2,978,000. This fee has been determined by adjusting the FY 1996 annual fee upward by 8.4 percent. In the FY 1995 final rule, the NRC stated it would stabilize annual fees by adjusting the annual fees only by the percentage change (plus or minus) in NRC's total budget authority and adjustments based on changes in 10 CFR part 170 fees as well as on the number of licensees paying the fees. The first adjustment to the annual fees using this method occurred in FY 1996 when all annual fees were decreased 6.5 percent below the FY 1995 annual fees. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the base FY 1995 annual fee are as follows:

(1) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under 10 CFR part 170 of this chapter.

(2) Research activities directly related to the regulation of power reactors.

(3) Generic activities required largely for NRC to regulate power reactors, e.g., updating part 50 of this chapter, or operating the Incident Response Center.

(c) The activities comprising the FY 1995 surcharge are as follows:

(1) Activities not attributable to an existing NRC licensee or class of licensees; e.g., reviews submitted by other government agencies (e.g., DOE) that do not result in a license or are not associated with a license; international cooperative safety program and international safeguards activities; low-level waste disposal generic activities; uranium enrichment generic activities; and

(2) Activities not currently assessed under 10 CFR part 170 licensing and inspection fees based on existing Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

* * * * *

(e) The FY 1997 annual fees for licensees authorized to operate a nonpower (test and research) reactor licensed under Part 50 of this chapter, except for those reactors exempted from fees under § 171.11(a), are as follows:

Research reactor	$57,300
Test reactor	$57,300

(f) For FY 1997 and FY 1998, annual fees for operating reactors will be calculated and assessed in accordance with § 171.13.

9. In § 171.16, the introductory text of paragraph (c) and paragraphs (c)(1), (c)(4), (d), and (e) are revised to read as follows:

§ 171.16 Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification, the licensee may pay reduced annual fees for FY 1997 as follows:

	Maximum annual fee per licensed category
Small businesses not engaged in manufacturing and small not-for-profit organizations (gross annual receipts):	
$350,000 to $5 million	$1,800
Less than $350,000	400
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400
Small governmental jurisdictions (including publicly supported educational institutions) (population):	
20,000 to 50,000	1,800
Less than 20,000	400
Educational institutions that are not State or publicly supported, and have 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400

(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

* * * * *

(4) For FY 1997, the maximum annual fee a small entity is required to pay is $1,800 for each category applicable to the license(s).

(d) The FY 1997 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown below. The FY 1997 annual fees, which must be collected by September 30, 1997, have been determined by adjusting upward the FY 1996 annual fees by 8.4 percent. In the FY 1995 final rule, the NRC stated it would stabilize annual fees by adjusting the annual fees only by the percentage change (plus or minus) in NRC's total budget authority and adjustments based on changes in 10 CFR part 170 fees as well as on the number of licensees paying the fees. The

first adjustment to the annual fees using this method occurred in FY 1996 when all annual fees were decreased 6.5 percent below the FY 1995 annual fees. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 1995 surcharge are shown for convenience in paragraph (e) of this section.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities:	
(a) Strategic Special Nuclear Material:	
Babcock & Wilcox SNM–42	$2,606,000
Nuclear Fuel Services SNM–124	2,606,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel:	
Combustion Engineering (Hematite) SNM–33	1,279,000
General Electric Company SNM–1097	1,279,000
Siemens Nuclear Power SNM–1227	1,279,000
Westinghouse Electric Company SNM–1107	1,279,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities:	
(a) Facilities with limited operations: B&W Fuel Company SNM–1168	509,000
(b) All Others: General Electric SNM–960	346,000
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI)	283,000
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers	1,300
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in §150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2)	3,100
E. Licenses or certificates for the operation of a uranium enrichment facility	2,606,000
2. Source material:	
A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride	648,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode:	
Class I facilities[4]	61,800
Class II facilities[4]	34,900
Other facilities[4]	22,300
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4)	45,300
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2)	8,000
B. Licenses which authorize only the possession, use and/or installation of source material for shielding	490
C. All other source material licenses	8,700
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	16,600
B. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	5,600
C. Licenses issued pursuant to §§32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 171.11(a)(1). These licenses are covered by fee Category 3D	11,200
D. Licenses and approvals issued pursuant to §§32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued pursuant to §§32.72, 32.73 and 32.74 to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 171.11(a)(1). This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when included on the same license	4,400
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	3,200
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	3,800
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	19,700

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
H. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of Part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter	5,000
I. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of Part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter	8,900
J. Licenses issued pursuant to Subpart B of Part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter	3,800
K. Licenses issued pursuant to Subpart B of Part 31 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter	3,300
L. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution	12,300
M. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for research and development that do not authorize commercial distribution	5,500
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C	6,100
O. Licenses for possession and use of byproduct material issued pursuant to Part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when authorized on the same license	14,100
P. All other specific byproduct material licenses, except those in Categories 4A through 9D	1,700
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material	[5] 102,000
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	14,500
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	7,700
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies	8,200
B. Licenses for possession and use of byproduct material for field flooding tracer studies	13,200
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material	14,700
7. Medical licenses:	
A. Licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license	10,300
B. Licenses of broad scope issued to medical institutions or two or more physicians pursuant to Parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license[9]	23,500
C. Other licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license[9]	4,700
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities	1,800
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	7,200
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	3,700
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	1,600

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	780
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
Other Casks	[6] N/A
B. Approvals issued of 10 CFR Part 71 quality assurance programs.	
Users and Fabricators	78,900
Users	1,000
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[6] 283,000
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities pursuant to 10 CFR Parts 30, 40, 70, and 72	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies	421,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,168,000
B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities	1,965,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses prior to October 1, 1996, and permanently ceased licensed activities entirely by September 30, 1996. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a POL during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1.A.(1). are not subject to the annual fees of Category 1.C and 1.D for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, or 72 of this chapter.

[3] For FY 1998, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comment.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An ''other'' license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] Two licenses have been issued by NRC for land disposal of special nuclear material. Once NRC issues a LLW disposal license for byproduct and source material, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to the users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

[10] This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

(e) The activities comprising the FY 1995 surcharge are as follows:

(1) LLW disposal generic activities;

(2) Activities not attributable to an existing NRC licensee or classes of licensees; e.g., international cooperative safety program and international safeguards activities; support for the Agreement State program; site decommissioning management plan (SDMP) activities; and

(3) Activities not currently assessed under 10 CFR Part 170 licensing and inspection fees based on existing law or Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions and Federal agencies; activities related to decommissioning and reclamation and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

* * * * *

10. In § 171.17, introductory text, paragraphs (a), (b) introductory text, and (b)(1) are revised to read as follows:

§ 171.17 Proration.

Annual fees will be prorated for NRC licensees as follows:

(a) Reactors. The annual fee for reactors (power and nonpower) that are subject to fees under this part and are granted a license to operate on or after October 1 of a Fiscal Year is prorated on the basis of the number of days remaining in the fiscal year. Thereafter, the full fee is due and payable each subsequent fiscal year. Licensees who have requested amendment to withdraw operating authority permanently during the fiscal year will be prorated based on the number of days during the fiscal year the license was in effect before docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect.

(b) Materials licenses (including fuel cycle licenses). (1) New licenses and terminations. The annual fee for a

materials license that is subject to fees under this part and issued on or after October 1 of the FY is prorated on the basis of when the NRC issues the new license. New licenses issued during the period October 1 through March 31 of the FY will be assessed one-half the annual fee for that FY. New licenses issued on or after April 1 of the FY will not be assessed an annual fee for that FY. Thereafter, the full fee is due and payable each subsequent FY. The annual fee will be prorated for licenses for which a termination request or a request for a POL has been received on or after October 1 of a FY on the basis of when the application for termination or POL is received by the NRC provided the licensee permanently ceased licensed activities during the specified period. Licenses for which applications for termination or POL are filed during the period October 1 through March 31 of the FY are assessed one-half the annual fee for the applicable category(ies) for that FY. Licenses for which applications for termination or POL are filed on or after April 1 of the FY are assessed the full annual fee for that FY. Materials licenses transferred to a new Agreement State during the FY are considered terminated by the NRC, for annual fee purposes, on the date that the Agreement with the State becomes effective; therefore, the same proration provisions will apply as if the licenses were terminated.

* * * * *

11. In § 171.19, paragraphs (b), (c), and (d) are revised to read as follows:

§ 171.19 Payment.

* * * * *

(b) For FYs 1997 and FY 1998, the Commission will adjust the fourth quarterly bill for operating power reactors and certain materials licensees to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the amount of the revised annual fee, the overpayment will be refunded. All other licensees, or holders of a certificate, registration, or approval of a QA program will be sent a bill for the full amount of the annual fee on the anniversary date of the license. Payment is due on the invoice date and interest accrues from the date of the invoice. However, interest will be waived if payment is received within 30 days from the invoice date.

(c) For FYs 1997 and 1998, annual fees in the amount of $100,000 or more and described in the **Federal Register** notice pursuant to § 171.13 must be paid in quarterly installments of 25 percent as billed by the NRC. The quarters begin on October 1, January 1, April 1, and July 1 of each fiscal year.

(d) For FYs 1997 and 1998, annual fees of less than $100,000 must be paid as billed by the NRC. As established in FY 1996, materials license annual fees that are less than $100,000 are billed on the anniversary of the license. The materials licensees that are billed on the anniversary date of the license are those covered by fee categories 1.C. and 1.D.; 2.A.(2) through 2.C.; 3.A. through 3.P.; 4.B. through 9.D.; and 10.B. For annual fee purposes, the anniversary date of the license is considered to be the first day of the month in which the original license was issued by the NRC. Beginning June 11, 1996, the effective date of the FY 1996 final rule, licensees that are billed on the license anniversary date will be assessed the annual fee in effect on the anniversary date of the license. Materials licenses subject to the annual fee that are terminated during the fiscal year but prior to the anniversary month of the license will be billed upon termination for the fee in effect at the time of the billing. New materials licenses subject to the annual fee will be billed in the month the license is issued or in the next available monthly billing for the fee in effect on the anniversary date of the license. Thereafter, annual fees for new licenses will be assessed in the anniversary month of the license.

Dated at Rockville, Maryland, this 12th day of May, 1997.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Chief Financial Officer.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A to This Final Rule—Regulatory Flexibility Analysis for the Amendments to 10 CFR Part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act of 1980, as amended, (5 U.S.C. 601 *et seq.*) establishes as a principle of regulatory practice that agencies endeavor to fit regulatory and informational requirements, consistent with applicable statutes, to a scale commensurate with the businesses, organizations, and government jurisdictions to which they apply. To achieve this principle, the Act requires that agencies consider the impact of their actions on small entities. If the agency cannot certify that a rule will not significantly impact a substantial number of small entities, then a regulatory flexibility analysis is required to examine the impacts on small entities and the alternatives to minimize these impacts.

To assist in considering these impacts under the Regulatory Flexibility Act (RFA), first the NRC adopted size standards for determining which NRC licensees qualify as small entities (50 FR 50241; December 9, 1985). These size standards were clarified November 6, 1991 (56 FR 56672). On April 7, 1994 (59 FR 16513), the Small Business Administration (SBA) issued a final rule changing its size standards. The SBA adjusted its receipts-based size standards levels to mitigate the effects of inflation from 1984 to 1994. On November 30, 1994 (59 FR 61293), the NRC published a proposed rule to amend its size standards. After evaluating the two comments received, a final rule that would revise the NRC's size standards as proposed was developed and approved by the SBA on March 24, 1995. The NRC published the final rule revising its size standards on April 11, 1995 (60 FR 18344). The revised standards became effective May 11, 1995. The revised standards adjusted the NRC receipts-based size standards from $3.5 million to $5 million to accommodate inflation and to conform to the SBA final rule. The NRC also eliminated the separate $1 million size standard for private practice physicians and applied a receipts-based size standard of $5 million to this class of licensees. This mirrored the revised SBA standard of $5 million for medical practitioners. The NRC also established a size standard of 500 or fewer employees for business concerns that are manufacturing entities. This standard is the most commonly used SBA employee standard and is the standard applicable to the types of manufacturing industries that hold an NRC license.

The NRC used the revised standards in the final FY 1995 and FY 1996 fee rules and is continuing their use in this FY 1997 final rule. The small entity fee categories in § 171.16(c) of this final rule reflect the changes in the NRC's size standards adopted in FY 1995. A new maximum small entity fee for manufacturing industries with 35 to 500 employees was established at $1,800 and a lower-tier small entity fee of $400 was established for those manufacturing industries with less than 35 employees. The lower-tier receipts-based threshold of $250,000 was raised to $350,000 to reflect approximately the same percentage adjustment as that made by the SBA when they adjusted the receipts-based standard from $3.5 million to $5 million. The NRC believes that continuing these actions for FY 1997 will reduce the impact of annual fees on small businesses. The NRC size standards are codified at 10 CFR 2.810.

Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), requires that the NRC recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, for Fiscal Years (FY) 1991 through 1995 by assessing license and annual fees. OBRA–90 was amended in 1993 to extend the 100 percent recovery requirement for NRC through 1998. For FY 1991, the amount for collection was approximately $445.3 million; for FY 1992, approximately $492.5 million; for FY 1993 about $518.9 million; for FY 1994 about $513 million; for FY 1995 about $503.6 million; for FY 1996 about $462.3 million and the amount to be collected in FY 1997 is approximately $462.3 million.

To comply with OBRA–90, the Commission amended its fee regulations in 10 CFR Parts 170 and 171 in FY 1991 (56 FR 31472; July 10, 1991) in FY 1992, (57 FR 32691; July 23, 1992) in FY 1993 (58 FR 38666; July 20, 1993) in FY 1994 (59 FR 36895; July 20, 1994) in FY 1995 (60 FR 32218; June 20, 1995) and in FY 1996 (61 FR 16203; April 12, 1996) based on a careful evaluation of over 1,000 comments. These final rules established the methodology used by NRC in identifying and determining the fees assessed and collected in FYs 1991–1996.

The NRC indicated in the FY 1995 final rule that it would attempt to stabilize annual fees as follows. Beginning in FY 1996, it would adjust the annual fees only by the percentage change (plus or minus) in NRC's total budget authority unless there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be recalculated (60 FR 32225; June 20, 1995). The NRC also indicated that the percentage change would be adjusted based on changes in the 10 CFR Part 170 fees and other adjustments as well as an adjustment for the number of licensees paying the fees. As a result, the NRC is establishing the FY 1997 annual fees for all licensees at 8.4 percent above the FY 1996 annual fees. Because the total amount to be recovered through fees in FY 1997 is the same as the amount estimated for recovery in FY 1996, the NRC believes that establishing new baseline fees for FY 1997 is not warranted.

Public Law 104–121, the Contract with America Advancement Act of 1996 was signed into law on March 29, 1996. Title III of the law is entitled the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The SBREFA has two purposes. The first is to reduce regulatory burdens imposed by Federal agencies on small businesses, nonprofit organizations and governmental jurisdictions. The second is to provide the Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC fee rule, published annually, is considered a ''major'' rule and therefore must be reviewed by Congress and the Comptroller General before the rule becomes effective. Section 312 of the Act provides that for each rule for which an agency prepared a final regulatory flexibility analysis, the agency shall prepare a guide to assist small entities in complying with the rule. The NRC's guide is Attachment 1 to Appendix A of this final rule. A regulatory flexibility analysis is prepared for the proposed and final NRC fee rules as implemented by 10 CFR Part 170 and 171 of the Commission's regulations. Therefore, in compliance with the law, Attachment 1 to this Regulatory Flexibility Analysis is the small entity compliance guide for FY 1997.

II. Impact on Small Entities

The comments received on the proposed FY 1991–1996 fee rule revisions and the small entity certifications received in response to the final FY 1991–1996 fee rules indicate that NRC licensees qualifying as small entities under the NRC's size standards are primarily those licensed under the NRC's materials program. Therefore, this analysis will focus on the economic impact of the annual fees on materials licensees.

The Commission's fee regulations result in substantial fees being charged to those individuals, organizations, and companies that are licensed under the NRC materials program. Of these materials licensees, about 20 percent (approximately 1,400 licensees) have requested small entity certification in the past. In FY 1993, the NRC conducted a survey of its materials licensees. The results of this survey indicated that about 25 percent of these licensees could qualify as small entities under the current NRC size standards.

The commenters on the FY 1991–1994 proposed fee rules indicated the following results if the proposed annual fees were not modified:

—Large firms would gain an unfair competitive advantage over small entities. One commenter noted that a small well-logging company (a ''Mom and Pop'' type of operation) would find it difficult to absorb the annual fee, while a large corporation would find it easier. Another commenter noted that the fee increase could be more easily absorbed by a high-volume nuclear medicine clinic. A gauge licensee noted that, in the very competitive soils testing market, the annual fees would put it at an extreme disadvantage with its much larger competitors because the proposed fees would be the same for a two-person licensee as for a large firm with thousands of employees.

—Some firms would be forced to cancel their licenses. One commenter, with receipts of less than $500,000 per year, stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Another commenter noted that the rule would force the company and many other small businesses to get rid of the materials license altogether. Commenters stated that the proposed rule would result in about 10 percent of the well-logging licensees terminating their licenses immediately and approximately 25 percent terminating their licenses before the next annual assessment.

—Some companies would go out of business. One commenter noted that the proposal would put it, and several other small companies, out of business or, at the very least, make it hard to survive.

—Some companies would have budget problems. Many medical licensees commented that, in these times of slashed reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Another noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship and some facilities would experience a great deal of difficulty in meeting this additional burden.

Over the past five years, approximately 2,900 license, approval, and registration terminations have been requested. Although some of these terminations were requested because the license was no longer needed or licenses or registrations could be combined, indications are that other termination requests were due to the economic impact of the fees.

The NRC continues to receive written and oral comments from small materials licensees. These commenters previously indicated that the $3.5 million threshold for small entities was not representative of small businesses with gross receipts in the thousands of dollars. These commenters believe that the $1,800 maximum annual fee represents a relatively high percentage of gross annual receipts for these ''Mom and Pop'' type businesses. Therefore, even the reduced annual fee could have a significant impact on the ability of these types of businesses to continue to operate.

To alleviate the continuing significant impact of the annual fees on a substantial number of small entities, the NRC considered alternatives, in accordance with the RFA. These alternatives were evaluated in the FY 1991 rule (56 FR 31472; July 10, 1991) in the FY 1992 rule (57 FR 32691; July 23, 1992), in the FY 1993 rule (58 FR 38666; July 20, 1993); in the FY 1994 rule (59 FR 36895; July 20, 1994); in the FY 1995 rule (60 FR 32218; June 20, 1995) and in the FY 1996 rule (61 FR 16203; April 12, 1996). The alternatives considered by the NRC can be summarized as follows.

—Base fees on some measure of the amount of radioactivity possessed by the licensee (e.g., number of sources).

—Base fees on the frequency of use of the licensed radioactive material (e.g., volume of patients).

—Base fees on the NRC size standards for small entities.

The NRC has reexamined the FY 1991–1996 evaluations of these alternatives. Based on that reexamination, the NRC continues to believe that establishment of a maximum fee for small entities is the most appropriate option to reduce the impact on small entities.

The NRC established, and will continue for FY 1997, a maximum annual fee for small entities. The RFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity. Therefore, the NRC has no benchmark to assist it in determining the amount or the percent of gross receipts that should be charged to a small entity. For FY 1997, the NRC will rely on the analysis previously completed that established a maximum annual fee for a small entity and the amount of costs that must be recovered from other NRC licensees as a result of establishing the maximum annual fees.

The NRC continues to believe that the 10 CFR Part 170 license fees (application and amendment), or any adjustments to these licensing fees during the past year, do not have a significant impact on small entities. In issuing this final rule for FY 1997, the NRC concludes that the 10 CFR Part 170 materials license fees do not have a significant impact on a substantial number of small entities and that the 10 CFR Part 171 maximum annual small entity fee of $1,800 be continued.

By maintaining the maximum annual fee for small entities at $1,800, the annual fee for many small entities is reduced while at the same time materials licensees, including

small entities, pay for most of the FY 1997 costs attributable to them. The costs not recovered from small entities are allocated to other materials licensees and to operating power reactors. However, the amount that must be recovered from other licensees as a result of maintaining the maximum annual fee is not expected to increase significantly. Therefore, the NRC is continuing, for FY 1997, the maximum annual fee (base annual fee plus surcharge) for certain small entities at $1,800 for each fee category covered by each license issued to a small entity.

While reducing the impact on many small entities, the Commission agrees that the maximum annual fee of $1,800 for small entities, when added to the Part 170 license fees, may continue to have a significant impact on materials licensees with annual gross receipts in the thousands of dollars. Therefore, as in FY 1992–1996, the NRC is continuing the lower-tier small entity annual fee of $400 for small entities with relatively low gross annual receipts. The lower-tier small entity fee of $400 also applies to manufacturing concerns, and educational institutions not State or publicly supported, with less than 35 employees. This lower-tier small entity fee was first established in the final rule published in the **Federal Register** on April 17, 1992 (57 FR 13625) and now includes manufacturing companies with a relatively small number of employees.

III. Summary

The NRC has determined the 10 CFR Part 171 annual fees significantly impacts a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to collect 100 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. On the basis of its regulatory flexibility analyses, the NRC concludes that a maximum annual fee of $1,800 for small entities and a lower-tier small entity annual fee of $400 for small businesses and not-for-profit organizations with gross annual receipts of less than $350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35 employees and educational institutions that are not State or publicly supported and have less than 35 employees reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the fees for small entities maintain a balance between the objectives of OBRA–90 and the RFA. Therefore, the analysis and conclusions established in the FY 1991–1996 rules remain valid for this final rule for FY 1997. In compliance with Public Law 104–121, a small entity compliance guide has been prepared by NRC and is shown as Attachment 1 to this Regulatory Flexibility Analysis.

Attachment 1 to Appendix A

U.S. Nuclear Regulatory Commission Small Entity Compliance Guide, Fiscal Year 1997

Contents

Introduction
NRC Definition of Small Entity
NRC Small Entity Fees
Instructions for Completing NRC Form 526

Introduction

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires all Federal agencies to prepare a written guide for each ''major'' final rule as defined by the Act. The NRC's fee rule, published annually to comply with the Omnibus Budget Reconciliation Act of 1990 (OBRA–90) which requires the NRC to collect approximately 100 percent of its budget authority each year through fees, meets the thresholds for being considered ''major'' under the SBREFA. Therefore, in compliance with the law, this small entity compliance guide has been prepared for FY 1997. The purpose of this guide is to assist small entities in complying with the NRC fee rule.

This guide is designed to aid NRC materials licensees. The information provided in this guide may be used by licensees to determine whether they qualify as a small entity under NRC regulations and are therefore eligible to pay reduced FY 1997 annual fees assessed under 10 CFR Part 171. Licensees who meet NRC's size standards for a small entity must complete NRC Form 526 in order to qualify for the reduced annual fee. NRC Form 526 will accompany each annual fee invoice mailed to materials licensees. The completed form, along with the appropriate small entity fee and the payment copy of the invoice, should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, P.O. Box 954514, St. Louis, MO 63195–4514.

The NRC, in compliance with the Regulatory Flexibility Act of 1980 (RFA), has established separate annual fees for those materials licensees who meet the NRC's size standards for small entities. These size standards, developed in consultation with the Small Business Administration, were revised by the NRC and became effective on May 11, 1995. The small entity size standards are found in 10 CFR 2.810 of the NRC's regulations. To comply with the RFA, the NRC has established two tiers of small entity fees. These fees are found in 10 CFR 171.16(c) of the fee regulations.

NRC Definition of Small Entity

The NRC has defined what is a small entity for purposes of its regulations in consultation with the Small Business Administration. The definition is codified in NRC's regulations at 10 CFR 2.810. Under the NRC regulation, small entities are:

1. Small business—a for-profit concern that provides a service or a concern not engaged in manufacturing with average gross receipts of $5 million or less over its last 3 completed fiscal years;

2. Manufacturing industry—a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months;

3. Small organization—a not-for-profit organization which is independently owned and operated and has annual gross receipts of $5 million or less;

4. Small governmental jurisdiction—a government of a city, county, town, township, village, school district or special district with a population of less than 50,000;

5. Small educational institution—an educational institution supported by a qualifying small governmental jurisdiction, or one that is not state or publicly supported and has 500 or fewer employees [1]

NRC Small Entity Fees

The NRC has established two tiers of small entity fees for licensees that qualify under the NRC's size standards. Currently, these fees are as follows:

	Maximum annual fee per licensed category
Small business not engaged in manufacturing and small not-for profit organizations (gross annual receipts):	
$350,000 to $5 million	$1,800
Less than $350,000	400
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400
Small governmental jurisdictions (including publicly supported educational institutions) (Population):	
20,000 to 50,000	1,800
Less than 20,000	400
Educational institutions that are not state or publicly supported, and have 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400

To pay a reduced annual fee, a licensee must use NRC Form 526, enclosed with the fee bill, to certify that it meets NRC's size standards for a small entity. About 1,400 licensees certify each year that they qualify as a small entity under the NRC size standards and pay a reduced annual fee. Approximately 900 licensees pay the small entity fee of $1,800 while 500 licensees pay the lower-tier small entity fee of $400.

Instructions for Completing NRC Form 526

1. File a separate NRC Form 526 for each annual fee invoice received.

2. Complete all items on NRC Form 526 as follows:

a. The license number and invoice number must be entered exactly as they appear on the annual fee invoice.

b. The Standard Industrial Classification (SIC) Code should be entered if it is known.

c. The licensee's name and address must be entered as they appear on the invoice. Name and/or address changes for billing purposes must be annotated on the invoice. Correcting the name and/or address on NRC Form 526

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

or on the invoice does not constitute a request to amend the license. Any request to amend a license is to be submitted to the respective licensing staffs in the NRC Regional or Headquarters Offices.

d. Check the appropriate size standard under which the licensee qualifies as a small entity. Check one box only. Note the following:

(1) The size standards apply to the licensee, not the individual authorized users listed in the license.

(2) Gross annual receipts as used in the size standards includes all revenue in whatever form received or accrued from whatever sources, not solely receipts from licensed activities. There are limited exceptions as set forth in 13 CFR 121.104. These are: the term receipts excludes net capital gains or losses, taxes collected for and remitted to a taxing authority if included in gross or total income, proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS), and amounts collected for another by a travel agent, real estate agent, advertising agent, or conference management service provider.

(3) A licensee who is a subsidiary of a large entity does not qualify as a small entity.

(4) The owner of the entity, or an official empowered to act on behalf of the entity, must sign and date the small entity certification.

3. The NRC sends invoices to its licensees for the full annual fee, even though some entities qualify for reduced fees as a small entity. Licensees who qualify as a small entity and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which for a full year is either $1,800 or $400, for each fee category shown on the invoice depending on the size of the entity. Licensees granted a license during the first six months of the fiscal year and licensees who file for termination or for a possession only license and permanently cease licensed activities during the first six months of the fiscal year pay only 50 percent of the annual fee for that year. Such an invoice states the ''Amount Billed Represents 50% Proration.'' This means the amount due from a small entity is not the prorated amount shown on the invoice but rather one-half of the maximum annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies resulting in a fee of either $900 or $200 for each fee category billed instead of the full small entity annual fee of $1,800 or $400.

4. A new small entity form is required to be filed with the NRC each fiscal year in order to qualify for reduced fees for that fiscal year. Because a licensee's ''size,'' or the size standards, may change from year to year, the invoice reflects the full fee and a new form must be completed and returned for the fee to be reduced to the small entity fee. LICENSEES WILL NOT BE ISSUED A NEW INVOICE FOR THE REDUCED AMOUNT. The completed form, the payment of the appropriate small entity fee, and the ''Payment Copy'' of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, P.O. Box 954514, St. Louis, MO 63195–4514.

5. Questions regarding fee bills may be posed orally or in writing. Please call the license fee staff at 301–415–7554 or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Office of the Chief Financial Officer.

6. False certification of small entity status could result in civil sanctions being imposed by the NRC pursuant to the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et. seq*. NRC's implementing regulations are found in 10 CFR part 13.

[FR Doc. 97–13777 Filed 5–28–97; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Thursday
May 29, 1997

Part III

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Fluorescent and Incandescent Lamp Test Procedures; Final Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–220–IF]

RIN 1904–AA61

Energy Conservation Program for Consumer Products; Fluorescent and Incandescent Lamp Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Final rule.

SUMMARY: This Final Rule amends the currently effective Interim Final Rule on test procedures for certain fluorescent and incandescent lamps and promulgates new and revised regulatory definitions applicable to lamps based on public comments. Lighting manufacturers must use these test procedures to meet the lamp standards in the Energy Policy Act of 1992.

DATES: This rule is effective June 30, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of June 30, 1997.

ADDRESSES: Public comments on the Interim Final Rule and the documents incorporated by reference may be viewed at the Department of Energy Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

The Department of Energy (DOE or the Department) is incorporating by reference the following industry consensus test standards:

1. Illuminating Engineering Society of North America LM–16–1993, ''IESNA Practical Guide to Colorimetry of Light Sources.''

2. Illuminating Engineering Society of North America LM–20–1994, ''IESNA Approved Method for Photometric Testing of Reflector-Type Lamps.''

3. Illuminating Engineering Society of North America LM–58–1994, ''IESNA Guide to Spectroradiometric Measurements.''

4. *Illuminating Engineering Society of North America Lighting Handbook, Reference and Application,* 8th Edition, 1993, Chapter 6, Light Sources.

5. American National Standards Institute C78.21–1989, ''Incandescent Lamps—PAR and R Shapes.''

6. American National Standards Institute C79.1–1994, ''Nomenclature for Glass Bulbs—Intended for Use with Electric Lamps.''

Copies of the Illuminating Engineering Society of North America (IESNA) standards may also be obtained from IESNA, Publications Department, 120 Wall Street, Floor 17, New York, NY 10005–4001, (212) 248–5000. Copies of the American National Standards Institute (ANSI) standards may also be obtained from ANSI, 11 West 42nd Street, New York, NY 10036, (212) 642–4936.

FOR FURTHER INFORMATION CONTACT: Mr. Terrence L. Logee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–1689 or Mr. Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

II. Background Information

III. Discussion of Comments and Changes to the Interim Final Rule

A. General Comments
  (1) Compliance Statements and Certification Reports
  (2) Recertification of 8-Foot Fluorescent Lamps
  (3) Devaluation of the Lumen
  (4) Monitoring Sales Data for Loopholes
  (5) DOE and FTC Coordination on Testing and Labeling
B. 25-Watt Lamp
  (1) Safety
  (2) Relabeling of 40-Watt Halophosphate Lamps
  (3) Rated Wattage
C. R, BR and ER Incandescent Lamps
D. Colored Lamps
  (1) Chromaticity
  (2) CRI and CCT
  (3) Neodymium Lamps
  (4) Plant Lamps
E. Rough or Vibration Service Lamps
F. Sampling Plan and Confidence Limits
  (1) Sample Size
  (2) Derating the Sample Mean
  (3) Variability and Confidence Limits
  (4) Derating Factor
  (5) ''z'' Test
G. Rated Voltage Range
H. Test Voltage for Incandescent Lamps
I. Basic Model
J. Measures of Energy Consumption
K. CRI Testing
L. Lamp Test Period for New and Existing Lamp Models
M. Certification Data
N. Medium Base Compact Fluorescent Lamps and General Service Incandescent Lamps
O. Test Procedures
P. Definitions
Q. National Voluntary Laboratory Accreditation Program (NVLAP)
R. Long-life Halogen Lamps

IV. Procedural Requirements

A. Review Under the National Environmental Policy Act of 1969
B. Review Under Executive Order 12866, ''Regulatory Planning and Review''
C. Review Under the Regulatory Flexibility Act of 1980
D. Review Under Executive Order 12612, ''Federalism''
E. Review Under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights''
F. Review Under the Paperwork Reduction Act of 1980
G. Review Under Executive Order 12988, ''Civil Justice Reform''
H. Review Under Section 32 of the Federal Energy Administration Act of 1974
I. Review Under Small Business Regulatory Enforcement Fairness Act of 1996
J. Review Under the Unfunded Mandates Reform Act of 1995

SUPPLEMENTARY INFORMATION:

I. Introduction

Part B of Title III of the Energy Policy and Conservation Act, as amended (EPCA or the Act), establishes the Energy Conservation Program for Consumer Products Other Than Automobiles.[1] The consumer and commercial products currently subject to this program (covered products) include general service fluorescent lamps and incandescent reflector lamps, the subjects of today's Final Rule.

The Act specifies that the Secretary of Energy shall prescribe test procedures for fluorescent lamps and incandescent reflector lamps taking into consideration the applicable IESNA or ANSI standards. Section 323(b)(6) of EPCA, 42 U.S.C. 6293(b)(6). The IESNA and ANSI test methods for these products have been reviewed by the National Institute of Standards and Technology of the United States Department of Commerce (NIST) in consultation with the National Electrical Manufacturers Association (NEMA), which represents the lamp manufacturers with the predominant market share. The Department has determined that the referenced test procedures effectively measure lamp efficacy and color rendering index, and they are not unduly burdensome to conduct. Therefore, today's Final Rule incorporates by reference the test methods found in IESNA standards LM–

[1] Part B of Title III of EPCA, as amended, is referred to in this Final Rule as the ''Act'', and provisions of the Act are referred to either as ''Section __ of the Act'' or as ''Section __.'' Part B of Title III is codified at 42 U.S.C. 6291–6309.

16–1993, LM–20–1994, and LM–58–1994 for testing and measuring the color rendering index and performance of fluorescent lamps and incandescent reflector lamps. These revisions of IESNA standards LM–16, LM–20, and LM–58 replace older standards incorporated by reference in the Interim Final Rule on Test Procedures for Fluorescent and Incandescent Lamps (the Interim Final Rule). 59 FR 49468, September 28, 1994. This Final Rule incorporates by reference Chapter 6 from the *IESNA Lighting Handbook* which shows incandescent lamp filament configurations. This Final Rule also incorporates by reference the nomenclature for glass bulbs for lamps found in ANSI C79.1–1994 and the PAR and R bulb shape descriptions found in ANSI C78.21–1989.

Additionally, today's rule extends the date for submission of compliance statements and certification reports for existing lamps to 6 months from the publication of this rule, modifies the sampling plan, and adds definitions for colored lamps, rated voltage, elliptical reflector (ER) and bulged reflector (BR) lamps, and rough and vibration service incandescent lamps.

II. Background Information

The Interim Final Rule added a new section in the Code of Federal Regulations establishing test procedures for general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. CFR Appendix R to Subpart B of Part 430. The test procedures incorporated by reference ANSI Standards C78.1–1991, C78.2–1991, C78.3–1991, C78.375–1991, C82.3–1983; IESNA Standards LM–9–1988, LM–16–1984, LM–20–1982, LM–45–1991, LM–58–1983, LM–66–1991; and the International Commission on Illumination, Publication 13.2–1974. To provide consumer confidence in the test measurements, the Interim Final Rule adopted a sampling plan based on a 99-percent confidence limit for testing general service fluorescent lamps, general service incandescent lamps, and medium base compact fluorescent lamps. The sampling provisions required testing from a minimum sample of 20 lamps. The Interim Final Rule required that testing be done in a laboratory that is accredited by the National Voluntary Laboratory Accreditation Program (NVLAP), a division of NIST.

The energy conservation standards for general service fluorescent and incandescent reflector lamps prescribed in the Act were included in the Interim Final Rule. The Interim Final Rule also included certification requirements and definitions of terms related to standards and test procedures for lamps.

The Final Rule differs from the Interim Final Rule in the following principal ways:

- The sampling plan was revised from 20 to 21 lamps.
- Confidence limits were set at 95 percent.
- The derating factor was changed from 0.99 to 0.97.
- The test voltage for incandescent lamps was changed to the rated voltage as defined in this rule.
- The definition of basic model was revised to be independent of a lamp's photometric distribution (i.e., beam spread).
- Definitions for rated wattage and for residential straight-shaped lamp for fluorescent lamps were added.
- The definition of cold temperature fluorescent lamp was revised to require markings for cold temperature use on the lamp.
- The calculations of annual operating costs and energy consumption were revised to allow manufacturers to use any price and operating hour assumptions if the assumptions are clearly and accurately described.
- A provision for use of the pre-1996 valuation for lumens and definitions clarifying coverage of certain fluorescent lamps were added.
- Definitions for BR and ER incandescent lamps, for colored lamps and for rough or vibration service incandescent lamps were added.
- A requirement for manufacturers of new lamp models to state they believe new lamps will meet energy efficiency standards was added.

Additionally, today's rule provides for submission of manufacturer's compliance statements for existing lamps 6 months from the publication of today's rule. The rule also discusses the 25-watt fluorescent lamp issues and describes the Department's rationale for the residential straight-shaped lamp definition.

III. Discussion of Comments and Changes to the Interim Final Rule

The Department received 45 written comments in response to the September 28, 1994, Interim Final Rule. The Department also held a hearing on November 15, 1994, a workshop on July 19, 1995, and a public meeting on March 5, 1996, to discuss issues raised by comments and other issues that required clarification. Attendees represented lamp importers, energy and environmental groups, state energy offices, lighting consultants, NIST and most of the U.S. lamp manufacturers.

A. General Comments

(1) Compliance Statements and Certification Reports

NEMA requested that manufacturers be given a choice of testing by industry protocols or by DOE test procedures. NEMA commented that this choice would allow manufacturers flexibility in testing lamps for compliance with energy conservation standards. NEMA proposed that if testing is conducted in accordance with DOE test procedures, DOE should extend the date for submission of compliance statements and certification reports for existing lamps to 6 months from the publication of this rule. NEMA requested that if DOE elects for a period shorter than 12 months, DOE adjust the sampling rules in 10 CFR § 430.24(r)(1) and (2) (NEMA, No. 14 at 8.[2])

The Department has determined that compliance statements and certification reports should be based only on DOE test procedures, as amended by this Final Rule. DOE believes that manufacturers will be able to complete their compliance statements and certification reports within 6 months of the publication of this Final Rule. Under the Interim Final Rule, manufacturers should have collected by November 1, 1995, all or most of the samples needed for testing. The revised sampling plan requires three lamps per month for 7 out of 12 months. The changes in the rule relating to testing and certification at rated voltage for incandescent lamps and the derating factor have no effect on sample selection. Therefore, the Department has decided that it will consider as timely those compliance statements and certification reports for existing lamps that manufacturers file within 6 months from the publication of this Final Rule. Manufacturers will have one year to file compliance and certification reports for new lamp models.

(2) Recertification of 8-Foot Fluorescent Lamps

NEMA asked the Department to clarify in the preamble to the Final Rule that lamps tested prior to May 1, 1994, to meet standards that went into effect on May 1, 1994, would not need to be retested nor would compliance statements and certification reports need to be resubmitted. (NEMA, No. 4 at 5.) NEMA referred to its letter to DOE dated February 22, 1993, which outlined the procedures industry would

[2] The Department assigned docket numbers and comment numbers to comments we received on the Interim Final Rule.

use to test and certify 8-foot fluorescent lamps to DOE. (NEMA, No. 14 at 8.)

The test procedures and sampling provisions for lamp efficacy and color rendering index (CRI) in the NEMA letter dated February 22, 1993, are in fact similar to those in the Interim Final Rule. The only difference is that the sampling plan for CRI proposed in the letter requires only 10 lamps from any two production lots from the 12 months, whereas the sampling plan in the Interim Final Rule requires testing for CRI from the same 20 lamps which were tested for lamp efficacy. (NEMA, No. 23 at 1–8.)

The Department agrees with NEMA and will not require recertification of 8-foot lamps. The Department concludes that CRI determined from a 10-lamp subset of the 20-lamp sample used for the lamp efficacy testing will be sufficient for testing 8-foot fluorescent lamps. Therefore, manufacturers' compliance statements and certification reports submitted in accordance with the test procedures in the February 22, 1993 letter from NEMA are acceptable for certification of existing 8-foot lamps. Furthermore, DOE will not construe the Final Rule as requiring manufacturers to conduct new testing or to resubmit compliance statements and certification reports for basic models of 8-foot fluorescent lamps that the manufacturer tested in accordance with those guidelines prior to May 1, 1994. New products distributed for sale after today must be tested and certified to today's rule.

(3) Devaluation of the Lumen

The lumen values in the lamp energy conservation standards in the Act are based on a value established in 1975 for the lumen. In January 1996, NIST devalued the lumen by 1.1 percent to bring U.S. lumen measurements into agreement with other industrialized countries. NEMA requested that the Final Rule provide a separate adjustment factor for the devaluation of the lumen so that the lamp efficacy measurements of lumens per watt (W) are consistent with the value of the lumen used to determine the lamp efficacy in the energy conservation standards. NEMA and Litetronics recommended that lumen values derived from testing be multiplied by 1.011 to account for the devaluation. (NEMA, No. 14 at 4; Litetronics, No. 12 at 1.)

NIST has issued a notice to all users of lamp measurement standards announcing a 1.1 percent lower realization (devaluation) of the lumen. Since NIST calibrated all of the current standard lamps (see Section F of this part for more on standard lamps) with the old lumen value, the Department will require that all measurements be reported in 1995 lumens until such time as the reference lamps are recalibrated. The Final Rule provides a conversion factor of 1.011 which is to be used to multiply measurements made on equipment calibrated to the new lumen standard. This is found in Appendix R at 10 CFR Part 430, Subpart B, ''Test Methods and Measurements.''

(4) Monitoring Sales Data for Loopholes

The American Council for an Energy Efficient Economy (ACEEE) suggested that DOE set up a means of monitoring sales of lamp products exempt under the Energy Policy Act of 1992 (EPAct). Monitoring would apply to ER, BR, rough or vibration service, and colored incandescent lamps; as well as cold temperature, colored, and 4-foot fluorescent lamps less than 28 watts. This monitoring would determine if any of these categories undergo large increases in sales. ACEEE suggested that DOE collect the data or work with the Census Bureau to collect such data. If monitoring shows increases in sales of exempted products, DOE should investigate and develop regulations to better define these exemptions. (ACEEE, No. 16 at 4.)

The Department believes that this suggestion has merit and will use statistics obtained from the Census Bureau and NEMA, if available, to monitor sales data to determine if exempted lamps are experiencing significant increases in market share beyond the growth forecast from pre-1992 data.

(5) DOE and FTC Coordination on Testing and Labeling

NEMA requested that DOE state that its test procedures do not supplant Federal Trade Commission (FTC or the Commission) rules. NEMA further requested that DOE clarify that Sections 430.23 and 430.62 of 10 CFR Part 430 only apply to manufacturers' compliance and certification for minimum efficacy and CRI standards and not to representations of lumens, watts, or life. NEMA stated that ''enforcement of manufacturers' representations of performance criteria, such as lumens, watts, and life, requires consideration of additional factors that take account of measurement uncertainties and process and materials variations.'' (NEMA, No. 6 at 2–3.)

The DOE measures of energy consumption in § 430.23 of 10 CFR Part 430 apply to manufacturers' representations of lamp efficacy and CRI in the case of fluorescent lamps but not to representations of lamp lumens or watts. The DOE certification requirements in § 430.62 of 10 CFR Part 430 apply only to manufacturers' compliance and certification for minimum efficacy and CRI standards and the report of lamp lumens and wattage output as required by § 325(i)(7) of EPCA, U.S.C. 6295(i)(7). Lumens and wattage are not measures of energy use (per § 323(c) of EPCA, U.S.C. 6293(c)) and therefore neither the DOE sampling plan nor the test procedures apply to such representations.

At the March 5, 1996, lamp workshop, NEMA stated that application of the sampling plan and confidence limits in the DOE test procedures should be strictly for determining lamp efficacy and CRI and not to be applied to representations in marketing brochures, advertising, etc. ACEEE cautioned the Department to let FTC determine the accuracy and sampling requirements for labeling and not to make an implied endorsement of current levels of accuracy. The FTC representative confirmed that the Commission would accept measurements from DOE test procedures, but that the use of DOE test procedures are not required by the Commission. (Lamp Meeting Transcript, March 5, 1996, at 232–261.)

NEMA commented that representations require less accuracy than the certification reports and that the one-sided statistical test for confidence in meeting the minimum standards does not apply where a two-sided statistical test should be used for representing the average value of lamp efficacy, lumens, or watts. NEMA claimed that FTC regulations allow manufacturers to use acceptable industry practice for determining the accuracy of lamp labels. Furthermore, NEMA claimed that DOE regulations on confidence limits should not apply until FTC requires the same confidence limits for test results appearing on labels. (Lamp Meeting Transcript, March 5, 1996, at 232–261.)

The Department believes that the one-sided confidence limit reduces the testing burden on manufacturers and assures the consumer that lamp performance will meet or exceed the lamp efficacy standards. Furthermore, the Act requires that any manufacturer making representations of lamp efficacy and energy consumption must do so according to DOE test procedures and sampling plans. This ensures that consumers get lamp performance that is at least as good as represented.

The Act prohibits manufacturers, retailers, distributors and private labelers from making any representations in writing (including

labels) or in any advertisements with respect to energy use or efficiency or the cost of energy consumed unless the product under consideration has been tested in accordance with DOE test procedures, and unless the representations fairly disclose the results of the testing. Section 323(c) of EPCA, 42 U.S.C. 6293(c). Furthermore, the Act requires manufacturers to file with DOE a laboratory report certifying the average lumen output and wattage consumption for each lamp type. Section 325(i)(7) of EPCA, 42 U.S.C. 6295(i)(7). Consequently, manufacturers must use the Department's test procedures including calculation of sample means and confidence limits to certify lamp efficacy and CRI. Manufacturers also must use these procedures to measure lumen output and wattage consumption for the laboratory report. The Department believes that its test procedures for lamps will fulfill the FTC requirements for lamp testing.

B. 25-Watt Lamp

The energy efficiency standards for 4-foot medium bi-pin fluorescent lamps are prescribed in § 325(i)(1) of EPCA, 42 U.S.C. 6295(i)(1). Lamps with a rated wattage of 28 or more must meet a minimum lamp efficacy of 75 lumens per watt. The standard precludes the manufacture of most 40-watt halophosphate (e.g., cool white, warm white) lamps and permits the use of 34-watt halophosphate lamps instead. In response to consumer demand and safety concerns, manufacturers have developed a lower wattage 4-foot lamp for residential use. These lamps typically have wattages of less than 28 when used on low-power-factor residential ballasts. However, in a commercial application on high-power-factor ballasts, these lamps can operate at wattages as high as 40 and may not meet the applicable standards for covered lamps. The issues of safety, relabeling, rated wattage and exemption by low wattage are discussed below.

(1) Safety

Manufacturers and NEMA commented that the reduced wattage lamp (i.e., 34-watt lamp) may overheat the ballast and cause damage if used with a low-power-factor ballast. Low-power-factor ballasts are used primarily in residential applications, but older ballasts of that type may still be in use in some commercial buildings. NEMA commented that a large number of low-power-factor ballasts exist in small office fixtures, in residential fixtures, and in shop-light fixtures. (NEMA, No. 18 at 1.) If the 40-watt lamp in these fixtures is replaced with a 34-watt lamp, the ballast is subjected to a current about 35 percent higher than rated and an input wattage about 15 percent higher than rated. NEMA states that ''the increased current and wattage can cause ballasts to operate at a temperature significantly over the maximum temperature for which they were designed.'' (NEMA News Release, April 10, 1995, page 1.) NEMA suggests that people should use 40-watt lamps unless the ballast label specifically allows the use of 34-watt energy-saver lamps. (NEMA, No. 18 at 1.)

The Department discussed the safety risks of the 34-watt energy-saver lamp with the staff of the Consumer Product Safety Commission (CPSC). A CPSC representative attended the July 19, 1995, lamp workshop at which manufacturers, NEMA and energy advocates discussed safety concerns. In response, the CPSC representative recommended that industry provide a description of the problem and a corrective action plan. (Workshop Transcript, July 19, 1995, at 182.)

At the July 19, 1995, lamp workshop, General Electric (GE) stated it had developed a 25-watt, 6,000 hour cool white lamp for low-power-factor ballast applications. (Workshop Transcript, July 19, 1995, at 182.) GE and Philips commented that the 25-watt lamp was developed to provide a safe alternative to the 34-watt energy-saver lamp. They claimed the new lamp is a cost effective replacement for the old shop-light lamps and is specifically designed with a shorter life for use in residential shop-light fixtures. (GE, No. 33 at 1–6; Philips, No. 34 at 1–3.)

DOE believes using 34-watt lamps with low-power-factor ballasts is a safety hazard. This hazard can be eliminated by use of a properly designed 40-watt or 25-watt lamp because these lamps do not cause the lighting system to operate at higher current when used with a low-power-factor ballast. Because the Department has allowed the sale of 25-watt lamps for residential use only and manufacturers sell several types of 40-watt lamps which meet the standards, safe lamps are readily available to consumers, so the safety hazard is minimal.

(2) Relabeling of 40-Watt Halophosphate Lamps

Osram Sylvania (OSI) claimed that imported 40-watt lamps could easily be relabelled as 25-watt lamps to avoid the standard. (OSI, No. 11 at 1.) GE claimed that the risk of mislabeled 40-watt import products is very small because of shipping and handling costs, potential DOE penalties, and the small import market. (GE, No. 33 at 1–6; Meeting Transcript, March 5, 1996, at 65.)

At the lamp meeting on March 5, 1996, GE recommended that DOE adopt an approach the Canadian government is using to prevent relabeling. The Canadian definition of general service fluorescent lamp includes a clause that makes any lamp subject to standards if it is physically and electrically equivalent to a regulated lamp. OSI and Philips agreed with this recommendation. GE clarified its recommendation with a statement that if the lamp is physically and electrically equivalent—and life, lumens, and watts are not altered—then the lamp is equivalent for labeling purposes. (Meeting Transcript, March 5, 1996, at 33, 84, 90, 288, and 309.)

The Canadian government issued an amendment to its Energy Efficiency Regulations with respect to fluorescent lamps and incandescent reflector lamps on November 7, 1995. Among other changes to these regulations, the Canadian government revised the definition of ''general service fluorescent lamp.'' The amended definition makes any fluorescent lamp subject to standards if it is a physical and electrical equivalent of one of the following four lamp types: (1) a 48'' rapid-start lamp rated at 28 watts or more; (2) a rapid-start U-shaped lamp rated at 28 watts or more; (3) a rapid-start, 96'', 0.800 ampere, high-output lamp; or (4) an instant-start, 96'', slimline lamp rated at 52 watts or more.

NEMA recommended in its November 4, 1996, letter that DOE not add a proposed fifth clause on lamp equivalency to the fluorescent lamp definition. In a later discussion, NEMA claimed that the proposed clause would create a new class of lamps which had not been reviewed by the stakeholder community. In its letter, NEMA proposed that the clarification of equivalent lamps be added to the preamble. (NEMA, No. 45 at 1 and 2.)

Based on consideration of the comments, the Department will not include a criterion for physical and electrical equivalency in its definition of fluorescent lamp in 10 CFR § 430.2. However, by interpretation, the Department will consider a fluorescent lamp as a covered fluorescent lamp if it has substantially equivalent physical and electrical characteristics when operated on a covered fluorescent lamp's reference ballast.

(3) Rated Wattage

The term ''rated wattage'' is used in the definition of fluorescent lamps in § 321(a)(30)(A) of the Act, but it is not

defined in the statute. Furthermore, the statutory energy conservation standards do not apply to 4-foot medium bi-pin fluorescent lamps rated less than 28 watts. Section 321(a)(30)(A)(i) of the Act, 42 U.S.C. 6291(a)(30(A)(i). Noting that § 323(b)(6) of the Act requires the Secretary to prescribe test procedures that take into consideration the applicable IESNA or ANSI standard, the Department is defining ''rated wattage,'' for purposes of 4-foot fluorescent lamps, based on ANSI C78.1–1991.

NEMA recommended that rated wattage, and thus lamp coverage, be determined by using the reference ballast specifications in the ANSI standards measured in accordance with either ANSI C78.375 or IESNA LM–9. (NEMA, No. 35 at 7.) A proposed draft ANSI standard of lamp characteristics for the 25-watt fluorescent lamp was noted in several comments, and there was unanimity among manufacturers at the March 1996 lamp meeting to use the ANSI C78.1 reference ballast characteristics to determine fluorescent lamp wattage. (Meeting Transcript, March 5, 1996, at 17–24; Philips, No. 34 at 1–3; OSI, No. 30 at 1–2.)

The Alliance to Save Energy (ASE) recommended that the Department develop a simple regulation that states ''If a lamp can operate on a commercial (high-power-factor) ballast, it should be tested by the standards set up for lamps that operate on commercial ballasts.'' (ASE, No. 31 at 1–3.) GE claimed that mandating testing for compliance on a commercial ballast is unfair to manufacturers because the product was not designed for that use. (GE, No. 38 at 1–5.) OSI recommended that DOE adopt only the industry standards in effect at the time the statute became effective. (OSI, No. 30 at 1–2.)

GE claimed that its 25-watt lamp is not subject to regulation because it is rated below the statutory limit. (GE, No. 33 at 1.) However, OSI claimed that the 25-watt lamp, when operated on high-power-factor ballasts, is really a 40-watt cool white lamp and therefore must meet DOE standards. Furthermore, it cites DOE's letter of August 30, 1995, which states that lamp operating characteristics ''are determined by testing with a reference ballast (per ANSI standards) and not by the lamp's use or application such as when connected to a low-power-factor ballast.'' (OSI, No. 17 at 1 and No. 30 at 1.) The Alliance to Save Energy claimed that the 25-watt lamp does not meet DOE standards during operation on high-power-factor ballasts. (ASE, No. 31 at 1–3.)

To reduce commercial crossover of its 25-watt lamp, GE stated it has designed the cathode used in the 25-watt lamp for an arc current of 250 milliamperes (mA) versus the 430 mA arc current for lamps designed for use with commercial ballasts. GE states that operation of the 25-watt lamp at the high current of a commercial ballast will cause severe overheating of the cathode which will result in a lamp life of not more than 6,000 hours. By contrast, GE claimed that the 34-watt cool white energy-saver lamp will operate 20,000 hours on a commercial ballast. (GE, No. 33 at 1–6.) Philips stated that its 25-watt lamp is designed with a cathode that will shorten lamp life to 6,000 hours and cause severe end darkening if it is used on a commercial, high-power-factor ballast. (Philips, No. 34 at 1–3.)

Based on its statistics, GE claimed that lamp life greatly controls market distribution of fluorescent lamps. GE claimed that a 6,000-hour life would be a deterrent to use of the 25-watt lamp on high-power-factor ballasts. However, OSI and environmentalists were skeptical that the 6,000 hour life would be short enough to discourage the use of the 25-watt lamp on high-power-factor ballasts. (Meeting Transcript, March 5, 1996, at 31.)

GE calculated that the maximum number of previously sold 40-watt cool white lamps which may migrate to the new 25-watt shop-light is 14 million, or 3.5 percent of the total market. (GE, No. 39 at 1–5.) OSI claimed that home center markets, where this 25-watt lamp would be sold, typically sell 50–60 percent of their lighting products to commercial users, so there is a high likelihood that these lamps would be put into commercial use. (OSI, No. 11 at 1.) OSI claimed that the lost energy savings for each four-lamp fixture, using 40-watt lamps instead of the 34-watt lamps intended by EPAct, are 60 kilowatt hours (kWh) per 3,000-hour year. (OSI, No. 11 at 1.) ASE claimed that up to 1 billion kWh of energy savings could be lost. (ASE, No. 31 at 1–3.)

In a June 26, 1996, letter to the GE Lighting Division, the Department restated its position on the 25-watt lamp. In that letter, the Department stated that lamps that have a wattage of 28 or more when used with a high-power-factor ballast are subject to regulation unless they are designed or marketed exclusively for residential applications. The letter explained that a lamp will be considered to be designed or marketed exclusively for residential applications if: (1) it will not function for more than 100 hours on a commercial high-power-factor ballast or (2) it has a life of 6,000 hours or less on a commercial high-power-factor ballast and (a) it is marked for residential applications only; (b) it is distributed only through consumer/residential channels, (c) it is packaged and labeled in a manner that clearly states its applications; (d) it is distributed for retail sale in boxes of 30 lamps or less; (e) it is listed only in the manufacturer's consumer/residential catalogs or price lists or, if listed with commercial/industrial lamps, it is listed in a separate residential section and is clearly marked by notes or warnings about improper use on the same page; and (f) the manufacturer clearly states that improper use of the lamp voids any warranty, explicit or implied. (DOE, No. 41 at 1–2.)

In response to the June 1996 DOE letter, GE claimed that the rated wattage of its lamp is less than 28 in its intended use. GE also claimed that the Shoplite is rated in accordance with industry practice using ANSI standards. Furthermore, GE claimed DOE's basis for coverage depends on the possible misapplication of the product, which has no precedent in the appliance program and exceeds DOE's authority. GE stated, however, that the company is contemplating the marketing and labeling requirements as prescribed to provide more assurance that the Shoplite will be used as intended. (GE, No. 42 at 1–2.)

Also in response to the June 1996 DOE letter, OSI claimed that if a 25-watt lamp is exempt from the lamp standards in EPAct, it is because the lamp's rated wattage is less than the 28 watt statutory minimum. OSI stated that DOE's requirements related to lamp life are not relevant to determining coverage. OSI commented that the DOE letter also failed to address the fact that the 1991 ANSI standard only defines reference ballast characteristics for a 40-watt lamp and, hence, there are no approved ANSI reference ballast characteristics for a 25-watt lamp. OSI also suggested that DOE add a reference to the draft ANSI standard for the 25-watt lamp to prevent other nominal lamp wattages from claiming an exemption. (OSI, No. 43 at 1–3.)

NEMA agreed with DOE's proposal in its June 1996 letter to exclude 25-watt lamps that are designed or marketed exclusively for residential use. It claimed that the exclusion should apply without limitations to all straight-shaped lamps less than 28 watts. NEMA claimed that the six marketing and labeling requirements were too detailed and it requested development of consistent exclusion guidelines. (NEMA, No. 44 at 1–3.)

The Department is concerned there may be little discernable difference

between a fluorescent lamp subject to the Act's requirements (e.g., a 40-watt cool white) and a lamp rated at less than 28 watts and ''intended'' for residential use (e.g., a 25-watt shop-light). The Department believes these products can be used in a commercial application without any appreciable difference in utility unless consumers and distributors are well aware of their short life. The Department has determined that rated wattage is based on testing with a reference ballast having characteristics similar to a high-power-factor commercial ballast unless the manufacturer demonstrates the lamp is being used in residential applications only. A manufacturer can show this by using lamp technology that would result in a life of 100 hours or less when used on a high-power-factor ballast or by using a shorter life lamp (6,000 hour life or less on a high-power-factor ballast) marked for residential use only and by marketing strategies that will restrict the lamp to residential applications. The Department is defining such a lamp as a residential straight-shaped lamp. In its letter of November 4, 1996, NEMA agreed with DOE's definition of ''residential straight-shaped lamp.''

The precise wording of the permanent lamp marking is not prescribed, but manufacturers should clearly indicate that the intended use is exclusively for residential applications. Furthermore, the test for a 6,000 hour life on a residential straight-shaped lamp when used with a commercial high-power-factor ballast shall be based on competent and reliable scientific determinations made in accordance with generally accepted industry test practice.

NEMA also proposed that ''rated wattage, with respect to 4-foot medium bi-pin lamps, is less than 28 watts if the wattage of the lamp on the reference ballast for which it is specified is less than 28 watts and the lamp is specifically designated and exclusively marketed based on the operating characteristics of the lamp on such reference ballast.'' (NEMA, No. 45 at 2.) Based on recommendations in the record to use industry test procedures, the Department is defining ''rated wattage'' for four foot fluorescent lamps as the nominal wattage found in ANSI C78.1–1991 based on the description of rated wattage in Annex A.2 of ANSI C78.1–1991 (concerning 34-and 40-watt lamps). If the lamp is a residential straight-shaped lamp that is not found in Annex A–2 of ANSI C78.1–1991, the rated wattage is determined by the wattage consumed when the lamp is operated at the reference conditions under which the lamp was designed to operate. For lamps that are not found in ANSI C78.1–1991 and that are not residential straight-shaped lamps (defined in item (4) of this part), rated wattage is determined by testing in accordance with ANSI C78.375–1991, using the lamp data sheets in ANSI C78.1–1991 for T8, T10 or T12 lamps as appropriate. If a manufacturer believes that application of this definition of rated wattage to a particular lamp is inappropriate, it may request a waiver from the test procedure (see 10 CFR § 430.27).

The Department believes that its testing, marketing and labeling requirements are sufficient to prevent most of the crossover of this lamp and similar lamps into the commercial market. However, DOE may monitor the sale and distribution of lamps that are labeled as 25-watt lamps to determine whether these conditions are effective. If the Department finds 25-watt lamps or similar lamps are being used in significant numbers for applications where they will perform within the covered range of wattages in spite of the conditions imposed by today's rule, the Department will consider whether further limitations are needed.

C. R, BR and ER Incandescent Lamps

Section 321(30)(C)(ii) of the Act, 42 U.S.C. 6291(30)(C)(ii), contains exemptions for several types of incandescent reflector lamps including those for ER (elliptical reflector) and BR (bulged reflector) bulb shapes. The industry differentiates the ER and BR lamps from R (reflector) lamps by their shape characteristics. Since the ER is a specialty lamp used in recessed lighting applications, its shape is unique. However, the BR lamp shape is not well defined, so the Department believes it is necessary to describe this lamp by shape and wattage characteristics to avoid misuse of the exemption.

At the July 19, 1995, workshop, Philips distributed copies of ANSI C79.1–1994, which shows a line sketch of the ER and BR bulb shapes and some text describing the ''B'' and ''E'' modifiers. (Workshop Transcript, July 19, 1995, at 157.) NEMA claimed that ER and BR lamps should be defined by reference to ANSI C79.1–1994. (NEMA, No. 14 at 8.)

In its notice reopening the comment period on the Interim Final Rule, the Department stated it believed the definitions in ANSI C79.1–1994 were new definitions because earlier versions of the document did not describe these bulb shapes and additional descriptive criteria were needed such as dimensions for a longer neck, a reflective coating, and a reduced wattage filament. 61 FR 7431 (February 28, 1996).

At the lamp meeting on March 5, 1996, OSI provided descriptions and examples of the R, BR, and ER lamps. OSI noted that the R lamp will not meet the lamp efficacy standards and compared the R lamp to the exempt BR and ER lamps. OSI stated the BR lamp has a bulge around the neck and it has a secondary curved reflector in the neck area, which reflects the light forward into the beam. This reflector reduces the light that gets trapped by the neck of the bulb. OSI claimed the shape first appeared in ANSI C79.1–1980 as a reference in the appendix, and therefore ANSI C79.1–1994 only clarifies the bulb shape. OSI stated the bulbs have universal application; that is, they can be used anywhere an R lamp would be used. OSI claimed, however, that to the untrained observer, the R and BR bulb shapes are nearly indistinguishable.

OSI stated the ER lamp has two foci: one at the back of the lamp and the other about two inches in front of the lens. This means the light passes through the focus point in front of the lens before it spreads. OSI claimed this lamp is used in deep fixtures or small aperture fixtures because less light is lost in the fixture. OSI stated the ER lamp has a long neck because the filament is placed at the rear focus and more length is needed for the stem configuration. It also has a long neck because it is a replacement for the 150-watt R lamp. The ER lamp has a well-defined shape that is readily apparent. (Meeting Transcript, March 5, 1996, at 172–176.)

In its comments, ACEEE attached a copy of a September 17, 1991, draft of the EPAct legislation, which did not include any BR or ER exemptions. ACEEE claimed these exemptions were added to protect a small manufacturer. (ACEEE, No. 16 at 2.) In a memo to ACEEE, OSI noted the exemption protects special markets and claimed the exemptions will be used by manufacturers to avoid standards. (ACEEE, No. 16, Attached Memo.) ACEEE requested that DOE restore the original intent of EPAct by defining ER and BR lamps so applications of these lamps are limited to their original purposes. (ACEEE, No. 16 at 2.)

To correct some mistakes in the record, OSI claimed: (1) the BR lamp is not marketed for recessed applications; (2) the BR lamp is more efficient than the rough/vibration service R lamp; (3) the BR lamp is a less costly lamp for the residential reflector lamp market than the halogen parabolic aluminized reflector lamp (PAR), which usually meets or exceeds the lamp efficacy

standards; (4) OSI sells a special high-efficiency 65-watt BR lamp that meets the efficacy standards; and (5) the ANSI C79.1–1994 bulb shape specification is a result of the mandatory ANSI 5-year revision cycle, and it is fundamental to all lamp/fixture interchangeability. (OSI, No. 22 at 1.)

At the lamp meeting in March 1996, NEMA, ACEEE, Duro-Test, and Philips recommended that DOE use the lamp bulb shapes in ANSI C79.1–1994 as the basis for the definition of BR and ER lamps. NEMA and Duro-Test suggested that ANSI C78.21–1989 would provide a more complete definition and some dimensions of the ER bulb shape. In the Reopening Notice, DOE proposed a maximum wattage, in addition to bulb shape, as a defining criterion for BR lamps. In response, NEMA accepted the DOE proposal. There was no suggestion from manufacturers or interested parties that DOE incorporate any reflector requirements into its definition. (Meeting Transcript, March 5, 1996, at 166–98.)

In their comments, NEMA and Duro-Test proposed two options for BR30 wattages: exactly 85 or less than 66. They also proposed a maximum of 120 W for the BR40 lamp. (NEMA, No. 35 at 5; Duro-Test, No. 32 at 2.) NEMA proposed that any BR lamp that meets the standard should be allowed. (NEMA, No. 35 at 5.) The Department accepts wattage limits on the BR30 and BR40 reflector lamps since they have the largest market share. Wattage limits will also help to maintain energy savings that could otherwise be lost if full wattage BR lamps are substituted for PAR and R lamps which must meet the energy standards.

Given the shape characteristics in ANSI C79.1–1994 and ANSI C78.21–1989, the Department is convinced that ER lamps are a specialty product which need no further definition. The Department believes it is necessary to describe BR lamps by the shape characteristics given in Figure 1 on page 7 of ANSI C79.1–1994 and by wattage characteristics because the BR shape is not well defined in ANSI C79.1–1994 and it is easy for manufacturers to substitute BR lamps for R lamps. Since BR lamps are less expensive than the halogen lamps that meet the standards, the substitution of BR lamps for R lamps would severely reduce the energy savings potential of the law. NEMA, the efficiency advocates, and manufacturers agreed that maximum wattage limits should be included in the definition of BR lamps which have the largest market share. Therefore, BR30 and BR40 lamps are exempt if they comply with the DOE wattage limits. Exempt BR30 lamps include only lamps with rated wattages of 85 or less than 66, and exempt BR40 lamps will include only lamps with a maximum rated wattage of 120. If a BR lamp meets the energy efficiency standards and a manufacturer chooses to file a certification of compliance with the Department, such lamps are not subject to the wattage limits. The definitions for BR and ER lamps are in 10 CFR § 430.2.

D. Colored Lamps

In the Notice of Proposed Rulmaking, the Department defined colored fluorescent and colored incandescent lamps because § 321(30)(B)(iii) of EPCA, 42 U.S.C. 6291(30)(B)(iii), and § 321(30)(C)(ii) of EPCA, 42 U.S.C. 6291(30)(C)(ii), contain exemptions for colored lamps without defining what a colored lamp is. These exemptions are needed since colored lamps are inherently less efficient than non-colored lamps and colored lamps use tinting and filters to produce light with a certain spectral composition, causing the absorption or reflection, or both, of a significant amount of light. In the Interim Final Rule, the Department defined a colored fluorescent lamp as a fluorescent lamp with a CRI less than 30 or color correlated temperatures (CCT) below 2,500 Kelvin (K) or above 7,000 K. Colored incandescent lamps were defined by a CRI less than 50 or a CCT below 2,500 K or above 7,000 K. 59 FR 49478, September 28, 1994.

The following discussion of colored lamps is divided into the subtopics of (1) chromaticity, (2) CRI and CCT, (3) neodymium lamps and (4) plant lamps.

(1) Chromaticity

In its Reopening Notice, the Department sought comment on a colored lamp definition using x and y chromaticity [3] coordinates that lie outside of the area on a chromaticity diagram. 61 FR 7431. NEMA withdrew its proposal for a test related to chromaticity because the CCT and CRI values proposed by DOE in its Reopening Notice fairly define colored lamps. (NEMA, No. 35 at 5 and 6.)

(2) CRI and CCT

In its Reopening Notice, the Department proposed revised colored lamp definitions based on CRI or CCT. A colored fluorescent lamp would be defined as a lamp with a CRI value less than 40 or a CCT not above 2,500 K for red and yellow colors or not below 6,600 K for blue and green colors, and a colored incandescent lamp would be defined as a lamp with CRI values below 50 or a CCT not above 2,500 K for red and yellow colors or not below 4,600 K for blue and green colors. 61 FR 7431.

At the lamp meeting on March 5, 1996, and in written comments, NEMA endorsed the Department's proposal for the definition of colored lamps using the CCT and CRI values proposed in the Reopening Notice. NEMA asked the Department to clarify that either a CCT value or a CRI value is sufficient to determine that a lamp is colored. (Meeting Transcript, March 5, 1996, at 124–132; NEMA, No. 35 at 6.)

The colored lamp definition in the Notice of Proposed Rulmaking caused confusion due to undefined CCT for some colored lamps. The mathematical procedures for computing CCT don't work for some values of x and y chromaticity (blue colors, etc.) because these procedures try to project to a point on the blackbody locus equal to infinite color temperature. It was also difficult to compute CCT for purple colors that lie below the blackbody locus, because the curve of the locus results in more than one CCT value for a single chromaticity. As a result, the CCT portion of the definition has been revised so that a lamp would be considered colored as long as the CCT is outside of a given range. 59 FR 49478.

The revision of the CRI values and CCT ranges proposed in the Reopening Notice is based on comments from Duro-Test and NEMA regarding the appropriate boundary points that separate non-colored lamps from lightly tinted lamps. Raising the maximum CRI for colored fluorescent lamps from 30 to 40 will include the gold lamp as a colored lamp but will not allow exempt status for any non-colored lamps. By narrowing the range for non-colored fluorescent lamp CCT to 2500–6600 K, green fluorescent lamps will qualify as colored lamps. And by narrowing the range for non-colored incandescent lamp CCT to 2500–4600 K, green and blue incandescent lamps will qualify as colored lamps.

The Department believes the CCT and the CRI methods are both valid indicators of the color characteristics of lamps, although they are slightly different. Some lamps may be considered colored according to both methods, whereas others may be considered colored according to one or the other. However, meeting either criteria is sufficient to demonstrate the colored characteristic. Also, two

[3] Chromaticity is a descriptive characteristic of the color of a light specified by the coordinates x, y, and z, which are the ratios of each of the tristimulus values to their sum. The tristimulus values of a light are the amounts of each of the three primary colors required to match the color of the light.

methods give the manufacturers flexibility to use the test method that is least burdensome.

Therefore, the Department is defining a colored fluorescent lamp as a lamp with a CRI value less than 40 or a color correlated temperature less than 2,500 K for red and yellow colors or not greater than 6,600 K for blue and green colors. Colored incandescent lamps are defined as lamps with CRI values below 50 or a lamp color correlated temperature less than 2,500 K for red and yellow colors or greater than 4,600 K for blue and green colors. These lamps must be designated and marketed specifically as colored lamps.

(3) Neodymium Lamps

In its Reopening Notice, the Department proposed that incandescent lamps with lens filters containing 5 percent or more neodymium are colored lamps. The Neodymium filter adjusts the light spectrum for reptile lighting applications. 61 FR 7431. NEMA and Duro-Test agreed with the Department's proposal for exempting lamps containing 5 percent or more Neodymium in the lens. (Duro-Test, No. 32 at 2; NEMA, No. 35 at 6.) In today's rule, the Department is exempting Neodymium lamps containing 5 percent or more Neodymium in the lamp lens.

(4) Plant Lamps

In its Reopening Notice, the Department proposed that incandescent lamps used for growing plants would be specifically exempted and must be designated as such on the lamp and in marketing materials. 61 FR 7431. Duro-Test proposed an exemption for incandescent plant lamps that are specifically designated and marketed for growing plants. It defined a plant light as an incandescent lamp with a filter used to suppress the yellow and green portions of the spectrum. (Duro-Test, No. 32 at 2.) The Department is exempting incandescent plant lamps that contain a filter to suppress the yellow and green portion of the spectrum. Plant lamps must be specifically designated and marketed for plant growing applications.

E. Rough or Vibration Service Lamps

In the Notice of Proposed Rulemaking, the Department proposed to define rough or vibration service incandescent lamps because § 321(30)(C)(ii) of the Act contains an exemption for these lamps without providing a definition. These lamps are inherently less efficient than normal service lamps because the lamps have stronger filament mounting configurations with more supports that conduct heat away from the filament causing a lower filament temperature, and, thus, lower luminous efficacy. In its proposed definition, the Department defined a rough or vibration service lamp by a filament configuration of C–17 or C–22 or the ability to pass a vibration test. 59 FR 49478. The vibration test consisted of subjecting the lamp to vibrations at frequencies ranging from 5 Hertz (Hz) to 33 Hz, at specified amplitudes. Some manufacturers expressed concern that the vibration test was too easy to pass, and might allow exemptions for lamps not meant for vibration service. The Department initiated a discussion on a revised vibration test at the March 5, 1996, meeting. (Meeting Transcript, March 5, 1996, at 207–210.)

In written comments regarding the March 1996 meeting, NEMA, Duro-Test and Litetronics supported a prescriptive definition of a rough or vibration service lamp that defines such a lamp with a C11 (5 support), C17 (8 support), or C22 (16 support) filament configuration, excluding lead wires, as depicted in chapter six of the *IESNA Lighting Handbook*. NEMA and Duro-Test recommended that rough or vibration service lamps should be designated and marketed specifically for rough or vibration service applications. NEMA and Litetronics also recommended that DOE continue to work on an alternative performance-based vibration test for other rough or vibration service lamps but advised DOE to promulgate rules with only the prescriptive definitions. (NEMA, No. 35 at 8, Duro-Test, No. 32 at 3 and Litetronics, No. 36 at 2.) L.D., Inc., commented that a C11 (5 support) filament exemption would allow manufacture of a two-piece outdoor PAR lamp with 5–7 times the life of a standard PAR lamp, which will save cost and labor by requiring fewer lamp replacements. (L.D., Inc., No. 38 at 1.)

There is a consensus among manufacturers that C11, C17 and C22 filament configurations are rough or vibration service incandescent reflector lamps. Based on consideration of the comments, DOE believes that a C11 filament configuration also provides adequate support for rough or vibration service and has included C11, C17 and C22 filaments in today's Final Rule. In addition, DOE has included a requirement that the lamp be designated and marketed specifically for rough and vibration service.

Therefore, the Department has taken a prescriptive approach to the definition of a rough or vibration service incandescent reflector lamp. Since this approach may limit a manufacturer's flexibility to design for some applications, the Department will continue to evaluate the parameters for a vibration test for incandescent reflector lamps. DOE will invite input from manufacturers, NEMA and other interested parties. Any new vibration test parameters will be promulgated in future rulemakings.

F. Sampling Plan and Confidence Limits

The Interim Final Rule required a minimum sample size of 20 lamps per year and a confidence limit based on a ''t'' test with a one-sided confidence limit of 99 percent. The sample size was selected to promote statistically valid results without imposing an undue testing burden on the manufacturers. The 99-percent confidence limit was selected on the assumption that lamp variability within a single basic model was not very large. 59 FR 49468. The discussion of sampling plan and confidence limits is divided into the following subtopics: (1) sample size, (2) derating the sample mean, (3) variability and confidence limits, (4) derating factor, and (5) ''z'' Test.

(1) Sample Size

NEMA proposed several clarifications to the sample size given in the Interim Final Rule. First, it proposed that the minimum sample size be raised from 20 to 21 lamps. Second, it proposed a minimum of three lamps for each month of seven months. Third, it suggested the lamps be divided as evenly as ''practicable'' among the months of ''planned'' production to attain a minimum sample of 21 lamps. This change would apply only to instances where lamps are manufactured for fewer than 7 months of the year. (NEMA, No. 4 at 24.) Philips also favored the revised sampling plan outlined in the NEMA comments. (Philips, No. 3 at 2.)

Based on the comments, the Department is revising the sample size to 21 lamps because the addition of one lamp to the sample will improve the statistical results with little additional testing burden. The Department will require that manufacturers sample a minimum of three lamps per month for 7 months of a 12-month period if production occurs for 7 or more months in the 12-month period. If production occurs for fewer than 7 months during a 12-month period, the Department will allow manufacturers to divide the total required sample as evenly as practicable among the months of planned production to attain a minimum sample of 21 lamps.

(2) Derating the Sample Mean

NEMA proposed that the mean of the sample (X^{lpw}) be divided by 0.98 to

account for a 2 percent uncertainty from the NIST standard lamp and secondary standard lamps developed by manufacturers. (NEMA, No. 14 at 2.) The Department will not allow use of a 0.98 factor to derate the average lumen per watt measurement because the NIST uncertainty in the lumen output of the standard lamps is randomly distributed.

(3) Variability and Confidence Limits

NEMA commented that measurements from lamp testing are subject to several types of variability or uncertainty and that process and material variations will cause differences in the performance of each lamp. It claimed that testing variability is not sufficiently addressed by the DOE requirements for sample size and confidence limits. NEMA stated that ''the resulting variabilities in test measurements necessitate special tolerances for purposes of enforcing the EPCA standards.'' (NEMA, No. 4 at 27)

NEMA claimed there are also inherent variations in measurements due to uncertainty in the lumen output of standard lamps traceable to NIST. (NEMA, No. 4 at 27.) Lamp lumen measurements are made by comparison to a standard lamp traceable to NIST. Standard lamps from NIST have certificates of error attached to them. When manufacturers calibrate a secondary or working standard lamp from the NIST standard lamp additional errors are introduced. NEMA includes a table of estimated cumulative errors from the NIST standard lamp to the calibrated working standard lamp which lists an error in the measurement from 1.75 percent for an incandescent PAR lamp to 2.95 percent for a 96'' high output fluorescent lamp. (NEMA, No. 4, Supplement at 2–3.)

NEMA provided an estimate of the cumulative tolerance factor for general service fluorescent lamps of 2.95 percent in the supplemental comments. It clarified the term ''tolerance factor'' by showing that a 2.95 percent tolerance factor applied to a lumen-per-watt standard of 80 would permit any sample test measurement greater than or equal to 77.64 lumens per watt to meet the standard. NEMA recommended that DOE specify a cumulative tolerance factor for all lamps subject to efficacy standards. NEMA also stated that the same lamp measured in different laboratories in an NVLAP proficiency test can have up to a 7 percent variability in lumens per watt. (NEMA, No. 4 Supplement at 2–3.) ACEEE commented that the NEMA proposals seem based on the worst case situation in which every conceivable factor would cause the most error possible in lamp efficacy. It recommended that DOE account for the probability of both overestimating and underestimating measurements and the way these probabilities affect the confidence of an estimate. Since there is currently considerable variation in test results among laboratories, ACEEE recommended that DOE provide for expected improvements in testing as the NVLAP program matures. (ACEEE, No. 16 at 1.) NEMA requested that the confidence limits be reduced from the proposed 99 percent to 95 percent due to manufacturing variability. (NEMA, No. 4 at 25.) NEMA, Duro-Test and Litetronics recommended that DOE prescribe a 95-percent confidence limit and a derating factor of 0.97. (NEMA, No. 35 at 3; Duro-Test, No. 32 at 1; Litetronics, No. 36 at 1.)

The Department believes that all variability can be accounted for by the confidence limit equation using the ''t'' test and the derating factor. DOE and NIST staff reviewed NEMA data that show the variability in lamp test measurements for representative fluorescent and incandescent lamp types. The NEMA data support a 0.97 derating factor, based upon the demonstrated uncertainties in the NIST standard lamps and the estimated uncertainty due to transfer of those standards to secondary standards and laboratory measurements. Therefore, today's Final Rule includes the Department's revised statistical test for confidence limits which incorporate a 95-percent confidence limit and a derating factor of 0.97.

(4) Derating Factor

NEMA commented that it has demonstrated the need for a further adjustment to the confidence limit derating factor of 0.97 which it proposed on February 8, 1995. (NEMA, No. 14 at 2.) NEMA representatives and NIST and DOE staff met on August 23, 1995, to discuss the measurement uncertainties. NEMA representatives provided data showing that several lamps would fail to meet the standard if the 99-percent confidence limit and the 0.99 derating factor is applied. NEMA cautioned that it could not determine whether smaller manufacturers would be penalized by a 95-percent confidence limit and a 0.97 derating factor. (NEMA, No. 24 at 1–9.) During the meeting, NEMA claimed that these data support a 95-percent confidence limit and 0.95 derating factor. (DOE Memo to File, August 29, 1995, No. 19 at 1.) NEMA suggested that further adjustments of the derating factor may be needed to account for bias in the NIST standard lamps and uncertainties in manufacturing and measurement processes. (NEMA, No. 24 at 1–9.)

Litetronics preferred to have a lower derating factor (i.e., 0.95) because it claimed that its test equipment was not as sophisticated as that of the large manufacturers, and it cannot afford the $40 million state-of-the-art production lines (which reduce product variability) that large manufacturers have. (Meeting Transcript, March 5, 1996, at 109.) NEMA, Duro-Test and Litetronics state that a special derating factor of 0.95 should be applied to small manufacturers with revenues less than $75 million and with sales less than 10 percent of total industry sales of covered general service incandescent or fluorescent lamps. (NEMA, No. 35 at 3; Duro-Test, No. 32 at 1; Litetronics, No. 36 at 1.)

There does not appear to be a valid reason for having separate derating factors based on the size of the manufacturer. The equipment needed to conduct these measurements is not prohibitively expensive for a manufacturer that has laboratory facilities. Moreover, manufacturers can use independent laboratories if desired. No data were submitted to support the claim that product variability is greater for smaller manufacturers.

(5) ''z'' Test

NEMA requested that the confidence limits in the Interim Final Rule be specified as formulas using a ''z'' test based on a historically derived standard deviation. (NEMA, No. 4 at 25.) The ''z'' test is similar to the ''t'' test, except that it uses the population standard deviation rather than the sample standard deviation and a different table of statistical values. Philips commented that these statistical estimates provide adequate protection for the consumer without undue burden on the manufacturer. (Philips, No. 3 at 2.)

In subsequent comments, NEMA proposed that the confidence limit equation use a ''z'' test and be derated by 0.95. The equation is given as:

$$\frac{\overline{X}_{1pw} - z_{0.95}\left(\sigma/\sqrt{n}\right)}{0.95}$$

where $z_{0.95} = 1.645$ and sigma (σ) is derived from the manufacturer's historical test experience. (NEMA, No. 14 at 2.) In its Reopening Notice, the Department proposed the standard deviation for the ''z'' test should be derived from a minimum test data sample of 60 or more lamps of the same basic model; and statistical data for lamps must be measured by accredited laboratories. 61 FR 7431. NEMA argued

for a sample size of 50 lamps, and it claimed that most of the historical data had not been developed at accredited laboratories because the accreditation program was so new. (Lamp Meeting Transcript, March 5, 1996, at 107–108.)

In written comments, NEMA withdrew its request for a ''z'' test for the confidence limit. (NEMA, No. 35 at 3.) While the ''z'' test has some advantages, the Department will not implement it in this rule for the following reasons. First, the relevant measurements must be conducted by accredited laboratories, and most of the available data were not collected that way. Second, determining population standard deviation at accredited laboratories would require a large number of measurements—on the order of 60 units—to be valid. This could be a significant testing burden.

G. Rated Voltage Range

In its notice reopening the comment period on the Interim Final Rule, the Department proposed that lamps with voltages within ±10 percent of the 115–130 V range (i.e., voltages greater than or equal to 103.5 and less than or equal to 143.0) were ''at least partially within a rated voltage range of 115–130 V,'' and thus subject to the energy efficiency standards. 61 FR 7431.

With respect to ''rated voltage range,'' the definition of ''incandescent reflector lamp'' in the Act refers to a ''rated voltage or voltage range that lies at least partially within 115 to 130 V.'' Section 321(30)(C)(ii) of EPCA, 42 U.S.C. 6291(30)(C)(ii). The Interim Final Rule also uses the same definition in 10 CFR § 430.2. NEMA recommended expansion of the voltage range given in the statute to a range of 100–150 V, asserting that the statutory limit could unintentionally allow evasion of the standards requirements for certain products. Under the language in the statute, for example, a product rated at 131 V would not be subject to the standard. Yet this product would perform acceptably in a 130 V environment and could be sold for such applications. (NEMA, No. 4 at 15 and No. 14 at 5.)

GE and NEMA commented that the Department's proposal to increase the 115–130 V range ±10 percent would be unacceptable because manufacturers do not represent their incandescent lamps with a ±10 percent voltage tolerance as the Department suggests in its notice. Instead NEMA, GE, Phillips and OSI prefer the Department use a range of 100–150 V. (Meeting Transcript, March 5, 1996, at 133–64.)

Bleasby recommended that DOE use the NEMA voltage range of 100–150 instead of the current definition of 115–130 because Natural Resources Canada uses the 100–150 range in its definition. Additionally, he claimed that the 115–130 V range has caused lamp designs of 114 V to avoid labeling and standards. However, lamp designs of 99 V would have a very short life and, likewise, designs of 151 V would have very low light output on nominal 120 V circuits. (P. Bleasby, No. 26 at 1.)

OSI and ASE claimed that an incandescent lamp can operate over a wide voltage range, wider in fact than 100–150 V. However, at voltages greater than the design voltage, the lamp light output increases but the life is reduced by 7 percent for each 1 percent increase in lamp operating voltage. A similar relationship holds for voltages below the design voltage. In this instance, the lamp light output decreases, but lamp life increases by 7 percent for each 1 percent reduction in voltage. For practical reasons, manufacturers would not be able to market lamps designed for 99 V or 151 V because consumers would have little use for them. (Meeting Transcript, March 5, 1996, at 133–64.)

The Department believes that incandescent lamps have an assumed range of use over different line voltages, due to the variations in line voltage typically encountered throughout the United States. This fact is incorporated into the definition of rated voltage in ANSI C78.21–1989, which states that the ''voltage range is a series of rated voltages related to commonly available supply lines.'' DOE believes that the statutory definition of incandescent lamp, which refers to a voltage ''that lies at least partially in the range of 115 to 130 V,'' was intended to include the operational range of voltages in most U.S. homes and businesses. The Department also believes that there is a large possibility for evasion of the efficiency standards by manufacturers who rate lamps outside the statutory range although these lamps are intended for operation within the range. These lamps could substantially damage markets of companies producing lamps which meet the standards and would result in lost energy savings. Therefore, general service incandescent lamps and incandescent reflector lamps with a voltage rating greater than or equal to 100 V and less than or equal to 150 V are subject to the standards according to DOE's definition of rated voltage. This interpretation is found in the definition of rated voltage in 10 CFR § 430.2.

H. Test Voltage for Incandescent Lamps

Neither the definition of incandescent lamp in § 321(30)(C) of the Act, 42 U.S.C. 6291(30)(C), nor the Illumination Engineering Society LM–20, ''Approved Method for Photometric Testing of Reflector-Type Lamps,'' defines the test voltage. Therefore, since the Act required labeling at 120 V, the Department required testing of all incandescent lamps at 120 V in the Interim Final Rule. 59 FR 49468.

In its comments, NEMA asked the Department to allow testing of incandescent lamps at their design voltage. Otherwise, NEMA commented, certain 125 and 130 V lamps would be banned from the market by failing to meet the standards if tested at 120 V. NEMA also claimed that 125 and 130 V lamps serve two market niches: regions in the country where power line voltage is greater than the nominal 120 volts (V); and applications requiring long-life lamps. (NEMA, No. 7 at 1–4 and No. 14 at 4.) Manufacturers claim they would be forced to sell lamps with decidedly shorter lives than the 125 and 130 V lamps currently in the marketplace if DOE requires compliance with the standards at 120 V. (Trojan, No. 15 at 2; Litetronics, No. 12 at 1.) Bleasby recommended that DOE allow testing at design voltages of 120, 125 and 130 V. He claimed that this testing regime is needed for harmonization with international test procedures. (P. Bleasby, No. 26 at 1.)

In its notice reopening the comment period, the Department requested comments on a proposal to test incandescent lamps at the voltage marked on the lamp, or at the mean of the voltage range marked on the lamp. 61 FR 7431. NEMA supported this proposal. NEMA also recommended that DOE adopt the International Electrotechnical Commission definition of rated voltage from Standard 432–1. (NEMA, No. 35 at 4.)

The Department believes that lamps manufactured to comply with standards at 120 V will have a shorter life when applied on power systems with voltages greater than 120. This would result in the removal of most 125 and 130 V lamps from the marketplace because these lamps would not offer any longer life to consumers and because the longer life filaments would not meet the lamp efficacy standards at 120 V. Therefore, the Department will allow testing of incandescent lamps at the rated voltage, as defined in today's rule, or at the mean of the rated voltage range. Incandescent lamps with voltages between 100 and 115, and including 100 and 115, shall be tested at 115 V if the lamp can operate at 115 V, and incandescent lamps with voltages between 130 and 150, and including 130 and 150, shall be tested at 130 V if the lamp can operate at 130 V. Lamps not

marked with a voltage shall be tested at 120 V (see the definitions of ''Design Voltage'' and ''Rated Voltage'' in 10 CFR § 430.2). This approach provides for testing incandescent lamps at a known voltage for certification to the lamp efficacy standards while accommodating the FTC requirements for labeling, which allow testing and labeling at the design voltage. The approach is also less confusing for enforcement testing because the test voltage is either marked on the lamp or fixed at 115 V or 130 V.

I. Basic Model

The definition of basic model involves defining a class of lamps that are similar in design and performance to the extent that their performance can be determined by a representative sample. The lamps included in a specific basic model need not be entirely identical, particularly regarding characteristics that are not subject to performance standards. However, lamp characteristics of lumens, watts and CRI, which are measured to determine regulatory compliance, should be designed to be the same for all of the lamps included in a basic model.

NEMA requested that the definition of ''basic model'' use the phrase ''similar light output'' instead of ''essentially identical'' to avoid ambiguity in classifying lamp models due to inherent variations in manufacturing. (NEMA, No. 14 at 5.) The Department disagrees with the NEMA request to replace ''essentially identical'' with ''similar'' because it interprets the phrase ''essentially identical'' to allow some variation and flexibility in light output and electrical and color characteristics.

NEMA asked the Department to remove the requirements for photometric characteristics in the definitions of basic models for both general service fluorescent and general service incandescent lamps. NEMA stated that lamps with different beam spreads would require distinct basic models since photometric characteristics refer to the directional distribution of the light from the lamp. NEMA claimed lamp photometry does not directly bear on energy efficiency. (NEMA, No. 14 at 5.) The Department has deleted the word ''photometric'' and replaced it with the words ''light output'' so that the basic model will not be restricted to lamps of a specific beam spread.

NEMA also recommended that the Department include a reference to total forward lumens for reflector lamps in the basic model definition. (NEMA, No. 14 at 5.) The definition for basic model of a general service incandescent lamp does not need to contain the phrase ''total forward lumens for reflector lamps'' because Appendix R, § 4.3.2, states that lumen output shall be determined as total forward lumens, and the IESNA test procedure LM–20 is designed to measure only forward lumens.

NEMA asked the Department to illustrate the revised definition of basic model for a general service fluorescent lamp in the preamble to the Final Rule by reference to a family of 40-watt general service fluorescent lamps, with similar light output and lumens per watt characteristics, but with different color temperatures. Also, NEMA requested a similar illustration for a basic model of an incandescent reflector lamp by reference to two reflector lamps of the same type and with similar total forward lumens and wattage, but with different beam angles. NEMA asserted that these two reflector lamps should be the same basic model. (NEMA, No. 4 at 14.)

DOE has revised the definition of basic model for general service fluorescent lamps to include all lamps with essentially identical light output, power input, and luminous efficacy, regardless of their photometric distribution or CCT. Fluorescent lamps with similar CRIs are included if the CRI meets or exceeds the minimum standards. The definitions of general service fluorescent lamp and incandescent reflector lamp can be found in 10 CFR § 430.2. The following examples are offered to illustrate two families of general service fluorescent lamps that have the same lumen output but different CRI and therefore must be considered as two basic models:

FLUORESCENT LAMP BASIC MODEL #1

Lamp designation	Lamp wattage	Lamp lumen output	Lamp CCT K	Lamp CRI
F40T12 Type A	40	3200	3000	70
F40T12 Type B	40	3200	4000	70
F40T12 Type C	40	3200	5000	70

FLUORESCENT LAMP BASIC MODEL #2

Lamp designation	Lamp wattage	Lamp lumen output	Lamp CCT K	Lamp CRI
F40T12 Type D	40	3200	3000	80
F40T12 Type E	40	3200	4000	80
F40T12 Type F	40	3200	5000	80

Similarly, all of the lamps in a family of incandescent reflector lamps would be considered to be the same basic model if they produced the same total lumen output and used the same power input, even if their photometric distributions (i.e., beam spreads) differed. The following example is given:

INCANDESCENT REFLECTOR LAMP BASIC MODEL #1

Lamp designation	Lamp wattage	Lamp lumen output	Beam spread
PAR30 Type A	75	975	spot.

INCANDESCENT REFLECTOR LAMP BASIC MODEL #1—Continued

Lamp designation	Lamp wattage	Lamp lumen output	Beam spread
PAR30 Type B	75	975	flood.

J. Measures of Energy Consumption

In the Interim Final Rule, the Department described the methods for calculating the estimated operating costs or energy consumption of lamps, based on a comparative use cycle of 1,000 hours per year. The comparative use cycle was intended to be used similarly to the way it was used with fluorescent lamp ballasts, whereby estimated annual operating cost can be multiplied by a factor that represents the anticipated use of the product.

NEMA requested these calculation methods be deleted because FTC does not require annual operating costs or energy consumption on lamp labels since it was determined that such information would not be useful to consumers. (NEMA, No. 4 at 16.) NEMA also commented the procedures for estimating annual energy consumption and operating costs exceeded the Department's authority under § 323(c) of the Act, 42 U.S.C. 6293(c). NEMA further asserted that the Department should subscribe to the FTC findings on annual energy consumption and operating costs because estimated lamp usage is variable and there are no established usage patterns. Therefore, NEMA claimed, computations of annual operating costs or energy consumption based on a comparative use cycle of 1,000 hours per year would be questionable. (NEMA, No. 4 at 16–21.) Texas Gas Transmission Corporation (TGTC) commented that it ''strongly supported'' reporting energy consumption as the estimated annual operating cost expressed in dollars per year but gave no reasons. (TGTC, No. 2 at 4.).

The Department did not require reporting of operating costs or energy consumption information in its Interim Final Rule. Methods for calculating those quantities were given for use in manufacturer representations of energy efficacy, CRI, and energy consumption for general service fluorescent lamps and for incandescent reflector lamps. Since FTC determined that operating costs would not be useful, the Department will delete the calculation of annual operating costs for all lamps. The provisions of § 324(c)(7) of the Act, 42 U.S.C. 6294(c)(7), do not prevent the Department from prescribing calculation methods for representations of energy consumption or lamp efficacy for covered lamps. The Department will continue to require that representations of lamp efficacy and annual energy consumption use data measured by the DOE test procedures. Any number of operating hours may be used to calculate annual energy consumption if the hours and other assumptions are clearly and accurately described in the representation. (See 10 CFR 430.23(r).)

K. CRI Testing

NEMA commented that the sample size for CRI could be smaller than the 20 units tested for lumens and watts. (NEMA, No. 4 at 25.) The Department believes that CRI testing of the same lamps as selected for the lumen and wattage tests is necessary to correlate the average CRI with the average lumens per watt. Furthermore, the Department does not believe a substantial testing burden will result from this level of CRI testing. Therefore, the Department will require that the same sample of 21 lamps tested for luminous efficacy be used for the CRI Test.

L. Lamp Test Period for New and Existing Lamp Models

NEMA stated its understanding that the provision in 10 CFR § 430.24 pertaining to sampling rules for lamps manufactured for fewer than 7 of 12 preceding months applies to existing models only. NEMA believes that 10 CFR § 430.24 should be clarified to allow new models manufactured after November 1, 1995, to be tested over the full 12-month period following such manufacture. (NEMA, No. 4 at 8.)

The Department believes that 10 CFR § 430.24 clearly applies to all basic models of lamps whether new or existing, and it rejects NEMA's attempt to limit application of this section to existing lamps. However, the Department revised 10 CFR § 430.24(r) to clarify sampling requirements for lamps manufactured during fewer than 7 of 12 months within a 12-month period. In this case, manufacturers shall distribute as evenly as possible the random selection of lamps among the months when production occurs.

At the July 19, 1995, workshop, DOE asked whether a shorter test period would be adequate to determine whether fluorescent and incandescent reflector lamps could meet the lumen-per-watt standards for the initial testing of existing lamps. (Workshop Transcript, July 19, 1995, at 240–261.) In response, NEMA proposed a 6-month test period for existing and future lamps if the month-by-month sampling rules are modified. (NEMA, No. 14 at 10.) The Department declines to adopt NEMA's proposal for a 6-month test period for future lamp products because the statute requires a 12-month test period.

M. Certification Data

NEMA commented that 10 CFR § 430.62(c) requires a compliance statement and certification report to be submitted to DOE for new models of covered products prior to or concurrent with any distribution of such model. NEMA claimed that this provision is inconsistent with the last sentence of § 325(i)(7) of the Act, 42 U.S.C. 6295(i)(7), which states that manufacturers have 12 months from the commencement of production of new lamp models to send a report of the lumen output and wattage consumption to DOE. (NEMA, No. 4 at 7.)

NEMA commented that manufacturers must be permitted to sell new models of lamps prior to submission of a certification report based on testing during the first 12 months of manufacturing. NEMA also proposed that the certification report be submitted within 1 month after the 12 month test period. NEMA suggests that a statement of good faith compliance could be submitted prior to distribution of new basic lamp models if the Department is concerned that manufacturers could use the test period to distribute substandard lamps. (NEMA, No. 14 at 10.)

Section 325(i)(7) of EPCA, 42 U.S.C. 6295(i)(7), provides that lamp manufacturers shall have 12 months from the commencement of production to test new products and to certify that they comply with the energy conservation standards. During this test period, however, new lamps that are sold shall meet the applicable standards. The Department will require a statement from manufacturers that new lamp products meet the applicable standards based on information, testing, and analysis such as design analysis,

prototype and initial production tests. The statement must be signed by a responsible company official and contain the date of commencement of manufacturing for each basic model of lamp. A certification report will be required within 1 month following the end of the 12-month testing period. The statement and clarification of the allowance for 12 months' testing of new or existing products is reflected in 10 CFR § 430.62, Submission of Data.

N. Medium Base Compact Fluorescent Lamps and General Service Incandescent Lamps

In its Interim Final Rule, the Department stated that ''covered product'' includes medium base compact fluorescent lamps, to be consistent with the labeling requirements in § 324(a)(2)(C)(i) of EPCA, 42 U.S.C. 6294(a)(2)(C)(i). Furthermore, the Department included the statutory definition for medium base compact fluorescent lamps in the Interim Final Rule. It also expressly included a requirement to calculate the lamp efficacy in 10 CFR § 430.23(r)(2). 59 FR 49468.

NEMA commented that the Department did not have authority under EPCA, as amended, to issue test procedures for medium base compact fluorescent or non-reflector general service incandescent lamps because these products are not covered products. Therefore, NEMA proposed that covered product be revised to include medium base compact fluorescent lamps and general service incandescent lamps. It requested the Department revise the definition of ''general service fluorescent lamp'' to expressly include medium base compact fluorescent lamps. Additionally, NEMA suggested the Department revise the definition of ''medium base compact fluorescent lamp'' to exclude the 4-foot straight and 2-foot U-shaped lamps with wattages greater than 28, and 8-foot slimline and high-output lamps. NEMA also suggested that a change was needed at 10 CFR § 430.62(r)(2) to expressly exclude medium base compact fluorescent lamps from certification reporting. (NEMA, No. 4 at 2, 10 and 11.)

The Department believes that a revision to the definition of medium base compact fluorescent lamp to exclude clauses 1–4 in the definition of fluorescent lamp is unnecessary because a medium base compact fluorescent lamp is not a fluorescent lamp in the context of this regulation; it is a substitute for an incandescent general service lamp. The Department has removed the reference to medium base compact fluorescent lamps and general service incandescent lamps in 10 CFR § 430.23(r)(2), but no other changes are needed in that section because the definitions of basic model adequately delineate which products are subject to standards. Consequently, the Department will not require a certification or compliance report on general service incandescent lamps which are not reflector lamps or on medium base compact fluorescent lamps.

The Department believes that products such as general service incandescent lamps and medium base compact fluorescent lamps that are subject to labeling are covered products. Therefore, the Department has included test procedures for general service incandescent lamps to provide a basis for possible future energy efficiency standards. The Act directs the Department to initiate a rulemaking within 24 months of the effective date of the labeling rule to determine if standards should be promulgated for additional general service incandescent lamps. Section 325(i)(5) of EPCA, 42 U.S.C. 6295(i)(5). Furthermore, the Department has included test procedures for medium base compact fluorescent lamps because the statute considers these lamps as a ''direct replacement for general service incandescent lamps'' by definition. Section 321(30)(S) of EPCA, 42 U.S.C. 6291(30)(S). Given the Department's future need for data to determine whether or not to establish standards, the Department will prescribe test procedures for general service incandescent lamps and medium base compact fluorescent lamps.

O. Test Procedures

NEMA requested that the efficacy measurements for incandescent reflector and general service incandescent lamps be rounded to the nearest .5 lumens per watt rather than the nearest .1 lumens per watt to be consistent with the way the standards were specified. (NEMA, No. 4 at 26.) The Department will continue rounding to the nearest tenth of a lumen per watt to be consistent with conventional practice, to ensure consistency in converting test data into final results, and to retain the significant figures in the standard. For example, if the measured lumens per watt lies between 11.0 and 11.1, and is 11.05 or greater, the value shall be rounded up and reported as 11.1 lumens per watt; if the measured lumens per watt is less than 11.05, the value shall be rounded down and reported as 11.0 lumens per watt.

In the Interim Final Rule, the Department requested comments on the likelihood of greater measurement variations when testing medium base compact fluorescent lamps without a reference ballast. 59 FR 49468. In response, NEMA stated that industry experience suggested it was appropriate to specify the same confidence limits and sample sizes for medium base compact fluorescent lamps as for general service fluorescent lamps. (NEMA, No. 4 at 27.) The Department will not change its sampling plan to account for testing a medium base compact fluorescent lamp without a reference ballast.

The Interim Final Rule incorporated IESNA standard LM–20–1982, incandescent reflector lamp test methods. NEMA, Philips, and IESNA recommended that the Department incorporate by reference the revised 1994 version of LM–20. (NEMA, No. 4 at 28; IESNA, No. 1 at 1; Philips, No. 3 at 2.) Furthermore, IESNA commented that IESNA documents LM–16 (colorimetry of light sources), LM–20 (incandescent reflector lamp test methods) and LM–58 (spectroradiometric measurements) had later publication dates than those listed. (IESNA, No. 1 at 1.) Likewise, NEMA requested that these publication dates be updated. (NEMA, No. 4 at 29.)

The Department has amended the dates of LM–16, LM–20 and LM–58 to the latest published dates. The revision for LM–16 adds state of the art radiometry sensors, and the revisions for LM–58 reorganize the document, add new equations and add diode array sensing. The revisions for LM–20 will make testing of incandescent reflector lamps easier because manufacturers may now use the integrating sphere measurement technique. These revised industry test standards are listed at 10 CFR 430.22(b). Also note that DOE revised section 430.22 to list the industry test standards by the respective standards issuing organizations to make the referenced standards easier to locate.

NEMA requested that subparagraph 4.3.2. of Appendix R, Subpart B, of 10 CFR Part 430 incorporate the entire text of LM–66 for compact fluorescent lamps rather than only Sections 11 and 13. (NEMA, No. 4 at 29.) Philips commented that the Department must remove the requirement for a reference ballast so that an integrally ballasted compact fluorescent lamp can be tested. (Philips, No. 3 at 2.) The Department does not require or use measurements with a reference ballast because that would require separation of the bulb and ballast, which is not possible with an integrally ballasted lamp. However,

since LM–66 contains no provision for measuring integrally ballasted compact fluorescent lamps, the Department will clearly state that it is excepting the requirement for a reference ballast. The Department has incorporated the entire LM–66 because it refers to Sections 1, 2, 3, 7, 11 and 13. However, the Department modified the test requirements in LM–66 to use an integral ballast instead of a reference ballast in its regulations. (See Part 430, Subpart B, Appendix R, paragraph 4.4.)

In their comments regarding the Interim Final Rule, NEMA and Philips stated that the Department incorrectly required the use of alternating current with the IESNA LM–45 test procedure for testing incandescent lamps. (NEMA, No. 4 at 30; Philips, No. 3 at 2.) The Department notes that the IESNA LM–45 standard allows measurements to be performed using direct current or alternating current. Therefore, the Department will modify Appendix R to allow testing with either direct current or alternating current at the rated lamp voltage. (See 10 CFR, Part 430, Subpart B, Appendix R, paragraph 4.2.1.)

NEMA requested the Department amend paragraph 4.3.2 of Appendix R, Subpart B, of 10 CFR Part 430 to permit manufacturers to use the spherical photometry method in accordance with the revised IESNA LM–20–1994. (Spherical photometry was expressly prohibited in 10 CFR, Subpart B, Appendix R, § 4.3.2.) NEMA further stated that light output for incandescent reflector lamps should be measured as total forward lumens. (NEMA, No. 4 at 31.)

The Department lifted its prohibition on the use of the integrating sphere and is referencing IESNA LM–20–1994, which allows the spherical photometry method. IESNA LM–20 was revised so that the measurement procedure for total flux measurement using an integrating sphere, § 7.2, would properly measure only the forward lumens emitted by a reflector lamp, with special care taken to determine sphere photometric calibration using a reference source with similar beam distribution.

In its comments regarding the Interim Final Rule, NEMA requested deletion of selective references to IESNA LM–45 for testing incandescent lamps and inclusion of the entire LM–45. (NEMA, No. 4 at 33.) Although the Interim Final Rule incorporates IESNA LM–45 in its entirety, there are several instances where terms are defined differently within IESNA LM–45. Selective references are necessary to ensure that the most precise definitions are applied to the DOE test procedures.

P. Definitions

In its comments regarding the Interim Final Rule, NEMA stated that the word ''only'' was omitted from the definition of fluorescent lamp in 10 CFR § 430.2. This omission creates a difference from the statutory language of § 321(30)(A) of EPCA, 42 U.S.C. 6291 (30)(A). (NEMA, No. 4 at 11.) The Department has revised the definition to include the word ''only.''

In comments regarding the Interim Final Rule, NEMA suggested that the definition of a cold temperature fluorescent lamp should include a requirement to etch the lamp ''FOR COLD TEMPERATURE USE'' and a requirement for a similar designation in marketing materials. (NEMA, No. 4 at 12.) The Department believes that marking the lamp for cold temperature use and designating it as such in marketing materials will restrict this lamp's use to exempt applications. Therefore, the Department will require manufacturers to expressly designate the lamp for cold temperatures with markings on the lamp and in marketing materials; however, the Department is not specifying the exact language.

Q. National Voluntary Laboratory Accreditation Program (NVLAP)

In the laboratory accreditation program at 10 CFR § 430.25(b), the Department references *NVLAP Handbook 150–01,* July 1994, ''Energy Efficient Lighting Products.'' The Department has determined that *NVLAP Handbook 150–01* is not adequate for laboratory accreditation to DOE test procedures because the handbook does not specifically require laboratory accreditation to the DOE test procedures. This is of particular concern to DOE where international agreements allow NVLAP to recognize foreign accrediting organizations without any requirement to accredit laboratories to the DOE test procedures. Consequently, NVLAP has issued a DOE supplement to *Handbook 150–01* which changes § 5, and Appendices B, C, and G. The new DOE supplement will be used to accredit lighting laboratories to the DOE test procedures. *(NVLAP Handbook 150–1 Supplement.)*

The Department has changed 10 CFR § 430.25 to state that test laboratories must be accredited to perform the DOE test procedures. This includes foreign laboratories accredited by foreign accrediting bodies who may have mutual recognition agreements with NVLAP.

R. Long-life Halogen Lamps

Litetronics commented it has developed a line of 5,000-hour halogen lamps, which are direct competitors to the exempt BR and ER lamps. It claimed these halogen lamps are 20 percent more efficient than ER and BR reflector lamps. However, these lamps will not meet the energy efficiency standards. The lamps are designed for high ceiling applications such as hotel lobbies and shopping malls where it is very expensive to change lamps. Litetronics requested the Department provide an exemption or some other consideration for these lamps in the Final Rule. (Litetronics, No. 12 at 2.)

The advantages of a long-life halogen PAR lamp over the BR and ER exempt lamps were discussed at the lamp workshop on July 19, 1995. Litetronics claimed this lamp is 20 percent more efficient than BR or ER lamps. Angelo Brothers cautioned that an exemption for a long-life halogen lamp would create another loophole for less efficient PAR halogen lamps. OSI stated that several of the lamp manufacturers could take existing halogen lamps, extend their life, and argue for exemption. (Workshop Transcript, July 19, 1995, at 159.)

In further comments, Litetronics claimed long-life halogen lamps were developed after the passage of EPAct assuming halogen lamps would automatically meet the standards. Litetronics claimed it spent resources to develop an energy efficient long-life halogen lamp which has an average life greater than 4,000 hours and will almost meet the minimum lumen per watt requirements in the incandescent reflector lamp standards. Furthermore, Litetronics proposed an interpolation of the lumen per watt and wattage levels by one watt increments since it claimed that all incandescent lamp efficacies change in direct proportion to wattage. Litetronics presented a table showing how closely its 4,000 hour halogen lamps meets its revised lumen per watt number. (Litetronics, No. 21 at 1.) The Litetronics lumen per watt data on its long-life halogen lamps was evaluated by NIST. NIST found the long-life halogen lamp does not meet the standards although it is more efficient than incandescent long-life lamps. Based on the NIST report, DOE concluded that the Litetronics long-life halogen lamp does not meet the energy efficiency standards. DOE also evaluated the interpolation scheme and determined that an interpolation large enough to include these long-life halogen lamps would significantly reduce average lamp efficacy levels below the minimums required by the statute.

Since the exemptions in the statute are for specific applications and do not

provide an express exemption for long-life halogen lamps, the Department can not provide any exemption for these lamps. The Department can only amend standards in a future rulemaking. Although life testing is possible, DOE has decided that this exemption would be difficult to enforce due to test times that exceed 10,000 hours and the need for large samples. However, the Department may reconsider these lamps in a future lamp rulemaking.

IV. Procedural Requirements

A. Review Under the National Environmental Policy Act of 1969

In this rule, the Department will finalize test procedures that will implement statutorily mandated energy conservation standards for incandescent and fluorescent lamps. These test procedures were published as an Interim Final Rule on September 28, 1994, at 59 FR 49468. The Department determined that the Interim Final Rule was covered under the Categorical Exclusion found at paragraph A.6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to the establishment of procedural rulemakings. This Final Rule is also a procedural rulemaking and its implementation will not affect the quality or distribution of energy usage and therefore will not result in any environmental impacts. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

B. Review Under Executive Order 12866, ''Regulatory Planning and Review''

This regulatory action is not a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this action is not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

C. Review Under the Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act of 1980, 5 U.S.C. § 603, requires the preparation of an initial regulatory flexibility analysis for every rule which by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The Department provided the required certification when it published its Interim Final Rule on September 28, 1994, at 59 FR 49468. Consequently, no further action is required for this rulemaking.

D. Review Under Executive Order 12612, ''Federalism''

Executive Order 12612, ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effect on States, on the relationship between the National Government and States, or in the distribution of power and responsibilities among various levels of government. If there are substantial effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

The rule published today would not regulate the States. It primarily would affect the manner in which DOE promulgates energy conservation standards for residential and commercial products, water conservation standards, test procedures, and certification of compliance by manufacturers prescribed under the Energy Policy and Conservation Act. State regulation in this area is largely preempted by the Energy Policy and Conservation Act. Today's rule would not alter DOE's authority and responsibility to regulate in this area. Accordingly, DOE has determined that preparation of a federalism assessment is unnecessary.

E. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

It has been determined pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 52 FR 8859 (March 18, 1988), that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

F. Review Under the Paperwork Reduction Act of 1980

No new information or recordkeeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

G. Review Under Executive Order 12988, ''Civil Justice Reform''

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

H. Review Under Section 32 of the Federal Energy Administration Act of 1974

Pursuant to § 301 of the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy is required to comply with § 32 of the Federal Energy Authorization Act (FEAA), as amended by § 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). Section 32 provides in essence that, where a proposed or Final Rule involves or uses commercial standards, the rulemaking must inform the public of the use and background of such standards.

This Final Rule incorporates by reference Illuminating Engineering Society of North America and American National Standards Institute commercial test procedures to measure the efficacy of general service fluorescent and incandescent lamps, medium base compact fluorescent lamps and the color rendering index of fluorescent lamps. The commercial standards are: IESNA LM–16–1993, IESNA LM–20–1994, IESNA LM–58–1994 and the *Illuminating Engineering Society Lighting Handbook*, Chapter 6, and American National Standards Institute standards C78.21–1989 and C79.1–1994.

The Department of Energy has evaluated IESNA Standards LM–16–

1993, LM–20–1994 and LM–58–1994 and the *Illuminating Engineering Society of North America Lighting Handbook,* Chapter 6, and American National Standards Institute standards C78.21–1989 and C79.1–1994 in light of the public participation criteria of § 32(b). The Department was unable to conclude whether development of these standards fully complied with § 32(b) regarding the manner of public participation.

As required by § 32(c), the Department of Energy has consulted with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of these standards on competition prior to prescribing final test procedures. Neither the Attorney General nor the FTC Chairman rejected any of these industry test standards for anticompetitive reasons.

I. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. 5 U.S.C. 801. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

J. Review Under the Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the Department prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The budgetary impact statement must include: (1) identification of the Federal law under which the rule is promulgated; (2) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to state, local, and tribal governments may be paid with Federal financial assistance; (3) if feasible, estimates of the future compliance costs and of any disproportionate budgetary effects the mandate has on particular regions, communities, non-Federal units of government, or sectors of the economy; (4) if feasible, estimates of the effect on the national economy; and (5) a description of the Department's prior consultation with elected representatives of state, local, and tribal governments and a summary and evaluation of the comments and concerns presented.

The Department has determined that the action proposed today does not include a Federal 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. Therefore, the requirements of Sections 203 and 204 of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Fluorescent and Incandescent lamps, Incorporation by reference.

Issued in Washington, DC, on April 21, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309.

2. Section 430.1 is revised to read as follows:

430.1 Purpose and scope.

This part establishes the regulations for the implementation of part B of title III (42 U.S.C. 6291–6309) of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by Pub. L. 95–619, Pub. L. 100–12, Pub. L. 100–357, and Pub. L. 102–486 which establishes an energy conservation program for consumer products other than automobiles.

3. Section 430.2 of Subpart A is amended by revising paragraphs (15) and (16) in the definition ''Basic model,'' by revising the definitions for ''Cold temperature fluorescent lamp,'' ''Fluorescent lamp,'' and ''Incandescent lamp,'' and by adding new definitions for ''BR incandescent reflector lamp,'' ''Colored fluorescent lamp,'' ''Colored incandescent lamp,'' ''Correlated color temperature,'' ''Design voltage,'' ''ER incandescent reflector lamp,'' ''Incandescent reflector lamp,'' ''Rated voltage,'' ''Rated wattage,'' ''Residential straight-shaped lamp,'' ''Rough or vibration service incandescent reflector lamp,'' and ''Voltage range.'' These amendments occur in alphabetical order, to read as follows:

§ 430.2 Definitions.

* * * * *

Basic model * * *

* * * * *

(15) With respect to general service fluorescent lamps, means lamps that have essentially identical light output and electrical characteristics—including lumens per watt and color rendering index (CRI)—and that do not have any differing physical or functional characteristics that affect energy consumption or efficacy.

(16) With respect to incandescent reflector lamps, means lamps that have essentially identical light output and electrical characteristics—including lumens per watt—and that do not have any differing physical or functional characteristics that affect energy consumption or efficacy.

* * * * *

BR incandescent reflector lamp means a reflector lamp that has a bulged section below the bulb's major diameter and above its approximate base line as shown in Figure 1 (RB) on page 7 of ANSI C79.1–1994. A BR30 lamp has a lamp wattage of 85 or less than 66 and a BR40 lamp has a lamp wattage of 120 or less.

* * * * *

Cold temperature fluorescent lamp means a fluorescent lamp specifically designed to start at −20°F when used with a ballast conforming to the requirements of ANSI Standard C78.1–1991, and is expressly designated as a cold temperature lamp both in markings on the lamp and in marketing materials, including but not limited to catalogs, sales literature, and promotional material.

* * * * *

Colored fluorescent lamp means a fluorescent lamp designated and marketed as a colored lamp, and with either of the following characteristics: a CRI less than 40, as determined according to the method given in CIE Publication 13.2 (see 10 CFR 430.22), or a lamp correlated color temperature less than 2,500K or greater than 6,600K.

Colored incandescent lamp means an incandescent lamp designated and marketed as a colored lamp that has a CRI less than 50, as determined according to the method given in CIE Publication 13.2 (see 10 CFR 430.22); has a correlated color temperature less than 2,500K or greater than 4,600K; has a lens containing 5 percent or more neodymium oxide; or contains a filter to suppress yellow and green portions of the spectrum and is specifically designed, designated and marketed as a plant light.

* * * * *

Correlated color temperature means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

* * * * *

Design voltage with respect to an incandescent lamp means:

(1) The voltage marked as the intended operating voltage;

(2) The mid-point of the voltage range if the lamp is marked with a voltage range; or

(3) 120 V if the lamp is not marked with a voltage or voltage range.

* * * * *

ER incandescent reflector lamp means a reflector lamp with an elliptical section below the bulb's major diameter and above its approximate baseline as shown in Figure 1 (RE) on page 7 of ANSI C79.1–1994 (see 10 CFR 430.22) and a finished size and shape shown in ANSI C78.21-1989 including the referenced reflective characteristics in part 7 of ANSI C78.21–1989 (see 10 CFR 430.22).

* * * * *

Fluorescent lamp means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

(1) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

(2) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

(3) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1991.

(4) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1991.

* * * * *

Incandescent lamp means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

(1) Any lamp (commonly referred to as lower wattage non-reflector general service lamps, including any tungsten halogen lamp) that has a rated wattage between 30 and 199, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially in the range of 115 and 130 volts, and is not a reflector lamp.

(2) Any incandescent reflector lamp.

(3) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 (above 205 for a high wattage reflector lamp).

Incandescent reflector lamp (commonly referred to as a reflector lamp) means any lamp in which light is produced by a filament heated to incandescence by an electric current, which: is not colored or designed for rough or vibration service applications that contains an inner reflective coating on the outer bulb to direct the light; has an R, PAR or similar bulb shape (excluding ER or BR) with an E26 medium screw base; has a rated voltage or voltage range that lies at least partially in the range of 115 and 130 volts; has a diameter that exceeds 2.75 inches; and is either a low(er)-wattage reflector lamp that has a rated wattage between 40 and 205; or a high(er)-wattage reflector lamp that has a rated wattage above 205.

* * * * *

Rated voltage with respect to incandescent lamps means:

(1) The design voltage if the design voltage is 115 V, 130 V or between 115V and 130 V:

(2) 115 V if the design voltage is less than 115 V and greater than or equal to 100 V and the lamp can operate at 115 V; and

(3) 130 V if the design voltage is greater than 130 V and less than or equal to 150 V and the lamp can operate at 130 V.

* * * * *

Rated wattage, with respect to 4-foot medium bi-pin T8, T10 or T12 lamps, means:

(1) If the lamp is listed in ANSI C78.1–1991, the nominal wattage of a lamp determined by the lamp designation in Annex A.2 of ANSI C78.1–1991; or

(2) If the lamp is a residential straight-shaped lamp, the wattage a lamp consumes when operated on a reference ballast for which the lamp is designed; or

(3) If the lamp is neither listed in ANSI C78.1–1991 nor a residential straight-shaped lamp, the wattage a lamp consumes when using reference ballast characteristics of 236 volts, 0.43 amps and 439 ohms for T10 or T12 lamps or reference ballast characteristics of 300 volts, 0.265 amps and 910 ohms for T8 lamps.

* * * * *

Residential straight-shaped lamp means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including a straight-shaped fluorescent lamp with medium bi-pin bases of nominal overall length of 48 inches and is either designed exclusively for residential applications; or designed primarily and marketed exclusively for residential applications.

(1) A lamp is designed exclusively for residential applications if it will not function for more than 100 hours with a commercial high-power-factor ballast.

(2) A lamp is designed primarily and marketed exclusively for residential applications if it:

(i) Is permanently and clearly marked as being for residential use only;

(ii) Has a life of 6,000 hours or less when used with a commercial high-power-factor ballast;

(iii) Is not labeled or represented as a replacement for a fluorescent lamp that is a covered product; and

(iv) Is marketed and distributed in a manner designed to minimize use of the lamp with commercial high-power-factor ballasts.

(3) A manufacturer may market and distribute a lamp in a manner designed to minimize use of the lamp with commercial high-power-factor ballasts by:

(i) Packaging and labeling the lamp in a manner that clearly indicates the lamp is for residential use only and includes appropriate instructions concerning proper and improper use; if the lamp is included in a catalog or price list that also includes commercial/industrial lamps, listing the lamp in a separate residential section accompanied by notes about proper use on the same page; and providing as part of any express warranty accompanying the lamp that improper use voids such warranty; or

(ii) Using other comparably effective measures to minimize use with commercial high-power-factor ballasts.

* * * * *

Rough or vibration service incandescent reflector lamp means a reflector lamp: in which a C–11 (5 support), C–17 (8 support), or C–22 (16 support) filament is mounted (the number of support excludes lead wires); in which the filament configuration is as shown in Chapter 6 of the 1993 *Illuminating Engineering Society of North America Lighting Handbook*, 8th Edition (see 10 CFR 430.22); and that is designated and marketed specifically for rough or vibration service applications.

* * * * *

Voltage range means a band of operating voltages as marked on an

incandescent lamp, indicating that the lamp is designed to operate at any voltage within the band.

* * * * *

4. Section 430.22 of Subpart B, is amended by revising the heading for paragraph (a), revising paragraphs (a)(1) and (a)(2)(ii), removing paragraphs (a)(3) and (a)(4), redesignating paragraph (b) as (c), adding a new paragraph (b) and revising redesignated paragraph (c)(1), to read as follows:

§ 430.22 Reference sources.

(a) *Industry Test Standards Incorporated by Reference.*

(1) *General.* The following standards, which are not otherwise set forth in part 430, are incorporated by reference and made a part of part 430. The standards listed in this section have been approved for incorporation by reference by the Director of the Federal Register. The specified versions of the standards are incorporated, and any subsequent amendment to a standard by the standard-setting organization will not affect the DOE test procedures unless and until those test procedures are amended by DOE.

(2) * * *

(ii) U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Hearings and Dockets, Forrestal Building, 1000 Independence Ave, SW, Washington, DC 20585.

(b) *List of Sources and Standards Incorporated by Reference.*

(1) American National Standards Institute (ANSI). The ANSI standards listed in this paragraph may be obtained from the American National Standards Institute, 1430 Broadway, New York, NY 10018, (212) 642–4900.

1. ANSI C78.1–1991, ''for Fluorescent Lamps—Rapid-Start Types—Dimensional and Electrical Characteristics''
2. ANSI C78.2–1991, ''for Fluorescent Lamps—Preheat-Start Types—Dimensional and Electrical Characteristics of Fluorescent Lamps''
3. ANSI C78.3–1991, ''for Fluorescent Lamps—Instant-Start and Cold-Cathode Types—Dimensional and Electrical Characteristics''
4. ANSI C78.375–1991, ''for Fluorescent Lamps—Guide for Electrical Measurements''
5. ANSI C82.3–1983 ''for Reference Ballasts for Fluorescent Lamps''
6. ANSI C79.1–1994, ''Nomenclature for Glass Bulbs—Intended for Use with Electric Lamps''
7. ANSI C78.21–1989, ''Incandescent Lamps—PAR and R Shapes''

(2) Illuminating Engineering Society of North America (IESNA). The IESNA standards listed in this paragraph may be obtained from the Illuminating Engineering Society of North America, 120 Wall Street, Floor 17, New York, NY 10005–4001, (212) 248–5000.

1. Illuminating Engineering Society LM–9–88, ''IES Approved Method for the Electrical and Photometric Measurements of Fluorescent Lamps''
2. Illuminating Engineering Society of North America LM–16–1993, ''IESNA Practical Guide to Colorimetry of Light Sources''
3. Illuminating Engineering Society of North America LM–20–1994, ''IESNA Approved Method for Photometric Testing of Reflector-Type Lamps''
4. Illuminating Engineering Society of North America LM–45–91, ''IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps''
5. Illuminating Engineering Society of North America LM–58–1994, ''IESNA Guide to Spectroradiometric Measurements''
6. Illuminating Engineering Society of North America LM–66–1991, ''IES Approved Method for the Electrical and Photometric Measurements of Single-Ended Compact Fluorescent Lamps''
7. *Illuminating Engineering Society of North America Lighting Handbook, Reference and Application,* 8th Edition, 1993, Chapter 6, Light Sources

(3) International Commission on Illumination (CIE). The CIE standards listed in this paragraph may be obtained from the International Commission on Illumination, CIE Bureau Central, Kegelgasse 27, A–1030, Vienna, Austria. CIE publications are also available from TLA Lighting Consultants, 7 Pond Street, Salem, MA 10970, (508) 745–6870.

1. International Commission on Illumination (CIE) Publication No. 13.2 1974, corrected reprint 1993, ''Method of Measuring and Specifying Color Rendering Properties of Light Sources,'' ISBN 3 900 734 39 9

(c) *Reference Standards.* (1) *General.* The standards listed in this paragraph are referred to in the DOE test procedures and elsewhere in 10 CFR part 430 but are not incorporated by reference. These sources are given here for information and guidance.

* * * * *

5. Section 430.23(r) is revised to read as follows:

§ 430.23 Test procedures for measures of energy consumption.

* * * * *

(r) *General Service Fluorescent Lamps and General Service Incandescent Lamps.*

(1) The estimated annual energy consumption for general service fluorescent lamps and incandescent reflector lamps, expressed in kilowatt-hours per year, shall be the product of the input power in kilowatts as determined in accordance with section 4 of Appendix R to this subpart and an average annual use specified by the manufacturer, with the resulting product rounded off to the nearest kilowatt-hour per year. Manufacturers must provide a clear and accurate description of the assumptions used for the estimated annual energy consumption.

(2) The lamp efficacy for general service fluorescent lamps shall be equal to the average lumen output divided by the average lamp wattage as determined in section 4 of Appendix R of this subpart, with the resulting quotient rounded off to the nearest lumen per watt.

(3) The lamp efficacy for incandescent reflector lamps shall be equal to the average lumen output divided by the average lamp wattage as determined in section 4 of Appendix R of this subpart, with the resulting quotient rounded off to the nearest tenth of a lumen per watt.

(4) The color rendering index of a general service fluorescent lamp shall be tested and determined in accordance with section 4.5 of Appendix R of this subpart and rounded off to the nearest unit.

6. Section 430.24(r) is revised to read as follows:

§ 430.24 Units to be tested.

* * * * *

(r)(1) For each basic model of general service fluorescent lamp and incandescent reflector lamp, samples of production lamps shall be tested and the results for all samples shall be averaged for a 12-month period. A minimum sample of 21 lamps shall be tested. The manufacturer shall randomly select a minimum of three lamps from each month of production for a minimum of 7 out of the 12-month period. In the instance where production occurs during fewer than 7 of such 12 months, the manufacturer shall randomly select a 3 or more lamps from each month of production, where the number of lamps selected for each month shall be distributed as evenly as practicable among the months of production to attain a minimum sample of 21 lamps. Any represented value of lamp efficacy of a basic model shall be based on the sample and shall be no greater than the lower of the mean of the sample or the lower 95-percent confidence limit of the true mean (X_L) divided by 0.97, i.e.,

$$\frac{\bar{x} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)}{0.97}$$

where:

$\bar{x}$=the mean luminous efficacy of the sample
s=the sample standard deviation
$t_{0.95}$=the t statistic for a 95-percent confidence limit for n-1 degrees of freedom (from statistical tables)
n=sample size

(2) For each basic model of general service fluorescent lamp, the color rendering index (CRI) shall be measured from the same lamps selected for the lumen output and watts input measurements in paragraph (r)(1) of this section, i.e., the manufacturer shall measure all lamps for lumens, watts input, and CRI. The CRI shall be represented as the average of a minimum sample of 21 lamps and shall be no greater than the lower of the mean of the sample or the lower 95-percent confidence limit of the true mean (X_L) divided by 0.97, i.e.,

$$\frac{\bar{x} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)}{0.97}$$

where:

$\bar{x}$=the mean color rendering index of the sample
s=the sample standard deviation
$t_{0.95}$=the t statistic for a 95-percent confidence limit for n-1 degrees of freedom (from statistical tables)
n=sample size

7. Section 430.25 is revised to read as follows:

§ 430.25 Laboratory Accreditation Program.

The testing for general service fluorescent lamps, general service incandescent lamps, incandescent reflector lamps, and medium base compact fluorescent lamps, shall be performed in accordance with Appendix R to this subpart and shall be conducted by test laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) or by an accrediting organization recognized by NVLAP. NVLAP is a program of the National Institute of Standards and Technology, U. S. Department of Commerce. NVLAP standards for accreditation of laboratories that test for compliance with standards for lamp efficacy and CRI are given in 15 CFR part 285 as supplemented by *NVLAP Handbook 150–01,* ''Energy Efficient Lighting Products, Lamps and Luminaires.'' A manufacturer's or importer's own laboratory, if accredited, may conduct the applicable testing.

8. Sections 430.62(b) and (c) are revised to read as follows:

§ 430.62 Submission of data.

* * * * *

(b) *Initial reporting requirements.* (1) Except as provided in paragraph (b)(2) of this section, all data required by paragraph (a) of this section shall be submitted on or before the effective date of the applicable energy conservation standard as prescribed in section 325 of the Act. For each basic model of a covered product to be distributed in commerce, each manufacturer and private labeler, or a representative of each manufacturer and private labeler, shall file a compliance statement and certification report, by certified mail, to Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of Codes and Standards, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121.

(2) Manufacturers of a basic model of a covered general service fluorescent lamp or incandescent reflector lamp shall file a compliance and certification report to DOE within 6 months from May 29, 1997.

(c) *New models.* (1) Except as provided in paragraph (c)(2) of this section, all information required by paragraph (a)(2) of this section shall be submitted for each new model prior to or concurrent with any distribution of such model. Any change to a basic model that affects energy consumption may constitute the addition of a new basic model subject to the requirements of § 430.61 of this part. If such change does not alter compliance with the applicable energy conservation standard for the basic model, the new model shall be considered certified without additional testing. In all cases, the information on the new model required by paragraph (a)(2) of this section shall be submitted, by certified mail, to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of Codes and Standards, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121. If a manufacturer discontinues a model, the manufacturer shall report such discontinuation by certified mail to the Department of Energy.

(2) Prior to or concurrent with the distribution of a new model of general service fluorescent lamp or an incandescent reflector lamp, a manufacturer shall submit a statement signed by a company official stating how the manufacturer determined that the lamp meets or exceeds the energy conservation standards, including a description of any testing or analysis the manufacturer performed. This statement shall also list the model number or descriptor, lamp wattage and date of commencement of manufacture. Manufacturers of general service fluorescent lamps and incandescent reflector lamps shall submit the information required by paragraph (a)(2) of this section within one year after the date manufacture of that new model commences.

* * * * *

9. Appendix R to Subpart B of Part 430—Uniform Test Method for Measuring Average Lamp Efficacy (LE) and Color Rendering Index (CRI) of Electric Lamps is revised to read as follows:

1. *Scope:* This appendix applies to the measurement of lamp lumens, electrical characteristics and CRI for general service fluorescent lamps, and to the measurement of lamp lumens and electrical characteristics for general service incandescent lamps, incandescent reflector lamps and medium base compact fluorescent lamps.

2. *Definitions*

2.1 To the extent that definitions in the IESNA and CIE standards do not conflict with the DOE definitions, the definitions specified in § 1.2 of IESNA LM–9, § 3.0 of IESNA LM–20, § 2 of IESNA LM–45, § 2 of IESNA LM–58, § 1.2 of IESNA LM–66 and § IV of CIE Publication No. 13.2 shall be included.

2.2 *ANSI Standard* means a standard developed by a committee accredited by the American National Standards Institute (ANSI).

2.3 *CIE* means the International Commission on Illumination.

2.4 *CRI* means Color Rendering Index as defined in § 430.2.

2.5 *IESNA* means the Illuminating Engineering Society of North America.

2.6 *Lamp efficacy* means the ratio of measured lamp lumen output in lumens to the measured lamp electrical power input in watts, rounded to the nearest whole number, in units of lumens per watt.

2.7 *Lamp lumen output* means the total luminous flux produced by the lamp, at the reference condition, in units of lumens.

2.8 *Lamp electrical power input* means the total electrical power input to the lamp, including both arc and cathode power where appropriate, at the reference condition, in units of watts.

2.9 *Reference condition* means the test condition specified in IESNA LM–9 for general service fluorescent lamps, in IESNA LM–20 for incandescent reflector lamps, in IESNA LM–45 for general service incandescent lamps and in IESNA LM–66 for medium base compact fluorescent lamps (see 10 CFR 430.22).

3. *Test Conditions*

3.1 *General Service Fluorescent Lamps:* For general service fluorescent lamps, the ambient conditions of the test and the electrical circuits, reference ballasts, stabilization requirements, instruments, detectors, and photometric test procedure and test report shall be as described in the relevant sections of IESNA LM–9 (see 10 CFR 430.22).

3.2 *General Service Incandescent Lamps:* For general service incandescent lamps, the selection and seasoning (initial burn-in) of the test lamps, the equipment and instrumentation, and the test conditions shall be as described in IESNA LM–45 (see 10 CFR 430.22).

3.3 *Incandescent Reflector Lamps:* For incandescent reflector lamps, the selection and seasoning (initial burn-in) of the test lamps, the equipment and instrumentation, and the test conditions shall conform to sections 4.2 and 5.0 of IESNA LM–20 (see 10 CFR 430.22).

3.4 *Medium Base Compact Fluorescent Lamps:* For medium base compact fluorescent lamps, the selection, seasoning and stabilization of the test lamps, and the test conditions, shall be as described in Sections 1, 2, 3, and 7 of IESNA LM–66 (see 10 CFR 430.22).

4. *Test Methods and Measurements*

All lumen measurements made with instruments calibrated to the devalued NIST lumen after January 1, 1996, shall be multiplied by 1.011.

4.1 *General Service Fluorescent Lamps*

4.1.1 The measurement procedure shall be as described in IESNA LM–9, except that lamps shall be operated at the appropriate voltage and current conditions as described in ANSI C78.375 and in ANSI C78.1, C78.2 or C78.3, and lamps shall be operated using the appropriate reference ballast as described in ANSI C82.3 (see 10 CFR 430.22).

4.1.2 Lamp lumen output (lumens) and lamp electrical power input (watts), at the reference condition, shall be measured and recorded. Lamp efficacy shall be determined by computing the ratio of the measured lamp lumen output and lamp electrical power input at equilibrium for the reference condition.

4.2 *General Service Incandescent Lamps*

4.2.1 The measurement procedure shall be as described in IESNA LM–45 (see 10 CFR 430.22). Lamps shall be operated at the rated voltage as defined in § 430.2.

4.2.2 The test procedure shall conform with section 7 of IESNA LM–45 and the lumen output of the lamp shall be determined in accordance with Sections 4.2a or 4.2b of IESNA LM–45 at the reference condition. Lamp electrical power input in watts shall be measured and recorded. Lamp efficacy shall be determined by computing the ratio of the measured lamp lumen output and lamp electrical power input at equilibrium for the reference condition. The test report shall conform to § 8 of IESNA LM–45 (see 10 CFR § 430.22).

4.3 *Incandescent Reflector Lamps*

4.3.1 The measurement procedure shall be as described in IESNA LM–20 (see 10 CFR 430.22). Lamps shall be operated at the rated voltage as defined in § 430.2.

4.3.2. Lamp lumen output shall be determined as total forward lumens, and may be measured in an integrating sphere at the reference condition in accordance with § 7.2 of IESNA LM–20 (see 10 CFR 430.22) or from an average intensity distribution curve measured at the reference condition specified in § 6.0 of IESNA LM–20. Lamp electrical power input in watts shall be measured and recorded.

4.3.3 Lamp efficacy shall be determined by computing the ratio of the measured lamp lumen output and lamp electrical power input at equilibrium for the reference condition. The test report shall conform to section 10.0 of IES LM–20 (see § 430.22).

4.4 *Medium Base Compact Fluorescent Lamps*

4.4.1 The measurement procedure shall be as described in IESNA LM–66 (see 10 CFR 430.22) except that the provisions of IESNA LM–66 which refer to operation of the lamp using a reference ballast do not apply to the testing of integrally ballasted compact fluorescent lamps. Lamps shall be operated at 120 V and 60 Hertz. Lamp lumen output shall be measured with the integral ballast according to section 11.3 of IESNA LM–66. Lamp electrical power input in watts shall be measured and recorded.

4.4.2 Lamp efficacy shall be determined by computing the ratio of the measured lamp lumen output and lamp electrical power input at equilibrium for the reference condition. The test report shall conform to section 13 of IESNA LM–66 (see 10 CFR 430.22).

4.5 *Determination of Color Rendering Index*

4.5.1 The CRI shall be determined in accordance with the method specified in CIE Publication 13.2 for general service fluorescent lamps. The required spectroradiometric measurement and characterization shall be conducted in accordance with the methods given in IESNA LM–58 and IESNA LM–16 (see 10 CFR 430.22).

4.5.2 The test report shall include a description of the test conditions, equipment, measured lamps, spectroradiometric measurement results and CRI determination.

[FR Doc. 97–13793 Filed 5–28–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Register

Thursday
May 29, 1997

Part IV

Department of Health and Human Services

Administration for Children and Families

Fiscal Year 1997 Family Violence Prevention and Services Discretionary Funds Program; Availability of Funds and Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 97–07]

Fiscal Year 1997 Family Violence Prevention and Services Discretionary Funds Program; Availability of Funds and Request for Applications

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of the availability of funds and request for applications under the Office of Community Services Family Violence Prevention and Services Discretionary Funds Program.

SUMMARY: The Office of Community Services (OCS) announces its Family Violence Prevention and Services discretionary funds program for fiscal year (FY) 1997. Funding for grants under this announcement is authorized by the Family Violence Prevention and Services Act, Public Law 102–295, as amended, governing discretionary programs for family violence prevention and services. Applicants should note that the award of grants and cooperative agreements under this program announcement is subject to the availability of funds. This announcement contains all forms and instructions for submitting an application.

CLOSING DATE: The closing date for submission of applications is July 28, 1997. Applications postmarked after the closing date will be classified as late. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing. Detailed application submission instructions, including the addresses where applications must be received, are found in Part IV of this announcement.

ADDRESSES: Applications may be mailed to Department of Health and Human Services, Administration for Children and Families/Division of Discretionary Grants, (OCS–97–07), 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center 901 D Street, S.W., Washington, DC 20447, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447. Telephone Trudy Hairston, (202) 401–5319, James Gray, (202) 401–5705, or William Riley (202) 401–5529.

SUPPLEMENTARY INFORMATION:

The Office of Community Services, Administration for Children and Families, announces that applications are being accepted for funding for FY 1997 projects on:

- FV–01–97, Developing and Enhancing Services for Immigrant and Migrant Battered Women;
- FV–02–97, Domestic Violence/ Temporary Assistance for Needy Families (Welfare Reform);
- FV–03–97, A Special Issue Resource Center to Aid Indian Tribes and Tribal Organizations in Preventing Domestic Violence; and
- FV–04–97, Training Grant Stipends in Domestic Violence for Historically Black, Hispanic-serving and Tribal Colleges and Universities.

This program announcement consists of four parts.

Part I provides information on the family violence prevention and services program and the statutory funding authority applicable to this announcement.

Part II describes the priority areas under which applications for FY 1997 family violence funding are being requested.

Part III describes the review process.

Part IV provides information and instructions for the development and submission of applications.

The forms to be used for submitting an application follow Part IV. Please copy and use these forms in submitting an application under this announcement. *No additional application materials are available or needed to submit an application.*

Part I. Introduction

Title III of the Child Abuse Amendments of 1984, (Pub. L. 98–457, 42 U.S.C. 10401, *et seq.*) is entitled the Family Violence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Pub. L. 102–295, and was amended and reauthorized for fiscal years 1996 through 2000 by Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Bill), signed into law on September 13, 1994. The Act was most recently amended by Pub. L. 104–235, the ''Child Abuse Prevention and Treatment Act Amendment of 1996.''

The purpose of this legislation is to assist States in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and provide immediate shelter and related assistance for victims of family violence and their dependents.

We expect to fund four priority areas in FY 1997. (These include three new areas in which OCS will seek interested applicants for this fiscal year.)

1. To develop and enhance the services and supports available to immigrant and migrant battered victims of domestic violence by supporting collaborations between domestic violence, immigration, and migrant-serving organizations by providing organizations an opportunity to jointly design, develop, and implement collaborative projects addressing key issues or areas of concern facing immigrant and/or migrant battered women and their families.

2. The implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, also known as ''welfare reform,'' has provided an opportunity for creative and challenging collaborations regarding the work requirements and penalties under the law and the policy and operational implications for domestic violence victims. The OCS will invite interested agencies and advocacy organizations to identify and initiate collaborations in these areas;

3. The establishment of a special issue resource center for Indian Tribes and Tribal organizations. The proposed resource center is predicated on the unique government-to-government relationship between the U.S. Federal government and the Federally recognized Indian Tribes as well as the need for increased support for the work that is being initiated by Indian advocates in their communities; and

4. The provision of training grant stipends to Historically Black, Hispanic-Serving and Tribal Colleges and Universities will assist in generating skill-building and training opportunities particularly responsive to issues of cultural content and the extent to which some minority groups participate in the domestic violence system.

Part II. Fiscal Year 1997 Family Violence Projects

1. Priority Area Number FV–01–97: Developing and Enhancing Services for Immigrant and Migrant Battered Women

Background

Today the numbers of battered immigrant and migrant women who receive services from domestic violence programs is extremely small. Immigrant and migrant women may feel alienated by mainstream shelters and domestic violence programs where food and customs are completely foreign and where staff and other program participants do not speak their language. Traditional public education efforts conducted by domestic violence programs often fail to adequately reach immigrant and migrant communities due to language and other barriers.

Immigrant battered women have great difficulty accessing services to assist them in escaping domestic violence. They encounter numerous barriers in the legal system that makes accessing services even more difficult than for other abuse victims. Few police officers are bilingual; few court systems have multi-lingual staff or interpreters; and few culturally sensitive programs provide services to immigrant domestic violence victims. Battered immigrant women often need creative legal remedies that redress the effects of their abusers' control over their immigration status or that prevent international child snatching. In other cases, battered women will have to fight the abuser's attempts to wrongly introduce immigration concerns into their family law cases in an attempt to shift the focus of the case away from his violent behavior.

A number of unique issues face migrant families dealing with domestic violence: continuity of critical social services, enforcement of protection orders, securing shelter and support services for battered women and their children, and intervention services for batterers. Systems that link migrant health services with the domestic violence program network are almost non-existent.

Purpose

To develop and enhance the services and supports available to immigrant and migrant victims of domestic violence by supporting collaborations between domestic violence, immigration, and migrant-serving organizations. To offer the applicant organizations an opportunity to jointly design, develop, and implement collaborative projects addressing key issues or areas of concern facing immigrant and/or migrant battered women and their families.

Efforts are to be focused on the joint development of model protocols and programs, training curricula and materials, models of cross-training, and the conduct of training for staff at agencies working in immigrant and migrant communities and with domestic violence victims. Training would focus on ensuring that those coming into contact with immigrant or migrant victims of domestic violence understand how both domestic violence and immigrant or migrant status affect an individual's need for services. Of particular importance, also, is cultural sensitivity, which may make it more difficult for an individual to access or respond to particular services.

The development of model protocols and programs and the training of immigrant and migrant-serving agency representatives and domestic violence advocates will enable the most efficient and effective response to the often complex concerns arising when an immigrant or migrant worker is facing domestic violence. These activities may include outreach to and the identification, assessment, and referral of potential victims of domestic violence to appropriate culturally-sensitive crisis intervention, legal representation, support and other related services and programs. Moreover, to be effective, these activities should demonstrate culturally-sensitive case coordination by all the agencies and advocates involved that respond to the safety, confidentiality, and services needs of immigrant and migrant domestic violence victims.

The design, development and implementation of protocols for effective strategies are needed to:

(1) Ensure confidentiality of client information at every stage of the process;

(2) Enlighten domestic violence advocates and agencies regarding the impact of immigrant or migrant status on the victim's needs, access, and response to services;

(3) Advise immigration and migrant advocates and agencies of the impact of domestic violence on their immigrant or migrant clients' needs, access, and response to services;

(4) Ensure the safety of domestic violence victims who are involved in immigration proceedings, family law proceedings, or interstate or intrastate migrant farmworker networks; and

(5) Promote collaborations that bring together the expertise and services of domestic violence programs and agencies working with immigrant and migrant communities to enhance and coordinate services delivery.

Applicants may propose to do one or more of the following:

(a) Plan and implement the training of domestic violence advocates, immigration rights organizations, migrant health and social services agencies, and/or social services providers on the relationship of domestic violence and immigration and migrant status, including the development of reproducible training curricula and materials;

(b) Develop and implement a system of recruiting, training, and providing backup expert support to pro bono immigration attorneys and shelter advocates, as well as peer advocates, to work with immigrant battered women to secure culturally sensitive and responsive services and enhance safety;

(c) Develop effective outreach strategies for domestic violence programs to recruit and train culturally sensitive staff, develop culturally sensitive and responsive materials, and more effectively reach immigrant and migrant communities, including the design and pilot testing of radio and television PSAs targeted to reach isolated domestic violence victims;

(d) Develop a model of intrastate and interstate networks of domestic violence services to meet the unique needs of migrant farmworker families dealing with domestic violence, including links with migrant health centers and legal services; and

(e) Gather and submit data on the types of interventions and the effects of those interventions on helping immigrant and migrant battered women receive adequate services.

Products should include reproducible materials, and replicable models of programs, curricula, policies, and protocols.

Eligible Applicants

State and local public agencies, erritories, Federally recognized American Indian Tribes and Tribal Organizations, and Native American communities; public and private nonprofit agencies providing services to immigrant or migrant communities; domestic violence advocacy organizations; and State and local domestic violence coalitions.

The applicant organization must submit a Memorandum of Understanding (MOU) between and among the collaborating organizations. The MOU must identify the projected role and responsibilities of each proposed participant organization in the implementation of the project and the level of commitment in providing

training, assistance, and or services to victims of domestic violence and migrant advocacy organizations working in their behalf.

Project Period

The length of the project will not exceed 17 months.

Federal Share of the Project

The maximum Federal share of the project is not to exceed $50,000 for the 17 month project period. Applications for lesser amounts also will be considered for this project.

Matching Requirement

Successful grantees must provide at least 25 percent of the total cost of the project. The total cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $50,000 in Federal funds (based on an award of $50,000 per budget period) must include a match of at least $16,666 (25% of total project cost) for a total budget of $66,666.

Anticipated Number of Projects to be Funded

It is anticipated that four projects may be funded at the maximum level; more than four projects may be funded depending on the number of acceptable applications for lesser amounts which are received.

CFDA: 93.592 Family Violence Prevention and Services: Family Violence Prevention and Services Act, as amended.

2. Priority Area Number FV–02–97: Domestic Violence/Temporary Assistance for Needy Families (TANF) Program (welfare reform)

Background

On August 22, 1997, Pub. L. 104–193, the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA) was enacted. Also known as ''welfare reform,'' it abolishes the Aid to Families with Dependent Children (AFDC) and the Job Opportunities and Basic Skills (JOBS) Training programs and replaces them with the Temporary Assistance for Needy Families (TANF) State block grant program. The TANF program includes specific work participation requirements and penalizes States if these standards are not met.

The Family Violence Amendment, section 402(a)(7) of the Social Security Act, also known as the Wellstone/Murray Amendment, is an optional certification for States to develop a three-pronged strategy for helping victims of domestic violence applying for, or receiving welfare move successfully into the work force. The strategy includes: (1) Identifying a victim of domestic violence as that person enters the assistance system; (2) waiving certain program requirements if compliance would put the victim at risk of further violence, make it more difficult for the victim to escape violence, or unfairly penalize the victim; and (3) providing referrals for supportive services. The goal of this grant is to promote services to victims of domestic violence who are TANF applicants or recipients regardless of whether a State has chosen to implement the Family Violence Amendment.

Purpose

To develop effective strategies for integrating domestic violence services into State/local or Tribal welfare service systems to promote services, including crisis intervention and other domestic violence services, to victims of domestic violence, while assisting victims towards employment and self-sufficiency.

Moreover, to offer the applicant organizations an opportunity to jointly design, develop, and implement collaborative projects addressing several issues or areas of concern among State and local TANF and Tribal TANF programs and the domestic violence community and other community-based organizations providing services to victims of domestic violence.

Minimum Requirements for Project Design

Efforts are to be focused on the joint development of model protocols and programs, training curricula and materials, models of cross-training, training of front-line staff in welfare offices and the training of domestic violence advocates and service providers. The public agency staff trained would include anyone in the local welfare office or related offices (such as child support enforcement or job training programs) who has direct contact with TANF applicants/recipients.

Domestic violence advocates would be trained in State/local and Tribal TANF office procedures, child support enforcement, paternity establishment, and job training and work activity issues to the extent that the procedures and programs impact upon victims of domestic violence.

Protocols for effective strategies of intervention should be considered to:

(1) Ensure confidentiality of client information at every stage of the process;

(2) Enlighten TANF eligibility workers and case workers, job training and employment personnel, and child support enforcement staff about the possible effects of domestic violence on a victim's ability to work; and

(3) Allow job training and employment staff as well as child support enforcement workers to ensure the safety of domestic violence victims who are involved in their system.

The services and activities affected by these strategies would include the identification, screening, assessment and referral of victims or potential victims of domestic violence during the course of eligibility transactions (including Food Stamps and Medicaid) to appropriate crisis intervention and support services. The intervention and support services may be job training and other related services and programs, case management by TANF, child support enforcement, employment service and agencies that respond to the safety, confidentiality, and service needs of domestic violence victims.

Applicants may propose to do one or more of the following:

(a) Develop a plan for and implement the training of TANF eligibility and case workers, child support enforcement workers and supervisors, on the relationship of domestic violence, poverty and work activity as it relates to TANF recipients, and related cross-training of domestic violence programs staff;

(b) Design, pilot test and implement domestic violence-appropriate model approaches to screening, notification, safety planning, employability planning and referral systems to be adopted by the State or Tribal TANF program including eligibility, case maintenance, and child support enforcement;

(c) Develop and implement through the TANF structure, a domestic violence-specific curriculum which will become part of a mandatory training program; and

(d) Gather and submit data on the types of interventions and the effects of those interventions on helping recipients, identified as domestic violence victims or potential victims, achieve self-sufficiency.

Eligible Applicants

State and local public agencies, Territories, and Federally recognized American Indian Tribes and Tribal Organizations; State and local welfare agencies; child support enforcement

agencies; private nonprofit agencies providing services to TANF recipients; domestic violence advocacy organizations; and State and local domestic violence coalitions.

The applicants must submit a Memorandum of Understanding between and among the TANF systems, the domestic violence state/local systems and community-based service providers, specifically identifying the role each participant organization has in the implementation of the proposed project and the level of commitment to providing training to staff, and services to victims of domestic abuse. The Memorandum of Understanding is necessary because the successful implementation of a proposed project would have implications for systemic/procedural change in the TANF and/or the domestic violence community.

In addition to the Memorandum of Understanding, applicants must submit signed Letters of Support from the State or Tribal TANF agency or from the appropriate public agency that is the collaborative partner and from the state domestic violence coalition or the specific domestic violence advocacy organization. These letters should identify the specific commitment that each collaborative partner will bring to the implementation of the project. If the Memorandum of Agreement and Letters of Support are not included as part of the application, then the application will be considered as non-responsive, declared ineligible, and will be excluded from competition.

Project Period

The length of the project will not exceed 17 months.

Federal Share of the Project

The maximum Federal share of the project is not to exceed $75,000 for the 17 month project period. Applications for lesser amounts also will be considered for this project.

Matching Requirement

Successful grantees must provide at least 25 percent of the total cost of the project. The total cost of the project is the sum of the ACF share and the non-federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $75,000 in Federal funds (based on an award of $75,000 per budget period) must include a match of at least $25,000 (25% of total project cost). Therefore, a total project cost of $100,000 would be comprised of $75,000 Federal funds and $25,000 non-Federal funds. If approved for funding, grantees will be held accountable for commitments of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded

It is anticipated that four projects may be funded at the maximum level; more than four projects may be funded depending on the number of acceptable applications for lesser amounts which are received.

CFDA: 93.592 Family Violence Prevention and Services: Family Violence Prevention and Services Act, as amended.

3. Priority Area Number FV–03–97: The Establishment and Implementation of a Special Issue Resource Center (SIRC) To Aid Indian Tribes and Tribal Organizations

Purpose

The purpose of the SIRC To Aid Indian Tribes and Tribal Organizations is to provide specific leadership in the prevention of domestic violence, resource information and materials, technical assistance and professional consultation to Tribes, Tribal organizations, individuals, and other persons and entities seeking to assist Tribes and Tribal organizations.

Background

The Office of Community Services seeks to support a nationwide effort that is staffed by an expert and multi-disciplinary team that responds to requests for resource information, policy analysis, technical assistance and training. These requests would be from individuals, agencies, and organizations at the Tribal, Federal, State and local levels.

The current Domestic Violence Resource Network—a network of four domestic violence resource centers and the national hotline: (1) National Resource Center on Domestic Violence; (2) Resource Center on Civil and Criminal Law, aka the Battered Women's Justice Project; (3) Health Resource Center on Domestic Violence; (4) Resource Center on Child Protection and Custody; and (5) the National Domestic Violence Hotline—serves to strengthen the existing support systems servicing battered women, their dependents and other victims of domestic violence. The Resource Network provides nationally recognized comprehensive program information and information on resources, policy development, and technical assistance designed to enhance community resources for the prevention of domestic violence. The Office of Community Services will consider applications for an additional resource center to work as part of this network in partnership with Indian Tribes and Tribal organizations, community-based domestic violence programs, State domestic violence coalitions, Federal, State and local governmental agencies, policy makers and individuals involved in assisting programs for victims of domestic violence. In addition to providing information and technical assistance, the SIRC to Aid Indian Tribes and Tribal organizations must provide in relation to Indian Tribes, issues, and population:

- Comprehensive statistics, fact sheets, and specialized information packets addressing a range of domestic violence issues;
- Materials to support the development and replication of model programs, legislation and exemplary practices;
- Technical assistance and training to assist organizations, programs and communities to adapt available resources to meet local needs;
- A toll-free information line which allows the public to access the latest developments in research, policy, and practice; and
- A customized service reachable by fax or mail whereby programs, agencies, and professionals may receive packets, newsletters, bibliographies, policy papers and fact sheets.

The proposed SIRC must have the ability to deliver highly individualized technical assistance which enables an Indian Tribe or Tribal organization to solve a specific problem. In addition to facilitating on-site assistance, the SIRC shall:

- Identify, develop, and disseminate research and evaluation findings pertinent to Indian Tribes and Tribal organizations;
- Prepare and distribute technical assistance packages to aid in the replication of effective services, prevention efforts and training programs that have been found effective and are culturally relevant to the Indian Tribes and Tribal organizations;
- And identify new areas for demonstration activities that address domestic violence issues.

Eligible Applicants

Private nonprofit organizations that have focused primarily on domestic violence prevention and intervention activities and have extensive experience in the field with Indian Tribes and Tribal organizations in training

activities, direct technical assistance, program and services design, implementation and administration.

Form of Award

The Office of Community Services (OCS) intends to support the SIRC to Aid Indian Tribes and Tribal organizations with a Cooperative Agreement. A Cooperative Agreement is Federal financial aid in which substantial Federal involvement is anticipated. The respective responsibilities of OCS and of the successful applicant will be identified and incorporated into the cooperative agreement during pre-award negotiations. The grantee will outline a plan of interaction with OCS for implementation under a cooperative agreement including, as appropriate, activities involving Federal staff. The plan under the cooperative agreement will describe the general and specific responsibilities of the grantee and the grantor as well as foreseeable joint responsibilities. A schedule of tasks will be developed and agreed upon in addition to any special conditions relating to the implementation of the project.

Minimum Requirements for Project Design

In order to successfully compete under this announcement, the applicant must:

(a) Describe the immediacy of the need(s) to be addressed and provide information on the specific services your organization currently provides to Tribes or Tribal Organizations and what information, specific training, and technical assistance would be provided as an SIRC;

(b) Demonstrate an in-depth understanding of the program/service and access/response issues of the Indian Tribes and Tribal organizations and the problems associated with them;

(c) Present the technical approach and the specific workplans for the provision of training and technical assistance to Tribes and Tribal Organizations that is nationwide in scope and utilizes the support and facilitating efforts of the National Resource Center (NRC) and the Resource Center Network; describe a plan for continuous contact with the field, an 800 telephone number and direct mailings; and a plan for the development and use of a network of experts for the provision of direct training and consultation, including fees for service, if necessary;

(d) Describe the efforts that you currently make or would implement, and the relationships that you currently have or will form, to coordinate activities with other appropriate resource centers, domestic violence advocacy organizations, State domestic violence coalitions, public agencies, the NRC, and affiliated SIRCs in a national domestic violence network to enhance the Center's activities and to avoid duplication;

(e) Provide a plan to determine the need to implement special projects related to training curricula, service delivery models or other aspects of the proposed SIRC to Aid Indian Tribes and Tribal organizations;

(f) Provide a plan to evaluate the effectiveness of the proposed project activities within one year of the effective date of the grant;

(g) Describe the proposed SIRC staff with appropriate expertise; and

(h) Describe the administrative and organizational structure, the management plan, the cost structure within which the project would operate; and describe the operational and programmatic relationships to be formed with the affiliated SIRCs and the NRC. Charts depicting the organizational structures and the ensuing relationships must be included.

Project Period

The length of the project for the SIRC will not exceed 48 months. The award, on a competitive basis, will be for an initial 12-month budget period, although the project period may be for 4 years. Applications for continuation grants funded under this award beyond the 12-month budget period but within the 4-year project period will be considered in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government.

Budget Period and Federal Share

The fiscal year 1997 Federal share for the SIRC to Aid Indian Tribes and Tribal organizations is $600,000 for the first 12-month budget period subject to the availability of funds. Applications for lesser amounts also will be considered for this project. The estimated Federal share for the second, third, and fourth budget period is $600,000 per 12-month period.

Matching Requirement

SUCCESSFUL GRANTEES MUST PROVIDE AT LEAST 25 PERCENT OF THE TOTAL COST OF THE PROJECT. THE TOTAL COST OF THE PROJECT IS THE SUM OF THE ACF SHARE AND THE NON-FEDERAL SHARE. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $600,000 in Federal funds (based on an award of $600,000 per budget period) must include a match of at least $200,000 (25% of total project cost). Therefore, a total project cost of $800,000 would be comprised of $600,000 in Federal funds and $200,000 in non-Federal funds. If approved for funding, grantees will be held accountable for commitments of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded

It is anticipated that one (1) project may be funded.

CFDA: 93.592 Family Violence Prevention and Services: Family Violence Prevention and Services Act, as amended.

4. Priority Area Number FV–04–97: Training Grant Stipends in Domestic Violence for Historically Black, Hispanic-Serving and Tribal Colleges and Universities

Background

Media coverage, court records, and crime statistics suggest that a substantial proportion of the domestic violence which occurs in the general population involves underserved populations, including populations that are underserved because of ethnic, racial, cultural, language diversity or geographic isolation (Brachman & Saltzman, 1995). Official statistics on child abuse and spouse abuse indicate that women, minorities, and the poor are over-represented among victims of domestic violence (Straus, Gelles & Steinmetz, 1980). The scholars and practitioners who are responding to violence in underserved communities are currently few in number and work in isolation. The purpose of this effort and priority area is to increase the capacity for advocates and allies to do the work that is needed to prevent domestic violence.

There are three Executive Orders that support the provision of training grants to the educational institutions targeted in this priority area:

—Executive Order 13021 of October 19, 1969, Tribal Colleges and Universities;

—Executive Order 12900 of December 5, 1994, Educational Excellence for Hispanic Americans; and

—Executive Order 12876 of November 1, 1993, Historically Black Colleges and Universities.

Executive Order 13021 reaffirms the special relationship of the Federal Government to the American Indians and identifies several purposes that support access to opportunities, resources, and that support educational opportunities for economically disadvantaged students; Executive Order 12900 requires the provision of quality education and increased educational opportunities for Hispanic Americans; and Executive Order 12876 requires strengthening the capacity of Historical Black Colleges and Universities to provide quality education and increased opportunities to participate in and benefit from Federal programs.

Purpose

(a) To provide support for graduate and undergraduate students who show promise and demonstrate serious interest and commitment to issues of domestic violence in underserved populations. Historically Black, Hispanic and American Indian colleges and universities will be given special consideration in order to generate skill building and training opportunities particularly responsive to issues of cultural content.

(b) To support the growth of college and university-based practice knowledge about domestic violence and encourage social work students and faculty to pursue careers which address the issue of domestic violence experiences and underscore the need to draw new social workers.

(c) To identify best practices regarding critical issues in domestic violence prevention, identification, and treatment efforts in under-served domestic violence populations. These grants will include an institutional payment, to cover the individual student's tuition and fees, and a stipend for the student.

Minimum Requirements for Project Design

Field Placement: The grant will provide stipends for qualified individuals pursuing degrees in social work with a special interest in domestic violence. It will provide one year graduate and undergraduate stipends to support skill building and training of students interested in domestic violence treatment and intervention services to underserved racial and ethnic minority populations.

Placements must provide a structured learning environment that enables students to compare their field placement experiences, integrate knowledge from the classroom, and expand knowledge beyond the scope of the practicum setting (Council on Social Work Education [CSWE], {1994}. Baccalaureate and Master's Program Evaluative Standards, Interpretive Guidelines, Curriculum Policy Statement, and Self-Study Guide. The Accreditation Standards and Self-Study Guides).

Proposals must include content about differences and similarities in the experiences, needs, and beliefs of the people being served. The proposals must also include content about differential assessment and intervention skills that will enable practitioners to serve diverse populations. The field placements must focus on the general and specific topic areas as indicated in this announcement. The applicant student must indicate the area of interest, objectives, and goals of the placement/study. Field placements will be at a minimum of 900 hours per semester.

Faculty Involvement: Faculty must indicate the use of professional supervision to enhance the learning of students and must coordinate and monitor practicum placements of student selected for stipends.

Proposals must define the social work setting and practice, field instructor assignments and activities, and student learning expectations and responsibilities.

Individual faculty may organize their practicum-placements in different ways but must ensure educationally directed, coordinated, and monitored practicum experiences are maintained for students and related to domestic violence.

Faculty must articulate clear practice and evaluation goals for the field practicum and for each student and faculty proposals must provide an orientation plan for the student to the practicum placement and the agency's policy.

Final Products/Results and Benefits Expected:

- Practicum proposal/contract between the student, the organization (agency), and the college or university indicating defined objectives, goals, students performance, benefits to student, lessons learned, and recommendations for future placement at agency;
- A report focusing on agency population served, difficulties encountered, outcomes, implications and recommendations for future placements. The report should be prepared and submitted to the Office of Community Services; and
- One mid-semester student performance evaluation.

Eligible Applicants

Historically Black Colleges and Universities; Hispanic-serving Colleges and Universities; and Tribal Colleges and Universities. Hispanic-serving Colleges and Universities are defined as those whose student population is more than 25% Hispanic. Tribal Colleges and Universities are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*) and Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978, Pub. L. 95–471, title II (25 U.S.C. 640a note.)

Applicant institutions must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Social Work Education.

Participants would include: qualified undergraduate or graduate social work students. All individuals seeking student stipends must be enrolled in the institution.

- Recipients of student stipends must maintain satisfactory academic records and be full-time students.
- Awards will be made only to eligible institutions on behalf of their qualified candidates.

Project Period

- Stipends are awarded for one year, not to exceed 12 months.

Federal Share of the Project Cost

This competitive program provides stipends for a maximum amount not to exceed $75,000 (includes direct and indirect costs) per college or university. The Federal share will fund up to four student candidates at a maximum of $11,250 each and will fund one faculty coordinator of the project at $30,000.

Anticipated Number of Projects to be Funded

It is anticipated that 4 projects will be funded at $75,000 each. Applications for lesser amounts will also be considered for this priority area. CDFA: 93.592 Family Violence Prevention and Services: Family Violence Prevention and Services Act as amended.

Part III. The Review Process

A. Eligible Applicants

Before applications are reviewed, each application will be screened to determine that the applicant organization is an eligible applicant as

specified under the selected priority area. Applications from organizations which do not meet the eligibility requirements for the priority area will not be considered or reviewed in the competition, and the applicant will be so informed.

Each priority area description contains information about the types of agencies and organizations which are eligible to apply under that priority area. Since eligibility varies among priority areas, it is critical that the ''Eligible Applicants'' section under each specific priority area be read carefully.

Only agencies and organizations, *not individuals*, are eligible to apply under any of the priority areas. On all applications developed jointly by more than one agency or organization, the applications must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-participants, subgrantees or subcontractors.

Any non-profit agency submitting an application must submit proof of non-profit status with its grant application. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501 (c)(3) of the IRS Code or by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. ACF cannot fund a non-profit applicant without acceptable proof of its non-profit status.

B. Review Process and Funding Decisions

Experts in the field, generally persons from outside of the Federal government, will use the appropriate evaluation criteria listed later in this Part to review and score the applications. The results of this review are a primary factor in making funding decisions.

ACF reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. It may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by OCS in making funding decisions.

In making decisions on awards, OCS may give preference to applications which focus on or feature: a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations involved in the administration or delivery of human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations.

To encourage increased collaboration and coordination among existing programs and related initiatives, OCS will give additional consideration to applications from organizations and/ or agencies that are documented participants in Empowerment Zone and/or Enterprise Community plans and applications. Applicants citing participation with Empowerment Zones and/or Enterprise Communities should document that they were involved in the preparation and proposed implementation of the plan and how their proposed family violence project supports the goal of the Empowerment or Enterprise plans (0–5 points).

C. Evaluation Criteria

Using the appropriate evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review each application. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each application in terms of the appropriate evaluation criteria listed below, provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

Evaluation Criteria for Priority Areas

Applications submitted under priority areas:

- FV–01–97, Developing and Enhancing Services for Immigrant and Migrant Battered Women;
- FV–02–97, Domestic Violence/ Temporary Assistance for Needy Families (TANF) Program; and
- FV–04–97, Minority Training Grant Stipends in Domestic Violence,

will be evaluated against the following criteria.

1. Need for the Project (10 Points)

The extent to which the need for the project and the problems it will address have national and local significance; the applicability of the project to coordination efforts by national, Tribal, State and local governmental and non-profit agencies, and its ultimate impact on domestic violence prevention services and intervention efforts, policies and practice; the relevance of other documentation as it relates to the applicant's knowledge of the need for the project; and the identification of the specific topic or program area to be served by the project. Maps and other graphic aids may be attached.

2. Goals and Objectives (10 Points)

The extent to which the specific goals and objectives have national or local significance, the clarity of the goals and objectives as they relate to the identified need for and the overall purpose of the project, and their applicability to policy and practice. The provision of a detailed discussion of the objectives and the extent to which the objectives are realistic, specific, and achievable.

3. Approach (30 Points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; relates each task to the objectives and identifies the key staff member who will be the lead person; provides a chart indicating the timetable for completing each task, the lead person, and the time committed; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved.

The extent to which, when applicable, the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

4. Results and Benefits (20 Points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the application, the extent to which the application indicates the anticipated contributions to policy, practice, and theory, and the extent to which the proposed project costs are reasonable in view of the expected results. Identify, in specific terms, the results and benefits, for target groups and human service providers, to be derived from implementing the proposed project. Describe how the expected results and benefits will relate to previous demonstration efforts.

5. Level of Effort: (30 Points)

Staffing pattern—Describe the staffing pattern for the proposed project, clearly linking responsibilities to project tasks and specifying the contributions to be made by key staff.

Competence of staff—Describe the qualifications of the project team including any experiences working on similar projects. Also, describe the variety of skills to be used, relevant educational background and the demonstrated ability to produce final results that are comprehensible and usable. One or two pertinent paragraphs on each key member are preferred to resumes. However, resumes may be included in the ten pages allowed for attachments/appendices.

Adequacy of resources—Specify the adequacy of the available facilities, resources and organizational experience with regard to the tasks of the proposed project. List the financial, physical and other resources to be provided by other profit and nonprofit organizations. Explain how these organizations will participate in the day to day operations of the project.

Budget—Relate the proposed budget to the level of effort required to obtain project objectives and provide a cost/benefit analysis. Demonstrate that the project's costs are reasonable in view of the anticipated results.

Collaborative efforts—Discuss in detail and provide documentation for any collaborative or coordinated efforts with other agencies or organizations. Identify these agencies or organizations and explain how their participation will enhance the project. Letters from these agencies and organizations discussing the specifics of their commitment must be included in the application.

Authorship—The authors of the application must be clearly identified together with their current relationship to the applicant organization and any future project role they may have if the project is funded.

Applications submitted under priority area:

- FV–03–97, The Establishment and Implementation of a Special Issue Resource Center to Aid Indian Tribes and Tribal Organizations;

will be evaluated against the following criteria.

1. Need for the Project (10 Points)

The extent to which the need for the project and the problems it will address have national and local significance; the applicability of the project to coordination efforts by national, Tribal, State and local governmental and non-profit agencies, and its ultimate impact on domestic violence prevention services and intervention efforts, policies and practice on Tribal Trust lands and reservations; the relevance of other documentation as it relates to the applicants knowledge of the need for the project; and the identification, understanding and knowledge of the specific topic or program area to be served by the project. Maps and other graphic aids may be attached.

2. Goals and Objectives (10 Points)

The extent to which the specific goals and objectives have national or local significance, the clarity of the goals and objectives as they relate to the identified need for and the overall purpose of the project, and their applicability to policy and practice. The provision of a detailed discussion of the objectives and the extent to which the objectives are realistic, specific, and achievable.

3. Approach (30 Points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; relates each task to the objectives and identifies the key staff member who will be the lead person; provides a chart indicating the timetable for completing each task, the lead person, and the time committed; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved.

The extent to which the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

4. Results and Benefits (20 Points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the application, the extent to which the application indicates the anticipated contributions to policy, practice, and theory, and the extent to which the proposed project costs are reasonable in view of the expected results.

The applicant should identify, in specific terms, the results and benefits, for target groups and human service providers, to be derived from implementing the proposed project. Applicant should also describe how the expected results and benefits will relate to previous demonstration efforts.

5. Level of Effort: (30 Points)

Expertise, Commitment, and Support

(a) Applicants must have documented individual and organizational experience in the area of domestic violence prevention and services with Indian Tribes and Tribal organizations. Each applicant organization must have an advisory board.

(b) The extent to which the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as State Domestic Violence Coalitions or recognized national domestic violence advocacy groups; the extent of the applicant's commitment to diversity, and to the provision of services to Indian Tribes and Tribal organizations.

Staff Background, Organizational Experience, and Competence of Staff

(c) The adequacy of the staffing pattern for the proposed project, how the individual responsibilities are linked to project tasks, and the contributions to be made by key staff. Each collaborating or cooperative organization, individual consultant, or other key individuals who will work on the project should be listed along with a description of the nature of their effort or contribution.

The background and experience of the project director and key project staff and the history and accomplishments of the organization; the qualifications of the project team including any experience with similar projects; the variety of skills, relevant educational background, and the ability to effectively manage the project and to coordinate with other agencies. One or two pertinent

paragraphs on each key member are preferred to vitae/resumes. However, resumes may be included.

Adequacy of Resources and the Budget

(d) The adequacy of the available resources and organizational experience with regard to the scope of the tasks of the proposed project. A list of the financial, physical, and other resources already committed by other private and public institutions and agencies, if any, and the explanation of how these organizations will participate in the day-to-day operations of the project. Letters from these agencies and organizations identifying and discussing the specifics of their commitment and participation must be included in the application. The extent to which the proposed budget is related to the level of effort required to obtain the project's objectives; demonstration that the project's costs are reasonable in view of the anticipated results.

Collaborative Effort

(e) The extent of the additional private sector resources that may be available to support or enhance the overall program. A discussion in detail and the provision of documentation for any proposed collaborative or coordinated efforts with other public or private agencies or organizations. Letters from these agencies and organizations must be included discussing their interest and/or commitment in supporting the proposed project, stating at what juncture they would become involved and the expected level of resource commitment.

Applicants should note that non-responsiveness to the section designated as ''Minimum Requirements for Project Design,'' in the applicable priority areas, will result in a low evaluation score by the panel of expert reviewers.

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Previous experience has shown that an application which is broad and more general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused and directly responsive to the concerns of that specific priority area.

D. Available Funds

ACF intends to award grants resulting from this announcement during the fourth quarter of FY 1997. The size of the actual awards will vary. Each priority area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term ''budget period'' refers to the interval of time (usually 12 or 17 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term ''project period'' refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the maximums specified in the various priority areas. Non-Federal share contributions may exceed the minimums specified in the various priority areas when the applicant is able to do so.

E. Grantee Share of Project Costs

Federal funds will be provided to cover up to 75% of the total allowable project costs. Therefore, the non-Federal share must amount to at least 25% of the total (Federal plus non-Federal) project cost. This means that, for every $3 in Federal funds received, up to the maximum amount allowable under each priority area, applicants must contribute at least $1.

For example, the cost breakout for a project with a total cost of $66,666 to implement would be:

Federal request	Non-Federal share	Total cost
$50,000	$16,666	$66,666
75%	25%	100%

Part IV—Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. Application forms are provided as part of this publication along with a checklist for assembling an application package. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information contained within the specific priority area under which the application is to be submitted. The priority area descriptions are in Part II.

A. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, (E.O.) ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the E.O., States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau, have elected to participate in the E.O. process and have established a Single Point of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that OCS can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, (OCS–97–07) 370 L'Enfant Promenade, SW., 6th Floor East, Washington, DC 20447.

A list of the Single Point of Contact for each State and Territory is included at the end of this announcement.

B. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. This program announcement does not contain

information requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062 which will expire 09/30/98. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

C. Deadline for Submittal of Applications

The closing date and time for submittal of applications under this program announcement is found at the beginning of this program announcement under **CLOSING DATE**.

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, DC 20447, Attention: Application for Family Violence Prevention and Services Program.

Applications handcarried by applicants, applicant couriers, or overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024, between Monday and Friday, (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of the date or time of submission and time of receipt.

Late applications

Applications which do not meet the criteria above are considered late applications. The ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines

ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes or earthquakes; widespread disruption of the mails; or if ACF determines a deadline extension to be in the best interest of the Government. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

D. Instructions for Preparing the Application and Completing Application Forms

The SF 424, Page 2; and certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

In order to assist applicants in correctly completing the SF 424 and SF 424A, instructions for these forms have been included at the end of Part IV of this announcement.

Where specific information is not required under this program, NA (not applicable) has been preprinted on the form.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. ''Type of Submission''—Preprinted on the form.

Item 2. ''Date Submitted'' and ''Applicant Identifier''—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. ''Date Received By State''—State use only (if applicable).

Item 4. ''Date Received by Federal Agency''—Leave blank.

Item 5. ''Applicant Information.''

''Legal Name''—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

''Organizational Unit''—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

''Address''—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

''Name and telephone number of the person to be contacted on matters involving this application (give area code)''—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. ''Employer Identification Number (EIN)''—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. ''Type of Applicant''—Self-explanatory.

Item 8. ''Type of Application''—Preprinted on the form.

Item 9. ''Name of Federal Agency''—Preprinted on the form.

Item 10. ''Catalog of Federal Domestic Assistance Number and Title''—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title, as indicated in the relevant priority area description.

Item 11. ''Descriptive Title of Applicant's Project''—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. ''Areas Affected by Project''—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. ''Proposed Project''—Enter the desired start date for the project and projected completion date.

Item 14. ''Congressional District of Applicant/Project''—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If statewide, a multi-State effort, or nationwide, enter ''00.''

Items 15. ''Estimated Funding Levels''—In completing 15a through 15f, the dollar amounts entered should reflect, for a 17 month or less project period, the total amount requested.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15 b–e Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or ''matching funds.'' The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific priority area description.

Item 15f. Enter the estimated amount of income, if any, expected to be generated from the proposed project. Do not add to or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. ''Is Application Subject to Review By State Executive Order 12372 Process? Yes.''—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application. If there is a discrepancy in dates, the SPOC may request that the Federal agency delay any proposed funding until September 30, 1997.

Item 16b. ''Is Application Subject to Review By State Executive Order 12372 Process? No.''—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. ''Is the Applicant Delinquent on any Federal Debt?''—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. ''To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.''—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18 a–c. ''Typed Name of Authorized Representative, Title, Telephone Number''—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. ''Signature of Authorized Representative''—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. ''Date Signed''—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed project period exceeds 17 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers the total project period of 17 months or less. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, ''Other.''

Justification: Identify the project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, ''Other.''

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. Equipment is defined as non-expendable tangible personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and contracts with secondary recipient organizations. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget

Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as ''miscellaneous'' and ''honoraria'' are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter ''none.'' Generally, this line should be used when the applicant (except State and local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency. Note percentage for indirect cost rate and include a copy of the indirect cost rate with the application.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant. In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement if it was negotiated with a Federal agency other than DHHS. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled ''Totals.'' In-kind contributions are defined in title 45 of the Code of Federal Regulations, Part 74.2, as the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. Not applicable.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required *Federal* funds for the second budget period (months 13 through 24) under column ''(b) First.'' If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under ''(c) Second.'' Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project ''abstract.'' It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II. The narrative should also provide information concerning how the application meets the evaluation criteria using the following headings:

(a) *Need for the Project;*
(b) *Goals and Objectives;*
(c) *Approach;*
(d) *Results and Benefits;* and
(e) *Level of Effort.*

The specific information to be included under each of these headings

is described in Section C of Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½″ x 11″ plain white paper, with 1″ margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives and Need for the Project'' as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½ x 11″ sheet of paper. Applicants are requested not to send pamphlets, maps, brochures or other printed material along with their application as these pose photocopy difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—

Non-Construction Programs, and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities; and (3) Certification Regarding Environmental Tobacco Smoke. These certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities, and Environmental Tobacco Smoke certifications.

E. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

____One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

____Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

____Application length does not exceed 60 pages, unless otherwise specified in the priority area description.

____A complete application consists of the following items in this order:

____Application for Federal Assistance (SF 424A, REV 4–92);

____A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424A if applicable.

____Budget Information—Non-Construction Programs (SF 424A, REV 4–92);

____Budget justification for Section B—Budget Categories;

____Cable of Contents;

____Letter from the Internal Revenue Service to prove non-profit status, if necessary;

____Copy of the applicant's approved indirect cost rate agreement, if appropriate;

____Project summary description and listing of key words;

____Program Narrative Statement (See Part III, Section C);

____Organizational capability statement, including an organization chart;

____Any appendices/attachments;

____Assurances—Non-Construction Programs (Standard Form 424B, REV 4–92);

____Certification Regarding Lobbying;

____Certification Regarding Drug-Free Workplace Requirements; and

____Certification Regarding Environmental Tobacco Smoke.

F. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Applicant should include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application. If acknowledgment of receipt of your application is not received within eight weeks after the deadline date, please notify ACF by telephone at (202) 401–5529.

G. Post-Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required financial grantee participation.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantees will be subject to the provisions of 45 CFR part 74 or 92.

Grantees will be required to submit quarterly progress and semi-annual financial reports (SF 269) throughout the project period, as well as a final progress and financial report within 90 days of the termination of the project.

Grantees are subject to the audit requirements in 45 CFR Parts 74 (non-governmental), 92 (governmental), OMB Circular A–133 and OMB Circular A–128. If an applicant does not request indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and Tribal organizations. Current and prospective recipients (and their subtier contractors

and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989 and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance.

(Catalog of Federal Domestic Assistance number 93.592, Family Violence Prevention and Services)

Dated: May 14, 1997.

Donald Sykes,

Director, Office of Community Services.

BILLING CODE 4184–01–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ - ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify)_____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ - ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (REV 4-92)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF 424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State, if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities.)

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of inkind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit allowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Previous Edition Usable

Authorized for Local Reproduction

Standard Form 424A (Rev. 4-92)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C — NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E — BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	$	$	$	$

SECTION F — OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

Authorized for Local Reproduction

Standard Form 424A (Rev. 4-92) Page 2

Instructions for the SF 424F

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestion for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20530.

Please do not return your completed form to the Office of Paperwork and Budget, send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Section A, B, C, and D should include budget estimates for the whole project except when applying for assistance which required Federal authorization in annual or other funding period increments. In the latter case Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple function or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number of each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new programs, leave Columns (c) and (d) blank. For each line in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease or non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum in Columns (e) and (f).

Line 5—Shown the total for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Lines 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k, should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor in determining the total amount of the grant.

Section. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals in Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the total of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and who the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send

comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the Sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g)§§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Health Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. §§ 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A–133, Audits of Institutions of Higher Learning and other Non-profit Institutions.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant,

loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organziation

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For material change only** Year_____ Quarter_____ date of last report_____

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, *if known.* **Congressional District,** *if known*	**5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:** **Congressional District,** *if known*
6. Federal Department/Agency:	**7. Federal Program Name/Description:** **CFDA Number,** *if applicable:*
8. Federal Action Number, ***if known*****:**	**9. Award Amount,** ***if known*****:** $
10. a. **Name and Address of Lobbying Registrant** *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*

Items 11 through 15 are deleted.

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4184–01–C

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630 (c) and (d)(2) and 76.645 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW, Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements

(Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substances means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an

explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction by entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal

Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev. 717 14th Street, N.W.,—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Virginia Bova, State Single Point of Contact, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Frances Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Robert Peters, State Budget Division, Room 190 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismark, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870,

Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Rodney Grizzle, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 331, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0356

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1888

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Jeff Smith, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street, 6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931

Wyoming

Matthew Jones, State Single Point of Contact, Office of the Governor, 200 West 24th Street, State Capital, Room 124, Cheyenne, Wyoming 82002, Telephone: (307) 777–7446, FAX: (307) 632–3909

TERRITORIES

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Normal Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444, (809) 723–6190, FAX: (809) 724–3270, (809) 724–3103

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, State Single Point of Contact, Office of Management and Budget, Office of the Governor, Saipan, MP, Telephone: (670) 664–2256, FAX: (670) 664–2272

Contact Person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 644–2289, FAX: (670) 644–2272

Virgin Islands

Nelson Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069.

[FR Doc. 97–14074 Filed 5–28–97; 8:45 am]

BILLING CODE 4184–01–P–M

federal register

Thursday
May 29, 1997

Part V

Department of Education

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs; Revision of the Need Analysis Methodology for the 1998–99 Award Year; Notice

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs; Revision of the Need Analysis Methodology for the 1998–99 Award Year

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education announces the annual updates to the tables that will be used in the statutory ''Federal Needs Analysis Methodology'' to determine a student's expected family contribution (EFC) for award year 1998–99 for the Title IV, HEA student financial assistance programs (Title IV, HEA Programs). An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs. The Title IV, HEA Programs include the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work Study, and Federal Supplemental Educational Opportunity Grant Programs), Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Program Specialist, General Provisions Branch, Policy Development Division, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3053, ROB–3), Washington, D.C. 20202–5444, telephone (202) 708–8242. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Part F of Title IV of the Higher Education Act of 1965, as amended (HEA), specifies the criteria, data elements, calculations and tables used in the Federal Needs Analysis Methodology EFC calculations.

Section 478 in Part F requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 1998–99, the Secretary is charged with updating the income protection allowances, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 1996 and December 1997. However, since the Secretary must publish these tables before December 1997, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban Consumers for 1996. The Secretary estimates that the increase in the Consumer Price Index for all Urban Consumers for the period December 1996 through December 1997 will be 2.4 percent. The updated tables for the 1998–99 award year are set forth in sections 1, 2, and 4.

The Secretary must also revise, for each award year, the table on asset protection allowance as provided for in section 478(d). The Education Savings and Asset Protection Allowance table for the award year 1998–99 has been updated below in section 3.

Section 477(b)(5) of Part F also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5.

The HEA provides for the following annual updates:

1. *Income Protection Allowance.* This allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The allowance is offset against the family's income and varies by family size. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for the award year 1998–99 are:

Family size (including student)	Number in college				
	1	2	3	4	5
2	$12,030	$9,980	.....	.....	.....
3	14,990	12,940	$10,880	.....	.....
4	18,510	16,450	14,400	$12,340	.....
5	21,840	19,780	17,730	15,670	$13,630
6	25,550	23,490	21,440	19,380	17,330

For each additional family member add $2,880.
For each additional college student subtract $2,050.

2. *Adjusted Net Worth (NW) of a Business or Farm.* A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since: (1) the income produced from such assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0.
$1 to $85,000	40% of NW.
$85,001 to $255,000	$34,000+50% of NW over $85,000.
$255,001 to $430,000	$119,000+60% of NW over $255,000.
$430,001 or more	$224,000+100% of NW over $430,000.

3. *Education Savings and Asset Protection Allowance.* This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parent is	And there are	
	Two parents	One parent
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,400	1,600
27	4,800	3,300
28	7,300	4,900
29	9,700	6,600
30	12,100	8,200
31	14,500	9,800
32	16,900	11,500
33	19,400	13,100
34	21,800	14,800
35	24,200	16,400
36	26,600	18,000
37	29,000	19,700
38	31,500	21,300
39	33,900	23,000
40	36,300	24,600
41	37,300	25,200
42	38,200	26,700
43	39,200	26,300
44	40,200	26,900
45	41,200	27,400
46	42,300	28,100
47	43,300	28,800
48	44,400	29,300
49	45,500	30,000
50	46,700	30,700
51	48,100	31,500
52	49,400	32,200
53	50,900	33,000
54	52,100	33,800
55	53,700	34,700
56	55,400	35,600
57	57,100	36,400
58	58,800	37,500
59	60,600	38,500
60	62,400	39,400
61	64,500	40,500
62	66,800	41,700
63	68,700	42,900
64	71,100	44,000
65 and over	73,500	45,500

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And the student is	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,400	1,600
27	4,800	3,300
28	7,300	4,900
29	9,700	6,600
30	12,100	8,200
31	14,500	9,800
32	16,900	11,500
33	19,400	13,100
34	21,800	14,800
35	24,200	16,400
36	26,600	18,000
37	29,000	19,700
38	31,500	21,300
39	33,900	23,000
40	36,300	24,600
41	37,300	25,200
42	38,200	26,700
43	39,200	26,300
44	40,200	26,900
45	41,200	27,400
46	42,300	28,100
47	43,300	28,800
48	44,400	29,300
49	45,500	30,000
50	46,700	30,700
51	48,100	31,500
52	49,400	32,200
53	50,900	33,000
54	52,100	33,800
55	53,700	34,700
56	55,400	35,600
57	57,100	36,400
58	58,800	37,500
59	60,600	38,500
60	62,400	39,400
61	64,500	40,500
62	66,800	41,700
63	68,700	42,900
64	71,100	44,000
65 and over	73,500	45,500

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And the student is	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,400	1,600
27	4,800	3,300
28	7,300	4,900

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is	And the student is	
	Married	Single
29	9,700	6,600
30	12,100	8,200
31	14,500	9,800
32	16,900	11,500
33	19,400	13,100
34	21,800	14,800
35	24,200	16,400
36	26,600	18,000
37	29,000	19,700
38	31,500	21,300
39	33,900	23,000
40	36,300	24,600
41	37,300	25,200
42	38,200	26,700
43	39,200	26,300
44	40,200	26,900
45	41,200	27,400
46	42,300	28,100
47	43,300	28,800
48	44,400	29,300
49	45,500	30,000
50	46,700	30,700
51	48,100	31,500
52	49,400	32,200
53	50,900	33,000
54	52,100	33,800
55	53,700	34,700
56	55,400	35,600
57	57,100	36,400
58	58,800	37,500
59	60,600	38,500
60	62,400	39,400
61	64,500	40,500
62	66,800	41,700
63	68,700	42,900
64	71,100	44,000
65 and over	73,500	45,500

4. *Assessment Schedules and Rates.* Two separate assessment schedules—one for dependent students, and one for independent students with dependents other than a spouse—are used in determining the expected family contribution toward educational expenses from family financial resources.

For dependent students, the expected parental contribution is derived from an assessment of the parents' adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of financial strength which considers both income and assets.

If AAI is—	Then the contribution is—
Less than −$3,409	−$750.
−$3,409 to $10,800	22% of AAI.
$10,801 to $13,500	$2,376 + 25% of AAI over $10,800.
$13,501 to $16,200	$3,051 + 29% of AAI over $13,500.

If AAI is—	Then the contribution is—
$16,201 to $19,000	$3,834 + 34% of AAI over $16,200.
$19,001 to $21,700	$4,786 + 40% of AAI over $19,000.
$21,701 or more	$5,866 + 47% of AAI over $21,700.

If AAI is—	Then the contribution is—
Less than −$3,409	−$750.
−$3,409 to $10,800	22% of AAI.
$10,801 to $13,500	$2,376 + 25% of AAI over $10,800.
$13,501 to $16,200	$3,051 + 29% of AAI over $13,500.
$16,201 to $19,000	$3,834 + 34% of AAI over $16,200.
$19,001 to $21,700	$4,786 + 40% of AAI over $19,000.
$21,701 or more	$5,866 + 47% of AAI over $21,700.

5. *Employment Expense Allowance.* This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two-earner family compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $2,800 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* This allowance for state and other taxes protects a portion of the parents' and student's income from being considered available for postsecondary education expenses. There are four tables for state and other taxes, one each for parents of dependent students, dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If parents' State or territory of residence is	And parents' total income is—	
	Less than $15,000	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

PARENTS OF DEPENDENT STUDENTS—Continued

If parents' State or territory of residence is	And parents' total income is—	
	Less than $15,000	$15,000 or more
	Then the percentage is—	
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is	And student's total income is—	
	Less than $15,000	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If student's State or territory of residence is	And student's total income is—	
	Less than $15,000	$15,000 or more
Other	4	3

DEPENDENT STUDENTS

If student's State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4

DEPENDENT STUDENTS—Continued

If student's State or territory of residence is	The percentage is—
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If student's State or territory of residence is	The percentage is—
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

Dated: May 23, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; William D. Ford Federal Direct Loan Program, 84.268)

[FR Doc. 97–14068 Filed 5–28–97; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
May 29, 1997

Part VI

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATES: June 30, 1997.

ADDRESSES: comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (fax) (202)646–4536. To be added to the National Master List, or to make any other change to the list, please see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Friday, June 21, 1996, 61 FR 32036–322560.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 61 FR 32032, also on June 21, 1996. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. The Hotel and Motel Fire Safety Act of 1990 National Master List is now accessible electronically. The National Master List Web Site is located at: http://www.usfa/fema.gov/hotel/index.htm

Visitors to this web site will be able to search, view, download and print all or part of the National Master List by State, city, or hotel chain. The site also provides visitors with other information related to the Hotel and Motel Fire Safety Act. Instructions on gaining access to this information are available as the visitor enters the site.

Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices. Each update contains or may contain three categories: ''Additions;'' ''Corrections/changes;'' and ''Deletions.'' For the purpose of the updates, the three categories mean and include the following:

''Additions'' are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

''Corrections/changes'' are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

''Deletions'' are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

Dated: May 22, 1997.

Michael B. Hirsch,

Acting General Counsel.

The update to the national master list for the month of May 1997 follows:

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 5/16/97 UPDATE

Index and property name	PO Box/Rt No. and street address	City, State/Zip	Phone
ADDITIONS			
CA:			
CA1499 Coronado Victorian House Bed & Breakfast.	1000 Eighth St	Coronado, CA 92199	(619) 435–2200
CA1497 High Country Inn	3015 E. Riverside Dr	Susanville, CA 96130	(916) 257–3450
CA1496 River Inn Motel	1710 Main St	Susanville, CA 96130	(916) 257–6051
CA1498 Super 8 Motel	2975 Johnstonville Rd	Susanville, CA 96130	(916) 257–2782
CA1500 Klamath Motor Lodge	1111 So. Main St	Yreka, CA 96097	(916) 842–2751
MA:			
MA0264 Holiday Inn Holyoke	245 Whiting Farms Rd	Holyoke, MA 01040	(413) 534–3311
MA0265 Radisson Inn	75 Felton St	Marlboro, MA 01752	(508) 480–0015
MA0263 Sturbridge Host Hotel and Conference Center.	366 Main St	Sturbridge, MA 01566	(508) 347–7393
MN:			
MN0311 Lakeville Comfort Inn	10935 176th Street West	Lakeville, MN 55044	(612) 898–3700
MN0310 Holiday Inn South	1630 S. Broadway	Rochester, MN 55904	(507) 288–1844
MS:			
MS0119 Casino Magic Inn	711 Casino Magic Drive	Bay St. Louis, MS 39520	(601) 466–8086
ND:			
ND0095 Comfort Suites	929 Gateway Avenue	Bismarck, ND 58501	(701) 223–4009
ND0094 Prairie Knights Lodge	HC1, Box 26A	Fort Yates, ND 58538	(701) 854–7777
NH:			
NH0268 Best Western Sunapee Lake Lodge.	1403 Route 103	Mt. Sunapee, NH 03255	(603) 763–2010
NY:			

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 5/16/97 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, State/Zip	Phone
NY0643 White Eagle Inn and Conference Center.	P.O. Box 679 W. Lake Rd	Hamilton, NY 13346	(315) 824–2002
SD:			
SD0108 Thunder Cove Inn	Hwy. 85 S	Deadwood, SD 57732	(605) 578–3045
SD0109 Econolodge	W. Highway 16	Oacoma, SD 57365	(605) 734–5593
CORRECTIONS			
AZ:			
AZ0053 Cliff Castle Lodge and Casino	PO Box 3430 333 West Middle Verde Road.	Camp Verde, AZ 86322	(520) 567–6611
AZ0183 Best Western Cottonwood Inn	993 S. Main Street	Cottonwood, AZ 86326	(520) 634–5575
AZ0184 Best Western Sunrise Inn	PO Box 1590 128 North Main	Eagar, AZ 85925	(520) 333–2540
AZ0010 Best Western Pony Soldier	3030 E. Route 66	Flagstaff, AZ 86004	(520) 526–2388
AZ0025 Best Western Woodlands Plaza Hotel.	1175 W. Rt. 66	Flagstaff, AZ 86001	(520) 773–8888
AZ0048 Best Western Arizonian Inn	2508 E. Navajo Blvd	Holbrook, AZ 86025	(520) 524–2611
AZ0180 Best Western At Lake Powell	PO Box 4899 208 N. Lake Powell Blvd.	Page, AZ 86040	(520) 645–5988
AZ0114 Best Western Thunderbird Suites	7515 E. Butherus Drive	Scottsdale, AZ 85260	(602) 951–4000
AZ0205 Best Western Inn at the Airpot	7060 S. Tucson Boulevard	Tucson, AZ 85706	(520) 746–0271
AZ0071 Tanque Verde Inn & Suites	7007 E. Tanque Verde Road	Tucson, AZ 85715	(520) 298–2300
AZ0124 Best Western Rancho Grande	293 E. Wickenburg Way	Wickenburg, AZ 85390	(520) 684–5445
AZ0181 Best Western Adobe Inn	1701 N. Park Drive	Winslow, AZ 86047	(520) 289–4638
AZ0106 Chilton Inn and Conference Center	300 E. 32nd St	Yuma, AZ 85364	(520) 344–1050
ID:			
ID0013 Best Western Safari Motor Inn	1070 Grove St	Boise, ID 83702	(208) 344–6556
ID0053 Best Western Kootenai River Inn	Kootenai River Plaza	Bonners Ferry, ID 83805	(208) 267–8511
ID0134 Best Western Burley Inn/Convention Center.	800 N. Overland Ave	Burley, ID 83318	(208) 678–3501
ID0138 Best Western Teton West	PO Box 780 476 N Main	Driggs, ID 83422	(208) 354–2363
ID0004 Best Western Cotton Tree Inn	900 Lindsey	Idaho Falls, ID 83402	(208) 523–6000
ID0136 Best Western Stardust Motor Lodge.	PO Box 51420 700 Lindsay Blvd	Idaho Falls, ID 83402	(208) 522–2910
ID0014 Best Western Tyrolean Lodge	PO Box 802 260 Cottonwood	Ketchum, ID 83340	(208) 726–5336
ID0011 Best Western Clover Creek Inn	243 N. 4th St	Montpelier, ID 83254	(208) 847–1782
ID0114 Best Western University Inn	1516 W. Pullman Rd	Moscow, ID 83843	(208) 882–0550
ID0012 Best Western Foothills Motor Inn	PO Box 1106 1080 Highway 20	Mountain Home, ID 83647	(208) 587–8477
ID0028 Best Western Cottontree Inn	1415 Bench Rd	Pocatello, ID 83201	(208) 237–7650
ID0109 Best Western Templins Resort Hotel.	414 East First Ave	Post Falls, ID 83854	(208) 773–1811
ID0027 Best Western Connie's Motor Inn	PO Box 126 323 Cedar	Sandpoint, ID 83864	(208) 263–9581
ID0010 Best Western Canyon Springs Park Hotel.	1357 Blue Lakes N	Twin Falls, ID 83301	(208) 734–5000
ID0118 Best Western Wallace Inn	PO Box 867 100 Front St	Wallace, ID 83873	(208) 752–1252
IL:			
IL0501 Best Western Regency Inn	350 Hwy. 173	Antioch, IL 60002	(847) 395–3606
IL0497 Best Western Inn of Broadview	1150 Roosevelt Rd	Broadview, IL 60153	(708) 681–2550
IL0294 Best Western Midway Hotel	1600 Oakton St	Elk Grove Village, IL 60007	(708) 981–0010
IL0062 Best Western Quiet House Suites	9915 Rte. 20, E	Galena, IL 61036	(815) 777–2577
IL0236 Best Western Windsor Oaks Inn	PO Box 193 2200 S. Court St	Grayville, IL 62844–9708	(618) 375–7930
IL0496 Best Western Country View Inn	I–70 and Rt. 127	Greenville, IL 62246	(618) 664–3030
IL0039 Best Western Hitch-Inn Post Motor Inn.	1765 N. Milwaukee Ave	Libertyville, IL 60048	(847) 362–8700
IL0336 Best Western Airport Inn	PO Box 348–1 Rt. 8	Marion, IL 62959	(618) 993–3222
IL0109 Best Western University Inn	#6 Trader Cir., I–55 & Rte. 51	Normal, IL 61761	(309) 454–4070
IL0503 Best Western Colonial Inn	4850 E. State St	Rockford, IL 61108	(815) 398–5050
IL0351 Best Western Lincoln Plaza Hotel and Stes.	101 E. Adams St	Springfield, IL 62701	(217) 523–5661
IL0192 Best Western Cheekwood Inn	PO Box 280 Exit 18 I–57	Ullin, IL 62992	(618) 845–3773
IL0354 Cunningham Place Lodge & Suites Best Western.	1907 N. Cunningham	Urbana, IL 61801	(217) 367–8331
MA:			
MA0022 Best Western Boston—The Inn at Children's.	342 Longwood Ave	Boston, MA 02115	(617) 731–4700
MA0233 Best Western Chelmsford Inn	187 Chelmsford St	Chelmsford, MA 01824	(508) 256–7511
MA0104 Best Western Black Swan Inn Inc	Rt. 20 @ Laurel Lake	Lee, MA 01238	(413) 243–2700
MA0114 Best Western Royal Plaza Hotel and Trade Ctr.	181 Boston Post Rd. West—(Rt 20).	Marlborough, MA 01752	(508) 460–0700
MA0136 Best Western —The Springs Motor Inn.	US Rt. 7	New Ashford, MA 01237	(800) 528–1234
MA0225 Best Western Conference Inn	PO Box 9102 1151 Boston—Providence Tnpk.	Norwood, MA 02062	(617) 769–7900

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 5/16/97 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, State/Zip	Phone
ND:			
ND0057 Fargo Doublewood Inn	3333 13th Ave. S	Fargo, ND 58103	(701) 235–3333
ND0085 Best Western Dakota Inn	Hwy 281 South & I–94	Jamestown, ND 58401	(701) 252–3611
NE:			
NE0045 Best Western White House Inn	305 N. Fort Crook Rd	Bellevue, NE 68005–4698	(402) 293–1600
NE0110 Best Western Chief Motel	P.O. Box 650 612 W. B St	McCook, NE 69001	(308) 345–3700
NE0005 Best Western Regency West	909 S. 107th Ave	Omaha, NE 68114	(402) 397–8000
DELETIONS			
IL:			
IL0403 Best Western Inn Countryside	5631 SA. Lagrange Rd	Countryside, IL 60525	(708) 352–8480
IL0118 Best Western Moline	2520 52nd Ave	Moline, IL 61265	(309) 762–9191

[FR Doc. 97–14067 Filed 5–28–97; 8:45 am]

BILLING CODE 6718–08–M

Federal Register

Thursday
May 29, 1997

Part VII

The President

Notice of May 28, 1997—Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs

Federal Register
Vol. 62, No. 103
Thursday, May 29, 1997

Presidential Documents

Title 3—

The President

Notice of May 28, 1997

Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs

On May 30, 1992, by Executive Order 12808, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro, blocking all property and interests in property of those Governments. President Bush took additional measures to prohibit trade and other transactions with the Federal Republic of Yugoslavia (Serbia and Montenegro) by Executive Orders 12810 and 12831, issued on June 5, 1992, and January 15, 1993, respectively. On April 25, 1993, I issued Executive Order 12846, blocking the property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in the Federal Republic of Yugoslavia (Serbia and Montenegro), and prohibiting trade-related transactions by United States persons involving those areas of the Republic of Bosnia and Herzegovina controlled by Bosnian Serb forces and the United Nations Protected Areas in the Republic of Croatia. On October 25, 1994, because of the actions and policies of the Bosnian Serbs, I expanded the scope of the national emergency by issuing Executive Order 12934 to block the property of the Bosnian Serb forces and the authorities in the territory that they control within the Republic of Bosnia and Herzegovina, as well as the property of any entity organized or located in, or controlled by any person in, or resident in, those areas.

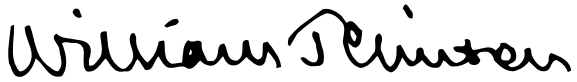
On December 27, 1995, I issued Presidential Determination No. 96-7, directing the Secretary of the Treasury, *inter alia*, to suspend the application of sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) pursuant to the above-referenced Executive orders and to continue to block property previously blocked until provision is made to address claims or encumbrances, including the claims of the other successor states of the former Yugoslavia. This sanctions relief, in conformity with United Nations Security Council Resolution 1022 of November 22, 1995 (hereinafter the ''Resolution''), was an essential factor motivating Serbia and Montenegro's acceptance of the General Framework Agreement for Peace in Bosnia and Herzegovina initialed by the parties in Dayton on November 21, 1995, and signed in Paris on December 14, 1995 (hereinafter the ''Peace Agreement''). The sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) were accordingly suspended prospectively, effective January 16, 1996. Sanctions imposed on the Bosnian Serb forces and authorities and on the territory that they control within the Republic of Bosnia and Herzegovina were subsequently suspended prospectively, effective May 10, 1996, also in conformity with the Peace Agreement and the Resolution. Sanctions against both the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs were subsequently terminated by United Nations Security Council Resolution 1074 of October 1, 1996. This termination, however, did not end the requirement of the Resolution that blocked funds and assets that are subject to claims and encumbrances remain blocked, until unblocked in accordance with applicable law.

In the last year, substantial progress has been achieved to bring about a settlement of the conflict in the former Yugoslavia acceptable to the parties. Elections occurred in the Republic of Bosnia and Herzegovina, as provided

for in the Peace Agreement, and the Bosnian Serb forces have continued to respect the zones of separation as provided in the Peace Agreement. The ultimate disposition of the various remaining categories of blocked assets is now being addressed, beginning with the unblocking of five Yugoslav vessels located in various United States ports effective May 19, 1997.

Until the status of all remaining blocked property is resolved, the Peace Agreement implemented, and the terms of the Resolution met, the national emergency declared on May 30, 1992, as expanded in scope on October 25, 1994, and the measures adopted pursuant thereto to deal with that emergency must continue beyond May 30, 1997.

Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb forces and those areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
May 28, 1997.

[FR Doc. 97–14279
Filed 5–28–97; 11:25 am]
Billing code 4810–25–P

Reader Aids

Federal Register

Vol. 62, No. 103

Thursday, May 29, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202–275–0920**

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, MAY

23613–23938 1
23939–24324 2
24325–24558 5
24559–24796 6
24797–25106 7
25107–25420 8
25421–25798 9
25799–26204 12
26205–26380 13
26381–26734 14
26735–26914 15
26915–27166 16
27167–27492 19
27493–27686 20
27687–27926 21
27927–28304 22
28305–28606 23
28607–28794 27
28975–29284 28

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

462 28975

3 CFR

Proclamations:

6996 24555
6997 24557
6998 25105
6999 25421
7000 26201
7001 26203
7002 26379
7003 27167
7004 27927
7005 28605
7006 28793

Executive Orders:

December 5, 1913 (Modified and revoked in part by PLO 7261) 27773
March 21, 1914 (Modified and revoked in part by PLO 7261) 27773
June 24, 1914 (Modified and revoked in part by PLO 7261) 27773
February 29, 1916 (Revoked in part by PLO 7261) 27773
August 2, 1916 (Modified by PLO 7261) 27773
January 3, 1917 (Revoked in part by PLO 7261) 27773
February 25, 1919 (Modified by PLO 7261) 27773
October 24, 1920 (Revoked in part by PLO 7261) 27773
May 25, 1921 (Revoked in part by PLO 7261) 27773
April 17, 1926 (Modified by PLO 7261) 27773
5782 (Modified by PLO 7261) 27773
6025 (Revoked in part by PLO 7261) 27773
12975(Amended by EO 13046) 27685
13046 ..... 27685, 28108
13047 28301

Administrative Orders:

Presidential Determinations:

No. 97–21 of April 24, 1997 23939
No. 97–22 of May 5, 1997 28295
No. 97–23 of May 5, 1997 28297

Memorandums:

March 27, 1997 26369
April 24, 1997 24797

Notices:

Notice of May 28, 1997 29283

5 CFR

530 25423
531 25423
532 ..... 28305, 28978
550 28305
551 28305
591 25423
610 28305
1312 25426
2641 26915
3801 23941

Proposed Rules:

1603 25558
1640 25559
2423 28378
2429 28378

7 CFR

28 25799
29 24559
35 27493
51 28979
226 23613
301 ..... 23620, 23943, 24746, 24753, 28108
340 ..... 23628, 23945
400 28607
401 ..... 25107, 28308, 28609
454 23628
457 ..... 23628, 25107, 26205, 28308, 28609
718 25433
723 24799
729 25433
947 27169
1131 26735
1230 26205
1464 24799
1466 28258
1493 24560
1494 24560
1710 27929
1755 ..... 23958, 25017
1910 28618
1930 ..... 25062, 28982
1941 ..... 26918, 28618
1943 28618
1944 ..... 25062, 25071, 26207, 28982
1945 28618
1951 ..... 25062, 28982
1965 ..... 25062, 28982

1980.....28618
3403.....26168

Proposed Rules:
319.....24849, 25561
321.....24849
330.....24849
401.....23675
405.....25140
416.....23680, 26750
425.....23685
435.....26248
437.....23690
457 .....23675, 23680, 23685, 23690, 25140, 26248, 26750
800.....26252
1005.....27525
1007.....27525
1011.....27525
1046.....27525
1126.....26255
1137.....24610
1138.....26257
Ch. XIII 24849, 25140
1710.....27546

8 CFR

245.....28314
292.....23634

9 CFR

51.....27930
56.....27930
71.....27930
75.....27930
76.....27930
77.....24801
78.....27930
80.....27930
85.....27930
92.....23635, 27937
94 .....24802, 25439, 27937, 28619
160.....25444
161.....25444
304.....23639
308.....23639, 26211
310.....23639, 26211
318.....27940
327.....23639
381.....23639, 26211
416.....23639, 26211
417.....23639

Proposed Rules:
3.....24611

10 CFR

2.....26219, 27494
51.....26730
52 .....25800, 27293, 27840
110.....27494
170.....29194
171.....29194
420.....26724
430.....26140, 29222
450.....26724
703.....24804
1023.....24804

Proposed Rules:
51.....26733
71.....25146
435.....24164

11 CFR

Proposed Rules:
100.....24367
104.....24367
109.....24367
110.....24367

12 CFR

203.....28620
217.....26736
229.....26220
327.....27171
543.....27177, 28982
552.....27177
571.....27177
614.....25831
617.....24562
618.....25831
620.....24808
630.....24808
931.....26921
934.....26921
936.....28983

Proposed Rules:
210.....27547
307.....26431
330.....26435
343.....26994
566.....26449
Ch. IX.....25563

13 CFR

121.....24325, 26381

Proposed Rules:
120.....25874

14 CFR

25.....27687, 28315
39 .....23640, 23642, 24009, 24013, 24014, 24015, 24017, 24019, 24021, 24022, 24325, 24567, 24568, 24570, 24809, 24810, 25832, 25833, 25834, 25836, 25837, 25839, 26221, 26223, 26381, 26737, 27293, 27496, 27941, 27943, 28318, 28321, 28322, 28324, 28325, 28626, 28994, 28996, 28997, 28999, 29001
71 .....23643, 23644, 23646, 23647, 34648, 23649, 23651, 23652, 23653, 23654, 23655, 23656, 24024, 25110, 25112, 25445, 25448, 26224, 26383, 26739, 27181, 27659, 27688, 27690, 28328, 28329, 28330, 28331, 28332, 28333, 28334, 28335, 28336, 28337, 28339, 28340, 28341, 29002
91.....26890
95.....25448
97 .....24025, 25110, 29003, 29004
121.....27920
125.....27920
135.....27920
187.....24286, 24552
310.....25840
374.....25840

Proposed Rules:
Ch. I.....26894
11.....24288
21.....24288
25.....24288, 26453
39 .....23695, 23697, 24851, 25130, 25563, 25565, 25566, 26258, 26261, 26456, 27211, 27554, 27986, 27987, 28644, 28646, 29081, 29086
71 .....23699, 25568, 26263, 26264, 26265, 26457, 27212, 27705, 27706, 28389
93.....26902
401.....28390
411.....28390
413.....28390
415.....28390
417.....28390

15 CFR

730.....25451
732.....25451
734.....25451
736.....25451
738.....25451
740.....25451
742.....25451
744.....25451, 26922
750.....25451
752.....25451
754.....25451
756.....25451
758.....25451
762.....25451
764.....25451
768.....25451
770.....25451
772.....25451
902.....27182
950.....24812

Proposed Rules:
3.....27556

16 CFR

303.....28342
305.....26383
423.....29006

Proposed Rules:
456.....29088
1015.....24614

17 CFR

1 .....24026, 25470, 26384, 27659
5.....26384
15.....24026, 27659
16.....24026, 27659
17.....24026, 27659
31.....26384
230.....24572, 26386
239.....26386
240.....26386
249.....26386
270.....26923
275.....28112
279.....28112

Proposed Rules:
230.....24160
239.....24160
270.....24160, 24161
274.....24160

18 CFR

284.....25842

Proposed Rules:
4.....25874
154.....24853
375.....25874
430.....25569

19 CFR

122.....24814
351.....27296
353.....27296
355.....27296

Proposed Rules:
111.....24374
163.....24374
351.....25874

20 CFR

429.....24328

Proposed Rules:
222.....27989
229.....27989
404.....26997
416.....26997
718 .....27000, 27562, 28760
722 .....27000, 27562, 28760
725 .....27000, 27562, 28760
726 .....27000, 27562, 28760
727 .....27000, 27562, 28760

21 CFR

5.....28628
101.....28230
172.....26225
178.....29009
510.....27691, 29010
520 .....27691, 28628, 29011, 29012
522 .....27692, 28629, 28630, 29013
529.....29013
530.....27944
558 .....27693, 29010, 29014
588.....28630
806.....27183
812.....26228
1310.....27693

Proposed Rules:
Ch. I.....24619
101.....28234
178.....25475
511.....25212, 25153
514.....25152
558.....25477
898.....25477
1308.....24620, 27214

22 CFR

41 .....24331, 24332, 24334
42.....27693
122.....27497
606.....27947

23 CFR

1327.....27193

24 CFR

5.....24334, 27124
81.....28975
573.....24573
941.....27124
950.....24334, 27124
968.....27124
3280.....24337
3282.....24337

Proposed Rules:
200.....27486
960.....25728
966.....25728
3500.....25740

25 CFR

Proposed Rules:
181.....27000

26 CFR

1 .....23657, 25498, 25502,

26740, 28630
26.....27498
301.....25498, 26740
601.....26740, 28630
602.....25502
Proposed Rules:
1.....26755, 27563
301.....26755
601.....26755

27 CFR

Proposed Rules:
9.....24622

28 CFR

0.....23657
45.....23941
527.....27872
544.....25098
Proposed Rules:
16.....26458
58.....28391
79.....28393

29 CFR

9.....28175
1601.....26933
1910.....29089
4003.....28631
4007.....28631
4011.....28631
4041.....28631
4041A.....28631
4043.....28631
4044.....26741
4050.....28631
Proposed Rules:
1910.....28649, 29089
4231.....23700

30 CFR

250.....27948
251.....27948
256.....27948
281.....27948
282.....27948
Proposed Rules:
251.....23705
253.....24375
914.....25875

31 CFR

1.....26934
351.....24280
356.....25113, 25224
Proposed Rules:
103.....27890, 27900, 27909
207.....25572
356.....24375

32 CFR

199.....26939
310.....26389
316.....26389
317.....26389
706.....23658, 26742, 26743
Proposed Rules:
285.....25875

33 CFR

5.....28760
26.....28760
27.....28760
95.....28760
100.....26229, 26744, 27498, 27499, 27960, 28760
110.....28760
117.....24338, 25514, 27961, 27962
130.....28760
136.....28760
138.....28760
140.....28760
151.....28760
153.....28760
154.....25115
155.....25115
156.....25115
165.....23659, 24339, 26390, 26392, 27500, 29015
177.....28760
325.....26229
334.....24034
Proposed Rules:
96.....23705
100.....24377
110.....24378
117.....27990
167.....25576

34 CFR

200.....28248
299.....28248
668.....27128
685.....25515
Proposed Rules:
97.....28156
1100.....24860

36 CFR

Proposed Rules:
7.....24624
242.....29016

37 CFR

Proposed Rules:
1.....24865
2.....24865

38 CFR

21.....27963
Proposed Rules:
3.....23724
17.....23731
36.....24872, 24874

39 CFR

20.....25136, 25515, 28632
111.....24340, 25752, 26086
Proposed Rules:
111.....25876
502.....25876
3001.....25578

40 CFR

52.....24035, 24036, 24341, 24574, 24815, 24824, 24826, 26393, 26395, 26396, 26399, 26401, 26405, 26745, 26854, 27195, 27198, 27199, 27201, 27204, 27964, 27968, 28344, 28349, 28634, 29072
60.....24824
70.....26405
81.....24036, 24038, 24552, 24826, 26230, 27204, 28634
87.....25356
148.....26998
180.....24040, 24045, 24835, 24839, 25518, 25524, 26407, 26412, 26941, 26946, 26949, 26954, 26960, 28350, 28355, 28361
244.....24051
261.....26998
268.....26998
271.....26998, 27501
282.....28364
372.....23834
721.....27694
799.....28368
Proposed Rules:
Ch. I.....27991
51.....27158
52.....24060, 24380, 24632, 24886, 24887, 26459, 26460, 26463, 27158, 28396, 28650
60.....24212, 24887, 25877
63.....24212, 25370, 25877, 27707
68.....17992
80.....24776, 25879
81.....24065, 26266, 28396, 28650
82.....27874
87.....25368
131.....27707
148.....26041
180.....24065, 27002, 27132, 27142, 27149
194.....27996
228.....26267
260.....24212, 25877
261.....24212, 25877, 26041, 28650
264.....24212, 25877
265.....24212, 25877
266.....24212
268.....26041
270.....24212, 25877
271.....24212, 25877, 26041, 28650
300.....26463, 27998, 28407
302.....28650
372.....24887, 28651

41 CFR

101–21.....27972
101–49.....28368
302–1.....26374
302–6.....26374
Proposed Rules:
101–47.....24383

42 CFR

405.....25844
413.....27210
417.....25844
473.....25844
493.....25855
Proposed Rules:
1001.....28410

43 CFR

3800.....26966
Proposed Rules:
3400.....27563
3410.....27563
3420.....27563
3440.....27563
3450.....27563
3460.....27563
3470.....27563
3480.....27563

44 CFR

64.....24343, 27503
67.....25858
Proposed Rules:
62.....23736
67.....25880

45 CFR

1610.....27695
1626.....24054, 24159
1642.....25862

46 CFR

2.....28760
13.....25115
15.....25115
30.....25115
35.....25115
98.....25115
105.....25115
108.....23894, 27659
110.....23894
111.....23894
112.....23894
113.....23894
159.....25525
160.....25525
161.....23894
169.....25525
199.....25525
Proposed Rules:
2.....23705
31.....23705
71.....23705
91.....23705
107.....23705
115.....23705
126.....23705
175.....23705
176.....23705
189.....23705

47 CFR

0.....24054
1.....24576, 26235
2.....24576, 26239, 26684
15.....26239
24.....27563
64.....24583, 24585
68.....24587
73.....24055, 24842, 24843, 24844, 25557, 26416, 26417, 26418, 26419, 26684, 26966, 27700, 27701, 27702, 28369, 29078, 29079
74.....26684
76.....25865, 26235, 26245, 28371
101.....24576, 28373
Proposed Rules:
Ch. I.....25157
1.....26465, 27710, 28652
2.....24383
24.....27507
25.....24073
73.....24896, 26466, 27710, 27711, 29090

48 CFR

1201.....26419
1202.....26419
1203.....26419
1211.....26419
1214.....26419
1237.....26419
1246.....26419
1252.....26419
1253.....26419

1831.....24345
6103.....25865
6104.....25868, 25870
6105.....25870

Proposed Rules:

1.....26640, 27214
2.....26640, 27214
3.....26640, 27214
4.....26640, 27214
5.....26640, 27214
6.....26640, 27214
7.....26640, 27214
8.....27214
9.....26640, 27214
11.....26640, 27214
12 .....25786, 26640, 27214
13.....26640, 27214
14 .....25786, 26640, 27214
15 .....25786, 26640, 27214
16.....26640, 27214
17.....26640, 27214
19 .....25786, 26640, 27214
24.....26640, 27214
25.....26640, 27214
27.....26640, 27214
28.....26640, 27214
31.....26640, 27214
32 .....23740, 26640, 27214
33 .....25786, 26640, 27214
34.....27214
35.....26640, 27214
36.....26640, 27214
42.....26640, 27214
43.....26640, 27214
44.....26640, 27214
45.....26640, 27214
49.....26640, 27214
50.....26640, 27214
52 .....23740, 25786, 26640, 27214
53 .....25786, 26640, 27214
252.....23741
1515.....27712

49 CFR

1.....23661
8.....23661
10.....23666
107.....24055
171.....24690
172.....24690
173.....24690
175.....24690
176.....24690
178.....24690
190.....24055
571.....25425
572.....27563
801.....27702
837.....27702
1002.....28375
1180.....28375

Proposed Rules:

192.....27715
195.....27715
Ch. V.....27578
571.....26466
Ch. X.....24896
1039 .....27002, 27003, 28413
1121.....23742
1150.....23742

50 CFR

17.....27973
91.....24844
100.....29016
222.....24345
227.....24345, 24588
285.....27518
600.....23667
622.....23671
630.....26427
648 .....25138, 27978, 28638
660 .....24355, 24845, 25872, 27519, 27523, 28108, 28376
670.....24058
674.....26428
678.....26428, 27703
679 .....24058, 25138, 26246, 26428, 26429, 26749, 26854, 26992, 27210

Proposed Rules:

17 .....24387, 24388, 24632, 26757, 28413, 28653, 29091
222.....29091
227.....28413
229.....28415, 28657
425.....28413
600 .....23744, 24897, 27214
622.....25158
648.....24073, 29098

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 29, 1997

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Seabird bycatch reduction in hook-and-line groundfish fisheries; published 4-29-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Gentamicin sulfate; published 5-29-97

Gentamicin sulfate soluble powder; published 5-29-97

New drug applications—

Halothane; published 5-29-97

Orbifloxacin tablet; published 5-29-97

Salinomycin etc.; published 5-29-97

Sponsor name and address changes—

Koffolk, Inc.; published 5-29-97

Trenbolone acetate; published 5-29-97

Food additives:

Adjuvants, production aids, and sanitizers—

3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5] undecane; published 5-29-97

NUCLEAR REGULATORY COMMISSION

Byproduct material; medical use; and radiation protection standards:

Dose-based criteria for release of patients administered radioactive material; published 1-29-97

PERSONNEL MANAGEMENT OFFICE

Employment:

Hatch Act Reform Amendments of 1993; notification requirements removed; published 4-29-97

Mobility assignments between Federal agencies and non-Federal entities; appointment system streamlining; published 4-29-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus Industrie; published 4-24-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Milk marketing orders:

Eastern Colorado; comments due by 6-5-97; published 5-6-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Karnal bunt disease—

Regulated and restricted areas; classification criteria modifications; comments due by 6-2-97; published 5-1-97

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:

Sugar crop year definition and loan availability period extension; comments due by 6-2-97; published 4-2-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Canning and processing bean endorsement; comments due by 6-2-97; published 5-1-97

Pea; comments due by 6-2-97; published 5-1-97

Peanuts; comments due by 6-2-97; published 5-1-97

Sweet corn; comments due by 6-2-97; published 5-1-97

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:

Community facilities grant program; comments due by 6-6-97; published 4-7-97

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:

Community facilities grant program; comments due by 6-6-97; published 4-7-97

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:

Community facilities grant program; comments due by 6-6-97; published 4-7-97

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:

Community facilities grant program; comments due by 6-6-97; published 4-7-97

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Telecommunications Act of 1996; implementation:

Accessibility, usability, and compatibility of equipment and customer premises equipment; guidelines; comments due by 6-2-97; published 4-18-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson Act provisions; public meetings; comments due by 6-6-97; published 5-19-97

West Coast States and Western Pacific fisheries—

Ocean salmon; comments due by 6-4-97; published 5-5-97

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

TRICARE program; nonavailability statement requirement; comments due by 6-6-97; published 4-7-97

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Practice and procedure:

Hydroelectric projects; relicensing procedures; rulemaking petition; comments due by 6-4-97; published 5-12-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Pharmaceuticals production; comments due by 6-2-97; published 4-2-97

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 6-2-97; published 5-6-97

Indiana; comments due by 6-6-97; published 5-7-97

Pennsyvania; comments due by 6-2-97; published 5-2-97

Utah; comments due by 6-6-97; published 5-7-97

Wisconsin; comments due by 6-4-97; published 5-5-97

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Maine; comments due by 6-2-97; published 5-2-97

Hazardous waste:

Identification and listing—

Exclusions; comments due by 6-2-97; published 4-18-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Propamocarb hydrochloride; comments due by 6-2-97; published 4-2-97

Solid wastes:

Hazardous waste combustors, etc.; maximum achievable control technologies performance standards; comments due by 6-2-97; published 5-2-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 6-2-97; published 4-1-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Telephone number portability; North American Numbering Council recommendations;

comments due by 6-2-97; published 5-8-97

Radio stations; table of assignments:

Minnesota; comments due by 6-2-97; published 4-16-97

New Mexico; comments due by 6-2-97; published 4-16-97

FEDERAL TRADE COMMISSION

Magnuson-Moss Warranty Act:

Consumer products written warranties; informal dispute settlement procedures; comments due by 6-2-97; published 4-2-97

Trade regulation rules:

Negative option plans use by sellers in commerce; costs and benefits; comment request; comments due by 6-2-97; published 3-31-97

Ophthalmic practice rules; comments due by 6-2-97; published 4-3-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption and animal drugs, feeds, and related products:

Food labeling—

Net quantity of contents; compliance; comments due by 6-2-97; published 3-4-97

Food for human consumption:

Current good manufacturing practice—

Dietary supplements and dietary supplement ingredients; comments due by 6-6-97; published 5-6-97

INTERIOR DEPARTMENT

Indian Affairs Bureau

Grants to tribally controlled community colleges and Navajo Community College; comments due by 6-2-97; published 4-1-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Blackburn's sphinx moth (Hawaiian Islands); comments due by 6-2-97; published 4-2-97

Pallid Manzanita; comments due by 6-4-97; published 5-5-97

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Administrative appeals process and alternative dispute resolution; release of third party proprietary information; comments due by 6-3-97; published 4-4-97

INTERIOR DEPARTMENT

National Park Service

Special regulations:

Cape Cod National Seashore; off-road vehicle use; comments due by 6-5-97; published 5-6-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Initial and permanent regulatory programs:

Surface coal mining and reclamation operations—

Subdidence due to underground mining; prohibition as a surface coal mining operation; interpretation; comments due by 6-2-97; published 1-31-97

Valid Existing Rights (VER) determination to conduct surface coal mining in areas where it is otherwise prohibited; comments due by 6-2-97; published 1-31-97

NATIONAL INSTITUTE FOR LITERACY

Literacy leadership fellowship program; comments due by 6-6-97; published 5-7-97

TRANSPORTATION DEPARTMENT

Coast Guard

Regattas and marine parades:

North Charleston Fireworks; comments due by 6-4-97; published 5-5-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AlliedSignal Inc.; comments due by 6-2-97; published 4-1-97

Aviat Aircraft, Inc.; comments due by 6-4-97; published 3-6-97

Boeing; comments due by 6-6-97; published 4-25-97

Fairchild; comments due by 6-2-97; published 4-24-97

General Electric Co.; comments due by 6-2-97; published 4-3-97

Jetstream; comments due by 6-6-97; published 3-18-97

McCauley Propeller Systems; comments due by 6-3-97; published 4-4-97

McDonnell Douglas; comments due by 6-2-97; published 4-24-97

Raytheon; comments due by 6-2-97; published 4-24-97

SOCATA; comments due by 6-6-97; published 4-9-97

Textron Lycoming et al.; comments due by 6-6-97; published 4-7-97

Class E airspace; comments due by 6-3-97; published 4-30-97

War risk insurance:

Aviation insurance program; comments due by 6-2-97; published 4-17-97

Correction; comments due by 6-2-97; published 4-22-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant crash protection—

Air bag-equipped vehicles, testing; use of unbelted dummies moratarium; comments due by 6-2-97; published 4-1-97

Child restraint systems; air bag warning label on rear-facing child seats; modification; comments due by 6-2-97; published 4-17-97

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Practice and procedure:

Rail exemption procedures; comments due by 6-2-97; published 5-1-97

TREASURY DEPARTMENT

Fiscal Service

Marketable book-entry Treasury bills, notes, and bonds; sale and issue; uniform offering circular:

Three decimal bidding in .005 increments, etc.; comments due by 6-4-97; published 5-5-97

TREASURY DEPARTMENT

Thrift Supervision Office

Federal regulatory review:

Deposits and electronic banking; comments due by 6-2-97; published 4-2-97